

Engaging Parliaments in the accountable and transparent management of natural resource wealth

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The extractive industries sector: an opportunity for development

The oil, gas and mining sectors contribute significantly to government revenues, GDP and export in resource-rich countries. Despite this opportunity for development, many resource-rich countries fail to use the extractive industries sector for wider economic and social development, resulting in higher poverty rates and, in some instances conflict. This is sometimes referred to as the 'resource curse'.

Transparent and accountable governing institutions along with sound regulatory legal frameworks lend to effective resource management. Parliamentarians have a key role to play in supporting the development, implementation and oversight of sound policies concerning the different steps along the 'resource/extractive value chain'.

This brief gives an overview of the role parliament can play in the extractive industries sector, and the ways in which it can contribute to the effective accountability and management of the petroleum and/or mining sectors for long-term sustainable development. It also offers suggested action steps and general guidelines for parliamentarians.

Parliaments and the Extractive Industries Sector

Research indicates that a democratic government with strong checks and balances can minimize the resource curse (A. Wiig, 2008). A legislature effectively carrying out its three core functions –oversight, representation and lawmaking–is critical to the success of natural resource management. This is because parliament is the only public oversight institution with the constitutional mandate to oversee the implementation of policy by the government, scrutinize

public expenditures, influence and shape policy through the lawmaking process, and represent citizen concerns and needs in decision making¹.

The legislature is also responsible for ensuring the passage of extractive legal and regulatory frameworks that address citizens' needs and interests, and for making sure the government holds industry accountable in complying with these frameworks.

Additionally, parliament holds the 'power of the purse' (control over public expenditures), giving it the authority to review, amend and authorize national budgets. Given the sizeable impact of extractive profits on the national budget in resource rich countries, both as components of national revenue and expenditure, an understanding of the budget process is crucial for the development of sound natural resource strategies. By exerting its oversight authority during the budget process and in the development of medium and long term economic strategies, parliament can guide economic policy towards countering the 'resource curse'.

Parliament's Legislative Function

Through its legislative function, parliament is responsible for drafting and reviewing bills, and passing the legislation needed for effective natural resource management and reform. The parliament can introduce laws to open up trade, encourage or create incentives for private sector development, and launch regulatory frameworks that provide controls for the operation of private corporations in a country.

Additionally, legislatures can introduce legislation that requires extractive companies to disclose the revenue they earn as a condition for being listed on stock exchanges.

¹ <http://www.parliamentarystrengthening.org/extractiveindustriesmodule/pdf/HB%20Introduction.pdf>

Regulatory frameworks regarding the management of natural resources are often spread across

[Norway's legislature](#) for example played an important role in overseeing management of the oil and gas industry by creating the framework for the oil and gas sector i.e. passing legislation and other instruments; debating white papers outlining executive branch proposals; and revising and approving major development projects

different pieces of legislation and government policies. Through their lawmaking function, legislators can support reform processes and improve regulations, thereby creating an enabling environment for the sustainable and accountable management of extractives.

Parliament's Representative Function

Parliaments are uniquely positioned to understand and monitor how the management of extractive industries impacts citizens, acting as a bridge between the government, the private sector and civil society. Through its representative function parliament can ensure that the voices, preferences and needs of the public are heard and articulated.

By conducting public consultations, communicating with the media, reaching out to constituents and employing a range of other methods at their disposal, legislators can incorporate citizen needs and feedback into the decision-making process, whether that is a law, state budget or oversight investigation. They are also crucial in building public awareness about the challenges and opportunities associated with natural resource management, such as for instance when the country has to take a decision to extract, which will affect the population. They are also paramount to instilling a sense of 'ownership' of these resources among the population at large. Additionally, Parliaments can serve as a forum for multiparty consensus on extractive industries'

policies, as well as (pro) active and sustained engagement with non-governmental actors such as Civil Society Organizations, experts and the media.

In [Ghana](#) for example, MPs and CSOs have actively worked to document and denounce alleged 15 government corruption scandals in the allocation of natural resource revenues before the country's anti-corruption authority, the Attorney General.

Parliamentary regulatory and institutional oversight mechanisms²:

The ability of parliament to actively conduct oversight of the government through its various tools and committees is a critical means of ensuring transparency and accountability in government and its officials. The main means by which a parliament monitors the work of the executive, to ensure the laws passed and the funds allocated by the parliament are fully and accurately implemented, is through parliamentary committees. Committees have the specific powers and authority to call evidence, demand testimony from senior government officials and subpoena documents. By conducting routine or extraordinary hearings and investigations, committees have a strong knowledge of what is occurring in the aspects of the government under its purview.

Specialized committees, such as example the budget, oil or mining, anticorruption, lands, public accounts or temporary investigative committees are amongst the many oversight tools. MPs have access to other tools as well to investigate government activity. These include question periods and

According to the newly proposed Corporations Amendment ([Publish What You Pay](#)) Bill which aims to prevent corruption in Australia and abroad; Australian oil, gas, mining and logging companies would be required to publicly disclose payments made to foreign governments.

²http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/140758/LDM_BRI%282014%29140758_REV1_EN.pdf

According to the EITI website, there are 25 compliant countries and 16 candidate countries. Currently only 8 countries have parliamentarians on their EITI multi-stakeholders group.

How can legislators contribute to EITI?⁵

A legislature effectively carrying out its three core functions – oversight, representation and lawmaking – is critical to the success of EITI. Parliaments through their *oversight* function can help ensure that EITI is well managed, reports are accurate, issued on time, and that they are published widely.

The [Philippine](#) wants legislation requiring standard company and government reporting on revenues in the extractive industry to comply with international standards. The Executive has formed a multi-stakeholder group and is currently briefing both houses of Congress about an initiative requiring companies and government reporting entities to declare income they earn in the extractive industry.

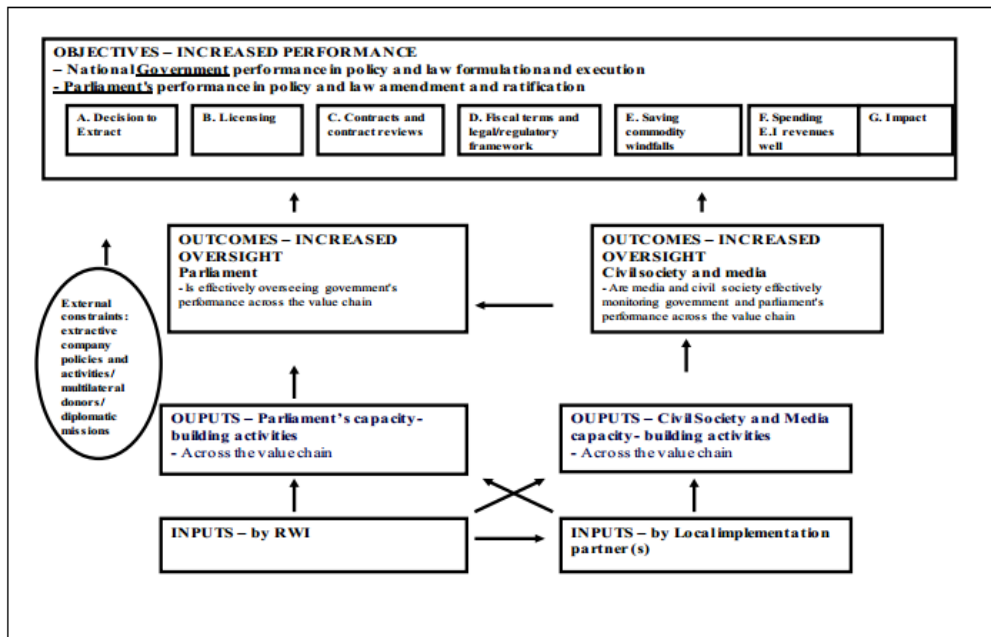
Their *representation* function entails making sure the program reflects the broader interests of the community for example through meaningful participation in multi-stakeholders groups - Legislatures' *lawmaking* capacity should see them amending and enacting new laws to remove legal obstacles for implementing the EITI strategy. *In Kenya for example, members of Parliament have begun the process of formulating a new law that will streamline management of mineral resources in Kenya in tandem with the constitution. Law makers supporting the bill said it will not only consolidate the regulation of minerals in various acts but also enhance transparency in the mining sector. The bill proposes that ownership of all minerals be vested in the national government and further spells out general principles to govern operations of the sector.*

In some countries, legislators have strengthened the implementation of Extractive Industry Transparency Initiative (EITI) by enshrining the implementation in law. The annual appropriation

⁵ https://eiti.org/files/MP_EITI_Guide.pdf

process is also another avenue where legislators can influence the management of extractive revenues.

[Proposed Model of Change for Revenue Watch Institute's Parliamentary Pilot Projects \(Revenue Watch Institute, 2008\)](#)



National implementation beyond the EITI standard- Examples from Liberia, Norway, Ghana and Sierra Leone

While some countries are struggling to meet the minimum standard, some others have gone beyond it by enshrining it in domestic law and/or by enlarging its application to standard sectors of the economy. [Liberia](#) has included forestry and agriculture on top of standard sectors of oil, gas and minerals, and the EITI standard has been incorporated into domestic law through the 2009 LEITI Act. Similarly, the 2007 NEITI Act integrates the EITI standard into Nigerian domestic law. Nigeria already discloses contracts for concessions. In [Norway](#), [Ghana](#) and [Sierra Leone](#) the minerals and mining or petroleum laws include specific clauses on EITI implementation. Togolese EITI reports also cover the water sector and already disclose social payments, license-holders and production data. Mauritania is discussing the inclusion of fisheries.

Some countries have started to scrutinize past compliance in award procedures and to review concession contracts with a view to establishing whether there is a need to renegotiate them (Guinea and Sierra Leone).

What have we learned from past experiences? What does and does not work?

East Africa is currently the global oil and gas industry's hottest frontier. Barely a month goes by, without a major discovery in Mozambique, Tanzania, Uganda, or the eastern Democratic Republic of the Congo. The same was witnessed during the last decade in west and central Africa most notably Angola and Nigeria. Sadly, the benefits were squandered and policy-makers were not successful in capitalizing the gains. Despite the spectacular jump in oil prices, which rose from \$22 per barrel in 2003 to \$147 per barrel in 2008 and remained high, for the most part, the benefits were barely visible. In fact, corruption and lack of transparency were very common while human development indicators have barely budged ⁶.

The way forward lies in building sound and effective policy and regulatory frameworks to manage the management and benefits of the sector.

Concretely speaking **Parliaments/Parliamentarians can:**

I- Encourage Transparency⁷:

Given that transparency is key to improve the governance of natural resource revenues because it undermines the underlying mechanisms that reproduce the resource curse, namely patronage and rent-seeking incentives⁸; Legislatures can introduce legislation that requires extractive companies to disclose the revenue they earn as a condition for being listed on stock exchanges. This was recently done by the United States Congress in 2010 with the [Dodd-Frank Bill](#). The European Union has passed similar legislation to ensure strong regulations on extractive industries. The [European Parliament](#) voted in June 2013 in favor of legislation which will oblige EU-listed and non-listed big oil, gas, mining and logging companies to declare payments they make in resource-rich countries.

⁶ <http://www.foreignaffairs.com/articles/141197/ricardo-soares-de-oliveira/avoiding-africas-oil-curse>

⁷ https://www.ndi.org/files/2317_sea_ealaworkshop_engpdf_02292008.pdf

⁸ http://r4d.dfid.gov.uk/PDF/Outputs/Mis_SPC/60827_DPRMejia_Preprint.pdf

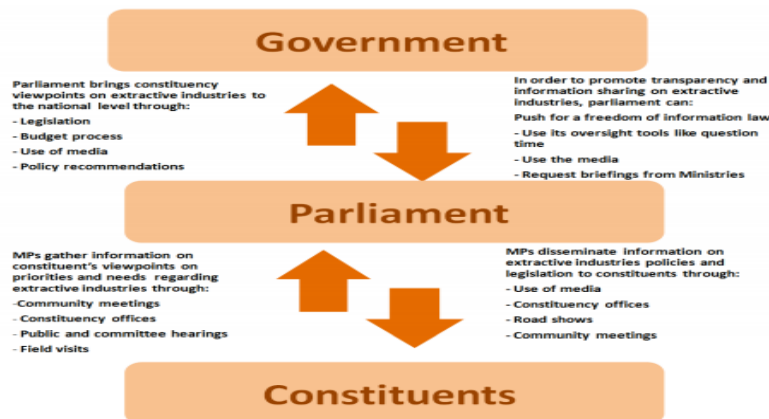
Publish What you Pay⁹: the Tanzanian Case¹⁰

Tanzania, like many other African countries, is a resource-rich country endowed with a number of minerals. Despite this, extractives have not contributed enough to the improvement of lives of the poor, particularly those in local communities where the mines exist since the sector was liberalized in the early 1990s.

The year 2000s saw gradual mounting of public and parliamentary pressure which ultimately led to the Government directing a commission headed by Justice Mark Bomani, (commonly referred to as ‘the Bomani Commission’), to review commercial mining contracts and making recommendations that would enable the country to reach a win-win understanding with investors in the mining sector. The Bomani Commission Report led to the Tanzania government promising a change in mining policy and law. In 2009 the mining policy was finalized and the new Mining Act was enacted in 2010.

Apart from the Bomani process ushering in these significant steps, it also led to the emergence of **parliamentary champions** that continue to push for transparency and reforms in the sector who now actively participate in the Tanzania Publish What You Pay Campaign (PWYP), a coalition of over 100 civil society organizations that brings together reformers in

II- Encourage Public Accountability



Source: [Parliamentary Oversight of the Extractive Industries Sector](#)

⁹ Publish What You Pay (PWYP) is a global network of civil society organizations that are united in their call for oil, gas and mining revenues to form the basis for development and improve the lives of ordinary citizens in resource-rich countries. PWYP undertakes public campaigns and policy advocacy to achieve disclosure of information about extractive industry revenues and contracts. Visit: <http://www.publishwhatyoupay.org>

¹⁰ <http://www.resourcegovernance.org/sites/default/files/AdvocacyManualMail.pdf>

Public dialogue on the management of national extractive industries stimulates improved transparency and oversight by governments. An active, knowledgeable press thus plays a critical role in helping inform and engage the public, citizen groups and parliaments and thus help them hold government and companies accountable. The complementarity between the media and the legislature can offer a two-way partnership resulting in more effective oversight and transparency.

In order to help the media to perform its role more effectively, the Natural Resource Governance Institute offers an eight months training course for journalists “[Access the Media Capacity Building Strengthening media oversight of oil, gas and minerals](#)”.

Parliament can play a role in assuring that information is disseminated and accessible to the community through:

- a. Publishing the legislative record after each session
- b. Newsletters and other publications reporting on legislative and member activities.
- c. Public participation offices that responds to citizen inquiries and conducts participatory outreach to citizens.
- d. Open committee meetings, publishing meeting times and agendas in newspapers and on the internet.
- e. Public hearings as an opportunity to listen to citizens and for citizens to see their MPs in action.
- f. TV or radio, broadcasting parliamentary sessions.
- g. Post information on parliamentary web sites.
- h. Meeting with constituents: physical space to meet with constituents.

III- Enforce Budgetary Control¹¹

Budgeting is a process rather than an event, and budget cycles are ongoing and interconnected. In most countries, the ultimate control over the national budget rests with parliament. This 'power of the purse' constrains governments to tax and spend only in specific ways and seeks to ensure sound management of funds, disciplined reporting, and transparency. It also provides a means for parliamentarians to be heard on how money is to be obtained and spent.

The role of parliament should not be restricted to budget approval and the review of audit findings. For instance, in a number of countries parliamentary committees ask the government to report on the process of drafting an upcoming budget yet to be tabled, and legislators might request certain documentation that is used in the drafting process.

Fighting the resource curse effectively and efficiently requires a public financial management system in which budgetary allocations are open and transparent. By getting involved in the budget process, parliamentarians can direct the allocation of revenues in ways that alleviate poverty and promote social and economic development.

Action for Parliament: Try to influence the budget¹²

1. Identify ways to influence the budget (formally and informally) at each of the different stages of the budget cycle – preparation, drafting, legislative review, implementation and audit.
2. Develop the capacity to evaluate the national budget for approval. Evaluation often goes through a Budget Committee
3. Access to independent information and analysis on the budget preferably through parliament's own research service

¹¹ Parliamentary Oversight of the Extractive Industries Sector

¹² http://www.agora-parl.org/sites/default/files/parliamentary_oversight_and_the_extractive_industries.pdf

4. Hold a public hearing on the budget. To actively stimulate participation and to access independent expertise, parliamentary committees can issue calls for written submissions on the budget and related legislation and invite outside experts to give evidence.
5. Ensure enough time to scrutinize, reflect on, and make or propose amendments to the budget. For example, members could introduce a proposal for reform to parliament's standing orders and the constitution to allow parliament more time to review the budget.
6. A common shortcoming for parliaments wishing to be more effective in the budget process is lack of budget expertise. Executive budgets are large, complex and difficult to understand. Some legislatures address this need through hiring short-term experts to assist them in analyzing the executive budget, or rely on partnerships with academia or civil society groups who help them. A more expensive approach is to build budget expertise inside the legislature. Some parliaments have established professional, nonpartisan budget offices to assist legislatures in the budget process.

IV- Link development frameworks to the extractive sector

The management of natural resources along the value chain should feed into the country's long term economic and social development goals and poverty reduction strategies (the Natural Resource Charter, 2009). This ensures the development of natural resources facilitates the maximum benefit to the citizens of the country within the framework of its long-term development goals. Parliaments can make sure that development frameworks and the extractive industries sector are linked i.e.:

- 1- Make sure that government policy and expenditure is based on a shared vision of how to harness extractive industries for development
- 2- Make sure that this shared vision/strategic framework is linked to the Poverty Reduction Strategy
- 3- Make sure that the legislation and regulation regarding the extractive industries sector are in line with the strategic framework

[Brazil](#)'s Congress has approved a bill that designates all royalties from newly discovered oil fields to education and healthcare. The bill, which had already been approved by Senate, was passed by the lower house on Wednesday. Once signed by the president, the bill is due to come into effect next year. According to the resolution, 75% of drilling royalties the Brazilian government receives from oilfields in the so-called "pre-salt" layer are to be invested in education and 25% on health.

In conclusion, reforms, good governance and proper use of resources cannot wait much longer, the window of opportunity for shaping the extractive industries sectors narrows considerably if steps are not taken at the very beginning of the value chain. Whatever system for distributing oil profits is established by then will define energy exporting states-- and the prospects of their people -- for generations to come.

- For additional information and readings on Parliaments and Extractive Industries, please access [Agora's Areas of Expertise](#), or join our [interactive forum](#) to share thoughts and good practices with experts and key stakeholders.
- For additional information on good country practices, please check our comprehensive library and [research tool](#)
- You may also contact the Agora team at info@agora-parl.org for any support or if you require further information