

Ghana's Election: Seven Extractives Governance Recommendations for the Next Government

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Ghana's 2016 elections are an important opportunity for political parties to share their key priorities in the extractive sector with citizens. Despite significant improvements, Ghana continues to struggle to effectively manage its natural resources, with planning challenges and inconsistent implementation of policies still the norm.

Despite the fall in commodity prices, it is likely that the next government will oversee further growth in petroleum revenues. The new Tweneboah, Enyenra, Ntomme (TEN) field which started producing last August, and the Sankofa gas project, also expected to begin production in 2017, will likely lead to a doubling in oil and gas production. Beyond these, developments in the industry look much less certain. Mining revenues will remain an important source of revenue and economic activity but its overall contribution to Ghana's economy has been on a decline relative to oil and gas.

Organizations such as the Africa Centre for Energy Policy (ACEP), Civil Society Platform on Oil and Gas (CSPOG), IMANI Ghana, and various media outlets are undertaking pre-election analyses of the feasibility, potential gaps and mismatch of the various political parties' manifestoes. To complement these efforts, this election brief provides more targeted recommendations on the extractive sector for the next government.

1. DEVELOP AN EXTRACTIVE SECTOR VISION AND PLAN

Ghana's history of shaping and delivering long-term national development plans has been disappointing. To effectively leverage opportunities in the extractive sector the next government should strengthen extractive sector planning and increase citizen involvement across all aspects of decision-making. The next government should ensure that development priorities are costed and published.

A clear and coordinated vision for the extractive sector guides governments to develop a strategy that is comprehensive and inclusive. Extractive resources should not be managed in silo but well oriented in line with a broader vision for national planning. An immediate priority of the next government should be to articulate clear development objectives to guide the management of oil, gas and mining resources within a broader national development plan for Ghana. This process should help shape a shared outlook for the public financing needs for all sectors and also form the basis for the selection of the four priority areas for spending as stipulated in the Petroleum Revenue Management Act (2011).

The next government should also empower the National Development Planning Commission (NDPC) with both technical and financial resources to play its central role of coordinating the creation and implementation of national, sector, and subnational plans. In the extractive sector, this requires an effective coordination of state actors including, the GNPC, Petroleum Commission, Minerals Commission, the Ministry of Lands and Natural Resources, Ministry of Petroleum, Ghana Investment Promotion Centre, Ministry of Finance, Ministry of Trade, relevant metropolitan, municipal and district assemblies (MMDAs), as well as the engagement of non-state actors including media organizations, citizen groups and civil society organizations.

Some important strides were made in 2016 to shape an outlook for the mining and petroleum sector. In June 2016, the cabinet gave approval to Ghana's Gas Master Plan (2016-2040), though the plan has yet to be published. It contains a vision for how Ghana will reap benefits from its gas resources and is an important step to leveraging the gas assets. The next government should follow up with the development of the gas policy in consultation with civil society groups, the media and political actors.

Regarding the minerals sector, the government launched Ghana's minerals policy in early 2016. Mindful of other regional commitments (such as the Africa Mining Vision), should commit to the implementation of this policy and support the next government and the Ghana Extractive Industries Transparency Initiative (GHEITI) to provide oversight.

2. ENSURE THE PETROLEUM REVENUE MANAGEMENT ACT (PRMA) IS CONSISTENT WITH GHANA'S OVERALL FISCAL FRAMEWORK

Effective and efficient management of petroleum revenues requires a framework that smooths year-to-year expenditure in order to address revenue volatility, ensures long-term fiscal sustainability, and uses a stable and fair revenue sharing formula. Ghana's oil and gas sector, while burgeoning, contributes only a small fraction of the country's GDP; this may dwindle even more if crude oil prices fall further. After five years of oil production, important lessons have been learned from the implementation of the PRMA. Although the PRMA has effectively delivered improvements in transparency in revenue allocation and utilization, it has not adequately addressed issues related to revenue volatility, expenditure smoothing, or contributed to overall fiscal sustainability. This is partly due to the lack of a synchronized public financial management framework capable of addressing Ghana's growing fiscal challenges. The new Public Financial Management (PFM) Law has recently been enacted as part of Ghana's broad-based reforms to improve fiscal discipline and sustainability. With the PRMA only focused on the petroleum sector (a small part of the economy), growing economy-wide fiscal challenges could continue to undermine its objective as a fiscal framework. The next government should ensure that the PRMA is situated within and consistent with an overall public financial management framework for Ghana.

The PRMA's strength is in the detailed levels of transparency it requires on projects funded by petroleum revenues. This has garnered a great deal of interest, however transparency over other details, including the total value of projects that have received petroleum funds as full or counterpart funding, their expected date of commencement and completion, contractors' details, and their stage of implementation will offer citizens a better insight into the use of these revenues. The next government should commit to better reporting of final spending beyond

the allocations of petroleum revenues. This includes timely, detailed and accessible reporting on the Ghana Investment Infrastructure Fund.

Due to Ghana's growing fiscal challenges, the PRMA has not been able to adequately address its objective on supporting budget sustainability. As a result of an increasing budget deficit funded through borrowing, even more so since oil discovery, Ghana's growing debt and interest payments have caused severe macroeconomic problems for the economy in recent years. Businesses in Ghana have complained about the increasing direct and indirect taxes, rising inflation, currency depreciation, and high interest rates that have negatively impacted their businesses. These challenges have required multiple interferences with the PRMA's implementation. For instance, the decision to cap the stabilization fund to free up savings through a newly established sinking fund for debt management in part reflects this problem. Though the government's justification for this may be economically viable, it defeats the initial objective of the PRMA, which was to support smooth budget expenditure over the long term. In addition, the approach to smoothing spending through a moving average benchmark revenue calculation as stipulated in the PRMA has been incapable of managing the recent fall in oil prices.

With the growing concerns of citizens and development partners about overall fiscal indiscipline, there is an urgent need for Ghana to devise a comprehensive solution. The passage of the new PFM law to manage these issues is a step in the right direction, but whether it is adequate to address Ghana's overall fiscal challenges remains to be seen.

3. DELIVER FISCAL RESPONSIBILITY FOR THE LONG TERM

Managing the "resource curse" requires careful macroeconomic management. This means careful control of overall expenditure, the budget deficit and debt accumulation. Ghana's inability to control key areas of macroeconomic policy-making has led to a fiscal crisis that has undermined the country's development prospects. The next government should commit to developing fiscal responsibility reforms and build consensus on these issues.

Overspending, particularly during election years, has led to a doubling of Ghana's budgeted fiscal deficit and placed the country on a track of increasing vulnerability to external economic shocks, including commodity price volatility. These developments come with damaging economic consequences. The rapidly worsening fiscal position has weighed heavily on the Ghana cedi, pushed up inflation and helped contribute a slowdown in economic activities. Ghana's economic growth in 2015 fell to the lowest rate in 25 years. By the 2016 budget the government estimated that interest payments would be equivalent to 29 percent of domestic revenues, an amount equivalent to three times the Ministry of Health's budget for the year.

Modest savings made by the stabilization fund under the PRMA were only of marginal significance (barely reaching 1 percent of GDP) when compared to the rapid scale of debt accumulation (which grew from around 40 percent of GDP to over 70 percent). This was a reminder that Ghana still requires a credible overall fiscal framework if it is to manage the most common resource revenue management challenges. The next government should commit to implementing reforms and support consensus-building on headline matters of fiscal responsibility. As in other resource-rich countries, it is important to consider legislative limits on

growth in overall expenditure, the size of the fiscal deficit and limits on debt. This should be complemented by a raft of other commitments to strengthen budget accountability including better reporting on actual spending, reforms to ensure open procurement, changes to political party financing and the creation of an office to provide independent, objective and professional advice to parliament on matters related to the budget.

4. ENSURE EFFICIENT AND TRANSPARENT EXPLORATION AND PRODUCTION OPERATIONS THAT GENERATE OPTIMUM BENEFIT FOR CITIZENS

In order for Ghana to generate optimal returns from its extractive sector agreements, the next government must ensure all processes that leads to the decision to extract, licensing processes are efficient and transparent for both companies and government. Ghana has made important strides towards a more transparent licensing process by enacting a new petroleum law that introduces competitive bidding in the oil and gas sector. However, the mining sector still operates under a first-come-first-serve system which sometimes fails to allocate rights to companies with the necessary technical and financial capabilities. Ghana has also moved to enact a legal basis for the collection and maintenance of beneficial ownership data—an important step to support ongoing efforts to guard against potential corruption (particularly in extractives), tax abuse, and money laundering. However, concerns remain over the scope of information from the register that would be made available to the public. The next government should commit to the effective implementation of the governance provisions on exploration and production in the new petroleum law, develop clear and transparent qualification criteria for greenfield exploration, and further support the ongoing public beneficial ownership disclosure process in Ghana.

Having a strong legal framework to guide the management of the sector is vital if Ghanaians wish to optimally benefit from their resources while minimizing the risks of corruption and negative impacts. Petroleum agreements on exploration, development and production under the new petroleum law shall be entered into under an open, transparent and competitive bidding process, specifically, the publication of petroleum contracts and bidding processes. These new governance provisions are a beacon of hope for overall petroleum sector governance, although citizens are still concerned about the discretionary powers given to the petroleum minister to bypass a transparent process. According to section 10 (4) of the new Petroleum (Exploration and Petroleum) Act, 2016, the minister may decide on stated reasons not to enter into a petroleum agreement after a tender process has been completed. While this discretion may be intended for a good purpose to protect Ghana, citizens remain concern about its potential abuse and urge for a more robust and clear regulations. Citizens should have easy access to information on the decision to extract, environmental management, exploration and production and marketing of petroleum products.

Civil society organizations continue to suggest greater transparency and accountability in the mining sector. There is no contract disclosure policy in the mining sector. Environmental management plans remain hidden from the public's eye and there is inadequate transparency around the decision to open an area for extraction. The next government should commit to a comprehensive and coordinated framework on exploration and development of Ghana's extractive resources in order to protect the sector from the clear risks of mismanagement, conflict of interests, corruption, and potential secrecy.

5. STRENGTHEN THE WORK OF INTERNAL AND EXTERNAL OVERSIGHT ACTORS IN EXTRACTIVES

A government committed to long-term governance improvements and tackling corruption must invest in the capacity and the role of both internal and external oversight actors, and support efforts that enhance their work. Easy accessibility to information is critical to the work of oversight actors, yet they continue to face accessibility challenges in Ghana. The right-to-information bill will have been discussed in Parliament for more than eight years by the end of 2016. The next government should ensure that the information bill is reviewed to align with existing transparency and accountability mechanisms, passed into law, and effectively implemented to improve accessibility to information across the various sectors.

Public oversight and the supreme audit institution face funding challenges, a lack of technical capacity improvement and a lack political will to implement recommendations. The next government must commit to strengthening institutional oversight as a core approach to tackling corruption and mismanagement in the sector.

The Public Interest and Accountability Committee (PIAC), tasked with external oversight of petroleum revenue management, remains reliant on donor support but still struggles to meet its core objectives owing to insufficient funds. While legislative changes have been attempted to provide reliable funding for PIAC by stating their source of funding as petroleum revenues, they still face disbursement challenges. The next government must firmly commit to timely and adequate financing of PIAC.

The Ghana Extractive Industries Transparency Initiative (GHEITI) has met significant success as it drives forward key policy discussions and oversees transparency in the sector. The new government should continue to support this important work and ensure that such consultation and disclosure practices are mainstreamed into various government transparency and accountability processes over the longer term. Committing to passing the GHEITI Bill could help achieve this goal.

6. SHAPE A VISION FOR GNPC AND UNDERTAKE LEGISLATIVE REFORM

The Ghana National Petroleum Corporation (GNPC) is an important driver of the development of Ghana's extractive sector. However, international experience has shown that national oil companies, if not carefully governed, can become a source of corruption and mismanagement of revenues. To prevent this, the next government should focus on governance reform efforts and improved transparency at GNPC.

The scope of GNPC's work will dictate its need for future petroleum revenues that would have otherwise been available to the government budget to deliver public services. In 2015 one third of petroleum revenues were distributed back to GNPC. It is therefore important that citizens and political actors can share in this vision and can oversee the GNPC's work.

GNPC's mandate is framed broadly within Provisional National Defence Counsel (PNDC) Law 63, and its role has evolved rapidly into a range of downstream activities, non-petroleum investments and corporate social responsibility activities. The next government should enact governance reforms through amendments to the law to clarify the scope of GNPC's mandate, role and responsibilities. These

reforms should also strive to end presidential selection of the chief executive and board and the politicization of key appointments.

It is important that the next government institute efforts to improve oversight of GNPC's spending. GNPC currently reports to a range of different agencies, however information provided to external oversight actors, including parliament, tends to be inconsistent. GNPC reporting practices and the associated transparency obligations should also be defined in law.

7. ENSURE GHANAIS GET THEIR FAIR SHARE BY INVESTING IN THE CAPACITY OF THE TAX ADMINISTRATION

Ghana has passed a series of laws to ensure that authorities can deal with various forms of tax avoidance. The government must now invest in the capacity and coordination of agencies to prevent transfer mispricing in the extractive sector – a major challenge facing many resource-rich developing countries.

Revenue mobilization is vital for the financing of Ghana's development solutions. In the extractive sector, significant losses can result from tax avoidance practices, particularly transfer mispricing. This occurs when one company sells a good or service to another related company. Because these transactions are internal, they are not subject to ordinary market pricing and can be used to shift profits out of Ghana to low-tax jurisdictions.

Despite the passage of transfer pricing regulations in 2012, a lack of agency coordination hinders the effectiveness of tax audits and collection in Ghana. Inadequate capacity and the reshuffling of tax audit staff pose a major challenge to the Ghana Revenue Authority. If the next government is to tackle the issue of transfer mispricing, it must invest in capacity of the Ghana Revenue Authority's Transfer Pricing Unit at the Large Taxpayers' Office, improve cross-agency coordination and focus on staff retention.

Ghana political parties' manifestoes commitments on extractive governance*

Extractive resource governance framework	NDC	CPP	NPP
Long-term vision for the extractive sector and use of its revenues	<p>Enactment of the legislative instruments under the National Development Planning Commission Act, 1994 (Act 479) and the National Development Planning (System) Act, 1994 (Act 480) to ensure the effective execution of the commission's mandate</p> <p>Conclude the 40-year Long-Term National Development Plan</p>	<p>"We will support the National Development Planning Commission (NDPC) to ensure effective national development planning. To this end, the CPP has been supportive of the 40-year development plan.</p> <p>We shall introduce a strategic plan to carefully develop all sectors associated with the oil and gas industry."</p>	n/a
Ensure the Petroleum Revenue Management Act (PRMA) is consistent with Ghana's overall fiscal framework	<p>"Our fiscal policy will aim to:</p> <p>Ensure a transparent, effective and efficient natural resource management regime including oil and gas resource management.</p> <p>Consolidate the processes for the management of public finances to improve reporting, accountability and transparency.</p> <p>Implement the Revenue Administration Act as well as regulations to, among other things, move revenue processes to an electronic platform."</p>	<p>"The CPP will institute a programme to improve the overall public financial management of government revenue from all sources.</p> <p>We will manage the revenue from Ghana's petroleum sector strictly in accordance with the Petroleum Revenue Management Act 2011 (Act 815)."</p>	<p>"Review and further amend the Petroleum Revenue Management Act 2011 (Act 815) to support investment of revenue from oil in high-impact strategic social and economic infrastructure.</p> <p>Between 2017 and 2020, primarily allocate revenue from oil to infrastructure, health, education and agriculture leverage oil revenue to complete the Accra-Kumasi-Paga rail line connections and the rehabilitation of the Western and Eastern Rail Lines.</p> <p>Manage and use the revenue from the Jubilee, as well as from the TEN and Sankofa fields, in a responsible and transparent manner."</p>
Delivering fiscal responsibility for the long term	<p>"Ensure a transparent, effective and efficient natural resource management regime including oil and gas resource management.</p> <p>Consolidate the processes for the management of public finances to improve reporting, accountability and transparency.</p> <p>Continue to pursue policies that will ensure fiscal prudence and avoid excessive budget deficits.</p> <p>Accelerate the implementation of the public financial management reforms, including the integrated financial management information systems (GIFMIS) and programme-based budgeting (PBB)."</p>	<p>"The CPP will institute a program to improve the overall public financial management of government revenue from all sources. It is important that we manage both oil and non-oil revenue efficiently and transparently to create public confidence in the managers of the economy."</p>	<p>"An NPP government will enact a Fiscal Responsibility Law (FRL) to bring comprehensiveness, accountability, transparency and stability to the entire budgetary process."</p>

Extractive resource governance framework	NDC	CPP	NPP
Ensure efficient and transparent exploration and production operations that generates optimum benefit for citizens	<p>"We will pursue initiatives to enhance the following:</p> <p>Accountability and transparency in oil and gas resource governance</p> <p>Efficiency in exploration and production of oil and gas resources</p> <p>An enabling environment to attract necessary investment into the industry</p> <p>Opportunities to progressively increase local participation in mainstream operations of the sector</p> <p>Promote environmental, social and human rights to a standard that underpins sustainable development</p> <p>Improve policy formulation and regulatory capacity of key public institutions in the oil and gas sector"</p>	<p>"We shall introduce a strategic plan to carefully develop all sectors associated with the oil and gas industry. We shall concentrate on production, refining, and export as part of the development of a petrochemical industry."</p>	<p>"Improve transparency in the management of our oil and gas resources. Our commitment to passing the Right to Information Bill will further enhance transparency in the oil and gas sector.</p> <p>Create an enabling environment through fiscal and non-fiscal measures to attract domestic and foreign investments in oil and gas exploration."</p>
Strengthen the work of internal and external oversight actors in extractives	n/a	n/a	n/a
Shape a vision for GNPC and undertake legislative reform	n/a	n/a	n/a
Ensure Ghanaians get their fair share by investing in the capacity of the tax administration	Expand e-Services and under the e-Government Project, roll out the Total Revenue Integrated Processing System to Ghana Revenue Authority offices to further improve the tax collection system to enhance government revenue mobilization	Formalize the economy through the establishment of a national database, using the National Identification System as the primary identifier, with linkages to the databases of institutions such as the Police, National Health Insurance Scheme (NHIS), Passport Office, Immigration, Courts, Ghana Revenue Authority (GRA), and the Driver and Vehicle Licensing Authority (DVLA),	n/a

n/a: not applicable

NDC: National Democratic Congress

CPP: Conventions Peoples Party

NPP: New Patriotic Party

PNC: Peoples National Congress

*At the time of writing we did not have access to the Peoples' National Congress manifesto

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