

## Precept 2: Transparency and Accountability

*Resource governance requires decision makers to be accountable to an informed public.*

*–Precept 2, Natural Resource Charter*

Accountability incentivizes good performance among all actors involved in the management of natural resources. It means that government officials, the private sector and civil society are answerable for their actions, and that there is redress when commitments are not met or responsibilities are neglected. In environments with strong accountability, errors in planning or implementation are more likely to be recognized (by citizens, journalists, civil society, officials, and/or international actors) and corrected (by the government), and office holders are less likely to engage in corruption. Accountability helps generate policies and practices that reflect the public interest, and that enjoy citizen support.

Precept 2 considers three core issues: transparency (Q2.1), official oversight (Q2.2) and communications and public oversight (Q2.3).

### PRIMARY QUESTIONS

#### **2.1 | Transparency**

**Does the government ensure that resource management is sufficiently transparent for all actors to effectively understand and scrutinize decision making and its implications?**

#### **2.2 | Official oversight**

**Do government oversight bodies hold officials to account?**

#### **2.3 | Communications and public oversight**

**Is there a critical mass of informed citizens that holds the government to account?**

## 2.1 | Transparency

### Does the government ensure that resource management is sufficiently transparent for all actors to effectively understand and scrutinize decision making and its implications?

Transparency means making relevant and timely information easily available to all actors so that they can observe and analyze decisions made and actions performed by authorities and corporate actors. In addition to deterring bad behavior, transparency also helps lay foundations of trust between citizens, the private sector and the government. The need for transparency in the extractive industries is particularly strong, given that resource extraction and revenue management are processes that are highly technical, typically involve few people, and usually take place in locations that are physically distant from much of the public. Furthermore, large sums of money are on the line. In order to assess whether there is sufficient and effective transparency, a researcher must consider the rules regarding access to information, how information is managed, what information is disclosed and how it is disclosed.

Secondary question	Guidance
<p><b>2.1.1</b>  <b>Access to the legal framework</b></p> <p>Does the government ensure that the full legal framework governing resource management is available to the public?</p>	<p>It is essential for the legal framework governing the extractive industries to be widely available and understood. This not only allows the government and the public to monitor compliance with the legal framework, but also opens up channels for scrutiny to ensure that they can correct errors in the legal framework, and that the rules and principles guiding the governance of the extractive industries are adaptable to changing circumstances.</p> <p>The legal framework governing the management of extractive resources in a country is usually spread over a wide range of documents. If any of these documents is not accessible all stakeholders may not fully understand the rules that govern the extractive industry. In most countries these documents comprise:</p> <ul style="list-style-type: none"> <li>• the country’s constitution</li> <li>• legislation</li> <li>• regulations, executive decrees, government policies and model contracts</li> <li>• licenses, contracts and other agreements between extractive companies and governments</li> </ul> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Does the government publicly disseminate new documents once they come into force? Is dissemination done in a way that helps citizens, particularly affected communities and other marginalized groups, understand the documents? (See Resource Governance Index (RGI) 2013, question 1.2.009.) Where appropriate, are documents translated into local languages?</li> <li>• Are all parts of the legal framework governing resource extraction publicly available? Is it possible to identify which part of the legal framework (e.g., taxation, local content requirements, community development spending etc.) is missing? While constitutional documents and legislation are usually available, some governments do not release regulations or the contracts between extractive companies and governments. (See RGI 2013 question 1.2.007.)</li> <li>• If contracts themselves are not available, are the model contracts upon which they are based made public? For standards on contracting, refer to the <a href="#">Open Contracting Global Principles</a> and the <a href="#">Open Contracting Data Standard</a>.</li> <li>• If contracts are publicly available, researchers should consider the degree to which they are accessible. Are annexes, schedules, documents incorporated by reference, and amendments also disclosed? Are efforts made to ensure that contract information is communicated effectively to stakeholders?</li> <li>• A related issue is clarity of roles and responsibilities across the decision chain. This is addressed in Q1.3.1.</li> </ul>

<p><b>2.1.2 Disclosure rules</b></p> <p>Has the government established rules that enable access to information on resource management?</p>	<p>The rules governing access to information on resource management are usually spread across different documents in a country’s legal framework. (See Q2.1.1.) These rules can make disclosure of certain types of information mandatory, or they can create processes that citizens can use to compel the government to release specific pieces of information. Other rules within the legal framework may work to prevent the release of certain information. Generally, the legal framework should enable reporting that is in line with open data standards (see Q2.1.4) and comprehensive (see Q2.1.5).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Does the legal framework include rules that enable access to information? (See RGI 2013, question 1.2.010.) It is important to consider whether proactive disclosure is mandated, or if disclosure is only required upon request. The government should release most information proactively. Request systems can be a useful complement to the proactive release of data, but they should not be the primary method by which citizens access information, as the need to go through a request process can significantly hamper access. If requests are required, what are the grounds on which an institution can deny a request? How quickly are institutions required to respond? What is the process for an appeal? Are there prohibitive fees for accessing information?</li> <li>• Does the legal framework include rules that prevent access to information? Important places to look for these provisions include requirements in sector legislation and regulations, information laws, and provisions in contracts between the government and extractive companies. Where contracts are not publicly available, it can be helpful to consider model contracts to see if there is a standard clause agreed between extractive companies and the government that prevents public access to contracts.</li> </ul>
<p><b>2.1.3 Information management</b></p> <p>Do government agencies have effective information management systems that support access to information?</p>	<p>An effective information management system enables a government to provide information efficiently to multiple stakeholders and for multiple purposes at the same time. Where possible, government should collect data in a timely and well-organized manner, and organized through effective electronic systems, particularly where this is mandated by disclosure rules. Integrated financial management information systems (IFMIS) may be implemented in ways to support these aims.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Do national statistical offices and/or departments within relevant agencies have sufficient resources and expertise to meet information requirements? If not, does the government have plans in place to improve the management of information? When looking at these issues, it may be important to consider whether there is genuine political will to follow disclosure procedures.</li> <li>• Does the government have effective procedures in place for the sharing of information within government (e.g., IFMIS for financial management)? Are different ministries and levels of government able to access and share information? If there are bottlenecks, what is their nature and source (e.g., information not flowing between key ministries and the state-owned enterprise (SOE), or between the central and subnational governments)? Are challenges relating to the sharing of information between government agencies due to hardware, software, or human capacity challenges?</li> <li>• If there is an EITI process in the country, has the EITI process contributed to the improvement of information management on issues relating to extractives?</li> </ul>

<p><b>2.1.4</b> <b>Open data</b></p> <p>Does the government publish data according to open data standards?</p>	<p>Open data is data that is freely available for everyone to use without restrictions. Researchers assessing the extent of openness should consider whether the data meets certain basic quality standards:</p> <ul style="list-style-type: none"> <li>• <b>Timeliness.</b> Circumstances surrounding extractive industries can change rapidly, therefore data must be regularly updated so that those monitoring the sector are aware of the latest developments.</li> <li>• <b>Level of disaggregation.</b> Aggregated data can mask important trends. Where possible, data released by government should be disaggregated to the level of specific resource projects, location and product type, to allow for full analysis.</li> <li>• <b>Machine-readable.</b> Data should be in a format easily read by computers to support swift further analysis.</li> <li>• <b>Non-discrimination.</b> Anyone should be able to access data, therefore unnecessary registration and membership requirements should be limited. Likewise data should not be released in non-proprietary formats.</li> <li>• <b>Openly licensed.</b> All government data must be explicitly openly licensed upon publication. Restrictive licenses can deter or limit use of data by the public.</li> <li>• For an overview of standards in open data, see the Sunlight Foundation’s <a href="#">Open Data Policy Guidelines</a>.</li> </ul> <p>If the country is implementing EITI, researchers should also consider whether the EITI publishes its data in line with open data standards.</p>
<p><b>2.1.5</b> <b>Comprehensive disclosure</b></p> <p>Does the government ensure that data is released on a comprehensive set of resource governance and management issues?</p>	<p>Effective monitoring of resource governance requires information on a wide range of processes—from discovery and the decision to extract, to getting a good deal, to revenue management, to investing in sustainable development.</p> <p>The transparency table in annex 2 provides a guide of what government should disclose to build an effective domestic accountability environment. It is complemented by precept-specific transparency tables for precepts 1, 3, 4, 5, 6, 7 and 8, which go into further detail about government disclosures relating to specific policy areas, and precept 11, which looks at disclosures that should be made by extractive companies.</p> <p>If a country is implementing EITI researchers should also consider whether the EITI process publishes a comprehensive set of data on resource governance issues.</p>

**2.2 | Official oversight**

**Do government oversight bodies hold officials to account?**

Official oversight bodies usually include the legislature and the supreme audit institution, but they may also include other actors such as anti-corruption agencies or a national ombudsman’s office. Whether official oversight actors contribute to an improved accountability environment depends on whether they have a sufficient legal mandate; access to resources, including technical expertise, financial and human resources, and information; and sufficient political autonomy and will.

Secondary question	Guidance
<p><b>2.2.1 Legislature</b></p> <p>Does the legislature hold public officials to account on issues relating to resource governance?</p>	<p>In most countries, the legislature has the power to enact, amend or repeal laws, to approve and amend government budget processes, and to conduct some oversight functions. Given these powers, members of the legislature are well-placed to monitor the effectiveness of natural resource governance, provided they have adequate capacity, opportunities and incentives to do so.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• <b>Capacity and advice.</b> Has the legislature established or appointed an official agency/ advisor to support its work on resource management? For instance, is there a special parliamentary committee with expert support?</li> <li>• <b>Information.</b> Does the legislature have access to sufficient information to adequately monitor decisions, negotiations, payments and revenue movements related to extractive resources? Does the legislature have access to all the information outlined in annex 2? Do all agencies respond equally to requests for information from the legislature? Does the legislature receive the information in a timely enough way to weigh in on important decisions or respond with appropriate legislation?</li> <li>• <b>Power.</b> Does the legislature have the power to effectively enact, repeal or amend laws, and hold public officials or private actors involved in the extractive industries to account? What is the frequency, depth and impact of the legislature’s monitoring of the industry? Are there examples in the past where the legislature has wielded its power to change policy or force punitive measures? Is this done equally by all political parties?</li> <li>• <b>Scrutiny.</b> Is the legislature subject to scrutiny by civil society? Legislative watchdog organizations or networks can help provide incentives to elected officials to provide better oversight. Web tools such as <a href="http://theyworkforyou.com">theyworkforyou.com</a> in the U.K. or <a href="http://mzalendo.com">mzalendo.com</a> in Kenya can be helpful in this effort.</li> </ul> <p>Where the legislature’s ability to hold public officials to account is weak, researchers should consider the main obstacles they face.</p> <ul style="list-style-type: none"> <li>• Are there challenges in the legal and institutional framework surrounding the legislature? Are there capacity challenges? Are there political incentives that discourage effective or critical action?</li> </ul>

<p><b>2.2.2</b> <b>Supreme audit institution</b></p> <p>Does a supreme audit institution oversee the government’s management of financial flows relating to the extractive sector, and does the government respond to its findings?</p>	<p>In most countries, a supreme audit institution (SAI) is tasked with scrutinizing public financial management. SAIs exist in several forms: as an office with one designated leader, as a court, or as a board. They carry out financial and compliance audits that scrutinize the government’s management of public finances and compliance with laws, regulations, and budgets. They also conduct performance audits that examine the efficiency and effectiveness of government operations and spending.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Does the SAI have a constitutional or otherwise strong legal mandate to access, audit, and report on government accounts and operations, including all those related to extractive sector governance? Do they have the mandate to conduct financial, compliance and performance audits? See RGI 2013, question 2.3.029.</li> <li>• Is the SAI sufficiently independent? Does it have a protected budget? Does it have protected appointment and removal processes for both the leadership and staff? Are audit reports subject to any external censorship? Does the leadership have authority and credibility, and is it able to address access constraints, censorship threats, and audit findings?</li> <li>• Does the SAI have full and timely access to the accounts and supporting documentation of all relevant institutions—including ministries, state-owned enterprises, sovereign wealth funds, and private companies that undertake public programming using public finances? Does it have access to relevant information held by other companies operating in the sector?</li> <li>• Does the SAI have the staff, resources, and technology required to audit extractive industries? Does it have the technical capacity required, including sector-specific expertise?</li> <li>• Are audit reports produced and presented on a regular and timely basis? Are they clear, comprehensive and consistent? Do they compare findings over time and make specific recommendations? Are they publicly available?</li> <li>• Is any institution—such as the parliament, a law enforcement agency, or a court—tasked with following up on audit findings and recommendations? Are audit findings taken seriously and recommendations implemented by the relevant institutions? Are the relevant institutions capable of this follow up? (See RGI 2013, questions 2.3.030, 2.3.031.)</li> <li>• Where the SAI appears weak, researchers should identify the main obstacles it faces. These could be challenges in the legal and institutional framework, de facto access rights, resource and capacity levels, quality of leadership, or wider political economy issues.</li> </ul>
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<p><b>2.2.3</b> <b>Corruption control</b></p> <p>Does the government take effective measures to deter, detect and prosecute corruption?</p>	<p>Corruption in the oil, gas and mining sector leads to lost revenues and performance failures by public sector officials and government institutions, and can undermine incentives for adopting good governance practices.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• What is the prevalence of corruption in the sector? Make sure to distinguish between perceptions of corruption (both local, and those captured through global indices like the <a href="#">Corruption Perception Index</a>) and actual cases that illustrate the severity of the problem. Look at the whole decision chain when answering this question, examining corruption-prone areas such as license allocations, the administration of local content policies, subcontracting and SOE operations.</li> <li>• Given corruption risk levels, does the government have useful preventative measures in place, including:             <ul style="list-style-type: none"> <li>◦ whistle-blower legal protections</li> <li>◦ asset disclosure requirements for all sector officials</li> <li>◦ strong rules against conflicts of interest (e.g., Are public officials able to participate in the sector as beneficial owners of oil or mining companies?)</li> </ul> </li> <li>• How effectively does the government identify and prosecute corruption? Does the government devote resources to the investigation and prosecution of corruption in the extractive sector? Have corruption cases led to convictions with significant penalties? Are these types of prosecutions politically neutral?</li> </ul>
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## 2.3 | Communications and public oversight

### Is there a critical mass of informed citizens that holds the government to account?

Public oversight depends on a critical mass of informed citizens who have a realistic understanding of the potential benefits and challenges presented by resource extraction. Where this exists, public scrutiny contributes to the legitimacy of the rules and institutions that govern the country and provides officials with incentives to consistently pursue the interest of citizens. But where citizens are not suitably informed, there is a risk that public oversight can fuel populist and short-term policy making. Developing effective citizen oversight is complex and there is no easy step-by-step guide for doing so. However, some core ingredients include effective government communications and management of expectations; the protection of civic and political freedoms; and the existence of civil society organizations that contribute fresh ideas and outside thinking on the management of extractive resources.

Secondary question	Guidance
<p><b>2.3.1 Government communication and the management of expectations</b></p> <p>Does the government implement a communications strategy to ensure that the public has realistic expectations of the future benefits and costs of extraction?</p>	<p>Effective communication from the government is essential to helping build a critical mass of informed citizens that have a realistic understanding of the potential effects of a resource discovery on the nation’s well-being in the long term. Oil, gas and minerals present three specific communications challenges that government must prepare for in different ways (Collier 2013):</p> <ul style="list-style-type: none"> <li>• <b>Wealth without effort.</b> Resource discoveries can evoke notions of achieving wealth without effort. These can easily result in citizens making unrealistic demands, such as pressures to increase public sector salaries and other forms of consumption spending. It is therefore essential that government frame the magnitude of finds in ways that do not overplay the size of potential wealth and that emphasize the long time lags and uncertainties involved.</li> <li>• <b>Ownership of natural resource wealth.</b> Unless it is clearly established prior to discovery, the question of who owns extractive resources can be contested. This can result in conflicts, which can turn violent. To mitigate this risk the government must pre-emptively anticipate and resolve the ownership question, ideally long before the decision to develop the extractive industry has even been made. (See RGI 2013, question 1.1.001.)</li> <li>• <b>Non-renewable nature of extractive resources.</b> Extractive resources are finite and revenues (even if they are large) may be short-lived and subject to cycles of boom and bust. The government should communicate the importance of saving resource revenues, not just for future generations, but also so that resource wealth can be used when times are hard.</li> </ul> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• What is the prevalence of these communication challenges in the country? Have government communications contributed to these challenges or mitigated them?</li> <li>• Does the government communicate with citizens and set reasonable expectations relating to wealth without effort, resource ownership and/or the fact that extractive resources are non-renewable? Is this communication proactive and does it start long before resource activities commence?</li> <li>• Does the government set expectations for companies to communicate with citizens proactively throughout the life cycle of a project? See Q11.1.2 for consideration of company efforts to manage local expectations.</li> <li>• Does government messaging in national visioning or strategy documents address any of these issues?</li> <li>• Special considerations should be made by researchers for the way that communications are managed in affected communities. This is addressed in Q5.1.2</li> </ul>

<p><b>2.3.2 Civic and political freedoms</b></p> <p>Does the government ensure that civic and political freedoms are consistently upheld?</p>	<p>The protection of civic and political freedoms is a necessary condition to enable accountability. In order to effectively scrutinize public officials, civil society should be able work without fear of harassment.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Does legislation support civil society and media operations? Are activists safe from harassment or intimidation? Are people in general free to speak out against the government, and does advocacy around the oil, gas and mining sector reflect this broader trend? Do citizens who criticize the government receive fair treatment under the law?</li> <li>• In addition to citing concrete examples of good or bad practice, researchers may find macro-indicators such as the <a href="#">WGI Voice and Accountability Indicators</a> and the <a href="#">Freedom House</a> reports useful.</li> </ul>
<p><b>2.3.3 Media and civil society</b></p> <p>Do the media and civil society groups effectively improve public accountability in natural resource management?</p>	<p>Capable media and public interest groups can help channel public concerns to policymakers. They can also help digest technical information and make it available to the public. To do this effectively, it is essential that media and public interest groups sufficiently understand the issues involved in harnessing extractive resources for development, that they are perceived to be credible by both government and citizens and that they have opportunities to pursue their agendas.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Do media and public interest groups have the capacity and the will to hold the government to account on the broad range of issues involved in resource governance?</li> <li>• Do media and public interest groups adequately speak to the interests of the wide range of actors that are affected by the extractive industries? For instance, do existing media and public interest groups represent marginalized groups to enable their contribution to national debates (e.g., indigenous peoples, women)? Are particular regions underrepresented?</li> <li>• Does the government actively communicate and engage with the media and civil society? If so, does it do so in a way that does not compromise the independence of the media and/or civil society?</li> <li>• Where media and civil society play a weak oversight role, researchers should consider the reasons why, including potential political constraints.</li> </ul>
<p><b>2.3.4 Independent research</b></p> <p>Do research institutions carry out independent and high-quality research on resource governance?</p>	<p>Independent research produced by local think tanks, civil society organizations, journalists and academic institutions helps contribute fresh ideas and independent thinking to the policy process, and can shine a light on poor practices.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Do existing research institutions have sufficient capacity to carry out research on the extractive industries?</li> <li>• Do the combined efforts of local research institutions cover all parts of the decision chain or only specific areas? Do research institutions study the impact of extractive industry development on the economy, host communities and/or marginalized groups (e.g., indigenous peoples, women)?</li> <li>• Are research institutions sufficiently independent of government? Do international institutions provide support to local research institutions?</li> <li>• Is the government open to receiving inputs from research institutions, or is the policy-making process insular?</li> <li>• Does the government actively communicate with independent research institutions and help build their capacity where possible? If so, does it do so in a way that does not compromise their independence?</li> <li>• Where independent research institutions play only a weak oversight role, researchers should consider why this the case, including potential political constraints.</li> </ul>

<p><b>2.3.5 Professional associations</b></p> <p>Do professional associations and unions actively promote and enforce professional standards of conduct and engagement among their members who are engaged in extractive industries?</p>	<p>Local professional organizations and labor unions can play an important role in enforcing standards and professional ethics among their members who are engaged in the extractive industries. Such associations can engage accountants, lawyers, journalists, engineers, financiers and insurers, construction firms and mining and petroleum producers, while unions target various sets of the workforce, sometimes specifically within the petroleum or mining industry, and in other cases more widely.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> <li>• Are there notable cases in which professional organizations or unions have called upon members to explain their actions following complaints? Have these complaints ever resulted in expulsions or other consequences? Do these bodies represent an influential voice in favor of ethical and responsible practices with respect to the extractive sector?</li> <li>• Does the government actively communicate with professional associations and help to build their capacity where possible? If so, does it do so in a way that does not compromise their independence?</li> <li>• Where professional associations play a weak oversight role, researchers should consider why this the case, including potential political constraints.</li> </ul>
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## ANNEX 2. PRECEPT 2: TRANSPARENCY AND ACCOUNTABILITY

This transparency table has been designed to assist with Q2.1.5. It summarizes the general disclosures that government needs to make to build an effective domestic accountability environment. It is complemented by precept-specific transparency tables for precepts 1, 3, 4, 5, 6, 7 and 8, which go into further detail about government disclosures relating to specific policy areas, and precept 11, which looks at disclosures that should be made by extractive companies. Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index](#) (RGI) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
<b>Policy, legislation and regulations</b>	Documents/text. Should be readily available on government websites and in hard copy at relevant government institutions. In many countries policy, legislation and regulations are published on a periodic basis within an official gazette. (See Q 2.1.1 for background.)  <b>Related standards:</b> EITI 2016, 2.1.a <b>Resource Governance Index:</b> 2013: question 1.2.009
<b>Contracts and/or licenses</b>	Documents/text outlining agreements made between extractive companies and government over exploration, production and commodity sales. Publication should include any annexes, amendments, or riders to the agreements. See question 2.1.1 for background.  <b>Related standards:</b> EITI 2016, 2.4 <b>Resource Governance Index:</b> 2013: question 1.2.007
<b>Transcripts of parliamentary debates</b>	Documents/text. See question 2.2.1 for background.
<b>Audit reports</b>	Documents/text. See question 2.2.2 for background.  <b>Resource Governance Index:</b> 2013: questions 2.3.029 through 2.3.031
<b>Asset disclosure information of government officials</b>	Table disclosing assets and financial interests of government officials. Should contain information about any financial interest in oil, gas or mining projects. See question 2.2.3 for background.  <b>Resource Governance Index:</b> 2013: questions 2.3.028, 3.3.1.047, 4.3.1.062
<b>Beneficial ownership information</b>	Table disclosing details about those who own extractive companies in country and those who ultimately benefit from their activities. See question 2.2.3 for background.  <b>Related standards:</b> EITI 2016, 2.5 <b>Resource Governance Index:</b> 2013: question 1.3.016

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