

# Can Ghana Avoid the Resource Curse?

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Inge Amundsen<sup>1</sup>

## Abstract:

The 'resource curse' refers to the paradox that countries with an abundance of natural resources, specifically petroleum resources, tend to have lower economic growth and less democratic government than countries with fewer natural resources. Democratic institutionalisation is important in this respect. It seems that a country will be cursed only when the discovery of petroleum resources is made before democratic institutions are established and consolidated. The question is whether Ghana, as a new petroleum exporting country, can withstand the pressures that a sudden resource boom will create. Are Ghana's democratic institutions sufficiently strong to withstand the pressures for rent-seeking and political monopolies? Ghana's level of democracy and institutional strengths are analysed using international, comparative governance statistics, like the *World Governance Indicators*, the *Corruption Perceptions Index*, the *Open Budget Index* and assessments by international organisations like the *Extractive Industries Transparency Initiative* and the *Revenue Watch Institute*. According to these data, which basically picture positively Ghana's level of democratic institutionalisation, and the fact that Ghana has held four fully competitive multiparty elections, it is fair to conclude that Ghana can avoid the trappings of the resource curse.

## Introduction

The 'resource curse', also called the 'paradox of plenty', refers to the fact that some countries bestowed with high levels of natural resources, in particular oil, gas, and diamonds, have little or negative economic growth. It is the paradox that some resource rich countries are deteriorating in

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<sup>1</sup> Dr Inge Amundsen is Senior Researcher at the Chr. Michelsen Institute (CMI, see [www.cmi.no](http://www.cmi.no)) in Bergen, Norway. He is a political scientist focussing on democratic institutionalisation, parliaments, political parties, political corruption, and natural resources (petroleum resources management and revenue management). His main study area is francophone West Africa, Ghana, Angola, Nigeria, and Bangladesh. Amundsen made his PhD in comparative African studies at the University of Tromsø, 1997. He was Research Director at CMI from 2000-2003 and Director of the U4 Anti-Corruption Resource Centre from 2002-2006. He has also coordinated three CMI institutional cooperation programmes. Amundsen teaches extensively on corruption prevention and good governance in the petroleum sector.

terms of economic expansion and diversification, and have made unexpectedly little progress in terms of redistribution and democratisation.

Among the ‘resource cursed’ countries are Angola, Nigeria, DR Congo, the Sudan, Sierra Leone, Equatorial Guinea, Zambia, Tajikistan, Colombia and Afghanistan. These countries are characterised by poor economic development, low *Human Development Index* (HDI), and/or poor democratic records, despite substantial incomes from minerals and other resources. On the other hand, a number of countries seem to be protected from – or even blessed – by their resources. Among the ‘resource blessed’ countries are Norway, Australia, Canada, Chile, Brazil, Malaysia, and Botswana.

Institutionalisation and democratisation are decisive factors to this curse. It seems that a country will be cursed *only* when the discovery of oil or diamonds, for instance, is made before accountable and democratic state institutions are established and consolidated. It is cursed when its institutions are not strong enough to withstand the pressure from various groups for access to the newly found riches. Countries like Norway and the United Kingdom were well-governed *before* they discovered oil and gas, and their institutions were not influenced negatively by rent-seeking, whereas countries like Nigeria, the Sudan, Sierra Leone, and Equatorial Guinea, were authoritarian and institutionally weak.

The discovery and exploitation of resource wealth can create forces that can block the development of ‘good quality’ political and economic institutions. Rich resources can lead to institutional decay when politicians are obstructing and dismantling state institutions in order to extract the rents for private use. Weak institutions are also incapable of administering the resources in a nationally beneficial way. Institutions of ‘poor quality’ will fail to protect property rights and contracts, and fail to turn entrepreneurs away from rent-seeking and into production. States with weak institutional capacity cannot hinder group conflict over access to the resource rents; they cannot hinder (economically unproductive) investments in lobbying for protection, subsidies and preferential policies; and they cannot hinder wasteful government investments in luxury goods imports, unsustainable grandiose prestige projects, and capital flight.

Particularly harmful is the struggle for the rents controlled by the state, and thus the struggle for control of the state; by for instance political insiders, top-level bureaucrats, military officials, robber barons, and warlords. Historically, it is noticeable how the discovery and exploitation of rich resources have led to a *further* weakening when the state institutions are weak or bad in the first place.

The question is therefore if Ghana, as a new petroleum exporting country, can withstand the pressures that a sudden resource boom will create. Are Ghana’s level of democracy and the quality of its institutions sufficient to withstand the pressures created by various forces over access to the riches? Can Ghana withstand the pressure from entrepreneurs and business interests to get preferential government treatment, protection, and monopolies? Are Ghana’s democratic institutions sufficiently strong to withstand the pressure from political forces that want to extract the rents for private use, to withstand the pressures for rent-seeking and political monopolies?

In order to assess whether Ghana’s level of democracy and institutional strengths are sufficient to withstand the political and economic pressures that will be created by a resource boom, we will use available international statistics. We will look at Ghana’s institutional quality through the lenses of comparative governance statistics, like the World Bank’s *World Governance Indicators*, Transparency International’s *Corruption Perceptions Index*, the *Ibrahim Index on African Governance*, and the *Open Budget Index* of the International Budget Partnership; as well as assessments by international organisations and projects like the *Extractive Industries Transparency Initiative* and the *Revenue Watch Institute* (RWI). Although these international assessments have some critical limitations, particularly in coverage (do they really cover the institutions essential for stemming the resource curse?) and in time (do they really cover the relevant time period?), we believe they are sufficiently robust, when combined, to assess Ghana’s institutional qualities.<sup>2</sup>

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<sup>2</sup> A first-hand empirical investigation and evaluation of Ghana’s institutions is beyond the scope of this paper.

## The Resource Curse

The ‘resource curse’ or the ‘paradox of plenty’ refers to the paradox that countries with an abundance of natural resources, specifically non-renewable resources like minerals and petroleum resources,<sup>3</sup> tend to have lower economic growth, less democratic government,<sup>4</sup> and worse development outcomes than countries with fewer natural resources.

This may happen for many different reasons, and a growing literature is discussing the empirical robustness and modalities of this paradox, and is searching for possible explanations.<sup>5</sup> Among the stronger economic explanations is that an increase in revenues from natural resources appreciates the exchange rate and makes other sectors less competitive, and that the volatility of commodity prices are disruptive. In particular, the negative price effect and a decline in investments ‘crowds out’ manufacturing and agriculture.<sup>6</sup>

The literature on the resource curse emphasises three different but inter-related aspects of the phenomenon. As mentioned, economists emphasise the economic factors, and usually call it the ‘Dutch disease’. Then, in political-economy analyses, researchers emphasise corruption, and particularly political corruption, as an explanation to the paradox. Thirdly, political science emphasises the institutional factors of the curse, and argues that the analysis must shift to political institutions to explain the resource curse, and that the main difference between success and failure is in the quality of institutions.

### The Dutch Disease

In the 1970s, the Netherlands discovered some of these problems. Following the discovery of a large natural gas field in the North Sea in 1959, the Netherlands experienced a decline of its manufacturing sector. What happened was that the revenues from the petroleum sector made the country’s currency stronger, and this made Dutch exports more expensive at the same time as imports became cheaper. Thus, the Dutch manufacturing sector had become remarkably less competitive and the country experienced a de-industrialisation.

The same has been the experience of a number of other countries. When discoveries and exports of natural resources increase (or there is a sharp surge in natural resource prices or other inflows of foreign currency like for instance through foreign aid), there is usually an increase of the real exchange rate. Besides, although commodity prices can be very volatile, the main investments, and government concerns and efforts, labour, and personal ambition will still be geared towards the newly profitable extractive industry. Together this makes other economic sectors less competitive, and ‘crowds out’ manufacturing and agriculture (Sachs and Warner 1995; Humphreys et al. 2007:5; du Plessis and du Plessis 2006:353).

Furthermore, extractive industries can bring in additional problems. One is when natural resources begin to dry out or prices are falling, manufacturing industries and agriculture cannot easily catch up, as investments and technology are needed (and this may have been neglected for a long time). Besides, extractive industries are not very technologically advanced and they have few (positive) trickle-down

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<sup>3</sup> An *abundance* of natural resources can be measured in many ways, but mostly in terms of *dependency*. Hydrocarbon (oil and gas) export dependency can be measured by the ratio of oil and gas exports to gross domestic product (GDP), or by petroleum sector government revenue to total government revenue. In countries that live from petroleum rents, this figure ranges from a low of 4.9 % in Cameroon, a dependent country now running out of oil, to a high of 86 % in Equatorial Guinea, one of the newest oil producers. Dependency can also be measured in terms of export profiles, where oil generally makes up from 60 to 95 % of an oil dependent country’s total exports.

<sup>4</sup> One strand of the resource curse theory holds that *no* country has *ever* fully democratised after oil was found. This is true unless you consider Venezuela and Nigeria to be democratic, or you believe foreign military intervention can create democracy in Libya and Iraq.

<sup>5</sup> See among others: Sachs and Warner 2001; Robinson, et al. 2005; Mehlum et al. 2006; Rosser 2006; Heller 2006; Humphreys et al. 2007; Collier 2010; Cabrales and Hauk 2011; and van der Ploeg 2011.

<sup>6</sup> See Humphreys et al. 2007:5; du Plessis and du Plessis 2006:353.

effects in terms of innovation and employment. In particular, off-shore oil production will require only a few thousands of staff.

The Netherlands later managed to escape the curse due to its ability to slow down the appreciation of the exchange rate and to boost the competitiveness of the manufacturing sector, mainly by investments in education and infrastructure. Countries with weaker government institutions and a less legitimate government have not been able to do this.

## Political Corruption

Political corruption is a second aspect of the resource curse. In particular in political-economy studies, researchers have emphasised how corruption, and in particular political corruption, plays into the resource curse. Some see it as a major explanation to the paradox of plenty, whereas others rather see it as a consequence thereof.

This disagreement notwithstanding, political corruption is defined both with reference to the main actors involved, i.e., individuals at the highest levels of the political system, and the purpose of the corrupt behaviour, i.e., personal enrichment and the maintenance of positions of power.<sup>7</sup> In other words, political corruption may be for private and group enrichment, and political corruption may be for power preservation purposes. These two forms of political corruption are often connected. The latter process, however, is under-researched and under-estimated, since much of the focus in the literature has been on accumulation.

Political corruption adds to the problem of the resource curse in several ways. First of all, high levels of corruption will reduce the 'government take' of the resources. Short-term and individual interests will lead to the sale of a country's mineral resources for less than their real value, as the 'commissions' and 'fees' paid out to a few government officials dwarf the value of the under-taxed profits accruing to companies. Political corruption reduces the 'cake' as the resources are plundered and 'privatised' through political corruption.

This is the extractive form of corruption, which occurs when government officials use and abuse their hold on power to extract from the private sector, from government revenues and from the economy at large. These processes of accumulation are referred to as extraction, embezzlement, rent-seeking, plunder and even 'kleptocracy' ('rule by thieves'), depending on the extent and context. Extraction mainly takes place in the form of soliciting bribes in procurement and government projects, in privatisation processes and in taxation. Two of the most affected sectors worldwide are military procurement and minerals extraction, because of the involvement of top-level politicians, national interests, and secrecy. Also, political corruption hampers competition because it reinforces economic as well as political monopolistic tendencies. Political corruption creates monopolies because one of the basic favours the corrupters are in the hunt for is favouritist government treatment, preferential contracts, and protection from contenders, which can create super profits.

Secondly, political corruption will hamper the redistribution of the revenues. The government's revenues will to a lesser degree be spent on the development of the country; more is siphoned off and spent on consumption and power preservation. Political corruption will lead to more money being spent on government squander, grandiose infrastructure projects, 'white elephants', and capital flight. Individual and group interests will ensure that the resources are 'privatised' (read: pocketed) and

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<sup>7</sup> Political corruption occurs at the highest levels of the political system and can thus be distinguished from administrative or bureaucratic corruption. Bureaucratic corruption takes place at the implementation end of politics, for instance, in government services like education and health. Political corruption takes place at the formulation end of politics, where decisions on the distribution of the nation's wealth and the rules of the game are made. Political corruption is usually also distinguished from business and private sector corruption. This is only a matter of academic classification; however, since it 'takes two to tango' and because the bribes offered by private companies, both domestic and international, are significant corruption drivers. Sometimes, corruption is indeed 'supply driven' and benefits the briber more than the bribed (This section draws on Amundsen, 2006 and Amundsen, 1999).

exported; illicit money flows out of petroleum producing countries sometimes take astronomic proportions.<sup>8</sup> In consequence, the social and economic differences in society will increase. The rich will get richer, and the number of poor people will increase, in absolute and relative terms.

Thirdly, political corruption will undermine the institutions of power sharing and checks and balances, as the extracted resources are spent for power preservation purposes. Power-preserving political corruption is when the extracted resources (and other public money) are used for power preservation and expansion purposes. It usually takes the form of favouritism and patronage politics, i.e. favouritist and politically motivated distribution of financial and material inducements, benefits and spoils, in order to build political loyalty and support.

In line with this is the notion that natural resources, combined with political corruption, increases the autonomy and the powers of the state (and thus, the ruling elite in control of the state). Incomes from natural resource exploitation make the government no longer dependent on taxing the general economy. It suffices to control the extractive sector and the revenues from it. This is the ‘un-earned’ rents and the ‘rentier state’ that economists talk about.

By controlling the state and the petroleum revenues, there is not much need for additional taxation of domestic economic activity, and consequently no need for a ‘social contract’ with tax paying citizens. Those who control the state can fend off the influence of business interests, other economic interests (manufacturing, agriculture), and the middle class, civil society and interest organizations. Thus, in most resource cursed countries, there are no discussions and agreements between the tax-collecting government and a general population of taxpayers, which will normally reinforce government legitimacy and good public financial management.

The rents also increase the powers of the state, as they provide the means to buy loyalty and allies, and to pay off rivals and perceived and potential opponents. The rents can be used for building clientelist networks, vote buying and to pay off the state institutions of checks and balances and of oversight and control. Parliamentarians can be bought, as can commissioners of election, anti-corruption, auditors and the like. Rivals and opponents can be bought, voters can be bought, and if necessary, loyal decisions from electoral commissions can be bought to secure re-election. Investigations and audits can be halted, and judicial impunity gained. In the final instance, those in control of state can purchase the necessary military and security hardware. The elite controlling the state has access to the means and necessary instruments of coercion.

The consequences of the ‘power-preservation’ form of political corruption are grave, and perhaps even worse than the consequences of extractive political corruption. Political corruption for power preservation purposes leads to bad governance in the form of unaccountable and favouritist political decisions; manipulated, weak and distorted institutions; lack of transparency and accountability; immunity and impunity; and elections that are not free and fair. The two processes of political corruption – extraction and power preservation – are often connected. Many of the larger political corruption scandals include both aspects: large-scale bribery schemes are concluded when the extracted money is used to buy political support, and the full circle is made when the purpose of power is wealth and the purpose of wealth is power.

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<sup>8</sup> Money is haemorrhaging out of poor countries: in 2006, between USD 850 billion and 1.06 trillion left developing countries through illicit channels. This includes bribery and theft by government officials, drug trafficking, racketeering, counterfeiting, and commercial tax evasion. The figure dwarfs official aid flows; the 22 OECD member countries provided USD 103.9 billion in aid in 2006 (Fontana, 2010:1). Ghana alone lost about USD 1.4 billion during the period 2000–2008 in “Real Illicit Financial Flows” according to estimates (Kar and Cartwright-Smith, 2010:36). This massive flow of money drains countries of hard currency reserves, heightens inflation, reduces tax collection, hampers investment, and undermines free trade. It has its greatest impact on those at the bottom of the income scales, removing resources that could otherwise be used for poverty alleviation and economic growth (Kar and Cartwright-Smith, 2010:1).

## Corruption in Oil

Corruption and economic mismanagement can take place all along the petroleum value chain. What follows is an outline of possible corruption problems in the petroleum sector. The list is not exhaustive, but it includes some of the better-known and well-described problem areas, in addition to some lesser-known ones.

One of the first and fundamental decisions a government has to make is whether to regulate petroleum production by law (a petroleum law, also called concessionary system, which is common in countries like Norway and the UK) or by a licence system (usually referred to as a production sharing agreement or contract, common in most developing countries)<sup>9</sup>. Issues like the concession period, taxation levels and procedures, technology transfers, environmental protection, local content, security issues, inspection and control regimes can either be determined by law in a concessionary system, with each individual contract referring to the respective law, or it can be regulated by individual contracts in a licence system, where the individual contracts will stipulate the conditions.

The latter involves a considerably higher corruption risk (al-Kasim et al., 2008; Rosenblum and Mapels, 2009). Where government officials and companies have to deal with conditions embedded within individual contracts, it opens up for negotiations, re-negotiations and the influence peddling that comes with it. The regulatory capacity of the state is diluted, as conflicts become subject to international arbitration rather than domestic courts, and the many different contracts (made at different points in time and with different companies) will make government monitoring cumbersome. Furthermore, PSA contracts usually contain confidentiality clauses.

Contract transparency is critical for better addressing the resource management of the petroleum industry. With contract transparency, governments will be able (in the long term) to negotiate better deals, as the information asymmetry between the government and companies closes. Contract transparency will also (in the shorter term) help government agencies responsible for managing and enforcing contracts to collaborate. “With contracts publicly available, government officials will have an incentive to stop negotiating bad deals, owing to corruption, incompetence, or otherwise” (Rosenblum and Mapels, 2009:11).

Besides, citizens will better understand the complex nature of extractive agreements if they are out in the open. Contract transparency will result in more stable and durable contracts, both because they are less subject to the population’s suspicions and because the incentives for governments and companies to negotiate better contracts will be increased (Rosenblum and Mapels, 2009).

Therefore, host states should create robust legal regimes to govern relationships with investors instead of individual contracts. Model contracts with as few variables as possible should be adopted and permissible modifications specified. This reduces transaction costs and corruption pressures by reducing the number of costly negotiations. It further reduces the technically difficult and costly regulatory oversight (Rosenblum and Mapels, 2009).

Let us take Nigeria as an example. From 1985 to 1993, the military ruler General Ibrahim Babangida (IBB for short) governed Nigeria, a period that proved disastrous as IBB institutionalized corruption as a tool of political control. A recent report estimates that Nigerian leaders stole more than USD 89.5 billion from the national treasury from 1970 to 2008, and that Nigeria lost more money through illegal outflows than any country in the world during that period (Kar and Cartwright-Smith, 2010).

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<sup>9</sup> A production sharing contract (PSC) is typically between the President of the Republic, the Minister of Energy (or Petroleum), and/or the state-owned national petroleum company (NOC), and private companies chosen as onshore contractors in the petroleum industry. The contract details the specific rights and provisions these contracting partners have when taking part in a particular petroleum production field. A typical oil project can have around 100 subcontracts uniting a large number of parties in a vertical chain from input supplier to output purchaser. Among these is one ‘primary’ contract between the state (or the NOC) and the (private, foreign) company (or consortium of companies) that is superior to the other contracts.

In Nigeria, extractive political corruption takes place above all in awarding upstream licences. During military rule, most licences were awarded on a discretionary basis by the head of state. At the height of personal power concentration under General Abacha (1993–1998), the president took control of the entire oil sector by giving the presidency full control of the national oil company and all oil trading. The president and minister of oil awarded oil blocks on a discretionary basis. Fees for the blocks were negotiated behind closed doors, upfront, and were completely open to usurpation and corruption.

Although Obasanjo set out to make Nigeria's oil block bid rounds more competitive (and held bid rounds in 2000, 2005, 2006 and 2007), these bid rounds also had serious shortcomings. Nigeria's Petroleum Act still gives the minister of petroleum full authority over the allocation of licences for the exploration, prospecting and mining of oil. There are consequently no legally mandated processes or oversight mechanisms for the allocation of blocks. Besides, in his second term as elected president, Obasanjo also remained Minister of Petroleum for six years, micromanaging the petroleum sector from the presidency (Amundsen, 2010; Soares de Oliveira 2007b).<sup>10</sup>

In Nigeria, the awarding of large-scale contracts to oil service companies is also riddled with corruption. Aspiring contractors have used fake consultancy firms to channel payments to the government, manipulated their own company's financial systems to acquire extra cash, and distributed payments to representatives designated by those at the highest levels of government (Amundsen, 2010).

Furthermore, most Nigerian presidents have been using Nigeria's national oil company (the Nigerian National Petroleum Corporation, NNPC) as a private purse. Former President Yar'Adua admitted that the NNPC "has not been transparent, and it is one of the most difficult agencies of government to tackle because of vested interests of very powerful people in the country".<sup>11</sup> The NNPC allocates contracts which "do not always follow advertised criteria or guarantee competitive pricing", and handles the crude sales and remittances of proceeds without, however, always remitting all revenues (Amundsen 2010:26).

Whenever direct bribery and the embezzlement of funds from the national treasury have to some degree been restricted (like in an increasing number of oil producing countries through the introduction of an improved revenue management system), another mechanism for the misappropriation of funds emerges. Increasingly, national private oil companies are set up to collaborate with international oil companies in consortia to win petroleum production contracts. These are not always genuine oil companies, however, but 'front' companies owned by former and current government ministers, ruling party officials, state oil company directors and members of the ruling families. Sometimes, they even default on their initial payments until they get their share of the profits.<sup>12</sup>

According to 'local content' policies, multinational companies are sometimes requested to 'invite' local national oil companies into their consortia to bid for the exploration and production of oil. These local companies can contribute very little in terms of financing, technology or other inputs, and the real ownership of some of these is in fact unknown to the operators.

This is an increasing practice in Nigeria, where government officials have benefited from procedures that favour companies in which they have a financial stake. For instance, senior political leaders have reportedly manipulated tenders to benefit large logistics companies for their own private gain and officials have given preference to companies owned by their political and economic allies (Amundsen 2010). According to a report on the Norwegian company Hydro in Angola, it was 'in partnership with

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<sup>10</sup> In Nigeria, a new *Petroleum Industry Bill* is currently under consideration in the National Assembly. It aims to replace all existing legislation relating to the oil and gas sector and to fundamentally revamp the institutional set-up of the industry by breaking up the powerful NNPC. It can, however, also be seen as a step in the direction of executive control of the industry itself.

<sup>11</sup> *This Day*, Lagos, 15 December 2007.

<sup>12</sup> What a representative of *ChevronTexaco* in Angola referred to as "dead meat companies".

a local private oil company despite suspicions that the company's undisclosed owners may include government officials, in a country perceived to be one of the most corrupt in the world' (Global Witness 2008:1).

Ironically, activities and funding schemes labelled 'corporate social responsibility' can sometimes add to the corruption problems in the petroleum industry. Donations by multinational petroleum companies have an underlying profit-maximization motive and rationale. Through 'branding' and reputation management, involvement in social projects can improve their reputation and thus increase their odds of winning contracts (Amundsen and Wiig, 2008:6).

These corporate objectives do not necessarily correspond with the interests of society and we have seen the duplication of work and projects that are unsustainable because they have no public follow up mechanisms (schools without teachers, for instance). More importantly, it is relatively easy to manoeuvre social projects into serving the political and clientelist interests of the ruling party and of the government.

In Angola, for instance, there are two basic streams of foreign private contributions from petroleum companies. The first stream (and the most important in terms of amounts) is the money paid by the commercial companies in the petroleum sector based on the signature bonus system. Signature bonuses may include a 'social bonus' component, which is either a percentage or a round sum donated for unspecified 'social projects' or broad social areas like education and health.

The amounts for signature bonuses and social bonuses have increased considerably over the last few years, and the money arrives in tsunami-like waves following the bidding rounds. A fair estimate is that the social bonuses on oil contracts in Angola are worth at least USD 100 million per year, and steadily increasing.<sup>13</sup>

Although the signature bonuses now figure in the Angolan state budget, the social bonuses do not. Sonangol manages social and signature bonuses (Amundsen and Wiig, 2008). This opens up opportunities for all kinds of misuse of the funds; the companies themselves serve as the only accountability mechanism; yet they are eager to be on good terms with the government. This enables the presidency and the ruling party to determine the physical location of projects in accordance with their political needs.

The second stream is the post-tax voluntary contributions of companies for social projects that are managed directly by the companies either through their own charity organizations (such as the *Shell Foundation*) or through various charity organizations, churches, foundations and NGOs. The post-tax voluntary contributions are modest in size, but they are much more visible and actively promoted by the companies. For the operator Esso, the contribution is around USD 5 million a year through the ExxonMobil Foundation. ChevronTexaco donates around USD 10 million (Amundsen and Wiig, 2008).

The problem with this is that the motivation of oil companies to provide social funds is guided by corporate objectives rather than altruism, and that these corporate objectives do not necessarily correspond with the interests of society. Besides, information about oil companies' social activities is quite opaque, and it is difficult to monitor what the oil companies are actually doing. It might be that petroleum companies have certain strategic advantages in project implementation (as large and sometimes powerful negotiators with strong technological and political capability), but their social activities may increase the lack of political will by the government to provide services, and add to the problems of corruption and clientelism.

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<sup>13</sup> In 2004, Chevron paid a social bonus of USD80 million on the extension of its licence for Block 0, in addition to a signature bonus of USD210 million. The accounting firm KPMG, which carried out a diagnostic study of the Angolan oil sector in the early 2000s, noted before the payment of this bonus in 2004 that the management of social bonuses was opaque. The consultants were unable to find any record of which social projects benefited from such bonus payments (Global Witness, 2010).

## The Institutions that Matter

Political and institutional factors are increasingly highlighted in the literature on the resource curse. According to Heller (2006:24), the analysis must shift to political institutions to explain the resource curse, and according to Mehlum et al. the main difference between success and failure is in the quality of institutions (2006:1119).

Basically, rents generated from mineral and other easily accessible resources can either be channelled into the productive economy, or be captured by the ruling elite for personal enrichment, status gain, and power purposes. Whether the resource rents are spent to stimulate production and national economic development, or spent on consumption, capital flight, and non-productive investments, is largely a question of institutional quality. Government mismanagement of resources, as well as weak, ineffectual, unstable, and corrupt institutions is largely due to the easily diverted actual or anticipated revenue stream from extractive activities.

There seems to be a convergence in economy theory that the availability of rich resources, the quality of state institutions, and development outcomes are connected. Economists are mainly preoccupied with institutions with a direct effect on economic performance and the profitability of private enterprises, like the institutions governing tax regimes, the protection of property rights and contract enforcement, bureaucratic efficiency, and the ‘business climate’. There is, however, an entire political economy tradition of institutional analysis, called ‘new institutionalism’, which emphasises the role of a broader set of political institutions in economic development.<sup>14</sup>

First, there is a need to emphasize the analytically important distinction between the institutions of extraction and the institutions of redistribution. The institutions of extraction are necessary for the production and extraction of economic resources and for extracting the rents from the minerals sector, in particular. The institutions of redistribution are the institutions of power sharing (elections, checks and balances) and of revenue redistribution (infrastructure, health and education, social security and other state services).

Second, there is a need to specify the institutions that can stem the resource curse. These are the institutions of power redistribution and the institutions of wealth redistribution, like for instance elections, parliaments (legislatures), judiciaries, and civil society and the media. These are all intertwined; power sharing and the sharing of economic resources tend to go hand-in-hand (in the same way as political monopolies and economic monopolies do). Thus, we can regard these as two parts of the same mechanism, and we will be looking at them together under the assumption that power redistribution will lead to economic redistribution.

### The Institutions of Extraction and Redistribution

The institutions of extraction usually work relatively efficiently, even in resource cursed countries, because they are needed. Ruling elites use these institutions for the extraction (or looting) of resource rents. Therefore, they are politically protected, sometimes above the law, and at times kept outside of the bloated and inefficient *modus operandi* of the ordinary state bureaucracy.<sup>15</sup>

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<sup>14</sup> See for instance Hall and 1996:936-957 and Powell and DiMaggio 1991.

<sup>15</sup> In Angola, for instance, the state oil company *Sonangol* is an essential tool for the empowerment and enrichment of the Angolan ruling elite, that “was from the very start protected from the dominant (both predatory and centrally planned) logic of Angola’s political economy. Throughout its first years, the pragmatic senior management of Sonangol accumulated technical and managerial experience, often in partnership with Western oil and consulting firms. By (...) the early 1990s, Sonangol was the key domestic actor in the economy, an island of competence thriving in tandem with the implosion of most other Angolan state institutions. However, the growing sophistication of Sonangol (...) has not led to the benign developmental outcomes one would expect (...). Instead, Sonangol has primarily been at the service of the presidency and its rentier ambitions [...]. This highlights the extent to which a nominal ‘failed state’ can be successful amidst widespread human destitution, provided that (in this case, Sonangol and the means of coercion) exist to ensure the viability of incumbents” (Soares de Oliveira 2007a:1).

At the same time, the institutions of redistribution, which serve the purpose of sharing economic and political resources, function poorly because they are unwanted and only necessary to limit social unrest and power rivalry (from the ruling elite's point of view), and are consequently manipulated politically and side-lined.

The institutions of extraction, which enable the ruling elite to extract and enrich itself, typically include institutions like the presidency (presidential powers and the executive branch), the national petroleum companies (NOC), ministries of finance and petroleum, tax authorities, the central bank, and the ruling party.<sup>16</sup> These institutions are necessary for revenue generation and government extraction in any country, but they may also facilitate rent-seeking, patronage, and looting in some countries. In the absence of democratic controls, these institutions can facilitate 'primitive accumulation', unproductive investments and 'suspicious consumption'.

The institutions of extraction also include the institutions necessary for protecting resource and rents extraction, like the army, security companies, and the police. When access to the rents is politically disputed, when there are rivalries over the control of the state apparatus and its extraction capacities, controlling the security apparatus becomes pivotal. In short, the resource rents increases the prize of controlling the state (the incentives for rent-seeking) and the resource rents increases the autonomy of the state (the means to protect a rent-seeking position).

The institutions of redistribution are primarily the institutions of power sharing; i.e., the institutions of checks and balances, but also the institutions of wealth sharing, i.e., the institutions of economic redistribution, which are rooted in and sometimes supplement the institutions of power sharing. The main institutions of political power sharing are the parliament (legislature, national assembly) and the judiciary (high or supreme court), which curb the 'government's' and presidential and ruling elite's domination.

### Institutions to Stem the Resource Curse

*Parliament* is the primary institution of checks on executive powers. One of the most basic functions of any parliament is to make the laws, including the Constitution and amendments to it, and the state budget (which is usually formulated as a bill). The power of legislation thus includes the power to establish the political and institutional 'rules of the game', and the distribution of material benefits. The parliament is responsible for raising and using public funds, and for checking on the government's spending of public money.

Parliament is important for stemming the 'resource curse' because it can (potentially) balance the powers of the president and ruling elite, reduce government rent-seeking and patronage, and redistribute income. A vibrant parliament and a genuine opposition can reduce the predatory tendencies of the ruling elite. A responsible parliament can control and restrict lobbying for protection, subsidies, and preferential policies; it can reduce wasteful budgetary expenditures that favour the reproduction of politically and economically dominant elites; and it can ensure 'development friendly' policies through its taxation and investment policies.

The *judiciary* (and especially the high courts) is the second most important institution for stemming the resource curse, in particular in safeguarding the rule of law, in performing judicial reviews, and in adjudicating economic cases. The judiciary is important for stemming the resource curse through its protection of property rights and through its protection of fair competition. The judiciary can stem the tendencies of monopolies, economic crime, and mafia methods.

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<sup>16</sup> In the 1970s and 80s, the list would also include "stabilization funds" and "marketing boards", which enabled the government to appropriate the export rents by acting as a middle-man "guaranteeing" the local producers a fixed price well below the international market price. One example is the now defunct "Caisse de Stabilisation" which enabled former President Houphouët-Boigny to appropriate the rents of the coffee and cocoa production of the Côte d'Ivoire.

As a sub-set of parliamentary or judiciary institutions, we also find a number of *special agencies* of oversight and control, like ombudsmen, auditors, and commissions. Together with the parliament and judiciary, they make up the institutions of ‘horizontal’ accountability.

The institutions of redistribution also include the institutions of ‘vertical’ accountability, of popular participation, voice, and control. The most important of these institutions are free and fair *elections* (without elections, there is no democratic accountability), which include functioning and credible opposition and political parties, followed by civil society organizations and the media.

Through elections, citizens can possibly elect another ruling elite and another economic policy. Free and fair elections and genuine political parties are prerequisites, however. There should be a viable, sustainable, realistic policy alternative to the government in place, i.e. parties with alternative programs and different candidates that people can vote for at elections, and there should be an independent electoral commission to administer elections.

Besides, power sharing and revenue sharing can be accomplished through open political debate on economic policies and direct citizen participation in policy making (through for instance manifestations and direct action). Both *civil society organizations* and the *media* have important control functions. Civil society organizations can for instance demand information and justification of – and monitor – public spending; and the media can keep up transparency and information levels, if there is freedom of organisation, information, and speech.

## Ghana’s Democratic Institutionalisation

Ghana is today an oil producing and exporting country. The first offshore oil discovery of commercial quantities in the *Jubilee Field* was announced in 2007, and production began in December 2010. The Ghanaian oil reserves are estimated at between 800 million and 1.8 billion barrels (bbl.), and with an estimated production of about 40,000 - 150,000 bbl. per day, oil is expected to generate around US \$1 billion annually in export revenues over the next 20 years.<sup>17</sup>

Although still not an oil dependent country, can Ghana withstand the pressures that will be created by the oil income, and avoid the resource curse? Will Ghana’s institutions be able to promote accountability and state competence to ameliorate the perverse political incentives that an oil boom can create? According to some of the more general and broad-spectrum comparative governance statistics available, Ghana seems to have undergone a slow but steady progress over the last 10-15 years, and to have reached a current level of democracy and good governance that is possibly sufficient to keep the resource curse at bay.

### Governance Statistics

According to the World Bank’s *World Governance Indicators* (WGI),<sup>18</sup> the overall picture is positive, with significant improvements achieved on most indicators since 1996. Ghana is now in the 50–75 percentile range for all indicators (except one)<sup>19</sup> (100 represents the highest level), which ranks Ghana much higher than the rest of Sub-Saharan Africa, and puts it on par with countries like Botswana, South Africa, Namibia and the Seychelles.

Compared to the resource rich and resource blessed developing countries - Chile, Brazil, Malaysia, and Botswana, Ghana is on par with all of these on all of the indicators. That is, Ghana scores in the 50–75 percentile range on all indicators, and so does the resource blessed countries (although Chile, Malaysia and Botswana scores even higher, in the 75–100 percentile range, on some indicators). The

<sup>17</sup> Source: Revenue Watch: <http://www.revenuewatch.org/countries/africa/ghana/extractive-industries>.

<sup>18</sup> WGI: <http://info.worldbank.org/governance/wgi/index.asp> and <http://info.worldbank.org/governance/wgi/pdf/c82.pdf>. The WGI indicators are: Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. Last year surveyed: 2010.

<sup>19</sup> The indicator *Political Stability/Absence of Violence* is in the 25-50 percentile range, but seems to be improving.

only exception is that Ghana scores relatively low, with Brazil, on ‘political stability/absence of violence’; and that Malaysia scores significantly below the others on ‘voice and accountability’.

Compared to resource cursed countries like Angola, Nigeria, DR Congo, the Sudan, Zambia, Tajikistan, and Colombia, Ghana scores much higher than all of these countries on most indicators. Ghana scores in the 50–75 percentile range on all indicators (except for ‘political stability/absence of violence’, as mentioned), whereas the resource cursed countries score in the 0–25 percentile range on most indicators and in the 25–50 on some indicators. The two exceptions to this trend are that Colombia also scores in the 50–75 range on two indicators (‘Government Effectiveness’ and ‘Regulatory Quality’), and that Zambia scores high on ‘political stability/absence of violence’ (where Ghana scores relatively low).

According to the Mo Ibrahim Foundation’s *Ibrahim Index of African Governance*<sup>20</sup> (which is quite similar to the WGI, as it draws upon many of the same sources, but is limited to Africa), Ghana scores 66.0 overall (in a range from 0 to 100), and ranks 7<sup>th</sup> in Africa (after Mauritius, Cape Verde, Botswana, Seychelles, South Africa, and Namibia). Ghana has been stable over the last 5 years, and it is well above the African average. Rule of law, national security, participation, rights, and health are Ghana’s best-governed areas (above 70 in score). The country is only comparatively and absolutely weak in infrastructures.

According to the Ibrahim Index, and compared to two of Africa’s resource cursed countries, Ghana scores very much better. Angola and Nigeria score well below the 50 mark on all of the governance indicators (‘rule of law’, ‘accountability’, ‘participation’ and ‘rights’), whereas Ghana scores 85, 61, 72 and 75 on these indicators, respectively.

Another global composite statistical source is the UNDP’s *Human Development Index* (HDI).<sup>21</sup> According to this index, Ghana is a ‘medium human development’ country, whereas all the resource cursed countries in Africa (Angola, Nigeria, DR Congo, the Sudan, and Zambia) score low on human development. Outside of Africa, Tajikistan scores medium, and Colombia scores even higher. The relevance of this index is negligible, however, as the HDI is not a governance index but a composite index on living conditions like health, education, income, inequality, poverty, gender and environment.

More relevant as general, global indicators are the Freedom House *Freedom in the World 2012* index and the Economist Intelligence Unit’s (EIU) *Democracy Index 2011*.<sup>22</sup>

According to the former, Ghana is an electoral democracy (among the 117 electoral democracies in the world) and it is free (among the 87 free countries; then there are 48 not free and 60 partly free countries in the index). Ghana’s scores on political rights and civil liberties are 1 and 2, respectively, on a scale from 1 (most free) to 7 (least free). Compared to other minerals rich countries, the resource blessed countries Brazil, Botswana, and Chile are free like Ghana, whereas Malaysia is partly free. The resource cursed countries Nigeria, Zambia, and Colombia are partly free, and Angola, DR Congo, Sudan, and Tajikistan are not free.

According to the latter, Ghana is a ‘flawed democracy’, ranking 78 in the world. Ghana ranks the last of 52 ‘flawed democracies’, which is below the 25 ‘full democracies’ but above the 26 ‘hybrid

<sup>20</sup> The Ibrahim Index: <http://www.moibrahimfoundation.org/en/section/the-ibrahim-index> and [http://www.moibrahimfoundation.org/en/media/get/20111003\\_ENG2011-IIAG-ScoresTable.pdf](http://www.moibrahimfoundation.org/en/media/get/20111003_ENG2011-IIAG-ScoresTable.pdf). Last year surveyed: 2011.

<sup>21</sup> The HDI: <http://hdr.undp.org/en/data/map/>; [http://hdr.undp.org/en/media/HDR\\_2011\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2011_EN_Complete.pdf), and <http://hdrstats.undp.org/en/countries/profiles/GHA.html>. The Human Development Index (HDI) is a comparative measure of life expectancy, literacy, education and standards of living for countries worldwide. It is used to distinguish whether the country is a developed, a developing or an under-developed country, and also to measure the impact of economic policies on quality of life. Last year surveyed: 2011.

<sup>22</sup> The Freedom in the World 2012 Index: <http://www.freedomhouse.org/report/freedom-world/freedom-world-2012>. The EIU Democracy Index 2011: [http://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex2011](http://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2011).

regimes' and 51 'authoritarian regimes'. Ghana scores an overall of 6.02 on this index, which ranges from North Korea's 1.08 to Norway's 9.80. Here, Ghana's score is particularly high on 'electoral process and pluralism' with 8.33. Among the resource cursed countries, Angola, Nigeria, DR Congo, Sudan, and Tajikistan are 'authoritarian', whereas Zambia and Colombia are also 'flawed democracies'.

## Elections

A political science thumb rule holds that democracy is consolidated in a country when the executive (president and government) has stepped down at least twice, peacefully, as a consequence of electoral defeat to another political party/candidate. If this is the case, electoral democracy has become legitimate and the 'only game in town'.

Ghana has held regular elections every four years since 1992, and four fully competitive multiparty elections since 1996. Furthermore, the incumbent president has stepped down twice because of the election results. The first time was with the presidential elections in December 2000 when John Kufuor won and John Rawlings stepped down, and the second time was in December 2008 when John Atta Mills won the presidential elections and John Kufuor stepped down.

This suggests that Ghana is a consolidated electoral democracy. In 2000, international as well as domestic observers concluded the elections were free and fair (CODEO 2001). In 2009, the *European Union Election Observation Mission* (EU EOM) concluded "these presidential and parliamentary elections were conducted in an open, transparent and competitive environment. Fundamental freedoms such as the right to stand for election, the right to vote and the freedoms of assembly, expression and movement were respected across Ghana" (EU EOM 2009:4).

The two largest political parties that dominate contemporary politics in Ghana, the NPP and the NDC, have both enjoyed two consecutive terms with a parliamentary majority and in presidential office. However, whilst the two larger parties claim to have divergent political views, their manifestos for these elections were fundamentally similar with little to differentiate the political parties in terms of policy directions (EOM 2009:8). The upcoming 2012 general elections seem to be close.

## The Parliament

As mentioned, the parliament is important for stemming the 'resource curse' because it can balance the powers of the president and ruling elite, reduce government rent-seeking and patronage, and redistribute income. Good, reliable and publicly available statistics on parliament's performance and levels of parliamentary accountability do not exist. There is no general agreement on the role of parliaments in liberal democracies, and little systematic data on parliamentary performance that is comparable in time and space (Tostensen and Amundsen 2010:9).

One exception is the *Parliamentary Powers Index* (PPI).<sup>23</sup> In this, the Parliament of Ghana scores 0.47 (on a scale from 1 to 0, where one suggests a total parliamentary power over the executive and zero suggests a total parliamentary subservience to the executive). Comparatively, Ghana is here on par with Nigeria, weaker than Colombia, and significantly better than the other resource cursed countries mentioned earlier. Compared to the resource blessed developing countries, Ghana scores better than Malaysia and Botswana, but not as good as Brazil and Chile (both with a 0.56 score). This indicator is rather inconclusive, and this snapshot at one particular point in time is unsuitable for tracking changes over time.

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<sup>23</sup> The PPI by Fish and Kroenig (2009) provides a snapshot of the state of legislative power in the world as of 2007, and it uses a panel of experts to gauge the legislature's sway over the executive, its institutional autonomy, its authority in specific areas, and its institutional capacity. <http://polisci.berkeley.edu/people/faculty/FishM/PPIScores.pdf>. The background data are not available.

However, some proxy indicators are more revealing. One is on transparency in the budget process. Since the parliament is the main institution responsible for raising and using public funds, and for checking on the government's spending of public money, this is a good indicator of parliamentary performance. On the International Budget Partnership's *Open Budget Index 2010* (OBI), Ghana has a score of 54, which means the government provides *some* information to the public in its budget documents (the scale ranges from scant or no information: 0-20, minimal: 21-40, some: 41-60, significant: 61-80 and extensive information: 81-100.<sup>24</sup> This means that the information level in Ghana is "far less than what is required for the public to obtain a clear understanding of the budget and to provide a check on the executive".

Ghana is in the upper medium range of the OBI, but the resource cursed countries' scores are all much lower, in the 'minimal' and even 'scant/no information' range (with the exception of Colombia with a 'significant' 61 score). Two of the resource blessed countries, Chile and Brazil, have a 'significant' score of 72 and 71, whereas Botswana is on par with Ghana with 51 and Malaysia has a 'minimal' score of 39. These figures are not particularly conclusive, but the *International Budget Partnership* (IBP) observes that "Ghana's OBI 2010 score of 54 is higher than the score of any other country surveyed in West Africa and is higher than the worldwide average of 42. Ghana's score increased from 42 to 54 from 2006 to 2010 largely because the government now publishes a Mid-Year Review, a Year-End Report, and an Audit Report. Ghana's score, however, shows that the government still provides the public with only some information on the central government's budget and financial activities during the course of the budget year. This makes it challenging for citizens to hold the government accountable for its management of the public's money". Besides, the IBP reports that Ghana's parliament and supreme audit institution (the Auditor General) are 'moderately effective' as budget oversight bodies.<sup>25</sup>

Ghana is one of (currently) thirteen compliant countries of the *Extractive Industries Transparency Initiative* (EITI). This means that Ghana is found to be compliant with the *EITI Implementation Criteria*, which is a global standard for transparency in the oil, gas, and mining sectors. Ghana submitted its final validation report to the EITI board in June 2010 and was designated EITI compliant status in October 2010.<sup>26</sup>

However, Ghana's mining industry is dominated by gold, diamond, bauxite, manganese and salt. Gold represented 34% of the country's exports and 12% of GDP in 2000-2003. Ghana's EITI implementation covers first and foremost the revenues from this traditional mining industry, but Ghana will most probably also be a compliant country when it comes to oil and gas revenues in the future. Publications have already begun, as total oil and gas output lifted and the reference price is published on a quarterly basis according to law, and the first oil receipts (for 1<sup>st</sup> – 3<sup>rd</sup> quarter, 2011) are now available.<sup>27</sup> Ghana is set to produce its first report on payments of taxes by oil companies to government under the Extractive Industries Transparency Initiative (EITI) by the end of 2012.

<sup>24</sup> Source: International Budget Partnership's *Open Budget Survey*: <http://internationalbudget.org/what-we-do/open-budget-survey/>.

<sup>25</sup> Source: International Budget Partnership main report on Ghana: <http://internationalbudget.org/wp-content/uploads/2011/04/OBI2010-Ghana.pdf>. The recommendations are that Ghana should improve the comprehensiveness of the year-end report and the executive's budget proposal; publish timely and regular in-year reports; publish a *Citizens Budget*; produce and publish a pre-budget statement; provide opportunities for the public to testify at legislative hearings on the budget for individual administrative units; and enable the legislature and Auditor General to provide more effective oversight of the budget.

<sup>26</sup> Source: Extractive Industries Transparency Initiative (EITI): <http://eiti.org>; <http://eiti.org/Ghana>, and <http://www.geiti.gov.gh/site/>. The initiative encourages government, extractive companies, international agencies and NGO's to work together to develop a framework to promote transparency of payments in the extractive industries.

<sup>27</sup> Published according to Section 8 of the Petroleum Revenue Management Act, Act 815, 2011 (PRMA), at Ghana EITI's webpage: [http://www.geiti.gov.gh/site/index.php?option=com\\_content&view=article&id=140:oil-receipts-for-1st-3rd-quarter-2011&catid=1:latest-news&Itemid=29](http://www.geiti.gov.gh/site/index.php?option=com_content&view=article&id=140:oil-receipts-for-1st-3rd-quarter-2011&catid=1:latest-news&Itemid=29).

While the EITI initiative basically covers the revenue side (government income) of the extractive sector, the *Revenue Watch Institute* reports that also on the expenditure side, the government and the parliament are making progress in improving transparency.<sup>28</sup>

Ghana has introduced targeted legislation in recent years designed to ensure accountability, transparency and efficiency in public resource management, including the *Financial Management Act* of 2003, which regulates the public sector to ensure transparent and effective management of state revenues and expenditures, the *Public Procurement Act* of 2003, which aims to foster competition, efficiency, transparency and accountability in procurement, and further efforts in expenditure transparency include the 2007 launch of *Public Expenditure Tracking Surveys* (PETS) in the education and health sectors. Besides, Ghana has included a requirement in its EITI framework that district, municipal and metropolitan assemblies report royalty receipts and how they are used. Also Ghana's *Publish What You Pay* (PWYP) coalition is supporting an on-going community capacity-building exercise to track these disbursements.<sup>29</sup>

Thus, the public financial management (PFM) system in Ghana "is based upon a solid legal and regulatory framework".<sup>30</sup> Nevertheless, some weaknesses remain in budget documentation, in the transparency of inter-governmental fiscal relations, and the internal audit systems. There is also room for improvement with respect to public involvement in monitoring and auditing processes.

For instance, according to a recent report from *The Institute of Economic Affairs* in Accra, there are a number of areas where improvements are required. "These include more public disclosure of information on contracts, including negotiated terms for exploration and production, as well as the licensing process. There is also a need for transparency in the assessment of contracts, including allowance for an appeal process".<sup>31</sup>

## The Judiciary

Data on the effectiveness of the judiciary systems of the world do not exist, and comparable, international data on judiciaries' performance in terms of judicial reviews and adjudication in economic cases are not available. However, data on the rule of law are easily available, and data on the ability of the judiciary to hold the executive to account (judiciaries' check and balances capability) are possible to find. And, there are individual country reports of quality, such as the US Department of State *Human Rights Country Reports 2010*,<sup>32</sup> which claims that Ghana's judiciary is "inefficient and subject to influence and corruption" (page 10).

Some comparative and longitudinal data on the rule of law are available, and these data are important indicators on judiciaries' ability to stem the 'resource curse' through safeguarding the rule of law. According to the World Bank's *World Governance Indicators*, rule of law in Ghana has been relatively high (in the 50-75 percentile) and quite stable since 2000.<sup>33</sup> Compared to the resource cursed countries, Ghana scores in 2010 better than any of the countries mentioned, and compared to the resource blessed developing countries, Ghana scores on par with Brazil, although not as good as Malaysia, Botswana, and Chile.<sup>34</sup>

<sup>28</sup> Source: *Revenue Watch Institute* (RWI): <http://revenuewatch.org>.

<sup>29</sup> Ibid.

<sup>30</sup> Source: <http://www.revenuewatch.org/countries/africa/ghana/transparency-snapshot>.

<sup>31</sup> Source: The Institute of Economic Affairs (2011): *The IEA P-TRAC Index 2011 Report* (Accra, Ghana, IEA): <http://www.ieagh.org/images/pdf/2011-ptrac-short-final.pdf>.

<sup>32</sup> Source: US Department of State, *Human Rights Country Reports*: <http://www.state.gov/j/drl/rls/hrrpt/2010/index.htm> and on Ghana: <http://www.state.gov/documents/organization/160124.pdf>.

<sup>33</sup> WGI: <http://info.worldbank.org/governance/wgi/index.asp>.

<sup>34</sup> Ghana is with all the resource blessed countries in the two upper categories (50-75 percentile and 75-100 percentile), whereas all resource cursed countries are in the two lower categories (0-25 and 25-50 percentile rank) and the majority in the lowest category (0-25 percentile rank).

According to the World Justice Project's *Rule of Law Index*, Ghana is as good as any of the other resource blessed countries in average, scoring even better than Malaysia, and almost as good as Brazil and Chile.<sup>35</sup> In particular, Ghana scores high on the indicator 'Limited Government Powers' and comparatively well on the indicator 'Government powers are effectively limited by the judiciary' (even better than the resource blessed Brazil, Malaysia and Chile). This indicates that those who govern are subject to law and accountable under the law. The report says further that Ghana is the best performer among low-income countries, enjoying a good system of checks and balances, and that public administration bodies are relatively effective and corruption levels relatively lower.

Respect for human rights is another aspect of judicial quality and independence. According to one dataset, the Escola de Cultura de Pau *Human Rights Index* 2010,<sup>36</sup> Ghana has a better human rights record than any of the resource cursed countries mentioned, and also better than Malaysia and Brazil. Ghana has a record on par with Chile (and other countries like Benin and Japan). The index is, however, weighted and calculated in a way that is rather contested and not necessarily reflecting the main idea of human rights as a quality of the judiciary.

### The Special Agencies

The special agencies can in some respects be parts of the regulatory framework for the oil sector. For instance, anti-corruption agencies (ACAs) are important, and contested, players in the fight against corruption in the petroleum sector. They are, however, generally less equipped (and backed politically) to tackle high-level political corruption than they are to handle smaller cases of bureaucratic corruption, and ACAs are not considered to deliver on the high expectations bestowed upon them.

There are no international statistics on the efficiency of the world's many anti-corruption commissions, but there are some (older) evaluations of individual agencies. Ghana's anti-corruption commission, the Serious Fraud Office (SFO) is not covered in the only cross-country portal on ACAs,<sup>37</sup> but it figures in a 2005 report (Doig et al. 2005). This report claims that the SFO has adequate powers and operational independence, and that it is able to deal with serious (high-level) cases, but it is constrained by the delays in prosecutions by the Attorney-General (ibid., p. 58-59). In 2010, the SFO was replaced by the *Economic and Organized Crime Office* (EOCO), which was granted expanded powers to investigate and prosecute corruption and economic crime.

Two comparative dataset on corruption exist, however, that can serve as a proxy not of the efficiency of ACA as such, but of national anti-corruption measures in general. One is Transparency International's *Corruption Perceptions Index* (CPI).<sup>38</sup> According to the CPI (2011), Ghana scores 3.9 (on a scale from 0, highly corrupt to 10, very clean). This is above the African average, but still not a very good rating. Compared to the oil cursed countries, this is significantly better than all the ones mentioned, with for instance Angola and Nigeria scoring 2 and 2.4, respectively. Compared to the resource blessed developing countries, Ghana matches Brazil (with 3.8) and Malaysia (with 4.3), but lags behind Botswana and Chile's 6.1 and 7.2 respectively. The CPI is much criticized for being based only on perceived corruption, however, and for not distinguishing between political and bureaucratic corruption, and using the CPI to find trends over time is not recommended.

The other is the World Bank's *World Governance Indicators* (WGI) mentioned above; in which one of six governance indicators is precisely 'control of corruption'.<sup>39</sup> On this indicator, Ghana scores much higher than all resource cursed countries mentioned; Tajikistan, Sudan, Angola and DR Congo are

<sup>35</sup> Source: World Justice Project's *Rule of Law Index*: <http://worldjusticeproject.org/rule-of-law-index/index-2011> and the report: [http://worldjusticeproject.org/sites/default/files/wjproli2011\\_0.pdf](http://worldjusticeproject.org/sites/default/files/wjproli2011_0.pdf).

<sup>36</sup> Sources: Escola de Cultura de Pau *Human Rights Index* 2010:

[http://escolapau.uab.cat/index.php?option=com\\_content&view=article&id=77&Itemid=97&lang=en](http://escolapau.uab.cat/index.php?option=com_content&view=article&id=77&Itemid=97&lang=en)

<sup>37</sup> Source : *Anti-Corruption Authorities (ACAs) Portal*: <http://www.acauthorities.org/aca/>.

<sup>38</sup> Source: TI's *Corruption Perceptions Index*: <http://cpi.transparency.org/cpi2011/>.

<sup>39</sup> WGI: <http://info.worldbank.org/governance/wgi/index.asp> and <http://info.worldbank.org/governance/wgi/pdf/c82.pdf>. The WGI indicators are: Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption.

extremely low on this indicator. Compared to the resource blessed countries, Ghana scores the same as Brazil and Malaysia, but Chile scores much better. In other words, Ghana's control of corruption is on par with the resource blessed developing countries.

There are some other special agencies in Ghana responsible for tracking oil revenues and keeping the government accountable on financial matters. One is the 13-member *Public Interest and Accountability Committee* (PIAC), put in place by government in 2011 to monitor Ghana's petroleum revenue and investments, but this still lacks a secretariat and an operational record, and it is too early to evaluate. Other institutional instruments established to manage Ghana's petroleum resources include the national state oil company *Ghana National Petroleum Corporation* (GNPC), the national savings and stabilisation funds of *Ghana Petroleum Funds*, the *Commission on Human Rights and Administrative Justice* (CHRAJ), the *Auditor General* and the *taxation authorities*. There are no comparable, international data on these institutions.<sup>40</sup>

### Civil Society and the Media

Both *civil society organizations* and the *media* have important control functions. Both can monitor government incomes and expenditures, check on public service delivery, monitor business ventures, create public awareness and encourage public debate.

There is one interesting data source on civil society from the World Justice Project's *Rule of Law Index*. According to this source, Ghana scores high on the indicator 'Freedom of assembly and association', and even slightly better than the resource blessed Brazil, Chile and Malaysia.<sup>41</sup> Indeed, in Ghana freedoms of association, movement, assembly and speech as well as citizens' political and civil rights are all guaranteed in the constitution. The constitution also protects other fundamental freedoms and political rights including the right to vote, the right to participate in public affairs, and the right to a fair trial (EU IEU 2009:9). And, according to the US Department of State, there were no reports that police denied demonstration permits to anti-government groups (only the ban on campus demonstrations at Takoradi Polytechnic Institute, where 64 students were arrested in 2007, remained in effect) (US Department of State 2010:14).

According to Freedom House' *Freedom of the Press Index 2011*, Ghana's press is free, with a relatively constant score over the last ten years.<sup>42</sup> Ghana scores 26 in 2011 (on a scale from free: 0-30, partly free: 31-60, and not free: 61-100). This in contrast to the resource cursed countries which all are classified as not free or partly free (Nigeria and Colombia). The resource blessed countries vary, from Chile's free press to Brazil and Botswana's partly free and Malaysia's not free press.

Although this looks good, there is, according to Revenue Watch Institute, a "strong call for Ghana to enact a *Freedom of Information Law* and [to] affirm the public's right to information as a critical means to bolster and promote transparency".<sup>43</sup> And, more specifically on accountability, transparency, and efficiency in public resource management, RWI claims there are "critical weaknesses in budget

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<sup>40</sup> There are some data available on fiscal regimes and the 'government take' from petroleum exploration and production, but these are hardly comparable. The Angolan government's tax take from multinationals in the oil sector is high and increasingly sophisticated, for instance, perhaps as much as 85 % already in 2006 (which is 'very tough' according to the industry), and Norway's take is also in the range of 80 – 90 %. For developing countries like Ghana, a combination of royalties and profit-sensitive taxes is often appropriate, with close attention to detail and implementation. While royalties can distort extraction and investment decisions, they pass additional risk to investors (who may be better placed to accept them than are the governments of many lower-income countries) and assure an early and visible revenue return to the government. Profit-sensitive taxes can ensure that the government shares visibly in any rents, not least when prices are high, and this is both fair in itself and potentially conducive to sustainability and credibility of tax regimes. Schemes of broadly this kind are in place in, for instance, Angola, Mozambique, and Namibia for petroleum, and in Botswana, Liberia, and Malawi under general legislation for mining (See: IMF 2011:66).

<sup>41</sup> Source: *Rule of Law Index*: <http://worldjusticeproject.org/rule-of-law-index/index-2011>.

<sup>42</sup> Freedom House' *Freedom of the Press Index*:

[http://www.freedomhouse.org/sites/default/files/inline\\_images/FOTP%20Detailed%20Data%20and%20Subscores%201980-2011.xls](http://www.freedomhouse.org/sites/default/files/inline_images/FOTP%20Detailed%20Data%20and%20Subscores%201980-2011.xls)

<sup>43</sup> Source: *Revenue Watch Institute* (RWI): <http://www.revenuewatch.org/countries/africa/ghana/transparency-snapshot>.

documentation, in the transparency of inter-governmental fiscal relations, and (...) in internal audit systems in Ghana. (...) Room for improvement with respect to public involvement in monitoring and auditing processes remains”.

For instance, the secrecy surrounding mining and oil contracts is an issue in Ghana. Before Ghana endorsed the EITI principles, all discussions of contract transparency were branded as anti-business, but much has been achieved since the first EITI report recommended that all of Ghana’s mining contracts, including investment agreements, be made public.

But according to RWI, the *Ghana National Petroleum Corporation* is not committed to contract disclosure. It has issued a model contract and related laws, available in CD-ROM format, but this presents a technological barrier and does not address the fundamental problem that actual contracts remain unavailable for comparison. The model contract, drafted in the 1980s, also faces criticism over whether it adequately addresses contemporary market realities, and minerals contracts still contains a confidentiality clause.<sup>44</sup> Besides, individuals involved in the negotiation of Ghana’s recent oil contracts report that the Government was concerned about companies’ reaction if it committed to contract transparency, although Ghana has recently announced that its oil contracts will be made public (Rosenblum and Mapels 2009:44).

## Conclusions

There are numerous mechanisms by which power-holders and government insiders can extract from the petroleum sector. They can take bribes directly in the commissioning and contracting phases, especially when negotiating and renegotiating PSA arrangements, and they can take ‘signature bonuses’ and ‘facilitation money’ upfront. Then, they can siphon money off from the national oil company (NOCs being used as the private purse of government officials) and they can use fake private oil companies and sub-contractors to ‘free ride’.

Furthermore, power-holders and government insiders can use the petroleum rents in different ways to preserve and enhance their positions of political power. For instance, they can request donations and ‘favours’ from companies to acquire campaign and party funds, and ensure that oil companies’ CSR projects and infrastructures benefit their political allies. Basically, they can buy off of powerful groups and individuals through co-optations, patronage, and favouritism, they can permit some degree of trickle-down for legitimacy purposes, and they can put up coercive capacities to ensure compliance by subjects. Finally, they can invest in their own power preservation and aggrandizement through election rigging and fraud.

To restrict these practices and to reduce the possible impact of the resource curse, long-term efforts have to be made on all fronts simultaneously and to be implemented in both economic and political spheres. Some priorities stand out, however. In the economic realm, it is a question of reducing the petroleum industry’s ‘crowding out’ effect on agriculture and manufacturing, by improving the business climate, by generating new economic activities, and through economic diversification. This can potentially lead to the development of a middle class in the long term, which historically is the best guarantee for liberal politics.

In the political realm, it is a question of strengthening the institutions of checks and balances, accountability and control. The political response to the resource curse is the reduction of political monopolism and the institutionalisation of efficient democratic control mechanisms. The solution is,

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<sup>44</sup> ”Information or material supplied by the Company to the Government pursuant to the provisions of this Agreement shall be treated by the Government, its officers and agents as confidential and shall not be revealed to third parties, except with the consent of the Company (which consent shall not be unreasonably withheld), for a period of 12 months, with respect to technical information, or 36 months, with respect to financial information, from the date of submission of such information. The Government and persons authorized by the Government may nevertheless use any such information received from the Company for the purposes of preparing and publishing general reports on minerals in Ghana” (Cited in Rosenblum and Mapels 2009:75).

particularly, in the institutionalisation of public control mechanisms and in the ‘ring-fencing’ of informal practices.

This is a question of the ability of Ghana’s public as well as private institutions to control and withstand the pressures for extraction (‘privatization’ and usurpation of oil wealth and public money) and favouritism (clientelism, patronage, elitism). It should take place at a broad front and include the horizontal institutions of accountability (separation of powers, legislature and judiciary and special agencies of restraint and control), as well as the vertical institutions of accountability (elections, civil society, and the media).

According to available statistics, like the *World Governance Indicators*, the overall picture is positive for Ghana, with significant improvements achieved on most of these indicators since 1996. Ghana now ranks on par with the resource rich and resource blessed developing countries Chile, Brazil, Malaysia, and Botswana, and well above the resource cursed countries like Angola, Nigeria, DR Congo, the Sudan, Zambia, Tajikistan, and Colombia.<sup>45</sup> This picture is confirmed by the *Ibrahim Index of African Governance*. Here, Ghana ranks much better than Angola and Nigeria on all governance indicators. Also according to the *Freedom in the World 2012* index, Ghana is an electoral democracy and it is free, as is all the mentioned resource blessed countries (except Malaysia which is partly free). The resource cursed countries are classified as not free or partly free.

More specific data sets on areas deemed important for curbing resource curse tendencies are harder to come by, but some data are available on elections and the parliament. Ghana’s elections since 2000 have generally been considered to be free and fair by most observers, and the *Parliamentary Powers Index* (PPI) ranks Ghana as a medium range country, on par with Nigeria, weaker than Colombia, and better than the other resource cursed countries mentioned. Ghana does not score as good as Brazil and Chile on this indicator, however, which suggests that parliamentary control of the executive is not sufficient in Ghana. The *Open Budget Index* on transparency in the budget process also indicates this. This indicator demonstrates that the government provides only *some* information in its budget documents, which is less than what is required for the public to provide a check on the executive and that the parliament and the Auditor General are only ‘moderately effective’ as budget oversight bodies.

Data on the effectiveness of the judiciary systems is even harder to come by, but data on the rule of law are easily available, and can serve as a proxy. The *World Governance Indicators* rank Ghana’s rule of law relatively high, much better than all the before-mentioned resource cursed countries, on par with Brazil, but not as good as Malaysia, Botswana, or Chile. When the *Rule of Law Index* ranks Ghana as good as any of the other resource blessed countries in average, better than Malaysia and almost as good as Brazil and Chile, we can conclude that Ghana belongs to the resource blessed group when it comes to the rule of law, even when there are data discrepancies. The conclusion is further supported by some data suggesting that executive powers are effectively limited by the judiciary, and by data substantiating Ghana’s particularly good human rights record.

The legal regime on accountability, transparency and efficiency in public resource management seems to be well developed in Ghana, and particularly important in this respect is the fact that Ghana is a *compliant* country of the *Extractive Industries Transparency Initiative* (EITI). Full disclosure of oil and gas revenues has begun, which is a particularly good indication. However, some of the special agencies relevant for petroleum resource management have weaknesses. Ghana’s anti-corruption agencies are only beginning to tackle high-level political corruption, and Ghana’s *Public Interest and Accountability Committee* (PIAC) is only recently established, but corruption control in general seems to be strong. Comparative data on the other institutional instruments established to manage Ghana’s petroleum resources do not exist.

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<sup>45</sup> The only exception is that Ghana scores relatively low, on par with Angola and significantly below Zambia, on ‘political stability’.

Regarding *civil society*, Ghana scores high on freedom of assembly and association, and this is also guaranteed in the constitution. The same is the case with freedom of the press, where the *Freedom of the Press Index 2011* classifies Ghana's press to be free. However, it is notable that Ghana still needs to enact a *Freedom of Information Law*.

To reiterate the main argument of this paper, institutionalisation and democratisation are decisive factors deciding whether abundant resources will be a curse or a blessing for a developing country. A country will be cursed *only* when the discovery of petroleum resources is made *before* accountable and democratic state institutions are established and consolidated. When it comes to Ghana, the country has held four free and fair competitive, multiparty elections since 1996, and the incumbent ruling party and president have stepped down peacefully, twice, as a result of popular will as expressed in the elections. Furthermore, the country's institutions are *not* destroyed by civil war and conflict like the institutions of Angola and the DR Congo, and it has not gone into petroleum production shortly after independence, with an authoritarian government, like Nigeria and the Sudan.

Combining the above points with data on institutionalisation in Ghana, it seems fair to conclude that Ghana has reached a sufficiently high level of democratisation and institutionalisation to avoid the trappings of a resource curse, and perhaps even be blessed by its newly found petroleum resources.

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