

## **Petroleum Revenue Management in Ghana: How does the Right to Information Law Promote Transparency, Accountability and Monitoring of the Annual Budget Funding Amount?**

Clement Sefa-Nyarko,<sup>a</sup> Ifesinachi Okafor-Yarwood,<sup>bc</sup> Evans Sakyi Boadu<sup>d</sup>

- a. Department of History, La Trobe University, Australia
- b. School of Geography and Sustainable Development, University of St. Andrews, Scotland
- c. Visiting Research Fellow, Centre for Strategic Research and Studies, National Defence College, Abuja, Nigeria
- d. School of Governance, University of the Western Cape, South Africa

### **Abstract**

This paper engages the open governance framework to assess whether and how Ghana's Right to Information Law, 2019 (Act 989) contributes to accountability in petroleum revenue management. The Constitution's freedom of information provision aims to get civil society and other non-state actors to be proactive in exerting public accountability through transparency. However, in the petroleum sector, this has been constrained by the legal and regulatory ecosystems that affect timely access to relevant public information, which is a '*sine qua non*' for accountability in governance. This constrains non-state actors from tracking the Annual Budget Funding Amount, the only part of petroleum revenue that the government can use to augment its annual expenditure. The 13 exemptions in the Right to Information Law further compound the opacity in the petroleum sector and showcase the ambiguity surrounding the government's commitment to open governance. Adopting the Kantian Publicity Principle as a change pathway and using examples of the setbacks faced by non-state actors, this paper argues that the potential of the Right to Information Law to counterbalance power notwithstanding, such exemptions, as found in Section 8(1)(d)(i-ii) that forbids the disclosure of information on some of government's international transactions, stifles open governance in the petroleum sector.

### **Keywords:**

Right to Information Act (RTI), Open Governance in Ghana, Petroleum Revenue Management Act, Annual Budget Funding Amount, Institutional Design

## 1. Introduction

Ghana's discovery of crude oil in commercial quantities in 2007 was met with fanfare and excitement. For the first few months following the discovery, domestic and international media were enthused with the 'good news'. The enthusiasm over the discovery of 'black gold' in another sub-Saharan African country was primarily due to the immense benefits that countries like Norway, Canada and Britain have accrued from petroleum resources. Such finds, however, can also be the bane of development, not least for Ghana's close neighbour, Nigeria, which has had a mixture of positive and negative ramifications from petroleum exploitation. To avoid repeating the cycle of the so-called 'resource curse' found in its neighbour's experiences (Okafor-Yarwood et al. 2020; Sefa-Nyarko 2016) and maximise its benefits, civil society in Ghana coalesced around issues of transparency and accountability (Debrah & Graham 2015). Accordingly, the government of Ghana responded with several legal and regulatory frameworks, chief among which were the enactment of the Petroleum Revenue Management Act (PRMA) (Act 815, 2011, amended by Act 893, 2015), the joining of the Extractive Industries Transparency Initiative (EITI) and recently, the passage of the Right to Information (RTI) Act, 2019 (Act 989) that has a generic open governance scope. Two hypotheses were that first, adequate utilisation of petroleum revenues would positively impact Ghanaians' prosperity and wellbeing; second, civil society would offer independent oversight over the government's use of revenue from petroleum if adequate information were available. However, with more than a decade of discovery, extraction, export and management of petroleum, the country is still reeling under the strain of fiscal deficits, oil revenue-related scandals, and has only just been weaned off a second IMF remediation programme in a decade (Ackah et al. 2020; Mohammed 2017). Therefore, it begs the questions, whether the government has efficiently managed the revenue from petroleum, and whether the information-sharing clause of the PRMA and the subsequent promulgation of RTI have successfully activated a broader ecosystem of accountability in the petroleum sector.

In this paper, we have used triangulation through evidence synthesis to answer these questions, through first, an assessment of Ghana's efforts at transparently implementing a particular component of the PRMA: the Annual Budget Funding Amount (ABFA). The ABFA is the only part of petroleum revenue that can augment government's annual budget on specific infrastructure and public goods and services, making it central to any discussion on open governance for accountability in the petroleum sector in Ghana. Second, we have analysed the significance of the RTI law in ensuring transparency and accountability of ABFA implementation and the limitations faced by non-state actors such as civil society organisations in counterbalancing power in the sector – the PRMA and RTI law notwithstanding. Our data sources included secondary data, local media, parliamentary proceeding reports, statutory reports, and legal frameworks such as the RTI law and related process of enactment. Additionally, we engaged five (5) civil society actors, lawyers, petroleum engineers, and

academics in the petroleum sector in Ghana through in-depth key informant interviews as part of the triangulation process. We argue that despite the potential of the RTI law in advancing open governance in Ghana, the 13 exemption clauses such as Section 8(1)(d)(i-ii) that forbids the disclosure of certain information on transactions between government and international organisations makes it ineffective in tackling corruption in the petroleum sector in particular.

The next section uses the open governance framework to assess the interplay between the state, non-state actors and the public in petroleum sector accountability. This is followed by a contextualisation of Ghana's petroleum sector and associated regulatory framework, an analysis of the capacity of the RTI law to enhance open governance, and an assessment of the challenges faced by non-state actors due to information asymmetry in the petroleum sector. Some conclusions about the lapses in the law and involvement of civil society in petroleum governance are then provided.

## **2. Theoretical Framework for Open Governance: A New Paradigm for Transparency and Accountability**

Since the 1980s, neoliberal policies have sparked public sector reforms in Europe and around the world, being promoted in Africa as part of the World Bank and IMF conditionalities for economic aid. The term “good governance” became a cliché, coined by Claude Ake, Nakhtar Diouf and Ali Mazrui as part of their background papers for the seminal sustainability and growth report for sub-Saharan Africa (World Bank 1989). In its original form, the term underscored the centrality of information sharing, public oversights, and cooperation in “state-society relations”; something that was lacking in Africa during the post-Colonial nationalist projects (Mkandawire 2010, p. 265). The earliest most comprehensive definition of good governance was proposed by the Commission on Global Governance (1995, p. 2) as “the sum of the many ways individuals and institutions, public and private, manage their common affairs”. Keping (2018, p. 5) insists that it is a “collaborative management of public life performed by both the state and the citizens and a new relationship between political State and civil society, as well as the optimum state of the two”.

Such an understanding of good governance brings out six essential elements (Keping 2018). First, good governance attracts legitimacy, that is, citizens must voluntarily acquiesce authority and obedience to law and order. Second, good governance must espouse transparency, which is the earnest making of political information available and accessible to the public. Third, there must be accountability, which means that public office holders must be held to fulfil their duties, functions and obligations towards the state and citizens. Fourth, the rule of law underlines the actions and relationships between the state and society. Good governance, thus, ensures equality before the law within a sound legal system. Fifth, public officials must have responsiveness – demands of citizens must be responded to with dispatch, unless there is a legitimate cause for the delay or non-responsiveness. Reasons for a delay or refusal must be communicated with the affected public. Finally, an important trigger of legitimacy is the effectiveness that good governance exhibits – accuracy of policies and actions in achieving outcomes with efficacy.

Whilst scholars have criticised good governance for first, its use by western countries to interfere in affairs of developing countries and second, its recent renditions by the World Bank and IMF to emphasise unrealistic socio-economic indicators, it remains a good measure of reasonable stewardship in the modern world (Grindle 2004; Kjær 2004; Mkandawire 2010).

Open governance is an important pillar upon which good governance rests. Defined as “governance that puts into practice principles of transparency, participation and accountability”, it is a good framework for understanding transparency and accountability in the petroleum sector (Hudson 2016, para 1). Intersections between good governance and open governance are collaboration, transparency, accountability, rule of law and responsiveness (See Figure 1). For high-achieving open governance to thrive in the petroleum sector, the state (government) must work in tandem with civil society groups, local communities, extractive industry companies and the private sector to effectively manage, monitor and maximise the value of petroleum revenue for the public interest. Evidence from sub-Saharan Africa suggests, however, that petroleum and minerals are associated with the double-edged problem of exclusion of non-state actors from governance (Ablo 2015; Nwapi 2010; Panford 2014; Vijge et al. 2019) and weak state capacity to negotiate fair deals with investors (Ackah & Dankwa 2014; Hilson 2002). Although this has improved, there remain concerns in Africa (Cameron 2016; Oppong & Andrews 2020; Pedersen & Bofin 2015). The exponential rents that accrue to governments make them vigorously court investors and make rapid expenditures (Ackah & Dankwa 2014; Menaldo 2016; Schwartz 2017), which increase the political value of being in power. This is especially true when institutions (legislature, judiciary, civil society) are weak in promoting the rule of law and accountability. Clientelism, corruption and misapplication of revenue thrive under such circumstances. At the root of the political arguments for the resource curse, therefore, is the proposition that opacity induces dysfunctional political behaviour (Kolstad & Wiig 2009; Menaldo 2016).

A vibrant civil society can be a remedy through open governance that engenders social accountability. This can either be tactical – mere availability of information to the public with the expectation that they would act on it to engage with government – or strategic – getting the public interested in using the available information to engage with government (Carbonnier, Brugger & Krause 2011; Fox & Halloran 2015). Fox and Halloran (2015, p. 3) insist that political behaviour is not altruistic, and that “we need strategic approaches to have sustainable impacts on entrenched practices and powerful institutions”, which must involve “multiple actors working on multiple fronts”.

The Kantian Publicity Principle presents three assumptions through which this interaction operates. First, publicly defensible actions are attractive. Second, people would choose publicly admissible (higher) motives over lower ones. Third, publicly indefensible motives are ignoble and shameful; people usually avoid them if they know they will have to defend them in public (Luban 1996; see also Sefa-Nyarko 2021).



Figure 1: Intersection between good governance and open governance

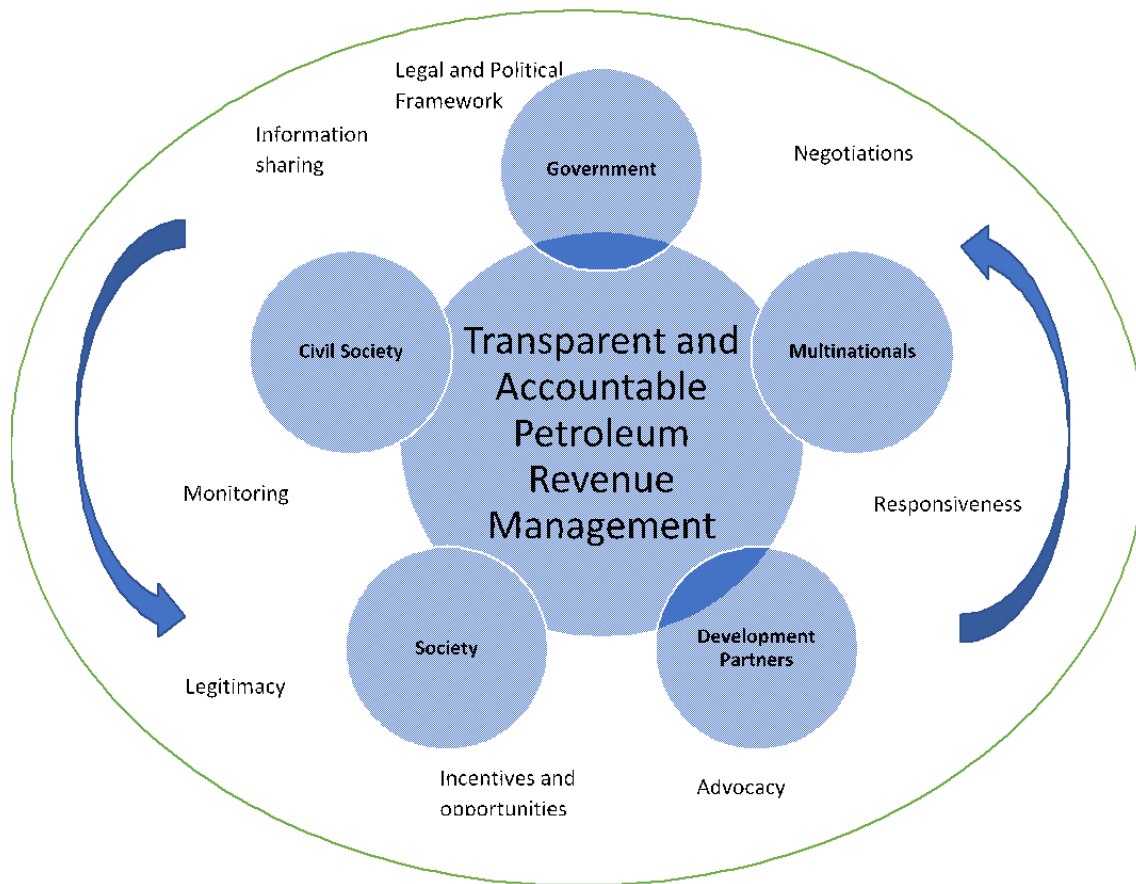


Figure 2: The Open Governance Framework for the Petroleum Sector

### 3. The Regulatory Framework for Petroleum Governance in Ghana

The African extractive sector has been described as 'the Third Scramble for Africa', a new battlefield for Europe, America and China (Frynas & Paulo 2006; Yates 2012). Despite the resistance from civil society groups, the majority were crowded out of governance in Africa through various national security architecture and Ghana is no exception. This stifled civic participation, accountability, and transparency in several sectors of the economy including the extractive industry. In Ghana, several laws, such as the Civil Service Regulation, 1960 (L.I. 47) and Prison Service Decree, 1972 (NRC Decree 46), were passed by various regimes between Independence in 1957 and the Fourth Republic in 1992 to criminalise unauthorised dissemination of information. Although the Public Archives Ordinance, 1955 (No. 35), the Courts Act, 1992, (Act 459), and the abolition of the Criminal Libel Law provided some respite for accessing and sharing public information in the Fourth Republic, the oath of secrecy associated with the Civil Service Law, 1993 (PNDC Law 327) further stifled open governance (Nyarko, Mensah &

Owusu-Amoh 2018). Presently, the RTI law has replaced all restrictive laws and yet, it has numerous clauses that support opacity in governance (See Section 4 below).

The renewed scramble for Africa, colonial legacies of exploitation and the capital-intensive nature of petroleum prospecting have made poor and weak countries susceptible to predation by rich nations and multinational oil companies, particularly due to the many authoritarian regimes of the 1970s and 1980s that inhibited open governance and civic participation (Perelman 2003; Sefa-Nyarko 2020a; Yates 2012). Since capital, technology and companies came from developed countries, African governments and their international partners negotiated their stake in the oil patrimony in secret (Clarke 2010; Yates 2012). In Ghana, the euphoria that greeted petroleum discovery soon dwindled since its perceived socio-economic transformative role has been elusive due to corruption, lack of accountability, and poor monitoring systems. All the interviewees agreed that the haste with which Ghana passed the PRMA contrasts with the extremely slow pace of the passage of the Petroleum Exploration and Production law, 2016 (ACT 919) to replace the PNDC Law 84 of 1984. According to them, politicians had a need to buy time to exploit the loopholes of the previous law during the negotiations and renegotiations of the 2000s. The focus on revenue management alone was good but an apt detraction from the exploration licensing process. The discovery in 2010 that the EO Group, closely associated with the Kufuor government, had mysteriously acquired 3.5% shares in the Jubilee Field in Ghana is a testament to this claim (Mohan, Asante & Abdulai 2018). The EO Group eventually sold its shares in the Jubilee Fields in 2012 due to political pressure from the Mills government that succeeded Kufuor.

“It is the exploration law that has not had a lot of interest and impetus. That is where the contracting, bidding, and beneficial processing is, to be able to service their clientele. It is not surprising, therefore, that it took us a long period to get the law on exploration passed. The oil exploration and production law got passed in 2016; and before then, we were still using the 1984 PNDC law for exploration. Those of us who understand the nature of our political settlement know that this was political calculation”.<sup>1</sup>

“This delay was deliberate, as there were political persons benefiting from the old PNDC law. Politicians have already harvested that rot. So, we should look to be more effective subsequently with our monitoring and accountability mechanism now that the exploration law has been passed.”<sup>2</sup>

It is in this light that as discussed later, the exemptions provided to international transactions by Section 8(1)(d)(ii) of the RTI law raise questions about its capacity to exorcise corruption and ensure transparency in Ghana’s petroleum sector. The law was expected to complement the PRMA, Extractive Industries and Transparency Initiative (EITI) and civil society’s efforts to improve open governance in the sector.

Some progress has been made, nevertheless, through the PRMA, which regulates three main sources of petroleum funds: first, oil royalties computed from gross production in the Jubilee

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<sup>1</sup> Interview with an academic and Petroleum Engineer with a focus on Ghana, 31 May 2021.

<sup>2</sup> Interview with a leading civil society activist in Ghana, 10 May 2021.

(5%), Tweneboa-Enyenra-Ntomme (TEN) (5%) and Sankofa-Gye-Nyame (7.5%) oil fields; second, Carried and Participating Interest (CAPI) received from Jubilee (13.6%), TEN (15%) and Sankofa-Gye-Nyame (20%); and third, Corporate Income Tax received from upstream and midstream petroleum companies pegged at 35% (Ofori-Atta 2018, p. 7). Understanding these sources and their relationship with the ABFA will underscore the significance of the RTI law.

The PRMA specifies three types of revenue allocation from the petroleum fund: one, for equity income financing by GNPC; two, for supporting government's annual budget spending (that is, ABFA); and three, for the Stabilisation Fund to offset market volatility and make savings for future generations. There is an interrelationship between the computations for the three. The ABFA is 70% or less of the Benchmark Revenue, defined as the difference between the total expected revenue, the equity financing cost of the GNPC, and GNPC's share of the net CAPI earmarked for investments (Graham et al. 2019a). For investments and savings purposes, 30% of the remainder is allocated to the Ghana Heritage Fund whilst the rest (70%) is assigned to the Stabilisation Fund. The PRMA states that capital expenditure should take 70% or more of the ABFA (See examples in Ministry of Finance 2019).

The global significance of transparency, accountability and participation in the extractive industries is reflected through the expansion of the EITI, which has increased efficiency, reduced corruption (Alstine 2017; Corrigan 2017), and led to disclosure of US\$2.63 trillion revenues in 54 countries, Ghana included (Landau, Lewis & Squires 2020). It has also yielded access to some data on contracts between government and companies in over 40 countries (Landau, Lewis & Squires 2020), despite some political interference with implementation (Oppong & Andrews 2020). Extending this progress to a detailed disclosure of information on contracts, taxes, and the use of revenues from the extractive industry would require a paradigm shift and consideration for open governance. This is possible if the power dynamics between the public and the political elites are close to, or, in equilibrium, and achievable through the institution of laws to facilitate the public's right to access information, and thus, able to activate a broader sense of accountability in the petroleum sector. The RTI law in Ghana has the potential to mediate the power differentials between the state and society, in line with the main tenets of good governance. Nevertheless, the law is nothing unless its promotion and utility by non-state actors are mediated by political will.

In Ghana, the quest for good governance in the petroleum sector is reflected in the two open governance strategies of the PRMA. I) the mandatory publication of information on licenses and revenue; II) the establishment of the Public Interest and Accountability Committee (PIAC) to oversee the collection, allocation, and utilisation of petroleum revenue (Section 51). PIAC consists of 13 representatives of non-state actors such as civil society organisations (CSOs), traditional leaders and think tanks (PIAC 2017). Since 2007, independent non-state actors have emerged to enforce the PRMA, including the Institute of Economic Affairs (IEA), Imani Ghana and the Ghana Extractives Industries Transparency Initiative (GHEITI) (Obeng-Odoom 2015). However, inadequate information and a lack of political will to act on malfeasance affect



implementation and inhibit public participation. The RTI law, which operationalises Article 21(1)(f) of Ghana's Constitution (freedom of information), has not helped either due to some of the restrictive clauses that support opacity in governance.

#### **4. The Right to Information Law and Anti-Accountability Exemptions**

Defined broadly, access to information represents people's right to obtain information controlled by the state and is at the core of open governance (Nwoke 2019). The inclusion of clauses on public access to information in petroleum laws is one way to promote disclosure and accessibility to information by the public and, by extension, through greater transparency leading to a political will for greater equanimity of benefits, avert the so-called resource curse.

It improves governance, reduces corruption, strengthens the rule of law, and assures interaction between the state and society (Dhaka 2009). Though more than half of African countries have legislation on access to information, gaps in the laws, including slow and inadequate implementation, remain a challenge (Alhassan 2020; Veit & Excell 2015). This hinders open governance.

In Ghana, following 20 years of consultation, exhaustive political scrutiny, and manoeuvring, the RTI law was passed by Parliament and assented into law by the president of Ghana on May 21, 2019. The law came into force in January 2020 upon Parliament's inclusion of the Commencement Clause (Section 86) to make it take effect from the beginning of the following fiscal year. The RTI Law, 2019 (Act 989) is consistent with several international laws and treaties that Ghana is a signatory to, such as the EITI and the African Union Convention on Preventing and Combating Corruption. By the time the law was passed in 2019, its objective had shifted significantly from that set out in the 1999 draft proposed by the Institute of Economic Affairs (IEA) (See Table 1).<sup>3</sup>

RTI is fundamental to good governance. It promotes transparency and public accountability by opening-up the government's record to public scrutiny, thereby arming citizens with critical information about what the government does and how effectively, thus, making the latter more accountable (Dhaka 2009). The RTI law presents an opportunity for promoting open governance in Ghana. However, the thirteen (13) exemptions, especially those relating to key executive government actors and taxation – Sections 5 to 17 – have left the RTI hollow. These exceptions advertently allow the government to withhold important information from the public (Alhassan 2020; CLD 2018). They cast doubt on the effectiveness of the law as a necessary tool for promulgating transparency and accountability in Ghana's petroleum sector.

The exemption clauses were included to allay some of the concerns raised by the government, especially that the RTI law would allow the public to ambush the government. One such concern was raised by K. T. Hammond (2015, Column 2124), a then MP for Asokwa Adansi:

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<sup>3</sup> Since no unfinished bills and businesses can be transferred from one parliament to the other in Ghana, each legislature and executive reviewed the RTI Bill and made adjustments every four years.

“... you do not open the entire gamut of Government to the prying eyes of the public..... there cannot be proper governance without a certain amount of secrecy”.

Such concerns made it difficult for the RTI Coalition and other CSOs to keep the focus of the bill aligned with the initial objective, as the political interests of the dominant political parties prevailed – those of the New Patriotic Party (NPP) and the National Democratic Congress (NDC). These parties facilitated the process at various stages (NPP from 2001 to 2008 and from 2017 to 2019; NDC from 2009 to 2016).

Parliamentary privileges, public safety, state security, and national interest have been cited as reasons for the exemptions. These exemptions make it impossible for the public to get hold of vital information to participate fully in governance and hold public officials accountable. Such hindrance is even more explicit in the extractive industry. For instance, Article 8(1)(d)(i-ii) forbids the revelation of

“information communicated in confidence by a public institution to (i) another public institution in another country or another government, or (ii) an international organisation or a body of that organisation” (Republic of Ghana 2019).

By exempting access to information relating to international organisations, the RTI impedes access to contracts or undertakings between the Government of Ghana and other international stakeholders, which form the core of transactions in the petroleum sector. It also contradicts the global drive for the Publish What You Pay initiative (Klein 2017). Section 10 of the RTI specifically exempts state institutions from disclosing economic and financial information “prior to official publication” under the guise of economic and any other interests, without obliging public institutions to publish such information. Thus, explicitly, and implicitly, the RTI is toothless in addressing transparency and accountability issues in the extractive industry.

*Table 1: Changes in the Objective of the RTI Law, from the CSO-led Draft, through the Laying in Parliament, to the Enactment*

<b>1999 version by IEA</b>	<b>2010 version first laid in Parliament</b>	<b>RTI, 2019 (Act 989)</b>
“...to regulate the production and disclosure of information, including official documents in evidence before Parliament and the National Security Council under Article 121 of the Constitution, and also before the Courts and Tribunals created by the Constitution and other enactments; and to regulate the resolution of issues and doubts arising therefrom in the Supreme Court vested with exclusive jurisdiction by Article 135	“...to provide for the implementation of the constitutional right to information held by a government agency subject to exemptions that are necessary and consistent with the protection of the public interest in a democratic society, to foster a culture of transparency and accountability in public affairs	“...to provide for the implementation of the constitutional right to information held by a public institution, <sup>4</sup> subject to the exemptions that are necessary and consistent with the protection of the public interest in a democratic society, to foster a culture of transparency and accountability in public

<sup>4</sup> It is noteworthy that the only difference between the 2010 and 2019 goals is the replacement of “government agency” with “public institution”.

of the Constitution; and other auxiliary matters.” (Anim 1999, p. 1)	and to provide for related matters repetitive.”	affairs and to provide for related matters.” (Page 4)
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Table 2: List of Exemptions Inserted into the Right to Information Act, 2019 (ACT 989)

SECTION NO.	EXEMPTION TITLE
5	Information for the president or vice president
6	Information relating to cabinet
7	Information relating to law enforcement and public safety
8	Information affecting international relations
9	Information that affects the security of the state
10	Economic and any other interests
11	Economic information of third parties
12	Information relating to tax
13	Internal working information of public institution
14	Parliamentary privilege, fair trial, contempt for court
15	Privilege information
16	Disclosure of personal matters
17	Disclosure for the protection of public interest

There is also some ambiguity about whether the public should pay to gain access to information of interest. Prior to Ghana’s 2020 elections, a Member of Parliament for Ashaiman, Ernest Norgbey, requested procurement information on biometric voter verification machines from the Electoral Commission (EC). However, the EC declined because parliament had not prescribed fees under the Fees and Charges section (Section 75) of the RTI. Aggrieved, the MP filed a suit at the High Court alleging an infringement on his rights enshrined in Article 21(1)(f) of the Constitution. The court ruled in his favour, with the condition that he paid GHC1500 (approx. USD250) for the said information.<sup>5</sup> The Media Foundation for West Africa was also asked by the National Communications Authority to pay GHC2000 (approx. USD333) for the list of radio stations it had shut down for various infractions. Such costs and associated ambiguity undermine open governance as they deter the public from engaging with the RTI law. Diallo and Calland (2013) ascribe this to the “politics of the belly”: haphazard legal principles and cumbersome institutional frameworks in Africa.

<sup>5</sup> Additional information can be found in local media such as: “Highlights, a year after the RTI law took effect in Ghana”, *Ghana Web*, 3 January 2021, <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Highlights-a-year-after-the-RTI-law-took-effect-in-Ghana-1145795#> (Accessed on 13 March 2021)

The restrictions on information that can be assessed, by whom and at what cost, makes it impossible for open governance, and by extension good governance, to be fostered. The law legitimises the opacity in the petroleum sector as it does not address information asymmetry around revenue and licencing created by the PRMA. Section 13, for instance, protects internal working information of public institutions from disclosure, constituting a pitfall that needs to be addressed if the Kantian Publicity Principle of public shame as behaviour influencer is to be applicable.

Even without the RTI law, Article 21 of the Constitution of Ghana guaranteed the right to information; a High Court ruling in 2016 emphasised this point when it ordered the state to disclose documents about a contentious contract with Smarttys Management and Production Limited. Smarttys was contracted to brand 116 public buses with photos of current and past presidents. However, civil society actors revealed that the task was not commensurate with the extremely high amount paid (GHC3.6 million). Smarttys later refunded the extra money to the state. With the RTI, however, the government can leverage the exemptions to deny CSOs access to strategic information relating to the disbursement of petroleum revenue under the guise of confidentiality. Thus, rather than symbolising progress, these exemptions make the RTI law a whitewashing project that will undermine open governance.

Beyond the exemptions, and ambiguity around payment for access to information, questions have been raised about the implementation of the RTI. Specifically, a journalist noted in October 2020 that the RTI law "is political white elephant they [government] do not intend to implement" (Minkah 2020, p. para 5). He made this remark in response to what he considered the Ministry of Information's aggression when he requested information about the budget spending of the Ministry of Health. Section 1(3) of the RTI law permits a request for information without providing reasons, except when the request is urgent, in which case, the reason for the urgency should be provided by the applicant (Section 1(4)). As explained below, it appears that the Ministry of Information's failure to fulfil the above journalist's request was because the RTI had not been implemented at the time.

As Veit and Excell (2015) observe, comprehensive access to information law should, among other things, address issues relating to implementation and enforcement, the release of information, citizens request procedures, and oversight mechanisms and investigation. Some of these are either noticeably absent from Ghana's RTI law or have been bastardised by implementation delays. A lawyer who was interviewed for this paper expressed concerns about general delays in getting regulations passed after laws come into effect, some of which take several years; during the transitions, politicians exercise too much discretion that undermine the spirit of the law.<sup>6</sup> Relatedly, more than a year after the law came into effect, the Minister of Information, Kojo Oppong Nkrumah, whom the law designates as responsible for overseeing the implementation process and reporting to Parliament, indicated that some Information Officers that are required to be stationed in public institution are yet to be fully appointed, trained, and

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<sup>6</sup> Interview with a legal consultant on natural resource governance, 19 June 2021.

deployed.<sup>7</sup> Elsewhere, it was reported that the implementation of the RTI would cost an estimated GHC750 million (USD 130 million) over five years.<sup>8</sup> The parliament passed an amendment to delay the implementation of the RTI by one year because the cost involved was not accounted for in the 2019 budget.

With the exemptions and implementation bottlenecks, the law is far from being ready to achieve its intended goal of enhancing citizen participation, transparency, and accountability in the public sphere. We argue, therefore, that the RTI law can foster a culture of transparency and accountability in public affairs and the utilisation of Ghana's petroleum fund. However, in its current state, the law inhibits the involvement of non-state actors in the petroleum sector due to its regime of exceptions and ambiguity in its implementation. In the next two sections, we discuss the case studies to exemplify the discourse to date.

## **5. Public Interest Accountability Mechanisms and the Annual Budget Funding Amount**

The allocation of funds and expenditure of the ABFA as outlined in the PRMA has generally been followed by successive governments (Graham et al. 2019b). However, there remain significant challenges with independent monitoring, partly because of information asymmetry between government and civil society (ACEP 2018; Ali-Nakyea, Amoh & Mohammed 2019). This is despite the enhanced accountability mechanisms in PRMA, 2015 (Act 983) that improved on the 2011 version. The introduction of limits on ABFA for the annual budget, for instance, was part of this renovation (Armah-Attoh 2015; Edjekumhene et al. 2018; Ofori & Lujala 2015). The Ministry of Finance also publishes ABFA disbursement information on its website annually. Yet, non-state actors are unable to independently verify revenue inflows and outflows on the authority of the PRMA (Armah-Attoh 2015; Okpanachi & Andrews 2012). The RTI law failed to respond to this need due to the various exemptions, particularly the seal it places on the government's international transactions and economic information disclosures in Sections 8 and 10, respectively. Neither do the PIAC and other statutory bodies – Petroleum Commission, Public Accounts Committee of Parliament, the Select Committee on Minerals and Energy, and the Auditor General, whose annual report is hardly taken seriously – fill this gap because they are inseparable from the state architecture. Yet, PIAC has made some positive mark due to its ability to access information that would usually not be accessible to the public.

PIAC is a public interest body comprising several oil and gas institutions as well as other Ghanaian stakeholders such as CSOs, community-based organisations, the Ghana Bar Association, traditional associations (the Association of Queen Mothers and the National House

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<sup>7</sup> "RTI in action now; divisions created, officers trained, access granted", *Modern Ghana Online*, 18 February 2021, <https://www.modernghana.com/news/1062522/rti-in-action-now-divisions-created-officers.html> (Accessed on 17 March 2021)

<sup>8</sup> "Implementing RTI pegged at GHC750m for five years – Report", *Citi Newsroom*, 26 February 2019, <https://citinewsroom.com/2019/02/implementing-rti-pegged-at-ghc750m-for-five-years-report/> (Accessed on 17 June 2021)

of Chiefs), religious groupings (Christian groups, the Muslim Council, Ahmadiyah missions), independent think tanks, journalists and the Trade Union Congress (TUC) of Ghana (Lwabukuna 2016; PIAC 2017). There are questions about the mode of selection of PIAC members (Oppong 2016). Despite this, the body has shown itself capable of contributing to transparency and accountability in the disbursement of funds in the petroleum sector, which is an indication that an effective open governance system will yield good outcomes in Ghana.

In their recent report on ABFA, for instance, PIAC revealed that in the 2019 fiscal year, 45.14% and 54.86% of ABFA was spent on recurrent and capital expenditure, respectively, both of which violated Section 8(4)(a) of Act 893 (PIAC 2020, p. xxiv). Also, between 2018 and 2019, no allocation from ABFA was made to the Ghana Infrastructure Investment Fund (GIIF) contrary to the provisions of Section 21(4)(b) of Act 893 and Section 5(1)(b) of the GIIF Act, 2014 (Act 877). This Act mandates the payment of up to 25% of ABFA's Public Investment Expenditure to GIIF (PIAC 2020, p. xxiv). Similarly, in its recent annual report, PIAC noted that:

...for the third consecutive year, the actual ABFA was not fully utilised or accounted for. It brings the total unutilised and unaccounted ABFA to GH¢1,479,896,299.86 at the end of 2019... In 2019, [GNPC] supplied US\$334,636,806.22 worth of raw gas to [Ghana National Gas Company (GNGC)], but no payment was received, largely on account of [Volta River Authority's] inability to pay GNGC for the lean gas supplied. Added to the outstanding balance of US\$333,481,539.82, this brings the total indebtedness of GNGC to GNPC in respect of lean gas supplies to US\$668,118,346.04 (PIAC 2020, p. 97).

PIAC has quasi-legislative backing; nonetheless, it has no power to steer government action to ensure that the oil and gas revenue are utilised appropriately (Amoako-Tuffour 2013). The PRMA does not clearly stipulate the enforcement mechanisms or authority of PIAC besides submitting its finding, report and recommendations to the Parliament as outlined under Section 56(d) of the Law (Republic of Ghana 2015). The range of penalties for infractions outlined in Section 58 include up to 15-year jail term. Depositing revenue into an account other than the Petroleum Holding Fund, for instance, is against the PRMA, yet this happens without any penalties inflicted by the state. Oppong (2016) avers that the law, ambiguously, sees Parliament as the sole enforcer of PIAC's findings and recommendations with no specific committee(s) in Parliament specifically mandated to deliberate over PIAC's reports and findings. The Attorney General who has the power for prosecution often does not act for political expediency. According to a member of PIAC,

We report to Parliament, and Parliament could advise the Attorney General to pursue these cases. But we all know the Attorney General is an appointee of government, and it is difficult for them to pursue justice, especially since the Attorney General combines as a Minister of Justice, Member of Parliament, and mandatory Cabinet Member. The Attorney General doesn't go against governments political interests. So, these are little infractions of

the law that lead to major infractions. Because people go away with the minor ones, they have impetus to commit major ones.<sup>9</sup>

We therefore argue that PIAC and other public interest groups should be supported to better serve their oversight responsibilities and to build their morale. The government sends mixed messages about its willingness to engage with national organisations. As is shown later in this section, the Ministry of Finance has been more responsive towards fact-finding reports of Ghana's EITI than PIAC, which is suggestive that they place more premium on the international connections of the former – EITI, than the latter, which is backed by national laws. This is also despite the legitimacy that PIAC enjoys among civil society groups. One civil society leader was hopeful that PIAC will represent the interest of the wider citizenry:

PIAC may have aroused the interest and hope of CSOs. We have found an entry point for CSOs to keep the government in check.<sup>10</sup>

While funding for PIAC was a challenge prior to the 2015 amendments to the PRMA, that is no longer a significant bottleneck. In the week of 14 June 2021, PIAC held its annual citizenship engagement meetings in the Northern and Oti regions. Its reporting has also been consistent and has moved away from using external consultants to using its members with the advantage of building internal capacity. This is an improvement on what Oppong (2016, p. 334) referred to as PIAC's lack of "significant internal structures" that had "failed to build any meaningful linkages with various domestic social groups". There are concerns, however, that even where the government makes payments to PIAC, these are delayed by the Ministry of Finance, which affects some of its operations (ACEP 2019; Graham et al. 2019b).

Another public interest body with international legitimacy that is designed to engineer open governance in the petroleum sector is the Extractive Industries Transparency Initiative (EITI). Ghana signed on to EITI in 2003, became a candidate country in 2007, and designated as compliant with the disclosure requirements, thus, fully validated, in October 2010 (Lujala, Brunnschweiler & Edjekumhene 2020). The Ghana EITI (GHEITI) is a multi-stakeholder arrangement that includes representation from government, CSOs, and industry, which make up the National Steering Committee. The GHEITI Secretariat is housed in the Ministry of Finance, and the Chief Director of the Ministry of Finance acts as the chair (Ofori & Victoria 2017). Since its establishment, GHEITI has published vital information on revenue flows from extractive industry, production volumes, leaseholders, and disbursements of revenues to sub-national units, and has produced seven of such reports related to oil revenue between 2010 and 2018 (Lujala, Brunnschweiler & Edjekumhene 2020). Though not legally binding (Oppong 2018), EITI's role as an oversight organisation has yielded some positive outcomes (Corrigan 2017). For instance, the GHEITI's Oil and Gas report of 2015 raised the alarm about incomprehensive reportage on the ABFA and the potential violation of the law governing it:

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<sup>9</sup> Interview with a legal consultant on natural resource governance, 19 June 2021.

<sup>10</sup> Interview with a leading civil society actor, 10 May 2021.

The Minister has only reported on the programmed activities funded by the ABFA and the expenditure incurred on those activities; but failed to report on the stage of implementation of the activities as required by Section 48(b) of the Act 815. [The report recommended that] The reporting on the activities funded by the ABFA should meet the requirements of section 48 of Act 815, i.e. the stage of implementation must be stated as well (Boas and Associates 2018, p. vii).

The government's uptake of GHEITI's recommendation is highlighted in the 2018 progress report published in 2019. Therein, GHEITI noted that the:

“Ministry of Finance has fully complied with section 48 of PRMA and are currently implementing it and sharing the report” (GHEITI 2019, p. 26).

The RTI law has the potential to instil transparency and accountability in revenue management in the petroleum sector if it can facilitate access to information by non-state actors for multi-stakeholder engagements. The fear of public ridicule and potential for public (domestic and international) outcry provides some incentive for responsiveness by the government. As seen in the PIAC case analysis earlier, and as is generally noted by scholars (Brunnschweiler, Edjekumhene & Lujala 2021; Sovacool 2020), publishing the information is not an end in itself, although it remains a first good step for civic participation (Alstine 2017). That is why the cap on the scope of publicly accessible information in the petroleum sector through the RTI law jeopardises open governance. This is compounded by what Andrews (2016) refers to as the Ghanaian government's failure to allow the full participation of CSOs (important stakeholders) in Ghana's EITI. In addition, the embeddedness of Ghana's EITI in the Ministry of Finance has been criticised as it reduces its ability to be autonomous and increases its susceptibility to government's political manipulation (Andrews 2016; Nguyen-Thanh & Schnell 2009; Oppong & Andrews 2020).

The constraints on GHEITI's effectiveness is duly recognised in the EITI Board report published in December 2020 (EITI Board 2020). Although the EITI Board lauded Ghana's progress to improve transparency and accountability in the extractive industry, it highlighted some critical aspects of the EITI standards that are yet to be fully achieved by Ghana. The beneficial ownership, comprehensiveness and quality of revenue disclosures, quasi-fiscal expenditures, and subnational transfers were identified as standards that needed to be improved upon. The EITI Board determined that Ghana would have 18 months before a fourth Validation under the 2019 EITI Standard - until June 1, 2022, to take corrective actions on these standards. Failure to achieve satisfactory progress in the fourth Validation will result in delisting per Article 6 of the EITI Standard (EITI Board 2020).



## 6. Access and Use of Information by Civil Society in the Governance of Petroleum Revenue

The RTI can enhance the work of non-state actors like CSOs, the international development stakeholders, and organised groups. However, the current exemptions cast doubt on this. The contribution of such non-state actors in the governance, management, and administration of Ghana's political dispensation since independence has been phenomenal. Although civil society has played a formidable role in reforming the socio-political landscape in Ghana since the 1970s (Chazan 1982; Whitfield 2003), it was only after petroleum discoveries in 2007 that CSOs' attention shifted to the petroleum management sector – mainly focusing on transparency, effective utilisation, and monitoring of the revenue accruing to the state.<sup>11</sup> Whilst the state has co-opted some of these non-state actors into its public interest accountability mechanisms, mainly through PIAC and GHEITI, others work independently to undertake surveillance in the petroleum sector using publicly accessible information. Such CSOs like the Institute of Economic Affairs (IEA), IMANI Center for Policy & Education (IMANI), Natural Resource Governance Institute, Centre for Democratic Development (CDD) and African Centre for Energy Policy (ACEP) have been influential in formulating laws and policies in the petroleum sector. Their contribution is relevant because public institutions have consistently shown lack of will in open governance without independent oversight; their interest in “following the money” has yielded good results (Mohammed 2017).

The involvement of civil society groups in the petroleum sector in the post-2007 era was transformed in 2009 when the Civil Society Platform on Oil and Gas (CSPOG) was formed to advocate along the petroleum value chain.<sup>12</sup> This included 135 CSOs – policy think tanks, issue-based advocacy groups, faith-based groups, media representatives, community-based groups, environmental activists, and occupational groups. Their aim was to leverage on the proverbial strength-in-unity to pile pressure on government and multinational oil companies for compliance with existing national and international laws, and to advocate for amendments to those that were obsolete (Debrah & Graham 2015, p. 28). This effort was complemented by other non-CSPOGs actors, making Ghana's open governance ecosystem a multi-stakeholder one (Annan & Edu-Afful 2015). Despite initial resistance from government (Debrah & Graham 2015), CSPOG and other non-state actors have consolidated their legitimacy, influenced government policies, and monitored petroleum revenue expenditure within the constraints of information asymmetry, even prior to the RTI law. This implies that the RTI law can complement a civil society that is ready to contribute to open governance.

Specifically, CSOs successfully lobbied the government for broader participation in PIAC and were instrumental in advocating for the PRMA. Similarly, the CSO-led Oil4Agric (oil for agriculture) initiative in 2013, with support from Oxfam's Grow campaign, advocated for the

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<sup>11</sup> All interviewees confirmed this point.

<sup>12</sup> See CSPOG website: <https://www.cspog-gh.org/>

government to commit a sufficient proportion of oil revenues to fund agriculture and its value chain in the 2014—2016 fiscal years (Fox & Halloran 2015; Mohammed 2017). The campaign contributed positively to policy changes and its report noted that:

[The] allocation of oil revenue for agriculture jumped from GHC13.6 million in 2013 to GHC136.4 million in 2014. This increase amounted to an increase from 2.5% in 2013 to 15.2% in the 2014 budget. The share of actual spending on agriculture increased even more, to 31% of the oil fund. (Fox & Halloran 2015, p. 17)

Similarly, following active campaigns like the ‘Following the Money’, for the first time since commercial oil production commenced in 2010, the national oil company published its financial statement in 2015 (Mohammed 2017). This was after civil society advocated with both citizens and international financial institutions like the IMF and the World Bank to demand transparency, fiscal discipline, and pro-poor programmes as conditions for legitimacy and financial support to Ghana, especially during negotiations of the IMF’s Extended Credit Facility for Ghana in 2014.

CSOs are also vigilant about misapplication, misappropriation, and anomalies in the disbursement of petroleum revenue, particularly those relating to the Heritage Fund and the ABFA expenditure. For instance, at a public event in Accra in 2017, a Senior Minister, Osafo Marfo, announced the government’s intention to undo provisions in the PRMA and expend revenue saved in the Heritage Fund for its Free Senior High School programme:

...The Petroleum Act, as a matter of fact, that Act will be revisited... You see we must use the resources of the petroleum industry to solve our problems which will make us develop better into the future. After all what is heritage fund? Heritage is protection against the future. What is more heritage than good education? Therefore, if you divert part of the heritage fund to give children of Ghana good education, you are doing the right heritage concept. And therefore, we are going to revisit the Petroleum Act, and look at reallocating some of the resources in the heritage fund and earmarking some of them to solve some pressing problems of the country, it is important... (Asembi 2017, p. para 3).

This was met with immediate resistance from civil society groups, which led the Ministry of Finance and government to distance themselves from such claims (Stephens 2019). Nevertheless, recent governments have generally relied on ABFA for ambitious and sometimes politically inspired programmes, which means that such vigilance from civil society organisations and access to relevant information in the sector are critical for preventing abuse. In 2017, for instance, almost all ABFA funds – 26.5% (88% of the 30%) allocated for recurrent expenditure by PRMA – was used to finance the Free Senior High School programme of the Akuffo-Addo government, which left less than 4% for other recurrent expenses (ACEP 2018, p. 1).

Another example of CSO’s vigilance against the misapplication of the Heritage Fund relates to their opposition to the government’s intention to draw from the Fund to augment the national budget due to COVID-19-related constraints to revenue inflows. Using the prevailing price of USD30 per barrel in early 2020, PIAC and the Ministry of Finance projected that for the rest of that year, government would lose almost a billion dollar (USD993 million) in crude oil receipts,

with estimated shortfalls of USD617 million in ABFA, USD185 million in the Stabilisation Fund, and USD79 million in the Heritage Fund (PIAC 2020, p. 101). Consequently, the Minister of Finance announced plans to amend the PRMA to allow access to reserved funds of USD591.1 million from the Heritage Funds to shore up budgetary needs of the country (Nyavor 2020). This was immediately opposed by CSPOG in March 2020, noting that the government's failure to adhere to the stipulations of Article 175 of the 1992 Constitution allowing for the establishment of a Contingency Fund to mitigate such crises is to blame for government's lack of preparedness. They also suggested that the misappropriation of funds from the petroleum sector, and the government's failure to account for GHC650 million (approx. US\$113 million) petroleum revenue between 2017 and 2018, despite the promises by the Ministry of Finance to find the money, are factors that needed to be addressed, rather than commandeering money set aside for the development of future generations (Nyavor 2020).

This posture of the government has been consistent, that is, its perennial desire to override the laws and regulations of the petroleum sector and is restrained only by resistance from vigilant civil society groupings. The vociferousness of Ghana's non-state actors in the Covid-19 era is noteworthy and attests to the potential of the use of public information to hold the government to wider public accountability, especially since such voices were generally muted across Africa where governments enacted emergency Covid-19-related laws that were often arbitrary and unsupportive of transparency and accountability (Cheeseman 2020; Sefa-Nyarko 2020b). The quasi-responsiveness of government to non-state actors mirrors the Kantian Publicity Principle wherein individuals or agents are inclined to act in publicly defensible ways. They would choose publicly admissible (higher) motives over lower ones, as the latter are deemed as shameful and reprehensible (See Luban 1996; Sefa-Nyarko 2021). The RTI law builds on existing atmosphere of interaction between the government and citizens although the tactful inclusion of exemptions is an impediment to accessing holistic information along the petroleum production value-chain.

Although some of the actions of civil society groups do not elicit immediate response from government, such actions are indicative of their ever-present vigilance. For instance, the ACEP has found and published information that accused the government of not accounting for an unspent allocation of GHC400.9 million (54.6 per cent of ABFA) for capital-intensive projects in 2018 (ACEP 2018). Elsewhere, the Kumasi Institute for Energy and Environment (KITE), through an impact evaluation of ABFA projects across the country, found that most projects that were earmarked to be funded by ABFA were either non-existent or simultaneously recorded as funded by other funding sources. KITE also discovered that some ABFA-funded projects were in stages of development below what was stated on paper (Edjekumhene et al. 2018). Similarly, the 'Following the Money' project tracks and monitors revenue and expenditure of the petroleum sector to showcase potential and actual anomalies (Mohammed 2017). IMANI Ghana and the CDD have all made public comments in various degrees of misapplication of funds from the petroleum sector. The government usually provides generic responses by reiterating its commitment to publishing trackable ABFA-funded projects on the website of the Ministry of Finance and to providing additional information to clarify things in future. Many of the concerns

are still pending but these efforts signal the potential of the RTI to consolidate open governance in the petroleum sector even if its regimes of exemptions and political immunities are retrogressive.

Notwithstanding the role that domestic non-state actors and civil society as a whole play in Ghana's petroleum sector, there are still questions about their ability and independence in implementing social accountability programmes. Major constraints are around funding, technical capacities, limited competencies in their *modus operandi*, and information asymmetry between them, the government, and multinational oil companies (Debrah & Graham 2015). These constraints are worsened further by the restrictions on the kind of information that they can access under the RTI law. For instance, Section 14(1)(a) forbids the disclosure of information that is presumed to "infringe or contravene parliamentary privilege", while failing to provide a clear definition of what parliamentary privilege entails, and none is given credence per international standards. This exemption is also problematic because the Parliament of Ghana is the sole institution with authority to review PIAC's findings, reports and recommendations (PRMA, section 56(d)). With these exemptions, the parliament would have legitimate grounds to withhold information regarding the government's use of the revenue accruing from the sector. As argued earlier, the Attorney General has also not taken any interest in prosecuting cases of infraction that are reported in PIAC's annual reports. This means that the RTI law will continue this trajectory as *de jure* rather than a *de facto* accountability tool (GII 2018).

Another set of inhibitors relate to funding and competencies of the CSOs in the sector. For instance, CSPOG was created with support from several international actors such as the European Union, Oxfam, IMF, and the World Bank (D'Alessandro, Hanson & Owusu 2014). Funds from external agencies have continued to support its work and have been useful in enhancing its competence for exerting accountability and stimulating some degree of responsiveness from the government to the people. It follows, therefore, that the ability of CSOs in the sector to function equitably is dependent on the availability of foreign support without which, Annan and Edu-Afful (2015) suggest, their activities would be seriously impaired. Funding is directly related to their technical capacity to stage comprehensive and critical counter-analysis of revenue and expenditure data, even if information is available and accessible. The knowledge about oil and gas management, governance, and utilisation require technical skills and expertise which some of the CSOs lack, and have made it difficult for them to be a *force majeure* in the open governance ecosystem around ABFA (Rundquist 2013; Stacey 2016).<sup>13</sup>

The fact that oil contracts are secret, and Ghana's RTI law legitimises this opacity, increases exponentially, the time and efforts that CSOs put into chasing all the information they need for

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<sup>13</sup> This point about CSO capacity was well articulated by the civil society actors and academics that were interviewed.

open governance; by extension this inhibits their ability to sustain their oversight on the government and the sector.

On the other hand, there are concerns that the involvement of CSOs in the sector may be compromised due to their latent affiliation with political parties. This is particularly the case with leading members of the civil society fraternity. A civil society activist puts it thus:

We have been limited in our ability to sustain our supervision of the sector. There are capacity issues. The old folks have all been absorbed into the government sector.<sup>14</sup>

For instance, Daniel Batidam, a former Executive Director of the Ghana Integrity Initiative, was appointed to a senior political position during John Dramani Mahama's NDC Administration; the founding Executive Director of ACEP, Mohammed Amin Adam, was appointed to a ministerial position in the Ministry of Energy during Nana Addo Dankwa Akuffo-Addo's NPP administration, and Nana Oye Lithur, a former Regional Coordinator for the Commonwealth Human Rights Initiative Africa Office and convenor for the RTI Coalition for over a decade, was appointed Minister for Gender and Social Protection under the NDC in 2013. Such appointments portend some inherent political biases in civil society's front.

## **7. Conclusion**

Civil society's involvement in the petroleum sector in Ghana has been recent. They were mainly absent during the years of rigorous petroleum exploration between 1985 and 2007, and only emerged in the sector after commercial discoveries. Regardless of this, since colonial times, civil society has been instrumental in shaping national discourses. Whilst the Provisional National Defence Council (PNDC) military regime, led by Jerry Rawlings, was busy establishing the GNPC and enacting laws for domesticating petroleum exploration and extraction, civil society activism focused on regime change and political reforms under harsh Criminal Libel Law that criminalised the dissemination of inaccurate or unauthorised information. Although this activism yielded positive results by forcing the PNDC regime to accept liberal and constitutional democracy in 1992, civil society lost time in bringing the petroleum sector into the scope of open governance. Still, through the post-2007 instrumentalism of non-state actors, the PRMA was enacted in 2011 and amended in 2015, and they continue to play both independent and public interest accountability roles in the petroleum sector. The RTI has also been passed into law for wider open governance purposes after 20 years of state-society banter over its objective, content, and text. The law provides leverage for PIAC, Ghana EITI, civil society, and the public to hold the government to account for its stewardship across all sectors, including the management and disbursement of ABFA. It also engenders public engagement in Ghana.

The RTI law, nevertheless, appears benign in enhancing transparency and accountability due to the 13 exemption clauses that legitimise opacity in the petroleum sector. Its potential to

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<sup>14</sup> Interview with a leading Civil Society Activist in Ghana, 10 May 2021.

encourage open governance behaviour – active civic participation, independent monitoring, reduced corruption, efficient utilisation of petroleum resources, implementation of relevant and pro-poor programmes – in the petroleum sector notwithstanding, it does not significantly enhance transparency in the sector. Petroleum governance is still centralised even if there is *de-jure* decentralisation of authority (Debrah & Graham 2015; Graham et al. 2019a; Lawer, Lukas & Jørgensen 2017).

We propose that a collaborative governance with emphasis on intersectoral partnership rooted in public-private sector collaboration in the oil and gas sector in Ghana will present an avenue for industry actors from different contexts, sectors, and settings to play a crucial role in monitoring the utilisation of the revenue accruing from the sector. Collaboration between the diverse interest groupings including industry actors, civil society and government is crucial in examining the critical issues particularly relating to revenue mobilisation, monitoring, accountability, distribution, and utilisation. Enacting an intersectoral relations framework or act, could ensure that the various industry players perform their oversight duties distinctively but in a collaborative manner devoid of suspicions to create a situation in which the common good of the country could be advanced.

Currently, international transactions between the government and most international entities are exempted from disclosure. Economic and financial information cannot be disclosed unless state institutions determine that they are publishable and will disclose information only after deciding to publish it. The executive determines what information does or does not have national security implications, and the legislature can have recourse to parliamentary privileges to conceal certain information from the public. Most petroleum sector contracts and transactions fall under one or more of these exemptions, limiting the RTI law's ability to counterbalance the power of the state and the multinationals in the sector. It does not complement the PRMA, which has long been found to be inadequate in advancing open governance.

To address this, civil society and non-state actors could emphasise the constitutional provisions of freedom of information and other media- and communication-related freedoms rather than the RTI provisions in their advocacy and search for information. Using strategic advocacy and mobilising citizens to act on accessible information would also let the government see value in the voluntary sharing of information. When citizens demonstrate interest in accessing and using the information, the state would find political value in making information available rather than keeping it secret. This can be drawn from the Kantian Publicity principle where information sharing becomes a higher motive that public office holders would want to espouse.

The sparse publicly available data makes it extremely difficult for non-state actors to proactively demand transparency and accountability of revenues and expenditure. The regime of exemptions and arbitrary discretion acquiesced to the legislature and executive arms of government by the RTI law helps to further embed the problem of secrecy in the petroleum sector. The current RTI

law is incapable of improving transparency, exerting accountability from the state, eliminating misapplication of funds, and reducing corruption in the petroleum sector. Also, the ABFA is spent thinly across many projects such that it is almost impossible for non-state actors to track its implementation for accountability. Consequently, the judicious management and use of the ABFA remains at the discretion of the government and state institutions.

These could be addressed if the exemptions in the law are highlighted and widely propagated to citizens by non-state actors to emphasise their disenfranchising tendencies. Such an approach will bring the legislature and the executive back into the public consultation realms to discuss amendments to the RTI law and the PRMA, especially when they discover that there is more political value in transparency than in opacity. Moreover, PIAC needs to have powers of a Commission so that it can do more than simply monitoring revenue, engaging citizens in dialogue, and conducting independent assessment of utilisation of revenue from petroleum. Another advocacy point for an amended PRMA is the need to restrain the government from spending the ABFA on up to three of the 12 priority areas listed in the current law (in the absence of a long-term National Development Plan).

## **AUTHORS**

### **Clement Sefa-Nyarko**

**Email:** [sefanvarko@yahoo.com](mailto:sefanvarko@yahoo.com)

Clement has over eight years of experience in critical social assessments in sub-Saharan Africa. His research has focused on social determinants of political stability and is currently undertaking a study to reframe the natural resource curse discourse in Ghana using political theory analyses. It assesses political behaviour and institutions that inform options for natural resource exploration in sub-Saharan Africa. Clement is an alumnus of the African Leadership Centre's African Scholars Programme. He is a Doctoral Candidate at La Trobe University with two previous Master of Arts degrees obtained from Kings College London and the University of Ghana on the broad areas of history, demography, and politics. He has a Bachelors in Sociology.

### **Ifesinachi Okafor-Yarwood**

**Email:** [imoy1@st-andrews.ac.uk](mailto:imoy1@st-andrews.ac.uk)

Ifesinachi is a lecturer in sustainable development at the School of Geography and Sustainable Development, the University of St Andrews in Scotland. Her research to date has generated critical insights around the blue economy, human security, maritime governance, and security. She is continuing to advance the understanding of sustainability as a question of resource management, environmental justice, and the disproportionate effects of depleting resources on security, poverty, and inequality.

### **Evans Sakyi Boadu**

**Email:** [3616746@myuwc.ac.za](mailto:3616746@myuwc.ac.za)

Evans has a BA in Political Science, MA in Population Studies from the University of Ghana and a Master's in Public Administration (MPA), University of the Western Cape, Cape Town, South Africa. Evans is currently pursuing PhD in Public Administration at UWC. His study

focuses on indigenously- or culturally-responsive monitoring and evaluation in community-based development intervention policies and programmes in Africa with special reference to Ghana.

### **CORRESPONDING AUTHOR**

Clement Sefa-Nyarko, History Department, La Trobe University, David Meyer Building East 107, Bundoora, Melbourne, VIC 3083, Australia.

Emails: [sefanyarko@yahoo.com](mailto:sefanyarko@yahoo.com); [c.sefa-nyarko@latrobe.edu.au](mailto:c.sefa-nyarko@latrobe.edu.au)

Mobile: +61 4522 3047 1

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