

## Legislator Views on Knowledge and Capacity challenges in Extractive Sector Policymaking and Governance in Ghana

E. Kojo Sakyi, Richardson Azunu and Kwasi Addei Mensah

---

### ABSTRACT

This study examined the knowledge and capacity challenges of legislators in influencing extractive industry sector policymaking and implementation. Data for the study were collected through issue-driven semi-structured key informant interviews involving twelve selected legislators drawn from five purposively selected parliamentary committees. The findings revealed that MPs had a fairer knowledge of the general extractive industry policy issues but less knowledge in oil and gas sector management. Particularly, MPs of the Mines and Energy committee appeared to be the most knowledgeable. MPs familiarity with the Extractive Industry Transparency Initiative (EITI) process as compared to that of mining sector management, and oil and gas sector management, was quite low. MPs had at least some knowledge on current revenue streams in the extractive sector. Apart from the mines and energy committee which possessed the best knowledge on aspects of extractive sector policy issues, MPs from other committees such as the finance and the public accounts committees exhibited a low level of knowledge in mining sector policy governance issues. The study revealed that MPs oversight performance is low, because majority of them never sought to influence the politics of extractive sector governance and policymaking process or change it in relation to the oil, gas or mining sector or implementation of the EITI process in any way. In fact, all MPs responded in the negative when asked if the contribution they made to the policy reform issues produced any substantive policy changes.

### Introduction

Ghana's extractive sector is a basis of economic augmentation, rebuilding and national development. The country is endowed with an extensive measure of natural resources. Mineral

resources constitute a major component of Ghana's natural resources and its contribution to the country's economic development cannot be exaggerated. In addition to gold, diamond, manganese and bauxite, the country is endowed with several other mineral deposits which include salt, limestone and crude construction materials. Ghana has also recently discovered crude oil and is putting in place, the required mechanisms for its extraction in commercial quantities. Traditionally, post-independent Ghanaian governments have developed and executed mineral policies mostly with the aim of attracting foreign direct investment. Unfortunately, mineral revenues only benefited the few ruling elites and private mining companies. In fact, the extractive sector's contribution to the country's economic growth and GDP has not been encouraging. This is largely due to the fact that a significant proportion (up to 80% as provided in the Minerals and Mining Act, 2006 [Act 703] of returns is retained offshore by the mining companies. Therefore the extractive industry sector has made a very little contribution to economic growth compared to other resource rich countries (Ayee and Soreide, 2008). Thus, there is the tendency for one to conclude that Ghana's mineral resource endowments have been a curse, rather than a blessing.

Various factors have been identified to be responsible for the poor performance of the extractive industry (EI) sector in Ghana and other developing countries. Among other things, bad governance, corruption, cronyism and weak institutions top the list of factors depriving these mineral rich countries of their revenues. Although a significant number of studies have looked at the problems confronting Ghana's extractive industry sector (Akabzaa, and Darimani, 2001; Aryee, 2001; Ayee and Soreide, 2008), very little or no empirical study has been conducted into the extent to which governance institutions have influenced extractive policy and mineral resource distribution and redistribution. Particularly, there is no empirical study into legislators' oversight capacity and knowledge about extractive sector policymaking and governance issues and the ways that is impacting the performance of the mineral sector.

This study aims to contribute to the existing literature by inquiring into the issue of oversight capacity and knowledge constraints of legislators and the implications for extractive sector policymaking and governance.

## **Objectives of the study**

This is largely a qualitative study based on the views of key informants from the legislature about extractive industry sector policymaking in Ghana. It aims to:

- examine the capability of governance institutions especially the legislature in Ghana to effectively engage with the process of policymaking and governance of natural resource extraction; and,
- assess the capacity and knowledge constraints of policymakers and the effect upon their contributions to governance and oversight of the extractive industry sector.

Essentially, the first objectives deals with the issue under investigation at the macro level, while the second objective focuses on the micro level with emphasis on oversight capacity and knowledge of legislators.

The rest of the paper is as follows: The next section is a literature overview on legislative oversight. Section three gives an overview of the geographic and political economy of Ghana's extractive industry sector. The fourth section discusses the constitutional and political context of policymaking in Ghana with focus on extractive sector policymaking. Section five describes the study design and data collection procedures and processes. The sixth section presents the data; the seventh section discusses the lessons from the study findings and concludes highlighting policy lessons.

## **Literature overview of legislatures and oversight responsibility**

As a lawmaking body, the legislature is made up of elected representatives who deal with current problems, interests and strategies. The legislature or Parliament as it is popularly known is at the core of any county's quest to lay genuine foundations for democracy, good governance and sustainable development. It represents the popular will, aspirations and interests, and is responsible for enacting laws and general policies, in addition to monitoring all actions of the executive arm of government. Conventionally, legislatures perform three main functions:

representative, legislative, and oversight (Cotta, della Porta, and Morlino 2001, 196-202; Pasquino 2004, 331-8; Pasquino and Pelizzo 2006, 73-106; Sartori 1987, 285).

Anecdotal and empirical evidence suggest that majority of legislatures have been performing creditably in other functional areas especially, the enactment of law and representing the interests of their constituencies. However ensuring effective oversight has been a very critical issue most parliaments in developed and transition democracies have always struggled with. The issue of ineffective parliamentary oversight was noted by Woodrow Wilson (1956) in his assertion of the limited nature of the US Congressional Government's oversight responsibility that: "the means which Congress has of controlling the departments and of exercising the searching oversight at which it aims are limited and defective".

Legislative oversight refers to behaviour by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on executive and bureaucratic behaviour (Ogul, 1976). The traditional legislative oversight is an important function and integral part of legislative activity in an environment where power relationships change over time and affects the nature and the significance of legislative behaviour (Lees, 1977). Several factors affect the legislature in exercising its oversight responsibility. Among other things, three factors in particular are worthy of mention here because of their effect not only on the role of the legislature but upon the behaviour of legislators, either as individual or group decision makers. The first is the nature of executive authority over the policy process. The second is the position of the executive as head of governmental administrative structure which has the prime responsibility for implementing legislation, and the growth, fragmentation, and institutionalisation of administrative structures in carrying out responsibilities. The third is the need to provide the financial and other resources to enable such responsibilities to be performed. Indeed, these factors are very important because they relate to what may be termed the nominal functions of modern representative governments to legitimise policy initiatives, help allocate scarce resources, and exercise some form of popular accountability upon non-elected administrators and related public officials.

Quite apart from these factors, other factors referred to as opportunity factors have a very high propensity to produce an "over- sight-inducing syndrome" promoting or limiting the potential for effective oversight (Ogul, 1976). These among others include: legal authority, staff resources, subject matter, committee structure, status on a committee, relations with the executive branch, and member priorities. Also, the scope and nature of oversight is also critically related to prevailing executive-legislative relations as enshrined in a country's constitution and in institutional, personal, and party sense, and the priorities of individual legislators.

But effective legislative oversight is most probable in situations where there exist strong and vibrant committees within legislature. The existence, composition, technical competence and behaviour of such legislative committees are therefore important gauge of the potential for any effective oversight. However, in a number of countries, as identified by Lees, legislative committees may persuade the executive to change its policies or modify the way in which certain policies are administered, but they cannot exercise an independent political influence capable of forcing executive or administrative responses to legislative demands. It is poignant to note that, this is a major failing of many legislatures particularly those in developing countries. Alabi (2009) in light of the observed weakness argued that, the viability of any legislature is a function of its position and relevance, within the institutional architecture of the state, in relation to other arms of the government, notably the executive. And it is very important to add that, the relevance of the legislature in any political system is a function of the dynamics of its relationships to other arms of government; and that, it is in the examination of such patterns of relations, both mutual and acrimonious, between these two (political) organs of government that the strengths and weaknesses of the legislature become obvious.

Factors which shape and impede effective legislative oversight are many. These factors include social, cultural and historical context in which a parliament is situated; formal rules, powers and arrangements that frame parliament's leverage; the political environment within parliament and between parliament and other political institutions; Parliament's resources and institutional capacity and the relationship between parliament and international actors (Africa All Party Parliamentary Group, 2008). Curbing the aforementioned legislative flaws require an effective

strengthening of the capacity of all legislatures as well as ensuring that other necessary conditions as identified above are put in place. Following the literature review, the next section gives an historical overview of the Ghanaian legislature.

### **Ghanaian legislature in historical perspective**

The Ghanaian legislature has had a bumpy history and it does not make an interesting study. This is because the legislature has been truncated by military coups. In actual fact, twenty-one out of the fifty-two years of Ghana's attainment of self-rule was under military dictatorships. The period of 1972 to 1982 can best be described as the era of stagnation and underdevelopment of the legislature; the country in the process experienced seven different regimes during this period. The nature of political events during this period highlights the vagaries and severe instability that have dominated Ghanaian politics and legislature's development.

Ghana experienced various systems of government, these included: "Westminster" model of parliamentary government (1957-1960 and 1969-1972); One-party dictatorship (1960-1966); military dictatorship (1966-1969; 1972-1979 and 1981-1993); United States' model of separation of powers (1979-1981) and the Fourth Republican Constitution (1992 to date), which is a combination of the Westminster type parliamentary system and the American executive-presidential model.

The promulgation of the 1992 Fourth Republican Constitution culminated in the restoration of Parliament in January 1993 with a hybridization of an executive presidential – parliamentary system of government, which has given the executive an imposing presence in the legislature. Unlike its predecessors, the hybrid governmental system represents a slight departure from the pure doctrine of separation of powers. As noted earlier, this is because the executive-President is required under article 78(1) to appoint majority of his ministers from among members of Parliament. The overarching objective for the partial fusion of executive -legislative function is to enhance smooth working relations between Cabinet Ministers and lawmakers in order to ensure effective political management of the business of government. Conceivably, this particular constitutional arrangement was ostensibly aimed to curb the perceived defect of the strict separation of powers practiced in the Third Republic, but it has in several ways given the

executive an unequivocal control over parliament; a situation that is worrying considering the history of the Ghanaian legislature and its role in the country's democratic development.

### **Political economy of Ghana's extractive industry sector**

Ghana is one of the popular West African countries. It is located between latitude four and half ( $4\frac{1}{2}$ ) degrees north and eleven and half ( $11\frac{1}{2}$ ) degrees north. It is bordered to the south by the Atlantic Ocean, to the east by Togo and the west by Cote d'Ivoire, and in the north by Burkina Faso. Ghana has an area of 238,537 sq. km (92,100 sq. ml). According to the 2000 census; the population is approximately 19.9 million, with over 60% living in rural areas (Ghana Statistical Service, 2001). The climate is tropical, generally warm and humid except for hilly areas. Much of the southern part is covered by tropical rainforest, while the northern parts consist predominantly of savannah-type vegetation.

Ghana is currently the second largest producer of gold in sub-Saharan Africa, only behind South Africa, and a leading exporter of bauxite, diamond and manganese (see Yelapaala and Ali, 2005). Addy (1998) reported that in 1996, the country's mineral reserves was made up of 48,017,149 ounces of gold, 23,443,000 carats of diamond 28.20 metric tons of bauxite, and 3.54 metric tons of manganese (Addy, 1998; Aryee, 2001). Therefore, it is undisputable that minerals constitute a great source of wealth to the nation and its impact on Ghana's economy is without a shred of doubt.

Ghana Minerals Commission reported that in 2008, the extractive sector accounted for 45.27% of total exports and about 12% of total government revenue in 2007 (see also Ayee and Soreide, 2008). According to Ayee and Soreide (2008), from 1980 to 2005, total foreign direct investment (FDI) in the sector amounted to US\$6 billion. Also, Ghana's extractive industry (EI) in 2000 was made up of 19 large-scale mining companies and over 600 small-scale and cooperative miners (Akabzaa and Darimani, 2001). Small-scale mining alone between 1989 and 1994 earned the government US \$ 63 million (Akabzaa and Darimani, 2001) and employs over 500,000 workers (Ayee and Soreide, 2008). However, a considerable portion of the revenue from the extractive

sector comes from large-scale mining operations. Large-scale mines also employ about 20,000 workers and the sector further employs about 6000 workers in mine support services (Ayee and Soreide, 2008).

However, the sector's contribution to the country's economic growth and GDP has not been encouraging. This is largely due to the fact that a significant proportion (up to 80% as provided in the Minerals and Mining Act, (Act 703, 2006) of returns is retained offshore by the mining companies. Therefore it has made a relatively modest contribution to economic growth compared to other resource rich countries 2% to growth in 2007 and 5.9% to GDP in 2008 (Ayee and Soreide, 2008; Ghana Statistical Service, 2009).

Also, the state has a minority share in the Ghanaian mining companies and therefore dividends received have been minimal. Furthermore, as a result of its minority ownership, its influence on such mining boards has been limited.

Ghana, in addition to the production of the four main minerals listed above, is endowed with several other mineral deposits which include salt, limestone and crude construction materials. Ghana in the past has also engaged in crude oil extraction (though not in commercial quantities).

Crude oil explorations in Ghana started in 1978 and between 1978 and 1985 the country produced approximately 3.8 Mbbl of crude oil (Addy, 1998). Oil production began again in 1992 with a yearend rate of 6000 bbl/d (USBM Minerals Yearbook, 1992, cited Addy, 1998). Ghana has once again discovered crude oil and gas in the Western Region of the country this time in commercial quantities. The Ghana National Petroleum Commission (GNPC), in collaboration with the Ghana Energy Commission (GEC) estimated that, oil and gas would contribute about 60% of Ghana's total export and 27% of domestic revenue by 2012. The cumulative revenue expected from oil and gas extraction is projected to be US \$20 billion.

However, the concern of civil society and the international community has been to effectively address the challenges of EI (oil and gas) governance. The following sections provide



background information on the role and influence of political actors, especially the executive and the legislature in shaping EI governance.

### **Politics of extractive industry sector policymaking**

Ghana's 1992 Constitution makes several provisions aimed at facilitating the effective interaction and participation of traditional governance institutions in policymaking. These institutions, the Legislature, Executive and the Judiciary, have all over the years contributed in diverse ways to the success of the policy process in Ghana. The politics of policymaking in Ghana (including extractive industry policy) result from the interaction between politicians and government institutions. It is expected that such interactions would not only ensure, but enhance institutional control and cross-fertilisation of ideas needed for quality policy output (see Ayee and Soreide, 2008). The usefulness of this interaction is dependent on the existing legal/constitutional arrangements, institutional framework and the democratic orientation of the various political actors in the policymaking process. This section provides a brief literature overview on the role and influence of the traditional governance institutions in Ghana's governance of the EI sector. The focus of the literature review will be on the ways in which existing constitutional and political structures enhance or limit the influence and incentives of legislators to seek beneficial policy outcomes from the EI sector.

### **Role and influence of the executive in extractive industry sector policymaking**

At the highest political level the President, the Minerals Commission and Parliament are the main EI policy decision makers. Among them, the President dominates all policy decisions (i.e. EI policy, see Article 257 (6) of the 1992 Constitution; the Minerals and Mining Act, Act 703 of 2006). For instance by the Minerals Commission Act of 1993 (Act 450), the President has exclusive authority to appoint all members of the commission. In exercising this appointing authority, the Executive has generally appointed persons sympathetic to the ruling party.

Parliament is constitutionally mandated to enact laws including mining laws in Ghana (see Article 93 (2) of the 1992 Constitution). However, the Constitution allows the President to appoint the majority of ministers from Parliament (see Article 78 (1) of 1992 Constitution). This

provision has generally been used to recruit most competent MPs to join the government and for enforcing loyalty to the executive undermining the oversight function of parliament. With particular reference to EI decisions (e.g. production, contract, licensing etc.) this provision is likely to weaken the influence of Parliament on EI policy issues.

The Ghanaian Parliaments have since 1992 been dominated by the party of the executive. Politicians (individuals and groups) always manoeuvre to shape the institutions in which they work to maximize their ability to achieve their goals (see also Mezey, 1985). Since the inauguration of the constitution in 1992, there has been continuous dominance of parliamentary behaviour by parties and this has limited the potential for independent actions by MPs.

Power in Parliament is skewed in favour of the majority party and sometimes decisions are taken even without the consent of the minority (see Ninsin, 2008). Political parties (especially the majority) also have significant influence on committee behaviour. This increasing party influence in the legislative process derives from the normative assumption that the more important the parties are, the less important the committees and vice versa (see Olson 1980; Shaw 1979; 1979b). This has been an area of concern for civil society with respect to the governance and especially EI (oil and gas) governance. However this majority dominance has been minimal in the current parliament as there is a very slim majority.

### **Parliamentary influence and extractive sector policymaking**

The importance of Parliament in participatory democracy including Ghana's is widely acknowledged (Darko, 2007; see also Calland, 1999). Ghana's Parliament is responsible for enacting laws for all sectors including the extractive sector (See Article 93 (2)). An essential role in this lawmaking process is played by parliamentary committees, where the core of Parliament's work is done, and where the public is able to engage with policy and legislative issues through submissions and public hearings. In actual fact, this is where the action is – policy development, in depth issue studies, departmental oversight, legislative work and review of government spending (Finsten, 2002).

In the particular case of EI policy, the Mines and Energy committee (MEC), which consists of majority and minority members is responsible for securitizing EI legislations. It serves also as an advisory body to the government on EI policy formulation. But the effective influence of the specialised parliamentary committees on EI sector policy is minor. Again, the limited influence of specialised committees is due to the fact that the composition of committees reflects the partisan composition on the floor: if the majority of legislations come from the government, then they will seek presidential assent to make decisions.

The Public Accounts Committee (PAC) is another important specialized committee. Public Account Committees are one of the essential institutional instruments that parliament can use to check governmental activities. PAC has oversight responsibility for enforcing executive accountability in Ghana. In regards to mining (oil & gas) PAC is expected to ensure that public officials and government spend EI revenues well. However, the exercise of this role has also been at best negligible due partly to resource constraints and inadequate capacity, and for the fact that PAC has no prosecutorial powers (Sakyi, 2004). This institutional weakness helps explain why PAC has a minimal formal and informal influence on fiscal and regulatory matters.

### **Data collection methods**

Qualitative technique was adopted in the collection of data for the study. Qualitative research method was used here for purposes of adopting an interpretive approach for the analysis and understanding of the experiences of Ghanaian legislators, and aimed to provide a ‘deeper’ understanding of the influence of parliament upon policymaking. This technique was useful because of its substantial flexibility, as it allows the study to take place within the local environment at ‘Parliament House’ where legislative activities occur.

Issue-driven semi-structured interviews involving twelve selected legislators from five purposively selected committees was used for data collection; and, the issue being investigated – capacity and performance of parliamentarians in shaping public policy – dictated the choice and

type of participants. As noted earlier, purposive sampling, a non-probability sampling technique was used for selecting key informants from the majority and minority side of parliament. But the selection was influenced by researcher's personal judgment and the research objectives of the study.

Data for the study was collected from 12 sampled Members of Parliament (MPs). Specifically, the sampled MPs were drawn from the Finance, Public Accounts, Mines and Energy, Lands and Forestry, and Local Government and Rural Development Committees. These committees were purposively selected considering their key role in advancing the policy making process on EI governance. Table 1 below summarises the number of MPs drawn from the various committees.

**Table 1: Committees and number of MPs interviewed**

<b>Committee</b>	<b>Number interviewed</b>
Public Accounts	2
Finance	5
Local Government and Rural Development	2
Mines and Energy	2
Lands and Forestry	1

*Source: Field Data, 2009*

Experienced Parliamentary staffers were consulted in identifying five (5) specialised Parliamentary Committees based on the fact that they have or are likely to have relative association with EI governance related issues. A list of MPs to be included in the sample was obtained from the Office of the Clerk of Parliament, but final selection was based on political representation and ranking in the various Committees. A total of twelve (12) interviews were conducted largely based on the availability of the MPs.

The questionnaire consisted of six sections. The main issue areas were assessing interviewees' knowledge on general issues in the extractive industry in Ghana. Questions asked therefore centered on key debates in the Oil and Gas sector, Mining sector, EITI and the GNPC. Other question were: knowledge on EITI issues in Ghana, goals and processes of EITI, the status of

EITI in Ghana, interviewees' role in influencing the political and policymaking dimension of the extractive industry, the type of media used, and the impact of the efforts of respondents on the extractive sector governance policy.

## Findings of the study

### *Knowledge and capacity of MPs in extractive sector governance*

The first set of questions sought to assess the knowledge and capacity of MPs in shaping extractive sector policymaking and governance. The study first and foremost evaluated MPs' knowledge in the extractive sector. This evaluation revealed that the MPs had a fair knowledge of the Extractive Industry (EI) issues. Responses showed that 50% of MPs were at least familiar (16.7% were very familiar and 33.3% were familiar) and 25% were not at all aware of mining sector policy and management issues. The remaining 25% were slightly aware of EI issues.

**Table 2: Familiarity with mining sector management issues**

Response	Frequency	Percentage
Not at all aware	3	25
Slightly aware	3	25
Familiar	4	33
Very familiar	2	17

*Source: Field Data, 2009*

MPs however had less knowledge in oil and gas sector management. Although the same number (25%) of MPs was not aware of the issue, the number of MPs who were at least familiar dropped to 25% (8.3% were familiar and 16.7% were very familiar). 50% were however slightly aware.

**Table 3: Familiarity with Oil and gas sector management issues**

Response	Frequency	Percentage
Not at all aware	3	25
Slightly aware	6	50
Familiar	1	8
Very familiar	2	17

*Source: Field Data, 2009*

An assessment of the strength of knowledge of MPs in various committees revealed that the Mines and Energy committee appeared to be the most knowledgeable (with all 2 MPs interviewed at familiar with oil and gas sector management and the EITI process and 1 out of the 2 very familiar with mining sector management). Other committees had fair knowledge of the issues and the only MP from the Lands and Forestry Committee was not at all aware of any of the three EI governance issues. This suggests that only MPs involved actively in Oil and Gas sector issues (mines and energy committee) fully appreciate the relevance of problems in the sector.

MPs who were familiar with all the issues had been exposed to these issues by virtue of their positions (for instance as ex-deputy Finance Minister, ex deputy Energy Minister or as the chair of the Mines and Energy Committee). Other MPs who were slightly aware claimed that they had gathered some details from discussions on the media as well as from briefings during committee meetings. Some MPs who are representative of constituencies in mining and timber areas also showed fairer knowledge and familiarity with EI issues.

MPs' awareness of the key debates in the oil and gas sector was also assessed. This assessment showed that 5 MPs at least had good knowledge of the debates (2 had good, and 3 had excellent knowledge), and 1 MP was not at all knowledgeable. The mines and energy committee again showed extensive knowledge in the issue; all 2 MPs interviewed from the committee had at least good knowledge of the issues. Other committees were fairly knowledgeable.

Some MPs with limited knowledge claimed that such issues were not handled by their committees. The committees in Parliament operate with the principle of division of labour where committees are more concerned about issues of direct concern to them. MPs therefore become dedicated to issues handled by their various committees and they only have the opportunity to know about issues of other committees when it becomes a concern to their committee. The major issues MPs exhibited knowledge of during these interviews, were issues on Ghana's linkage to the West African Gas Pipeline and the structure and functions of GNPC. Most MPs claimed that they got the information mainly not from the floor of parliament or their respective committees, but from the media and other sources.

Concerning the functions of GNPC, 5 MPs had at least good knowledge (3 had good, and 2 had excellent knowledge), and 2 had no knowledge. The Mines and Energy had the best knowledge (all 2 MPs from the committee had excellent knowledge) based on assessments from the interviews. The finance committee also showed an appreciable level of knowledge with 3 out of the five members drawn from the committee having good knowledge in the subject. The knowledge base of other committees on this issue was however limited (based on the results

from the interviews). MPs were most familiar with the GNPC's exploratory and regulatory functions.

An evaluation of MPs knowledge in the legal issues in the oil sector; specifically the availability and status of an oil law/bill showed that half (6) of the MPs at least had some knowledge and the remaining half were not at all knowledgeable. The knowledge base was concentrated in the finance and mines and energy committees (2 MPs from each committee had at least good knowledge on the issue) while interviewees from other committees had little or no knowledge. This shows that knowledge is specialized but doesn't spillover to other committees.

### ***MPs' views on extractive industry governance initiatives in Ghana***

Some MPs indicated that the proposed law was still under consideration at the cabinet and will be brought before the house by the end of the year. The few MPs who had excellent knowledge were part of the EITI Steering Committee and part of the team that drafted the proposed oil bill respectively. These were the chair of the Mines and Energy Committee and the ranking member of the Finance Committee. They provided that the bill was not withdrawn but lapsed during the last parliamentary session. They also explained that the oil bill was not an entirely new concept but rather sought to bring together all existing legislations in the oil and gas sector as well as modify them to suit current times.

Further, the study assessed MPs familiarity with the EITI process. Familiarity with this issue as compared to that of mining sector management, and oil and gas sector management, was quite low. A total of 4 MPs at least had good knowledge of the process and as many as six (6) were not at all aware of the process. The remaining was only slightly aware. What this finding suggests is that most previous EI programmes in Ghana specifically targeted the Mines and Energy and Finance Committees excluding other Parliamentarians. For example, invitation to participate in a workshop organized by the GHEITI National Steering Committees, Publish What You Pay (PWYP) Ghana and Integrated Social Development Centre (ISODEC) in February 2008 was extended only to the Parliamentary Select Committee on Mines and Energy (GHEITI, 2008).



**Table 4: Familiarity with EITI issues**

Response	Frequency	Percentage
Not at all aware	6	50
Slightly aware	2	17
Familiar	1	8
Very familiar	3	25

*Source: Field Data, 2009*

A further assessment of MPs revealed that 8.3% had some knowledge and of this, 25% had good knowledge. Fifty percent were also not at knowledgeable in the goals and processes of the EITI while the remaining 25% had excellent knowledge on the EITI process.

MPs were also restricted in terms of their knowledge of Ghana's status under the EITI with 2 MPs having excellent knowledge and 1 MP having some knowledge. Nine (9) MPs however had no knowledge in this.

In addition, 7 MPs had no knowledge on the benefits of publishing disaggregated data. 3 MPs had some knowledge and 2 had excellent knowledge. The mines and energy committee, which can be regarded as MPs knowledge hub on the extractive sector was the most knowledgeable with regards to this issue. The finance and the Local Government and Rural Development (LGRD) committees also exhibited some level of knowledge, but the other committees were almost ignorant of the issues. MPs who were knowledgeable obtained their information not from Parliament but mostly from Ministries, Departments and Agencies (MDAs) of government (and commissions the executive had appointed them to serve on, and also from workshops and training programmes. Both Mr. Moses Asaga and Dr Anthony Akoto-Osei ( former Deputy

Finance Ministers) iterated that their level of knowledge or familiarity of EI issues was basically due to the fact that they were members of EITI steering committee and members of the executive.

Data was also collected on MPs knowledge on current revenue streams in the extractive sector. MPs were assessed based on their knowledge on the extraction and distribution of mining revenues. The results of this were encouraging since all MPs interviewed had at least some knowledge (3 had excellent, 2 had good, and 7 had some knowledge). Apart from the mines and energy committee which possessed the best knowledge on this issue, MPs from the finance and the public accounts committees exhibited satisfactory levels of knowledge in this issue. The MPs were of the view that the resources taken out of the country and the environmental and social costs to the country when valued far exceed the monetary benefits. To them, the government should extract more revenue from mineral processes than what currently prevails; adding that the revenue should also be fairly distributed. Specifically, more revenue should be given to the local government Authority for development and less to the traditional rulers for the maintenance of their stools. Seven MPs also pointed out that stakeholders (including themselves and CSOs), should intensify the exercise of their oversight responsibilities to ensure that such revenues are responsibly invested.

### ***Sources of Knowledge and Interaction with Stakeholders on Extractive Industry Issues***

CSOs interviewed derived their information from various sources. Prominent among these sources are the media and national/local NGOs. The table below shows the various sources of specialized knowledge identified by the CSOs.

**Table 5: MPs Sources of Specialized Knowledge**

Source	Frequency
Media	12
National/local NGOs?	11
Government Information	8
Internet sites?	5

National academics and independent experts?	5
Company reports?	4
Workshops and training programmes	4
International organizations?	3

---

*Source: Filed Data, 2009*

The study further evaluated how often MPs had raised issues on the extractives and the stakeholders they interacted with when raising such issues. Responses to this indicated that 4 MPs never raised any issue on oil, gas or mining. The remaining 8 had done some interactions with other MPs, parliamentary staff and the affected communities (through committee visits). The table below gives details of MPs interaction with other stakeholders in raising issues in the extractive sector.

**Table 6: Interaction with other Stakeholders**

	Never	Little	Some	Often	Weighted Score
Weight	0	1	2	3	
MPs	4	0	8	0	16
CSOs	4	0	8	0	16
Media	4	0	7	1	17
Parliamentary Staff	4	0	8	0	16
Affected Communities	4	0	6	2	18

---

*Source: Field Data, 2009*

The table shows that MPs interacted mostly with affected communities (with a weighted score of 18). Second on the list of stakeholders MPs normally interact with is the media (weighted score

17). The table further indicates that the frequency with which MPs interact with other MPs, Parliamentary staff, and CSOs is not very different (each with a weighted score of 16).

### **MPs' oversight capacity and performance in influencing EI policymaking**

MPs oversight performance was measured based on how they had sought to influence policymaking. Eight MPs had never sought to influence the political dimension of the policymaking process to try to bring change in relation to the oil, gas or mining sector or implementation of the EITI process in any way. They claimed they discussed issues on the Committee level as and when it was raised but had made no attempt to influence it personally. Though in some instances, MPs are 'whipped' to inculcate political considerations into committee discussions by their political party leadership in parliament, generally discussions held at the committee level are based on technical and social considerations rather than political ones. Two MPs also claimed these were new and had thus not had the opportunity to do so.

One MP who also is an ex-finance minister influenced the political debate in his ministerial role and on the personal level by virtue of his technical expertise on the subject. The chair of the mines and energy committee who also is a key figure in the EITI steering committee had also influenced all the dimensions under study.

The Vice Chair of the LGRD, who is also a former District Chief Executive (DCE) of Saltpond, initiated individual efforts as well as convened a special committee to enquire about offshore oil exploration in the district. He also coordinated with the MP for Mfantseman West to share information for improving policies in the extractive governance.

The chair of the mines and energy committee and the former Minister of Finance used the Media to influence the debate on oil and Gas and especially on EITI. The other MPs used the media as and when it was necessary but none had done so in the last year. Further, most MPs claimed they were waiting for the draft bill to be presented to the house so that they could peruse it and make informed debates on key issues on the sector.

The chair of the Mines and Energy Committee and the former Minister of Finance had used all the types of Media to influence the public debate. Additionally, 3 MPs from areas where extractive activities took place used Public Speeches and Radio Campaigns frequently. The nature of their duties was such that they played key roles across the extractive industry (spending, revenues, royalties, regulation, and environmental concerns). Their influence of the public debate therefore stretched across these parameters. However, the Former Minister of finance mainly influenced the investment, finance and economic dimensions of the extractive sector public debate.

All MPs have not personally requested the release of information but claimed their committees did. In all cases, that committee got the information. MPs did not request for information on a personal level, however they requested such information from clerks of the committees or from the research department as and when such information was needed for particular discussions on the floor of the house or at the committee meetings. Thus, the clerks of the committees and the research departments were those who requested for the information. From the MPs' perspective, they always got the information (though not always in time) they requested as a committee. The responses provided by staffers on this issue (that requests for information for the committee discussions were done by clerks and in all instances, they got the information requested for) corroborate this.

### **Impact and changes in extractive sector policy governance**

Concerning changes in the extractive governance in the last year, seven MPs believed that there have been no changes, three believed there had been changes like the increased involvement of GNPC, the education of the public in mining and all communities attempts to revise the agreements on royalties transparency in the use of revenues. Two MPs also believed that little had changed – only the revisions of the bill and compensation package for landowners in the oil sector had changed but other things remained the same.

Members agreed unanimously that MPs had played little role in the extractive sector over the past year and in effect the entire issue on oil and gas but will do so when the bill comes to parliament. When asked whether they had individually played a role in the extractive sector, six MPs responded in the affirmative. Of this number, 4 explained that they had played some role because their committee had done some consultations with affected communities on such issues while the remaining two had played a role by virtue of the fact that they came from extractive communities. The remaining six MP's had played no role because they were new in parliament or because such issues were not handled by their respective committees.

However, MPs are rather anticipating the discussion of the bill in the house and considering the public interest in the oil and gas sector in recent times as well as the political, economic, social and environmental implications of the industry on the Ghanaian economy it will be difficult for them to be taken by surprise by the bill.

### **MPs' involvement and contribution to other public policy issues**

In response to whether there had been any policy issue where they had to invest significant time to learn about new issues in order to make informed decisions; all MPs claimed they did so all the time. The Vice Chair for the LGRD for instance stated that he had to research to contribute on premix (?) issues and Tema Oil Refinery (TOR) Debt. The Chair of the Finance Committee also said he researched on the Global Financial Crises and its effects on Ghana, and a member of the Lands and Forestry Committee reported of his research on government Finance and loan Contracting etc. A significant number of MPs reported that they conducted research via the internet and electronic and print media rather than library services or parliamentary archival materials.

When asked whether they had interaction with stakeholders, MPs claimed they always interacted with stakeholders at the committee level but seldom interact personally with stakeholders. They therefore requested and obtained information for their legislative work from stakeholders, various clerks and staffers of their Committees.

All MPs responded in the negative when asked if the contribution they made to the policy reform issue produced any substantive policy changes.

### **Discussion and policy lessons**

Findings from the study showed that MPs' involvement in EI governance are limited. Considering the provisions in the Constitution as well as the Mining Act, the executive has been vested with a number of responsibilities which makes it the main governmental actor in EI issues. The sub-national authorities also have their respective roles to play as well. However, Parliament's involvement in EI issues is mainly concerned with oversight. However, as several authors have identified, most legislatures (including Ghana's Parliament) are unable to perform their oversight functions effectively (see Alabi, 2009; Africa All Party Parliamentary Group, 2008). These authors have attributed these weaknesses among legislatures to varying factors. Ogul (1976) identified seven factors which affect parliamentary oversight. These included: legal authority, staff resources, subject matter, committee structure, status on a committee, relations with the executive branch, and member priorities.

It is quite clear from empirical evidence that the Ghanaian legislature has the legal authority to back their oversight functions. These are clearly spelt in the 1992 Constitution as well as other laws governing the country. However, the study revealed that MPs are under resourced. MPS indicated the inadequacy of support staff (such as research assistants), the non-existence of office facilities as well as the inadequacy of research materials as major factors constraining them. However the availability of staff and other resources as identified by Ogul (1976) is very critical to parliamentary oversight performance. The absence of these has limited Ghana's Parliament in terms of its oversight (including the oversight over EI activities and revenue).

The structures of the committees responsible for EI oversight activities also play important roles in Parliamentary oversight. All committees in Parliament with the exception of the Public Accounts Committee have their leaderships from the ruling party (which has the majority in Parliament). Due to such structure and as revealed by the study, the executive is able to 'bulldoze' its way through the work of these committees. The 'say' of the minority has been

virtually limited to voting on the floor of parliament; which they have most of the time lost because party members are whipped to toe party lines. The study however revealed that such practices have decreased over the years as the size of the majority has been decreasing.

In addition to this, the relationship between the executive and the legislature also has a considerable effect on the legislature's ability to perform its oversight activities. The 1992 Constitution with regards to Article 78(1) fuses the executive and the legislative arms of government. This provision has created a cordial relationship between the executive and legislature. This however sometimes overburdens the MPs who hold executive position which affects the time they have for legislative matters. On the other hand, the study revealed that minority MPs who mostly do not hold such executive positions are sometimes denied of some relevant information from the executive and also from the sub-national authorities.

The priorities of legislators were also identified as another factor which has caused the legislature to be dormant in terms of EI governance issues. Legislators due to the terminal nature of their tenure are most of the time concerned about their re-election. Thus MPs with the exception of the few who had held or are currently holding executive positions, it is the MPs who are in the mining areas who are most concerned about EI governance. However, not all of these MPs belong to the respective oversight committees and as such, their interventions in Parliament have been limited. Some others who belong to the EI oversight committees are also very much engaged in matters other than their committee issues. These have thus limited parliamentary oversight activities in the extractive sector. Therefore these factors as identified by several authors must be taken into consideration when instituting measures to improve parliamentary oversight.

## **Conclusion**

The involvement of the legislature in governance and policy making in Ghana's extractive sector has been given little attention. As such, the study revealed that an overwhelming proportion of parliamentarians interviewed (about 75%) had very limited knowledge about the governance processes concerning mining as well as oil and gas management issues. Concerning the new wave of transparency issues in extractive sector governance, the EITI, MPs' knowledge was also



negligible; a significant 50% had no knowledge. The study further established a minimal involvement of the parliamentarians in policy issues concerning the extractive sector. It was however acknowledged that the parliamentarians in the mines and energy committee as well as those who had the opportunity to be in executive ministerial positions as well as other positions in the sector had appreciable knowledge about the issues. However, the bulk of the members in other strategic committees (especially the Public Accounts, Finance, Lands and Forestry, Local Government and Rural Development) expected to play key roles in extractive governance, had negligible knowledge; and thus limiting their involvement in EI governance debate and policy issues.

These revelations from the study provide adequate empirical evidence which suggests that there is urgent need to strengthening EI governance in Ghana. There is also the need to provide MPs with rigorous training and comparative information on EI governance. This will fill the existing knowledge gap and also strengthen parliamentarians' capacity and influence.

It is in this connection that interviewees suggested enhancement of MPs' capacity in EI governance through the promotion of greater stakeholder networking, collaboration and participation in the activities of the extractive industry sector in Ghana. Furthermore, the convenience to prioritise capacity building efforts -including logistical support- to strategic but "weak and vulnerable" public agencies that oversee EI governance lawmaking/policymaking and implementation in Ghana.

Last but not the least, the findings of the study underscore the urgent need to expand and promote continuous public and community awareness around the Ghana Extractive Industry Transparency Initiatives, especially but not exclusively working with communities where mining, oil and gas industries are situated.

## References

- Addy, Samuel N. (1998), 'Ghana: Revival of the Mineral Sector' *Resources Policy*. Vol. 24, No. 4, pp. 229–239
- Aggrey-Darko, E. (2007), 'Parliament and representation in Ghana', in: JRA, Ayee (ed), *Ghana at 50: Government, Politics and Development*, Accra: O'Mens Graphix, Chap. 6 pp 77-106
- Akabzaa, T. and Darimani, A. (2001). A Study of Impacts of Mining Sector investment in Ghana on Mining Communities, Accra: Structural Adjustment Participatory Review Initiative (SAPRI) on Ghana  
<http://www.naturalresources.org/minerals/africa/docs/pdfs/Impact%20of%20Mining%20Sector%20Investment%20in%20Ghana.pdf> (accessed July 17, 2009).
- Ayee, Joseph and Tina Soreide (2008), 'The Governance of Mining in Ghana', Washington: World Bank
- Aryee, N. A. (2001), 'Ghana's mining Sector: Its contribution the national economy', *Resources policy*, No. 27, pp 61-75
- CDD-Ghana (2000), *The Ghana Governance and Corruption Survey: Evidence from Households, Enterprises and Public Officials*, Accra: CDD-Ghana and World Bank, August, 2000
- Calland, R. (ed) (1999), *The first five years: A Review of South Africa's Democratic Parliament PIMS (IDASA)* Cape Town
- Republic of Ghana, *Constitution* (1992), Accra: Assembly Press of Ghana Publishing Corporation.
- Dordonoo, C. (2008), *Governance and Economic Management*, in: Baffour Agyeman-Duah (ed), *Ghana: Governance in the Fourth Republic*, Tema: Digibooks Ghana Ltd., chap 4, pp. 286-315
- Finsten, H. (2002), 'Working with Committees: why do it and when to start', Paper delivered at 68th ILFA Council and General Conference August 18-24 2002
- Ghana Statistical Service, (2001), *2000 Population and Housing Census*, Accra: Ghana Publishing Corporation.
- Ninsin, K. A. (2008) (ed.), *Executive-Parliament Interface in The Legislative Process (1993-2006): A Synergy of Powers?*, Accra New Town: Woeli Publishing Services, Institute for Democratic Governance
- Offei-Aboagye, E. (2008), 'The Challenges of Decentralisation', in: Baffour Agyeman-Duah (ed), *Ghana: Governance in the Fourth Republic*, Tema: Digibooks Ghana Ltd., chap 4, pp 234-262

Sakyi, E. K. (2004), 'Public Accountability through State Audit: Appraisal of the Auditor-General's Report on the Consolidated Fund (CF) in Ghana', *African Administrative Studies*, No. 62, pp. 1-18

Republic of Ghana (1993), *Serious Fraud Office (SFO) Act; Act 466, 1993*: Accra, Ghana Publishing Corporation

Yelpaala, Kaakpema and Saleem H. Ali (2005), 'Multiple scales of diamond mining in Akwatia, Ghana: addressing environmental and human development impact', *Resources Policy*, Vol. 30, pp. 145–155

Africa All Party Parliamentary Group (2008), *Strengthening parliaments in Africa: Improving support*. A report by the Africa All Party Parliamentary Group

Alabi, Mojeed O. A. (2009), The legislatures in Africa: A trajectory of weakness, *African Journal of Political Science and International Relations* Vol. 3 (5), pp. 233-241, May, 2009

Arab Parliamentary Bulletin (2009), *Editorial Arab Parliamentary Bulletin Issue 1 March 2009*.

Cotta, Maurizio, Raffaella della Porta, and Leonardo Morlino. 2001. *Scienza Politica* [Political Science]. Bologna, Italy: il Mulino.

Lees, John D. (1977), "Legislatures and Oversight: A Review Article on a Neglected Area of Research", *Legislative Studies Quarterly*, vol. 2, n. 2, (May) 1977, pp. 193-208.

Ogul M. S. (1976), *Congress Oversees the Bureaucracy: Studies in Legislative Supervision*, Pittsburgh, Pa.: University of Pittsburgh Press.

Pasquino, Gianfranco, and Riccardo Pelizzo (2006), *Parlamenti Democratici* [Democratic Parliaments]. Bologna, Italy: Il Mulino.

Pasquino, Gianfranco (2004), *Nuovo Corso di Scienza Politica* [New Course in Political Science]. Bologna, Italy: il Mulino.

Sartori, Giovanni. (1987), "*Elementi di Teoria Politica* [Elements of Political Theory]. Bologna, Italy: il Mulino.

Wilson, Woodrow, (1956), *Congressional Government*, Cleveland and New York: The World Publishing Company. (Originally published in 1885.)