

**Testimony of Mohammed Amin Adam  
Executive Director  
Africa Centre for Energy Policy, Ghana**

**“Is There an African Resource Curse?”**

**House Sub-Committee on Africa, Global Health, Global Human Rights, and International  
Organizations**

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**Introduction**

Chairman, Ranking Member, Members of the Committee, thank you most sincerely for inviting me to a hearing of the Sub-Committee addressing the question “Is There an African Resource Curse” and in particular to give a testimony on the subject. As you know the subject of resource curse in Africa is very broad, and I would like with your permission to focus my testimony on Ghana’s management of her natural resources.

**Background**

At the height of the global financial and economic crises in 2007, Ghana discovered oil and gas in commercial quantities estimated at 1.8 billion barrels reserves. But Ghana was yet to see many blessings in addition to being a new oil producer. Soon after this development the tap was opened and many wondered how God could bestow so much on a country at the same time - a new oil producer, a new middle income country, a nation that emerged unscathed from a very competitive elections in 2008, the second highest growing economy in the world in 2011 (growing at 14% of GDP) and in the same year becoming the third largest recipient of Foreign Direct Investments in Africa, US\$3.2 billion, following Nigeria and South Africa.<sup>1</sup>

Oil has now become the second largest export of Ghana – US\$2.7 billion in 2011 to US\$3 billion in 2012; following gold and overtaking cocoa.<sup>2</sup> Ghana is also gradually becoming a net exporter of crude oil with oil imports of US\$3.3 billion in 2012 versus oil exports of US\$3 billion. This is

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<sup>1</sup> The UN Conference on Trade and Development (UNCTAD), World Investment Report, 2012.

<sup>2</sup> Standard Chartered Bank, May 2013

just a matter of time as oil production increases and new oil discoveries have been made. To date, 23 oil discoveries have been made in Ghana giving the country an exploratory success rate of about 78%, one of the highest in the world.

The positive impact of oil is already being felt in the budget. With oil revenues flowing into the country since 2011, the annual budget has seen an important fiscal relief, and oil taking off part of the fiscal burden on tax revenues. In 2011, the country received US\$444 million and US\$541 million in 2012. These revenues will increase in the years ahead but this is offset by growing debts and large fiscal deficits especially around election time<sup>3</sup>.

Thus far, so much is happening in Ghana, which many people consider a new paradigm of countries in Africa determined to break away from the resource curse. Ghana is indeed being tested and whether she will pass the test or become another victim of the curse is still an open question.

### **What is resource curse?**

Resource rich countries such as oil and mineral producing countries have often been challenged by how to transform their riches to broad-based democratic development. Especially in developing countries, they are faced with problems of the quality of institutions managing these resources, the quality of investment of revenues from resource exploitation and the level of accountability of officials involved in managing large inflows of revenues. These countries often see their people live in abject poverty, plagued by conflicts, ignorance, illiteracy and disease in spite of their resource wealth. This phenomenon has become known as the ‘resource curse’. The ‘curse’ has also been described as the ‘paradox of plenty’<sup>4</sup> and oil referred to as the ‘devil’s excrement’ by Juan Pablo Perez Alfonzo, the co-founder of OPEC .

### **Ghana has a poor record in managing its Century old Mining Sector**

The announcement of oil discovery in Ghana brought mixed reactions. For some, the expectations were very high. They believed – in part to promises by politicians – that their poor

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<sup>3</sup> The last 2 election years recorded very high fiscal deficits, 14% of GDP in 2008 and 12% of GDP in 2012.

<sup>4</sup> Karl, Terry Lynn, (1997). *The Paradox of Plenty: Oil Booms and Petro-States*. Berkeley, CA: University of California Press.

conditions and deprivation were to come to an end. There were however the more cautious Ghanaians who frightened by the “devils excrement”, and in view of the experiences in many other oil-rich countries in Africa where oil wealth did not improve lives and brought instead vested interests, corruption, weak institutions and conflicts. But many others were also not optimistic of oil because of the country’s poor record in managing her minerals.<sup>5</sup>

Once called the Gold Coast, Ghana has been a major producer of gold which is now the largest export commodity of the country. This year, 2012, marks the highest earning from mining in Ghana’s mining history. With gold production of 4,313,190 ounces, and export revenues of \$5.6 billion, the mining industry contributed 27 per cent of government revenue collected by the Domestic Tax Division of Ghana Revenue Authority<sup>6</sup>.

In spite of these developments, the cost of mining to the country has been too high – destruction of the environment, human rights abuses, displacement of communities and low compensations to affected communities. Some of the problems in mining communities are however arising from the rise of resource nationalism which is driving people in to the struggle to earn a living from mining. They cannot wait in hunger whilst minerals are shipped out daily before their naked eyes. But these people need a license to partake in this struggle but are often constrained by many factors. The resort to illegal mining has brought untold stories about the further devastation of communities, land and water bodies. Most people have lost their lives as a result. A few of such cases are reported as follows<sup>7</sup>:

- i. Wassa Dadieso where 9 people were alleged to have died in 2006;
- ii. Noryem-Nyafoman where about 40 people died following mine subsidence;
- iii. Abooso, near Wassa Akropong where 15 people died last year when due to under cutting, the mine collapsed and covered them.

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<sup>5</sup> See Oxfam America, *Ghana’s Big Test: Oil’s Challenge to Democratic Development*, 2009.

<sup>6</sup><http://www.ghanabusinessnews.com/2013/07/10/mining-sector-contributes-27-to-ghanas-revenue-in-2012-minister/#sthash.DvWiFRso.dpuf>

<sup>7</sup> Statement by the Hon. Minister of Lands and Natural Resources relating to Government position on Small Scale Mining September 2010

- iv. The recent one at Akyempim, near Dunkwa where an embankment collapsed flooding the pit resulting in the death of unspecified number of people. 17 bodies were found after some rescue efforts.

Small scale mining has been reserved for Ghanaians but the entry of foreigners into this mining has been very rapid especially Chinese mine workers. The Government of Ghana has set up a Taskforce of security agencies to arrest Ghanaians and foreigners engaged in illegal small scale mining. To date, 1,568 foreigners and 51 Ghanaians have been arrested, while 40 vehicles, 85 earth moving equipment and 49 weapons have been seized<sup>8</sup>.

Apart from the social and economic challenges with mining in Ghana, the rising resource nationalism has also caught up with the Government, which, pressured to increase its share of mineral revenues, has resorted to fiscal reforms including a revision of corporate tax for mining companies from 25% to 35%, a new windfall tax of 10%; and ring-fencing of cost (a practice where the costs of unsuccessful projects cannot be offset by revenues from successful ones). It is also reviewing mining contracts and stability agreements with two big companies – Newmont and AngloGold Ashanti who together hold 35% of the total 2,109.04 square km of the area under mining agreements signed between the Government of Ghana and 21 mining companies between 1994 and 2007. The Government’s own statement captures this nationalistic instinct as follows.

“The issue with mining is about fair and transparent sharing of the benefits and windfall gains from the exploitation of the country’s precious and irreplaceable natural resources. As explained earlier, during the recent global financial crisis, prices of gold, cocoa and oil reached their peak levels ever. Yet, the country did not benefit at all from the price hikes, particularly from gold. The Government has, therefore, taken a bold step to critically review the fiscal regimes and mining agreements, with the view to ensuring that the country benefits adequately and fairly from the gains in the mining sector. To this end, Government has set up a National Re-Negotiation Team to advance this objective.”<sup>9</sup>

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<sup>8</sup> Statement by the Minister of Lands and Natural Resources, Alhaji Inusah Fuseini on 10<sup>th</sup> July 2013. Cited at: <http://www.ghanabusinessnews.com/2013/07/10/mining-sector-contributes-27-to-ghanas-revenue-in-2012-minister/#sthash.DvWiFRso.dpuf>

<sup>9</sup> Government of Ghana Budget and Policy Statement, 2012

As expected some of the companies have threatened withdrawing investments, like Gold Fields Ghana, which announced it is stopping a US\$1 billion investment in Ghana.

### **Will Oil Experiment be Different?**

In its attempt to avoid the “mistakes” of the mining industry and those of oil producing countries which got entangled in the curse of resource wealth, the Government of Ghana embarked on far reaching policy and legislative development built on public consultations and greater openness never seen in the policy discourse around any sector in the country. These efforts led to the passing of important legislation such as the Petroleum Revenue Management Act of 2011 (Act 815), and the Petroleum Commission Act 2011 (Act 821). A new Petroleum (Exploration and Production) Act is going through consultations whilst regulations on local content and local participation have been laid in Parliament.

The most important revelations from the process described above is the extensive transparency and accountability provisions in the law, requiring that oil receipts, production liftings and sales prices, and expenditure from oil must be published quarterly and annually. So far the Minister of Finance has complied with the provisions of the law by publishing all the information prescribed by law.

Perhaps, the most unique feature of Ghana’s petroleum revenue management regime is found in the creation of the Public Interest and Accountability Committee (PIAC) composed of 13 members of non-governmental actors including the Ghana Bar Association, The Civil Society Platform on Oil and Gas, the Christian Council, the Muslim Council, to mention a few.

The country signed on to the Extractive Industries Transparency Initiative (EITI) and is a compliant nation. It has also already issued a reconciliation report on oil two years into production. The country’s commitment to transparency in the extractive industries was recently rewarded in the Revenue Watch Resource Governance Index which placed Ghana top among 15 countries examined in Sub-Saharan Africa.

### **Good laws are not Adequate**

Whilst these great efforts are commendable, good laws only provide the framework for managing the resources. The resource curse is a manifestation of poor implementation of

regulations, abuse of regulations through regulatory capture, and weak accountability institutions capable of checking rent seeking behavior and vested interest. These factors are within the control of Government but impunity and political patronage have often undermined Government's ability to act.

A close example of such inaction by Government is its failure to provide budget to the same institutions established by law to regulate oil and gas operations. The Public Interest and Accountability Committee (PIAC) which assists Parliament in its oversight on petroleum revenues; and the Petroleum Commission mandated to be an independent regulator of oil operations, have both not been given financial resources to operate since they were established. There is a belief that the PIAC is being punished for releasing a very critical report in 2011 against the Government.

Notwithstanding this, Ghana remains an important example of a country with functional institutions, but oil has the potential to weaken its institutions if extra efforts are not made to strengthen them and provide them with resources to check impunity.

History has shown that Ghana's Government can undermine its own institutions. For example, whilst the 1992 Constitution of Ghana requires all Petroleum and Mineral Agreements to be ratified by Parliament, it became apparent that 21 mining agreements signed by the Government and international companies between 1994 and 2007 were not ratified by Parliament even though the agreements were operational. These agreements were ratified in 2008 after the Parliamentary Select Committee on Mines and Energy expressed its disgust at the development<sup>10</sup>. But whether Parliament has the capacity to scrutinize these agreements remains a serious challenge considering that such agreements are very technical and are negotiated by seasoned officials of oil and mining companies.

It is important to note also that the resource curse could come from factors outside the control of Government. Crude oil price volatility and failed production targets have already caused fiscal instability in the Country. The Minister of Finance is on record that non-realized corporate taxes

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<sup>10</sup> Republic of Ghana, 2008, Parliamentary Debates, Official Report, Fourth Series 61, no. 8 (October 20): cols. 194–276.

from oil companies was one of the major causes of the large fiscal deficit of 12% of GDP recorded in 2012 and which destabilized the macroeconomic environment<sup>11</sup>.

Thus Ghana's expectations of oil revenues have not been met so far as actual petroleum receipts have consistently fallen short of projections, whilst projected taxes have not been collected as a result of capital allowance and carry forward losses<sup>12</sup>. This has been blamed on lower than expected oil production. By the end of 2012, more than 50 million barrels of crude oil was produced from the Jubilee Fields since it commenced production in November 2010. Production in 2011 stood at 24,195,895 barrels (average of 66,290 barrels per day) against a target of 30,929,005 barrels (average of 84,737 barrels per day) and of which Ghana's share was 3,930,189 barrels (about 16.24%). In 2012, there was an improvement in production by 8.9% with a total volume of 26,351,278 barrels out of which Ghana's lifting of oil was 4,931,034 barrels.

Ghana's share of crude oil has been described as inadequate by most people in Ghana, and some have called for renegotiation of oil contracts. The Government has not expressed its willingness to renegotiate the contracts, but instead has developed a new Petroleum Bill to be passed into law which has proposed an increase in the fiscal terms for new oil contracts<sup>13</sup>.

The most important risk Ghana faces with oil and minerals is the non-extension of transparency to the whole extractive industries value chain. For both oil and minerals, there is no open tendering or bidding process for acquiring prospecting or exploration rights. Companies and individuals are awarded licenses through an administrative process. There is also no mandatory contract disclosure and contracts are published at the discretion of the Minister of Energy. Oil and mining deals are kept confidential, and the system provides opportunities for hidden benefits to companies as well as avenues for tax evasion. Further, beneficial owners are not disclosed,

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<sup>11</sup> Government of Ghana Budget and Policy Statement, 2013.

<sup>12</sup> Government of Ghana Budget and Policy Statement, 2012.

<sup>13</sup> The new Petroleum Bill proposes an increase in carried interest from 10% to 15% and introduced bonuses, and capital gains tax.

which promotes rent seeking behaviour. The absence of competition and transparency in the licensing regime strengthens a perception of “too lucrative legal benefits for firms”<sup>14</sup>.

In addition to the above, there is the potential for the country to lose resource taxes from these deals. Global Financial Integrity estimates that between 1970 and 2008, Ghana lost US\$4.9 billion through illicit financial flows including lost revenues from resource taxes. Ghana’s Government also estimates that the country loses about US\$36 million through transfer pricing annually from the mining sector<sup>15</sup>. This has raised the relevance of corporate transparency and corporate tax responsibility, two important issues that have engaged global attention including the United States. The efforts of global players are still born however, and extra commitment is required to bring these corporate enemies to the account of poor citizens from resource rich countries.

I must also state that in spite of the good petroleum revenue management law regulating the utilization of petroleum revenues in Ghana, the way the oil money is being spent leaves much to be desired. The country is not deriving value for money from the infrastructure projects funded with oil and gas revenues as most of the projects have been delayed, operating under costly extensions and leading to cost over-runs. The particular case of collateralizing future oil revenues against a US\$3 billion loan from China Development Bank puts undue burden on future oil revenues considering that disbursement of the facility has been unduly delayed notwithstanding that Ghana has already complied with most of the conditions – an Oil Off-taker Agreement which compels Ghana to sell its share of crude oil to the Chinese; and paying a commitment fee of 1% per annum on the “undrawn and un-cancelled portion of the total facility commitment during the period”, which has already caused Ghana about US\$60 million.

## **6.0. What the US can do**

As the strongest country in the world and one of the biggest democracies, the United States cherishes values such as human rights, the rule of law, transparency and global justice. I believe in the axiom that “injustice anywhere is a threat to justice everywhere”. The US must therefore

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<sup>14</sup> Joseph Ayee, Tina Søreide, G. P. Shukla and Tuan Minh Le “Political Economy of the Mining Sector in Ghana”, The World Bank Africa Region, Public Sector Reform and Capacity Building Unit, July 2011.

<sup>15</sup> Government of Ghana Budget and Policy Statement, 2012.

use its strength to protect these values everywhere in the world including resource rich countries whose citizens are suffering from the effects of naked exploitation by foreign companies with the connivance of their collaborating Governments.

Ghana has shown the way and fully determined to change course and escape the resource curse but important challenges remain. The United States can support Ghana and other African countries to address these challenges:

- i. The need to implement the extractive industry payment disclosure provisions in the Dodd Frank Wall Street Reform Act is long over-due as citizens of Africa await the disclosure of relevant corporate information that enables them to hold their Governments accountable. (We note that the European Union has followed the US lead and passed a law last month requiring payment disclosure by oil, gas and mining companies. This will cover, for example, Tullow in Ghana.)
- ii. The US should back efforts at the regional and sub-regional levels to fight the resource curse. In particular, the US support for the implementation of an ECOWAS Directive on Mining that includes transparency safeguards and protection of free, prior and informed consent for communities impacted by these projects is important. US support for the African Mining Vision will also be very appropriate and must be timely.
- iii. The US should also support the building of strong institutions including negotiation capacity and technical support to help establish the geological data that enhances the value of these natural resources. Despite the progress in putting in place a system for transparent management of oil revenues, the US should emphasize in its bilateral dialogues with Ghana that accountability institutions must be supported and enabled to perform their functions.
- iv. Ghana in particular still needs investments in its oil and gas industry and US investments will be welcome, but in doing so; I insist that this should be done through a transparent licensing regime.

In conclusion, I have already mentioned the issue of bad deals in the oil and mining industries. Some of these bad deals have already been producing resources and the United States like other

importing countries is consuming oil from some of these bad contracts. This places an important responsibility on the United States to lead by example in ensuring that oil and minerals from countries that promote questionable contracts tainted with corruption are not patronized.

Thank you Mr. Chairman