Natural Resource Governance Institute

Resource Governance Index: From Legal Reform to Implementation in Sub-Saharan Africa

Contents

Key messages

- Many sub-Saharan countries have made significant legal reforms in oil, gas and mining over the past decades. The Resource Governance Index shows that in all but two countries, there is an "implementation gap" between what laws say and how resource governance works in practice. This keeps countries from realizing the dividends of investments they have made in legal reforms.
- Between 2000 and 2016, 22 of the 28 sub-Saharan countries included in the Resource Governance Index renewed or amended laws governing the oil, gas or mining sector. Where legal reform is more recent, implementation of transparency and accountability provisions is lagging the most.
- More so than countries in other regions, sub-Saharan African countries face challenges with:
  - fulfilling commitments to transfer oil, gas and mining revenues to local authorities
  - publishing information on social and economic impacts of extraction
  - complying with fiscal rules
  - governing state-owned enterprises and sovereign wealth funds
- To close these gaps, governments and other stakeholders should focus on implementation and enforcement of transparency and accountability rules. They should invest in monitoring capacity of government agencies, strengthen the role of auditors and parliaments, and ensure there is space for different stakeholders to question policies. Consulting stakeholders will help governments to design laws that are adequate for each country's institutional capacity and policy objectives and to assess what is needed for effective implementation already before laws are passed, reducing the time lag from legislation to implementation.

A workbook with data for all charts and figures in this report is available to download at www.resourcedata.org/dataset/rgi-ssa-reform-to-implementation.

Executive summary

Over the past two decades, many African countries have adopted new oil, gas and mining laws. Legal reforms have aimed to modernize legal frameworks and attract investment while ensuring benefits to government and citizens. Reforms at the national level have been complemented by regional and international frameworks such as the Africa Mining Vision and the Extractive Industries Transparency Initiative, as well as policy harmonization in regional economic communities. A key finding of the 2017 Resource Governance Index from 28 countries in sub-Saharan Africa is that there is a significant gap between the state of resource governance according to these laws, and practices on the ground.

Legal reform efforts are visible in the performance of 28 sub-Saharan African countries assessed in the 2017 Resource Governance Index (RGI). Sub-Saharan Africa outperforms other regions, on average, in assessment of the legal framework for resource governance. Many laws include strong provisions for transparency and accountability: rules for disclosure of extractive sector data and publication of contracts have the potential to support negotiation of better deals. Requirements to address local impacts of extraction can potentially mitigate negative effects and contribute to community development. In many sub-Saharan African countries economic swings largely follow commodity price fluctuations. In these countries, revenue management laws can help balance volatile resource revenues and channel them to development needs in these countries.

A key finding of the 2017 Resource Governance Index from 28 countries in sub-Saharan Africa is that there is a significant gap between the state of resource governance according to laws, and practices on the ground.

However, the benefits of a robust legal framework materialize only when institutions and practices to implement the rules are in place. Twenty-six out of the 28 countries assessed perform better when it comes to rules than practices. The more recent the legal reform, the wider this "implementation gap." Within the sub-Saharan region, we find the largest implementation gaps in two areas: transparency of environmental and social impacts and revenues shared with local government, where regulations that serve to implement legal reforms are often lagging. Sub-Saharan Africa also lags behind other parts of the world in implementation of laws relating to transparency and oversight of key institutions such as state-owned enterprises and sovereign wealth funds, and compliance with fiscal rules.

This report explores common resource governance successes and challenges in sub-Saharan Africa, taking advantage of the rich dataset and wealth of evidence documentation provided by the Resource Governance Index. While we detect common trends across the region, there is also great diversity between and within countries. This report documents examples of good practices from which officials in other countries can learn. We conclude with the suggestion that policymakers, parliamentarians, civil society, media and regional institutions focus more on narrowing the implementation gap, which will help to restore trust between government, communities and investors and thus strengthen sustainable management of natural resources. Creating space for public debate, strengthening capacity of public institutions and oversight actors, addressing lack of political will and learning from past legal reforms are possible solutions to address the implementation gap.

In this report we do not attempt to cover all questions relevant for resource governance in Africa. We invite all stakeholders to explore the report and make further use of the index data and the repository of evidence documents, which comprises over 10,000 legal texts, reports and other data sources.

Introduction: The Resource Governance Index as a tool for assessing governance of Africa's resources

Africa is abundant in natural resources. On average, 30 percent of the world's hydrocarbon and mineral reserves are found in Africa. This share is even higher for critical and strategic minerals such as cobalt, gold, bauxite and platinum.[1] New hydrocarbon resources have been discovered offshore in eastern and southern Africa and in the Gulf of Guinea, estimated to have potential for added government revenues ranging between nine and 31 percent depending on country.[2] Today, African countries only account for five percent of mineral and ten percent of global hydrocarbon production. Moreover, the energy demand of the continent is growing at rates double the global average.[3] This, combined with the significant rise in value of cobalt, lithium and other minerals critical for renewable energy technologies makes it clear that natural resources, if managed well, will continue to offer potential for improving livelihoods and driving economic development across African countries.[4]

Record population growth, the uncertain future of fossil fuel production in light of climate change, and the recognition that to date African countries have not sufficiently translated mineral resources into sustainable development, create a sense of urgency for harnessing extractive industries for inclusive development. Globally and in Africa, countries with the greatest resource endowments remain among those with worst human and economic development outcomes.[5] A growing body of African and international research and policy work, such as the United Nations Economic Commission for Africa's (UNECA) 2017 Africa Governance Report, Africa Mining Vision (AMV) and Extractive Industries Transparency Initiative (EITI), point to good governance as a key component in the quest to transform resource wealth into tangible development outcomes.[6]

The 2017 Resource Governance Index (RGI) is a diagnostic tool for benchmarking how countries govern oil, gas and mining resources, focusing on transparency and accountability aspects of legal frameworks and practices. (See Box 1.) Transparency and accountability are pillars of governance that increase trust between stakeholders, enable countries to attract investment and negotiate better deals, support oversight, and enable participatory and informed public debate about resource sector policies. Transparency and accountability can be measured across countries in a standardized manner, while more contextual policy questions tend not to lend themselves to benchmarking exercises like the RGI.

1 *World Bank, Human Capital for the Oil, Gas and Minerals Industries (2014),* documents.worldbank.org/curated/en/406101468202451878/pdf/857140BRI0WB0H00Box382147B00PUBLIC0.pdf.
2 African Development Bank, *Delivering on the promise: Leveraging natural resources to accelerate human development in Africa (2016),* www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Delivering_on_the_promise-Leveraging_natural_resources_to_accelerate_human_development_in_Africa.pdf.
3 British Petroleum, *World Energy Outlook for Africa (2018),* www.bp.com/content/dam/bp/en/corporate/pdf/energy-economics/energy-outlook/bp-energy-outlook-2018-region-insight-africa.pdf.
4 For example, between 2014 and 2018 the prices of cobalt and lithium approximately tripled. Infomine, *Cobalt Price* (2019), www.infomine.com/investment/metal-prices/cobalt/all/; and Metalary, *Lithium Price* (2019), www.metalary.com/lithium-price/.
5 Africa Progress Panel, *Equity in Extractives: Stewarding Africa's natural resources for all* (2013), //static1.squarespace.com/static/5728c7b18259b5e0087689a6/t/57ab29519de4bb90f53f9fff/1470835029000/2013_African+Progress+Panel+APR_Equity_in_Extractives_25062013_ENG_HR.pdf
6 United National Economic Commission for Africa, *Africa Governance Report* (2017), www.uneca.org/sites/default/files/PublicationFiles/agr-v_en.pdf.

Beyond composite scores, the indicators and questions that make up the index cover critical issues for African countries' resource governance agendas: mobilizing extractive revenues for development, managing the booms and busts of commodity prices, controlling illicit financial flows and corruption, and addressing environmental and social costs to those living near extraction sites. However, the index does not cover all regional priorities. For example, it does not assess the extractive sector's role in African countries' industrialization agenda. It is thus complementary to other research at country and regional levels.

Box 1. What is the 2017 Resource Governance Index?

The 2017 RGI assesses how 81 resource-rich countries govern their oil, gas and mineral wealth. The index composite score is made up of three components. These components of governance consist of 14 subcomponents, which comprise 54 indicators calculated by aggregating 133 questions. Independent researchers overseen by NRGI completed a questionnaire to gather primary data and evidence on value realization and revenue management for the 2015-2016 period. The content of the questionnaires is founded on the Natural Resource Charter, a set of principles for societies to consider to realize the development potential of oil, gas and mining[7]. For the third component, the RGI draws on external data from over 20 international organizations.

The RGI scores range from 0 to 100 and five performance bands from good to failing account for the margin of error inherent in cross-country benchmarking.

For more information on the index and the underlying questionnaire, to access the full dataset, and to view country profiles for each country covered in the report, visit www.resourcegovernanceindex.org.

Good	≥ 75
Satisfactory	60-74
Weak	45-59
Poor	30-44
Failing	< 30

Figure 1. The Resource Governance Index framework

7 Natural Resource Governance Institute, *Natural Resource Charter, 2nd edition (2014)*, resourcegovernance.org/sites/default/files/documents/nrcj1193_natural_resource_charter_19.6.14.pdf

The following sections of the report discuss good practices and challenges in resource governance that arise from the findings from the index's three components: *value realization, revenue management* and *enabling environment*. They highlight high-scoring good practices as lessons and examples to share across countries, sectors and over time. We define the implementation gap as the differential between scores concerning laws on the one hand and practices on the other. The implementation gap offers a cross-cutting lens for analyzing the results of each component.

Findings: Resource Governance Index for sub-Saharan Africa

28 countries in sub-Saharan Africa were included in the RGI due to the significance of oil, gas or mining to their economies.[8] (See Table 1.) For each country assessment, the index focuses either on oil and gas or mining. In three countries (Tanzania, Ghana and Democratic Republic of Congo (DRC)) both sectors are covered separately, which brings the sample size to 31 sector assessments in total. Each mining sector assessment focuses on the mineral that contributes most to its exports. In nine countries this is gold and in the remaining countries copper, bauxite, iron ore and diamonds.

Table 1. RGI assessments in sub-Saharan Africa

Oil and gas · Mining · . No data available

Regional rank	Country	Sector	Mineral in focus	RGI score	Value realization	Revenue management	Enabling environment	Revenue as percent of government revenue[9]
1	Ghana	Oil and gas	-	67	65	65	70	9.4
2	Botswana	Mining	Diamonds	61	40	62	81	30.6
3	Burkina Faso	Mining	Gold	59	66	54	57	15.8
4	South Africa	Mining	Gold	57	50	40	80	.
5	Ghana	Mining	Gold	56	61	37	70	9.4
6	Côte d'Ivoire	Oil and gas	-	55	60	60	46	3.5
7	Cameroon	Oil and gas	-	54	59	70	33	18.0
8	Niger	Mining	Uranium	54	55	60	47	22.7
9	Mali	Mining	Gold	53	48	70	42	16.1
10	Tanzania	Oil and gas	-	53	65	40	53	2.7
11	Zambia	Mining	Copper	50	58	35	58	26.4
12	Mozambique	Oil and gas	-	50	66	42	43	4.0
13	Tanzania	Mining	Gold	49	54	40	53	2.7
14	Sierra Leone	Mining	Iron ore	46	62	35	40	5.2
15	Uganda	Oil and gas	-	44	42	42	47	0.9
16	Liberia	Mining	Iron ore	44	59	30	41	10.0
17	Nigeria	Oil and gas	-	42	50	44	31	78.7
18	Ethiopia	Mining	Gold	40	46	38	37	0.7
19	Congo	Oil and gas	-	39	45	44	29	43.0
20	Guinea[10]	Mining	Bauxite	38	53	24	37	25.1
21	Gabon	Oil and gas	-	36	18	47	44	30.1
22	Madagascar	Mining	Nickel	36	36	34	38	4.2
23	Angola	Oil and gas	-	35	50	31	25	.
24	Chad	Oil and gas	-	34	39	43	19	7.0
25	DRC	Mining	Copper	33	52	35	12	18.3
26	South Sudan	Oil and gas	-	32	42	47	5	.
27	Zimbabwe	Mining	Gold	29	37	30	20	.
28	DRC	Oil and gas	-	25	44	20	12	18.3
29	Eq. Guinea	Oil and gas	-	22	29	18	17	76.2
30	Sudan	Oil and gas	-	21	26	26	11	9.0
31	Eritrea	Mining	Gold	10	15	5	10	.

8 This report focuses on sub-Saharan Africa. The complete RGI dataset covers six countries in North Africa.
9 EITI countries: 2016, 2015 or 2014 EITI reports, whichever is available: eiti.org. Non-EITI countries: International Centre for Tax and Development: www.ictd.ac/dataset/grd. For Tanzania, the denominator (total government revenues) is from International Monetary Fund (2016), *Government Finance Statistics*. data.imf.org
10 NRGI revised Guinea's RGI score in 2017. See: www.resourcegovernanceindex.org/about/data-clarifications.

Two countries, Ghana (for oil and gas) and Botswana, achieve satisfactory RGI scores, showing that abundant resources can be governed well. However, no country in the region achieves a good composite score, and five score in the failing category. The overall picture remains that the more dependent a country is on natural resources, the less transparent and accountable the management of the extractive sector. In countries assessed for oil and gas, resources represented 50 percent of exports and 23 percent of government revenues on average, and in the RGI they score an average 41 out of 100. In contrast, for mining assessments, the average score is 45 out of 100, while resource dependency was lower: 27 percent of exports and 14 percent of government revenues. However, in many countries, these shares reach much higher levels: in Guinea, DRC, Zambia and Niger, minerals accounted for well over 50 percent of exports. For the biggest oil producers, Angola and Nigeria, oil represented over 90 percent of exports.[11]

In comparing regional averages in the RGI, sub-Saharan Africa emerges as a global leader on contract disclosure rules, an important transparency norm. The region also achieves a relatively high average score for taxation, which reflects growing levels of transparency in revenue collection. In contrast, sub-Saharan African countries fall below global averages in governing SOEs and sovereign wealth funds. The wider national governance framework, as captured in the enabling environment component, is important as it underpins and supports resource sector-specific governance measures. In these broader governance metrics, sub-Saharan Africa performs well in voice and accountability, which is the region's strongest enabling environment subcomponent. This is encouraging for adopting multi-stakeholder approaches to extractive policy debates in sub-Saharan African countries. Conversely, these 28 countries on average are furthest away from global averages in government effectiveness, regulatory quality and open data.

Beyond regional averages, there is a great degree of score diversity between countries. The best sub-Saharan African performer in the index (Ghana's oil and gas sector) and the weakest (Eritrea gold-mining sector) are 57 points apart, which is the widest difference exhibited in any region. There are no clear-cut sub-regional differences in resource governance. For example, Southern Africa achieves the highest score on average but is also home to one of the largest sub-regional differences, between Botswana and Zimbabwe. Natural resource-based development is often challenged by a weakest link problem—if one link is missing, the yields of good practices in other parts of the value chain may not be achieved. Assessing consistency of performance across the three components within each country can give an indication on where such weak links may lie. Ghana for oil and gas, Côte d'Ivoire, Burkina Faso and Niger perform most consistently across RGI components, no scores being in the poor or failing categories.

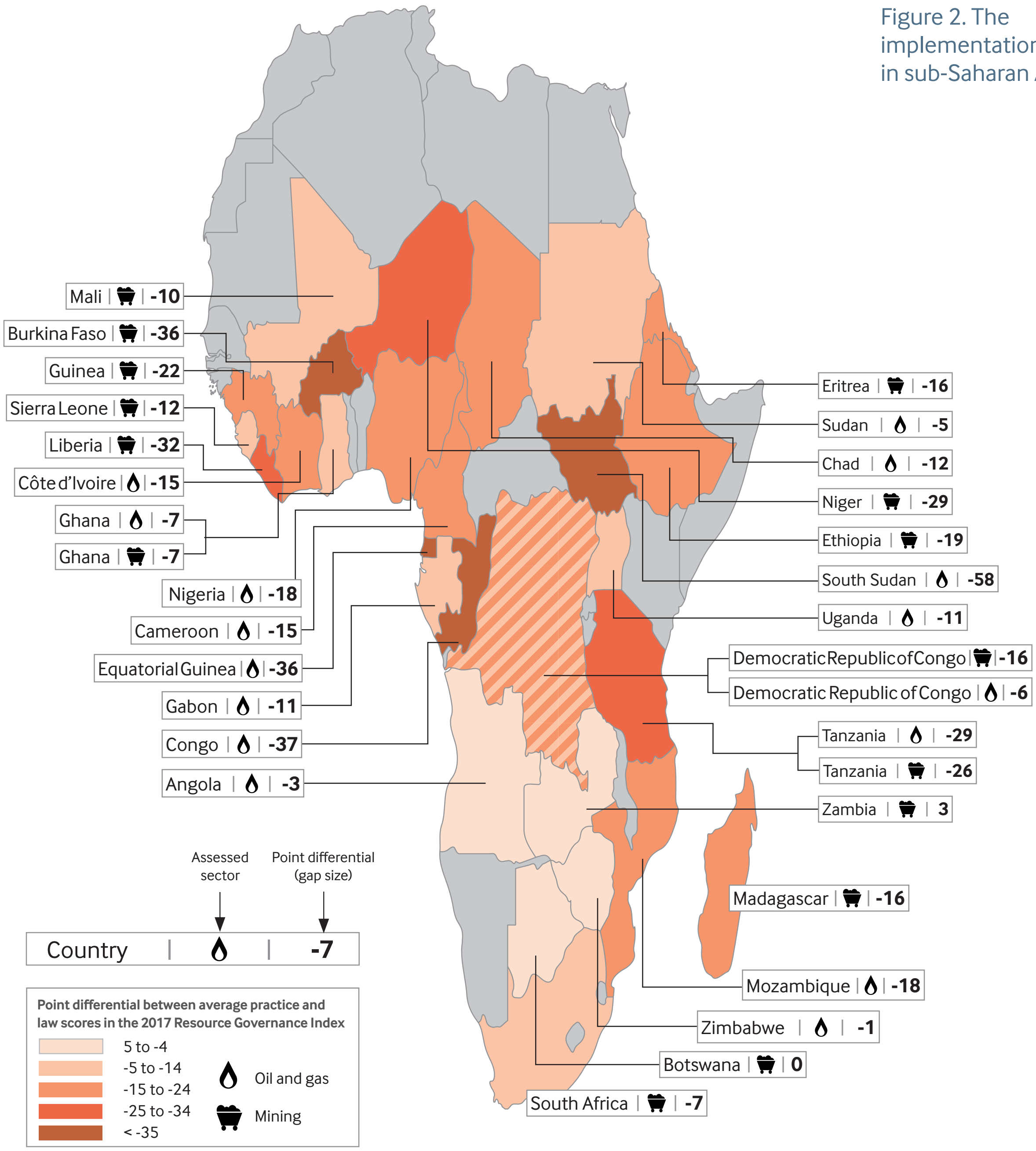
Across all indicators throughout the index that measure laws, sub-Saharan African countries achieve an average "law" score of 57 out of 100, higher than the average law score for other regions.

The RGI data also inform computation of separate scores for resource governance laws and practices. Across all indicators throughout the index that measure laws, sub-Saharan African countries achieve an average "law" score of 57 out of 100. This is higher than the average law score for other regions (52). However, the average score for all practice indicators is only 40, in contrast to 48 for other regions. Thus, sub-Saharan African countries exhibit an implementation gap of -17 points on average, in contrast to negative four points in other regions, where negative values indicate better laws than practice. All but two of the 31 assessments in sub-Saharan Africa show a gap between the existence of transparency and accountability rules and their implementation in practice. (See Figure 2.) Botswana and Zambia, both mature

11 World Bank, *World Development Indicators*. Mineral and fuel exports as a percentage of merchandise exports.

mining economies, are the exceptions. The widest gap is found in South Sudan, which passed a new petroleum law in 2012 just before falling into internal conflict, impeding implementation.[12]

Figure 2. The implementation gap in sub-Saharan Africa

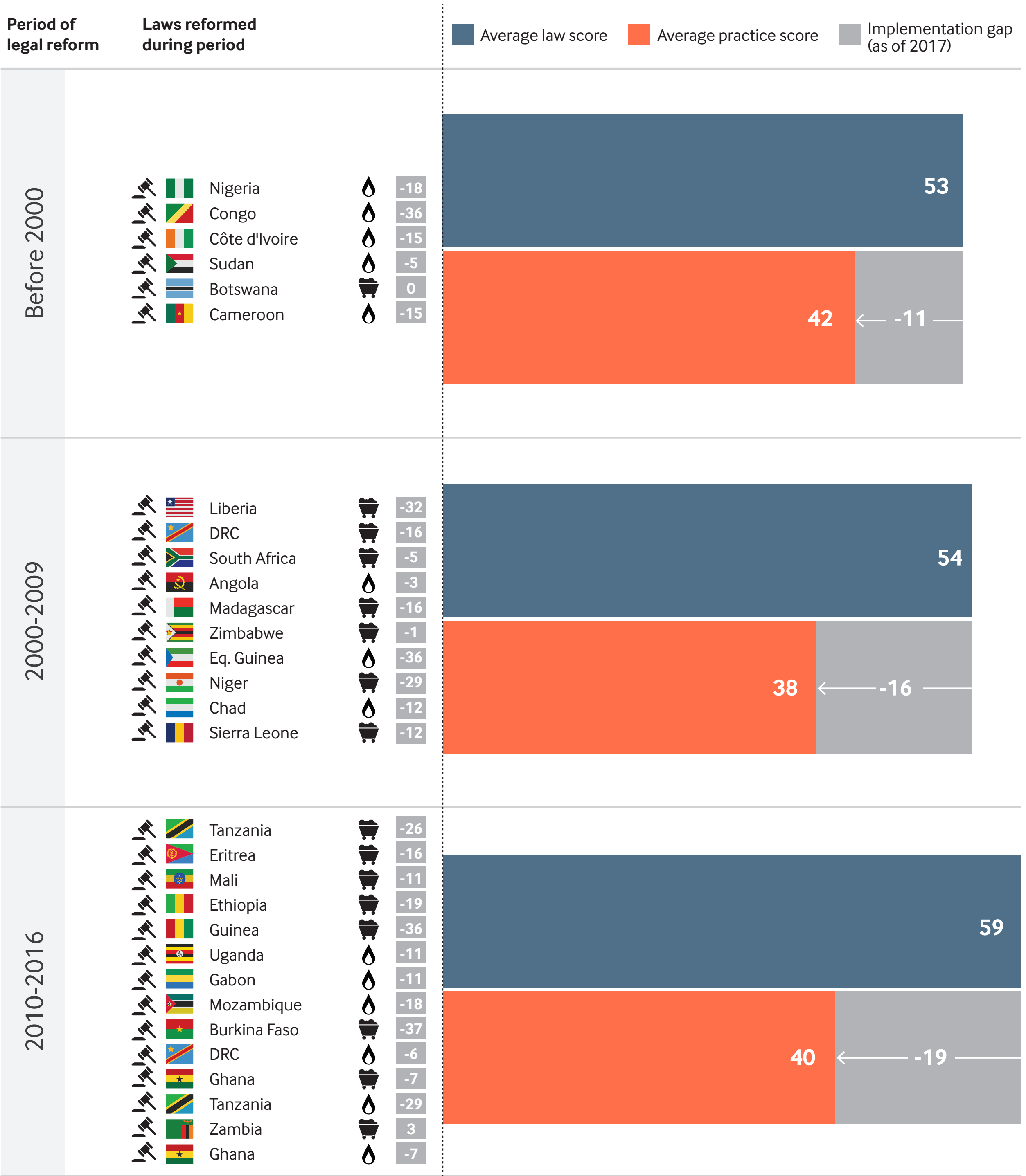


African governments have undertaken a significant push toward strengthening legal frameworks, supported by the African Mining Vision, harmonized policies in regional economic communities and international initiatives such as the EITI. Since 2000, all but six of the 28 examined countries amended or passed a new law governing the sector assessed in the RGI. Half of these reforms took place in the 2010s. Comparing

12 To test the robustness of the "implementation gap," we performed similar calculations accounting only for those questions in the index where a law and a practice question measure the exact same issue—a rule and practice for contract disclosure, for example. The results were similar: across the RGI questionnaire, sub-Saharan African countries follow laws that they have set for themselves less frequently than do other countries. On average, there were four laws or policies in each sub-Saharan African country where the corresponding practice did not exist. This is in contrast to, on average, one rule in each country in other regions.Please refer to the data workbook for details on the implementation gap calculations.

the timing of the reform to the implementation gap scores, unsurprisingly, the more recent the law, the wider the implementation gap. (See Figure 3.) Good practices should be backed up by laws and a wide positive gaps are not desirable either, so African countries are well placed to build on their relatively strong laws. After an important focus on legal frameworks throughout the continent, the RGI findings call attention to implementation and enforcement of resource governance rules.

Figure 3. Extractive sector legal reform and implementation gap in sub-Saharan Africa[13]

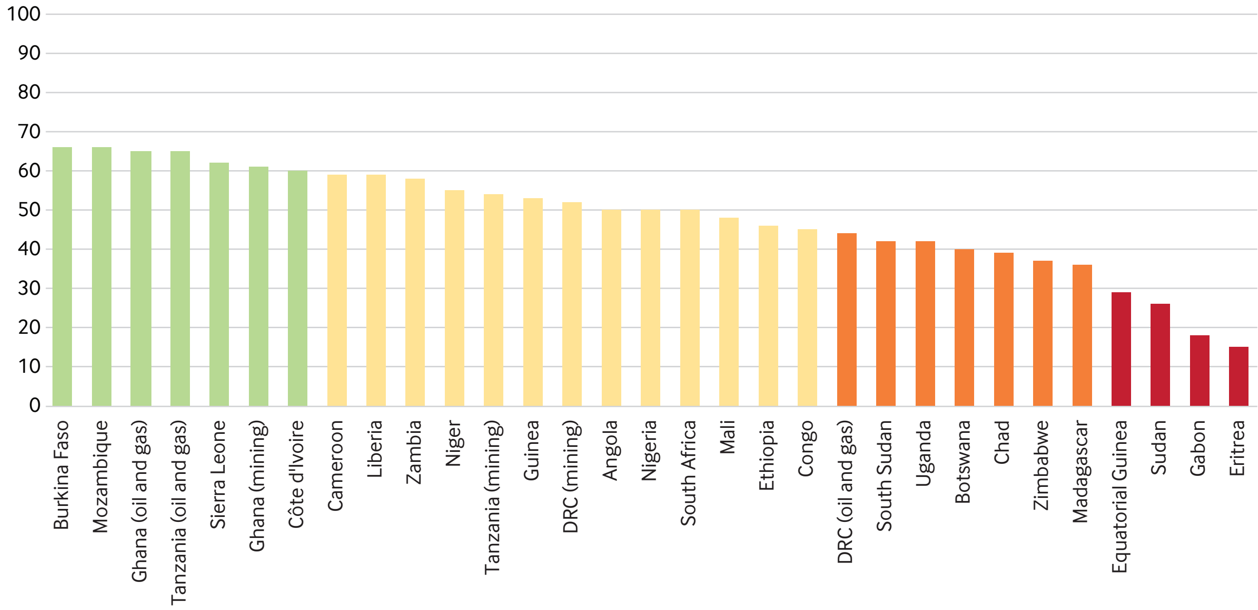


13 RGI justification documents available at resourcedata.org; African Mining Vision, *African Mining Legislation Atlas (2019)*, a-mla.org.

Value realization

Value realization covers the transparency and accountability aspects related to awarding oil, gas and mining licenses, revenue mobilization, managing environmental and social impacts and state-owned enterprises. Seven countries in sub-Saharan Africa achieve satisfactory scores on value realization, with Burkina Faso and Mozambique leading, closely followed by Ghana and Tanzania (for oil and gas), Sierra Leone, Ghana for mining, and Côte d'Ivoire. Equatorial Guinea, Gabon, Sudan and Eritrea are in the failing category.

Figure 4. Sub-Saharan Africa value realization scores



Box 2. Strengthening Botswana's resource governance success with licensing and SOE management

Botswana is a continental success story of development based on resource revenues. The RGI shows that Botswana consistently implements its legal framework and has the strongest enabling environment in sub-Saharan Africa. Its fiscal rule and its sovereign wealth fund, the Pula fund, have helped the country to invest diamond revenues in health and education. However, two areas—licensing and state-owned enterprise (SOE) governance—weigh down Botswana's score. When licensing for diamonds, the government does not disclose negotiable terms, the resulting contracts, ultimate owners of or public officials' interests in extractive projects. Debswana, the state's joint venture controlling most diamond production, has adopted some but not all desired corporate reporting practices. Specifically, it does not disclose how much revenue it contributes to the government and annual reports do not include financial results needed for independent oversight. Botswana's institutions have facilitated a continental success story, which could be further strengthened by transparent licensing and SOE management.[14]

14 See the World Bank's MinGov initiative for similar observations. World Bank, *Botswana Mining Investment and Governance Review (2015),* openknowledge.worldbank.org/handle/10986/25225.

LICENSING

As the first step in developing mineral resources, the award of exploration and production licenses presents a critical opportunity to set the course of governance for the entire lifecycle of a project. Sub-Saharan African countries that perform best in licensing are Mozambique, Burkina Faso, DRC (for mining), Guinea and Ghana. Ten countries achieve failing scores in this area, including significant resource economies South Africa, Nigeria, Botswana, Sudan and Madagascar. In Nigeria's oil and gas value realization component, licensing is the weakest link with a score of 17 of 100. This reflects opacity in key decisions including qualification of companies, process rules and disclosure of terms of extraction.

Box 3. Mining cadasters support transparent allocation of licenses

Cadasters facilitate important information to local communities on who conducts mining activities and where new opportunities exist for prospective investors. Fifteen of the 28 countries have an online cadaster information portal in place. Most of these countries have also published information on mineral reserves. Guinea has built a strong process for mining license applications managed by the licensing office (CPDM) of the Ministry of Mines and Geology.[15] Ghana's petroleum register makes operational information about each block available along with the petroleum agreement of each block.[16]

The fairness and competitiveness of licensing processes—an objective set out in Africa Mining Vision–can be undermined if licensing criteria are not transparent and cannot be monitored by participating companies and civil society.[17] Across the region, licensing is among the lowest scoring subcomponents, and steps and outcomes of the allocation process are only partially published. (See Figure 5.) For example, we found that in 26 sectors, some form of pre-qualification is required for companies to apply or bid for rights, but that the criteria were fully disclosed in only 13 cases.

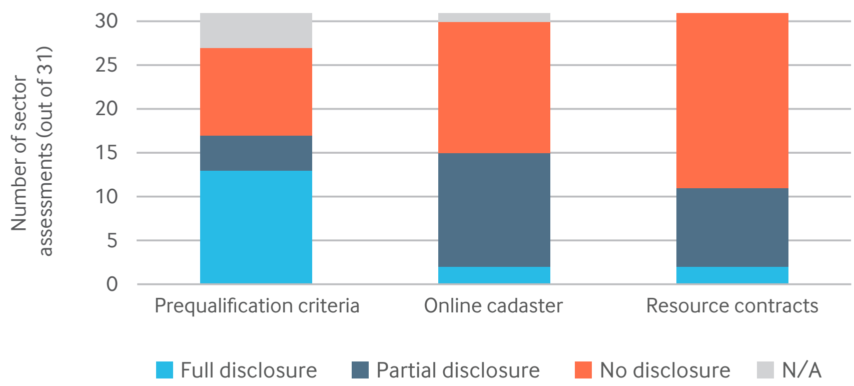


Figure 5. Licensing transparency in sub-Saharan Africa[18]

15 The online Guinea mining cadaster is managed by the Ministry of Mines and Geology's licensing office, the Centre de Promotion et de Développement Minier (CPDM): guinee.cadastreminier.org/fr/.
16 Government of Ghana, *Petroleum Register (2018)*, www.ghanapetroleumregister.com/.
17 African Union, *Africa Mining Vision (2009)*, www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf.
18 "Full" and "partial" for prequalification criteria and contracts refer to disclosure of each versus only some cases. For online cadasters, full disclosure requires the name of the license holder, coordinates, time of application and award, duration, type of license and names of companies that hold an interest in the block. Not applicable refers to cases where information could not be found or the country had not awarded any licenses from 2015 to 2016.

A third of the countries in sub-Saharan Africa have officially disclosed some resource contracts. Sub-Saharan Africa outperforms other regions in requiring contract disclosure, with an average score of 42 in contrast to 25 for the entire index sample, 11 out of 28 countries having such a rule. However, the gap between law and practice is evident: four countries (Côte d'Ivoire, Tanzania, South Sudan and Niger) fail to comply with their own rules for contract disclosure. Delays and incompleteness of disclosure also persist also in other countries in the region. Niger, Sudan, Botswana, South Sudan, Uganda and Angola have not published resource contracts. Worryingly, these countries do not disclose all fiscal terms[19] in laws or model contracts, meaning that stakeholders are unable to compare actual revenues to fiscal terms and make a meaningful assessment about whether the county has secured a good deal. In contrast, when contracts are available, comparing them across countries strengthens the government's position in negotiations, reduces risk of renegotiation and supports oversight. In the copper belt of the DRC, disclosure of contracts has facilitated dialogue between civil society and mining companies to understand and monitor obligations.[20]

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Beneficial ownership, or information about who owns interests in extractive companies, is becoming a critical component of the fight against corruption, illicit financial flows and tax evasion in resource rich countries. At the time of evaluation, Ghana and South Sudan were the only countries in Africa where the law requires public disclosure of beneficial owners of extractive companies.[21] As part of pilot projects conducted under the EITI, some beneficial owners were disclosed in 11 countries included in the RGI. The majority of these are in sub-Saharan Africa: Côte d'Ivoire, DRC, Guinea, Liberia, Madagascar, Mozambique and Zimbabwe. Many more, such as Tanzania and Nigeria, have committed to beneficial ownership disclosure in their EITI roadmaps. However, legal and practical questions related to scope, definitions and data collection need to be solved before beneficial ownership disclosure becomes a reality.

It is particularly important for government officials to disclose ownership in extractive companies to avoid conflicts of interest. Seventeen out of 28 countries require public officials to declare their financial assets, including investments in extractive companies, to a government entity. Five (Burkina Faso, Ethiopia, Guinea, Niger and Uganda) require these disclosures to be made publicly, and two, Burkina Faso and Uganda, actually disclose this information.

Box 4. Toward beneficial ownership transparency in DRC

Corruption allegations in the mining sector involving senior government officials have prompted efforts to counter corruption and tax avoidance in the DRC.[22] As a result of an EITI pilot project on beneficial ownership disclosure, the country's 2014 EITI report showed that 31 of 63 privately held mining companies and only one of six privately held oil and gas companies disclosed their beneficial owners. The country's 2018 Mining Code sets a legal requirement for disclosure of beneficial owners of extractive companies.[23]

19 Royalties, income and withholding taxes, production sharing and government participation.

20 NRGI, *DRC communities engage with multinational mining companies* (2018), resourcegovernance.org/sites/default/files/documents/drc-communities_engage-with-multinational-mining-companies.pdf. DRC's mining and hydrocarbons contracts, along with over 2,000 publicly available contracts from around the world can be found in www.resourcecontracts.org.

21 Government of Ghana, *Companies Amendment Act (2016),* www.resourcedata.org/document/rgi-companies-code-1963-act-179-as-amended-.

22 See, e.g., Global Witness, *Congo's Secret Sales* (2014), www.globalwitness.org/en/campaigns/oil-gas-and-mining/congo-secret-sales/.

23 Government of the DRC, *Loi n°18/001 modifiant et complétant la Loi n° 007/2002 du 11 juillet 2002 portant Code minier* (2008).

Recommendations

- Licensing authorities should run transparent license allocation processes to ensure qualified, legitimate companies are selected to develop resources. They should publish prequalification requirements and rules of allocation, and negotiable terms when licenses are awarded through competitive tender or auction.
- Licensing authorities should create an online cadaster platform showing which areas are open for application, and which are occupied, by whom and for what type of activity.
- Governments and companies should disclose full text contracts online and in a timely manner to facilitate transparency of terms and conditions of extraction to strengthen the government's contract negotiation position.
- Governments should establish rules and systems for disclosing beneficial owners and public officials' financial interests to the public to enable oversight and reduce risk of conflict of interest in the sector.

TAXATION

Domestic revenue mobilization is one of Africa's key development objectives. Resource revenues are an important source for government revenue, but they are also vulnerable to leakages through illicit financial flows, smuggling and tax evasion.[24] Table 2 shows that on average, countries with higher resource governance scores have done better at curbing illicit financial flows and mobilizing resources for their health sectors.[25] The RGI taxation subcomponent measures various practices that support revenue mobilization: transparency of revenues collected and fiscal regimes, and oversight and audit of revenues.

Table 2. Resource governance, dependence, illicit financial flows and health expenditures in sub-Saharan Africa[26]

	Average for countries in each performance band		
Performance band	**Resource revenue as percentage of government revenue**	**Illicit financial flows as percentage of GDP**	**Health budget as percentage of GDP**
Good	-	-	-
Satisfactory	24	5	8
Weak	14	5	4
Poor	48	7	4
Failing	47	8	2

The majority of sub-Saharan African countries assessed obtain good or satisfactory scores for taxation, driven by advances in transparency in extractive sector revenue collection. Most countries disclose payments from companies in some form and information on 21 of the 31 sectors can be found in EITI reports.[27] Eritrea and Gabon, two countries which score in the failing zone on taxation, are not EITI implementing countries. Ghana, Angola, and Niger achieve full scores on payment disclosure due to annual government reporting of revenues disaggregated by company and revenue stream. Angola's Ministry of Finance publishes monthly online statistics on revenues, production and exports at the block level.[28] In contrast, most countries such as Tanzania, DRC and Guinea, which rely on EITI reports for many data disclosures, had at the time of research not published figures after 2014, thus achieving only partial points. In these countries, mandatory company disclosures can help track how monies flow to various government entities more expediently.[29]

Countries with higher resource governance scores have done better at curbing illicit financial flows and mobilizing resources for their health sectors.

24 See, e.g., UNECA, *Report Of The High Level Panel On Illicit Financial Flows From Africa* (2015), repository.uneca.org/handle/10855/22695.

25 The right health expenditure level depends on each country's needs. The World Health Organization's monitoring scorecard includes "health spending at least five percent of GDP," indicating that levels lower than that may be of concern. World Health Organization, *How Much Should Countries Spend on Health? (2003),* www.who.int/health_financing/en/how_much_should_dp_03_2.pdf?ua=1. Furthermore, in 2001, African countries committed to the "Abuja target" of health budget as 15 percent of total government budget. World Health Organization, *The Abuja Declaration: Ten Years On (2011),* www.who.int/healthsystems/publications/abuja_declaration/en/.

26 Government revenues, 2014: Government revenues, 2014: NRGI, *RGI resource revenue and GDP data (2017),* www.resourcedata.org/dataset/resource-revenue-data. Illicit Financial Flows, 2014: Global Financial Integrity, *Illicit Financial Flows to and from Developing Countries 2006 – 2015,* www.gfintegrity.org/issues/data-by-country/; Health budget as percent of GDP, 2013: World Bank, *World Development Indicators: Current health expenditure (% of GDP),* data.worldbank.org/indicator/SH.XPD.CHEX.GD.ZS.

27 Niger has since withdrawn from the EITI.

28 Angola Ministry of Finance, *Statistics* (2018), www.minfin.gov.ao/PortalMinfin/#!/materias-de-realce/estatisticas.

29 The www.resourceprojects.org website compiles company disclosures under EU, Norway and Canadian legislation into one source.

Other data on the extractive sector is not as widely available as data on payments (where two thirds of countries score well), which makes revenue data alone less useful for analysis. (See Box 5.) Half of the countries achieved a good score for reporting on production and one third for exports. Eritrea, Gabon and Equatorial Guinea disclosed no information on either production or exports.

Box 5. African governments and civil society need access to better extractive sector data

Despite increased revenue transparency, the extractive sector remains a data-poor environment. The RGI shows that in sub-Saharan Africa, only four countries (Angola, Nigeria, Sudan and Tanzania (oil and gas) published production or export data in a machine-readable format. In the vast majority of countries, data is released in text in portable document format (PDF) or on websites, ill-suited for analysis. Worse, especially in the area of environmental and social impacts, many documents are accessible only on paper. Data disclosures that adhere to open data principles help not only citizens, media, investors and analysts, but also officials to gain access to information from across government departments in order to do their jobs effectively.[30] A report by the African Development Bank and OpenOil highlights that government officials have challenges accessing data about production, prices, costs and contractual terms for their own countries.[31] Investing in the generation and publication of these data can help governments oversee revenues collected, design fiscal regimes and manage public expectations. It can also strengthen their position when negotiating with international companies by supporting fiscal modeling and reducing information asymmetries.

In addition to transparency, independent oversight of revenue collection is required to achieve sub-Saharan Africa's revenue mobilization targets. Here, there is a gap between good rules and practices. In all but five sub-Saharan African countries, laws require that a supreme audit institution or similar entity annually audit the main authority collecting oil, gas and mining taxes. However, the results of these audits are released to the public in only one third of countries (Ethiopia, Sierra Leone, South Africa, Sudan, Tanzania, Uganda and Zimbabwe). In the remaining countries, they are only accessible to government authorities. Auditing resource revenues can be complicated because they are collected by multiple government entities such as SOEs and local governments. Uganda's auditor general has disallowed more than $70 million in old oil company cost claims and called out weaknesses in the government's management of oil revenues, showing how supreme audit institutions can support resource governance.[32]

Recommendations

- Government authorities should disclose data on revenues, production, reserves and exports at least every year online and in a machine-readable format. Companies should also publish this information.
- Supreme audit institutions or similar oversight bodies should regularly audit all government entities that collect resource revenues and release audit results to the public.
- Governments, civil society and their partners should invest in capacity to analyze various data sources (EITI reports, company disclosures and government statistics) and model revenues of extractive projects and the sector as a whole.

30 Sunlight Foundation, *Open Data Policy Guidelines* (2018), sunlightfoundation.com/opendataguidelines/
31 African Development Bank and Open Oil, *Running the numbers – How African governments model extractive projects (2017),* www.afdb.org/en/documents/document/running-the-numbers-african-natural-resources-center-analytical-report-98279/.
32 Dana Wilkins, *How the Resource Governance Index Can Be Used to Audit Extractives (2017),* resourcegovernance.org/blog/how-resource-governance-index-can-be-used-audit-extractives.

LOCAL IMPACT

The RGI assesses disclosure of environmental and social impact assessments (ESIAs) and management plans. It also assesses requirements for rehabilitation and compensation. From longstanding concerns in the Niger Delta to the recent surge of investments in bauxite in Guinea and Ghana, the inherent conflict between loss of livelihoods and ecosystems locally, and significant benefits at the national level from oil, gas and mining activities are present when governments make decisions about extraction. Availability of data allows stakeholders to weigh these costs and benefits and is critical for ensuring that communities near extraction sites are compensated for negative impacts. Focusing on gendered impacts, compensation for loss of livelihood, and ensuring meaningful, free, prior and informed consent can further strengthen management of local impacts.[33]

Cameroon is sub-Saharan Africa's top performer in local impact with a score of 79 out of 100, followed by Côte d'Ivoire, with a score of 75. Ghana's mining sector achieves a satisfactory 71 while its oil and gas sector gets a weak 58, the same score as Nigeria's oil and gas sector. Tanzania achieves weak scores, with 54 for oil and gas and 46 for mining; so does South Africa at 46. DRC is poor with a score of 42 for its mining sector and 33 for its oil and gas. Sudan, Gabon, Eritrea and Chad achieve failing scores.

Most sub-Saharan African countries require an environmental and/or social impact assessment and a mitigation management plan before extractive projects can go ahead. Most laws also include rules for closure and rehabilitation of project sites. However, the region achieves some of its lowest results on compliance with respect to these laws and policies. Across these three measures where a rule and the corresponding practice were captured by the RGI, sub-Saharan African countries show an implementation gap as wide as 45 points on average. (See Figure 6.) 16 assessments score zero for practices in all three measures. For example in the DRC, Nigeria, Tanzania and Uganda, communities have to date not been able to systematically assess information contained in these documents to demand accountability for costs of extraction.

Eighteen countries require that environmental and/or social impact assessments must be disclosed, but only three countries fully complied with these rules—Côte d'Ivoire, Ghana for mining, and Zambia, where the Zambia Environmental Management Authority publishes EIAs on its website.[34] Establishing compliance with extraction site rehabilitation for the RGI evaluation was a complex task. In 18 of 31 assessments in sub-Saharan Africa, the RGI researchers were unable to find the necessary information to award any score at all. In South Africa, which achieves a poor RGI score for compliance with mine closure requirements, companies must make provisions for mine rehabilitation, but due to lack of transparency, there is no public oversight and little visibility into compliance with the requirement.[35]

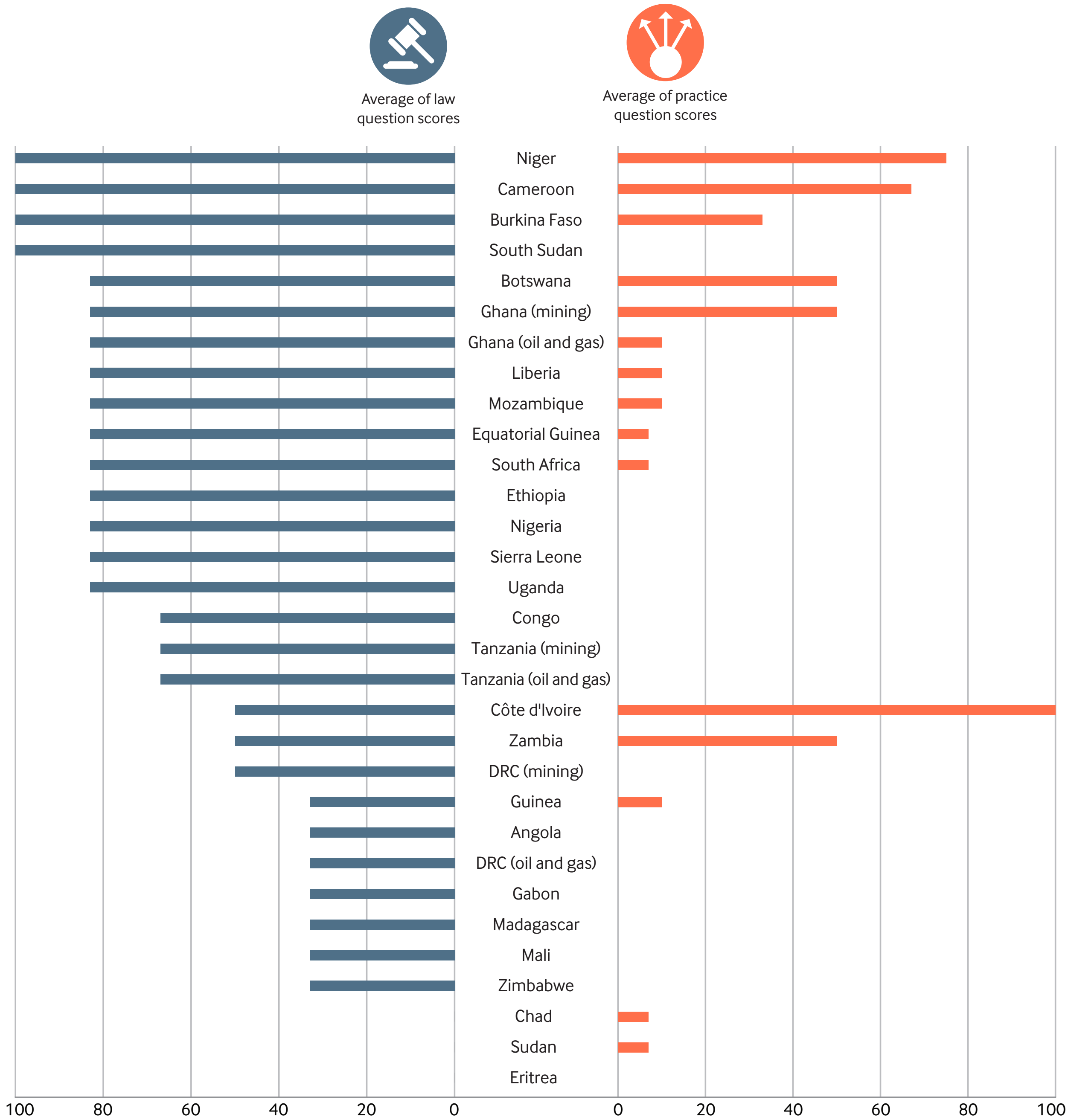
Eighteen countries require that environmental and/ or social impact assessments must be disclosed, but only three countries fully complied with these rules.

33 African Union, *Africa Mining Vision (2009)*, www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf; International Finance Corporation, *Performance standard: Environmental and social sustainability (2012)*, www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES.

34 Zambia Environmental Management Authority, *EIA reports (2018)*, www.zema.org.zm/index.php/publications/eia-reports/.

35 Centre for Environmental Rights, *Full Disclosure: The Truth about Mining Rehabilitation in South Africa (2018)*, fulldisclosure.cer.org.za/.

Figure 6. Average Resource Governance Index law and practice scores for ESIA disclosure, environmental management plan disclosure and extraction site closure requirements in sub-Saharan Africa[36]



Recommendations

- Governments should require inclusion of socio-economic aspects in impact assessments and mitigation management plans, according to international standards.
- Sectoral or environmental authorities should publish impact assessments and environmental management mitigation plans online in addition to making them accessible in local government and communities. Companies should proactively publish these documents.
- Government authorities and companies should improve transparency and governance of resettlement, compensation and rehabilitation processes.

36 The RGI researchers were unable to locate the relevant laws in Eritrea and therefore it received a not applicable score for the rules.

STATE-OWNED ENTERPRISES

SOEs are part of the institutional landscape of resource governance almost everywhere in the region: 27 state-owned mining, oil and gas companies in 28 countries were included in the index. Where a country has multiple SOEs, the index assesses the largest one in the sector. SOEs not only manage state interests in oil, gas or mining, but also participate in contract negotiation, revenue collection and regulation. The SOEs included in the RGI had annual revenues of close to $25 billion, worth nearly a quarter of the $109 billion collected in taxes, royalties and other payments from extractive industries in these countries in total.[37] This puts in perspective the importance of governing these institutions well. The RGI measures rules and practices that, when in place and followed, can help ensure the right share of these revenues ends up in the public coffers or are invested productively.

Some emerging oil producers have established strong accountability practices for state-owned enterprises. In Ghana and Tanzania, they must present their reports to the parliament.

The best performer in SOE governance on the continent is Ghana's National Petroleum Company (GNPC). The Eritrean National Mining Corporation is the worst in the region and of all SOE's assessed in the RGI. The best-governed mining SOEs are found in Zambia and South Africa. Botswana's Debswana and Zambia's ZCCM-IH are the only SOEs that are not fully government owned. ZCCM-IH is listed in Lusaka and London Stock Exchanges, which is likely to improve its reporting score.

Box 6. Using the Resource Governance Index to benchmark SOE reporting

The index shows that both gaps and learning opportunities between SOE reporting practices exists within even a single country. The state-owned mining companies of Tanzania and Ghana both perform lower than their national oil and gas companies. Ghana's state-owned mining company scores 41 out of 100, compared to 75 for oil and gas, even though it is a subsidiary of GNPC. Tanzania's STAMICO scores 33 out of 100, close to the failing threshold, while TPDC scores a satisfactory 64. Reporting is one key difference. Both GNPC and TPDC produce annual reports with audited financial results and some operational data, while their mining counterparts do not, despite the rules being similar for both sectors. In contrast, DRC's Gécamines outperforms the national oil company SONAHYDROC by ten points, but neither publishes annual reports, relying on the EITI for transparency.

Despite a few high-scoring companies, sub-Saharan Africa is the lowest scoring region in SOE governance, including for the legal framework alone. Governance has proven especially problematic in many of Africa's biggest and oldest oil producers. National oil companies such as Cameroon's Société Nationale des Hydrocarbures, Equatorial Guinea's GEPetrol and the Nigerian National Petroleum Corporation exercise significant influence over the oil sector. Through production sharing agreements with international oil companies, they collect most revenues on behalf of their government. Several of these companies, including GePetrol and NNPC, do not produce systematic financial information that would enable strong oversight by citizens or even other government institutions. This risks public treasuries losing revenues and rendering monies unavailable for social and economic development.

Some emerging oil producers have established strong accountability practices for SOEs. In Ghana and Tanzania, SOEs must present their reports to parliament. All three also disclose revenue transfers between the government and SOE. The majority in the management boards of the Ghana National Petroleum Company (GNPC), Tanzania Petroleum Development Corporation (TPDC) and Empresa Nacional de

37 Government revenues, 2014: NRGI, *RGI resource revenue and GDP data (2017)*, www.resourcedata.org/dataset/resource-revenue-data.

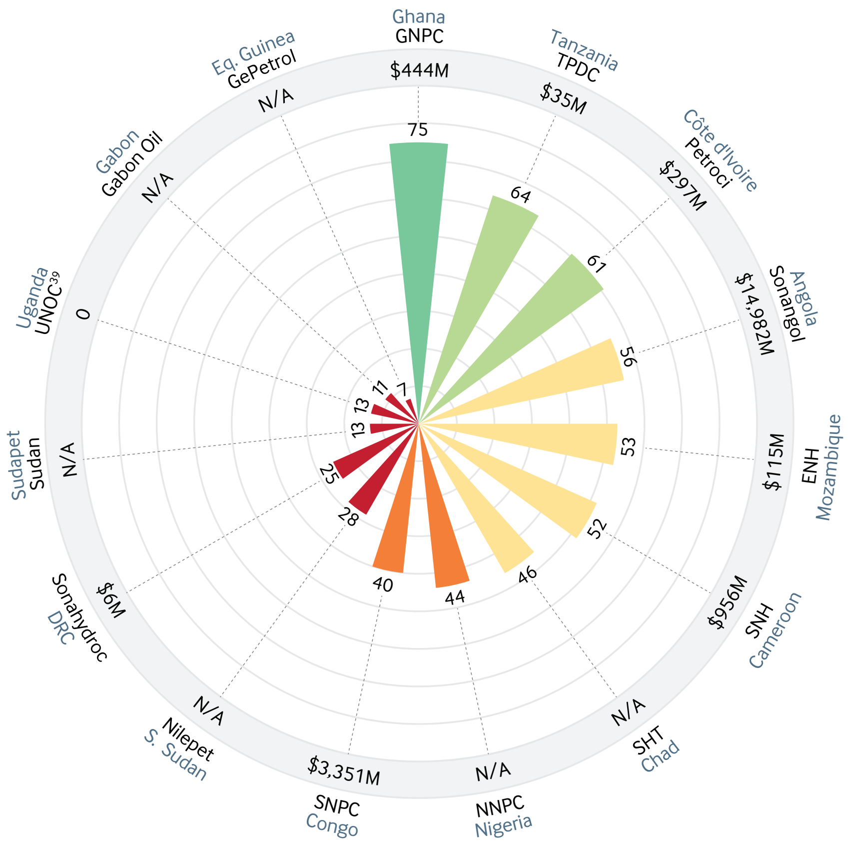


Figure 7a. Sub-Saharan Africa Resource Governance Index scores and company revenues (oil & gas)[38]

Good	≥ 75
Satisfactory	60-74
Weak	45-59
Poor	30-44
Failing	< 30

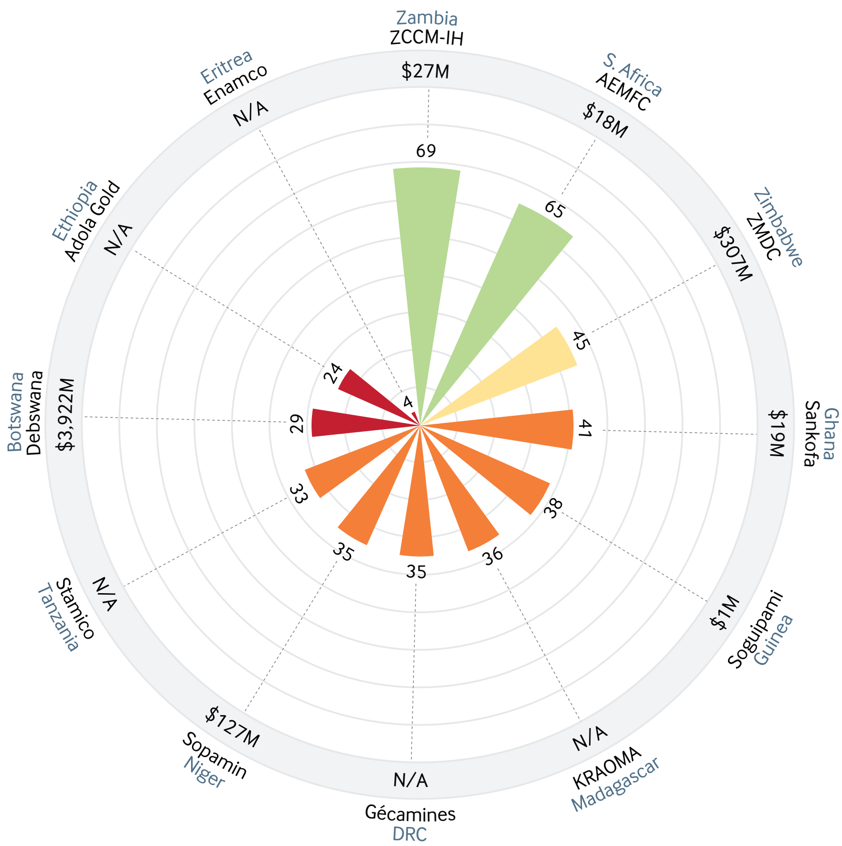


Figure 7b. Sub-Saharan Africa Resource Governance Index scores and company revenues (mining)[38]

38 Company annual reports and EITI reports, 2009-2016, depending on data availability. Eleven out of 27 SOEs did not report annual revenues.

39 The Uganda National Oil Company came into being in mid-2016. It has not commenced activities and therefore most of the indicators in the index's SOE subcomponent were deemed not applicable. Users of the index should note this when reviewing the company's performance.

Hidrocarbonetos (ENH) of Mozambique and Uganda's National Oil Company are made up of professionals not holding government posts. This is in contrast to many others where government officials control decision-making.

A clear mandate accompanied by rules and disclosures that make SOEs accountable for delivering on it are important. Mismanagement, inefficiency and corruption can take root in SOE spending on non-commercial activities such as building infrastructure or handing out fuel subsidies. Of all SOEs assessed in this report, all but one (DRC's SONAHYDROC) spent money on such activities. Ghana's GNPC was the only company that disclosed these costs by activity, which has allowed civil society to raise questions on spending.

All 19 national oil companies assessed in sub-Saharan Africa show some deficiencies in transparency of commodity sales. This is an area where rules should be strengthened alongside practices. In many countries, the national oil company collects its share from resource production in the form of physical oil. In Chad and Equatorial Guinea, for example, this share is over 90 percent.[40] However, reporting of how much, for what price, to whom and according to which rules the SOEs sell this oil is incomplete. Six out of 19 companies did not disclose any information about their sales activities and another six only disclosed aggregate sales values or volumes. Without strong transparency and accountability, risks related to corruption, poor valuation of resources and irregularities related to retaining sales revenues can undermine how much the government collects. Although no country achieved good scores across all indicators pertaining to commodity sales, good practices exist. For example, Ghana's Petroleum Revenue Management Law requires the Ministry of Finance to publish the volume, value and date of sales, all of which provide important information for oversight actors to be able to assess whether the country is receiving good value for its oil and gas.[41]

Although no country achieved good scores across all indicators pertaining to commodity sales, good practices exist.

Recommendations

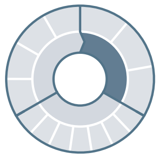
- Legislators and ministries charged with managing SOEs should require auditing and publication of annual reports of SOEs. These reports should include financial details (income statement, balance sheet and cash flow) and operational information (such as production and costs).[42]
- Ministries and parliaments should define a clear mandate for SOEs and design governance structures and spending rules in line with the mandate, paying special attention to risks of non-commercial spending.
- Parliaments, auditor general, and other oversight actors should request SOEs to be accountable towards them in addition to the executive.
- SOEs and their stakeholders, including international companies, should improve rules and transparency of how SOEs collect in-kind revenues and sell commodities.

40 Joseph Williams and Alexander Malden, *Generating Government Revenue from the Sale of Oil and Gas: New Data and the Case for Improved Commodity Trading Transparency (NRGI, 2018)*, resourcegovernance.org/analysis-tools/publications/generating-government-revenue-sale-oil-and-gas-new-data-and-case.

41 Ghana Ministry of Finance, *Petroleum Receipt and Distribution Report for 1st Quarter of 2016* (2016), www.resourcedata.org/dataset/rgi-petroleum-receips/resource/8c4bc960-1016-4aae-8697-28ca336c55fd.

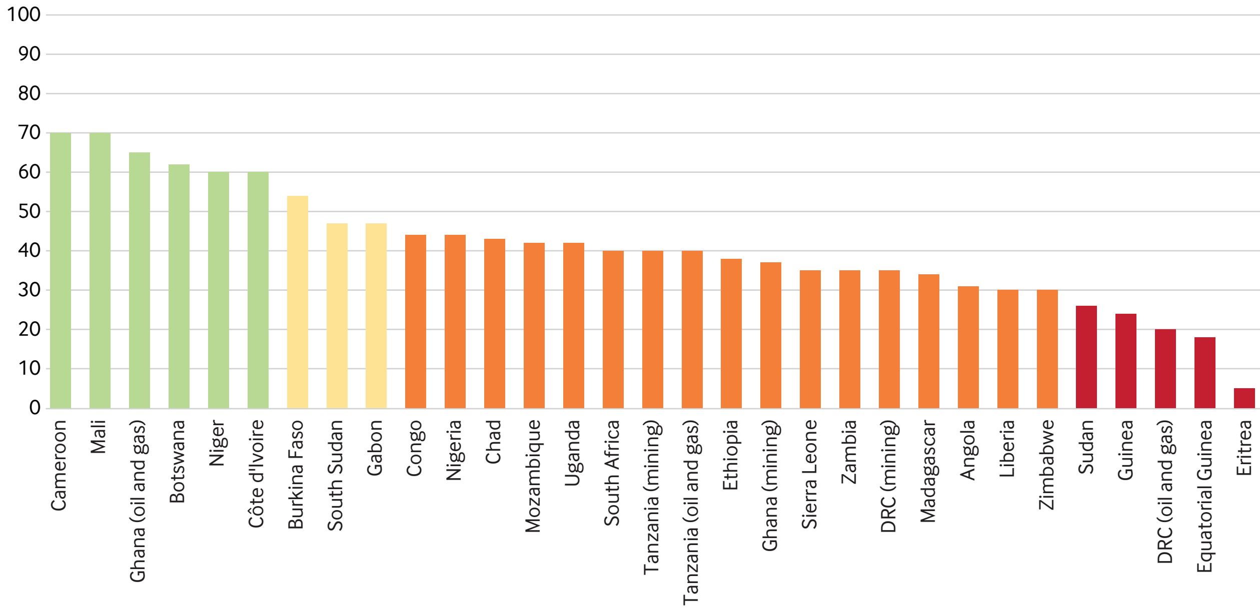
42 NRGI, *The Guide on Extractive Sector State-owned Enterprise Disclosures includes practical examples on what and how to disclose (2018)*, resourcegovernance.org/sites/default/files/documents/guide-to-extractive-sector-state-owned-enterprise-disclosures_0.pdf.

Revenue management



The African Economic Outlook for 2017 shows that economic growth and government spending in Africa as a whole continues to follow commodity cycles.[43] This leaves economies vulnerable to shocks and volatile public finances. At worst, it can result in unsustainable borrowing and budget deficits. Seven of the ten sub-Saharan African countries where public debt levels grew most in 2017 are resource rich.[44] In the revenue management component, the RGI considers a range of measures that support sustainable management of resource revenues as part of public finances: budget transparency, fiscal rules, subnational revenue sharing mechanisms and sovereign wealth funds.

Figure 8. Sub-Saharan Africa revenue management scores



43 African Development Bank, *African Economic Outlook (2017),* www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/AEO_2017_Report_Full_English.pdf, 21-34.

44 Angola, Benin, Chad, Republic of Congo, Gabon, Mozambique, Nigeria, Swaziland, Uganda and Zambia. International Monetary Fund, *Sub Saharan Africa Regional Economic Outlook* (2018), www.imf.org/en/Publications/REO/SSA/Issues/2018/04/30/sreo0518.

NATIONAL BUDGETING

Across sub-Saharan Africa, Cameroon, Gabon, Mali and Nigeria perform best in national budgeting, all scoring 70 out of 100, which reflects the government's disclosure of budget information. Côte d'Ivoire also achieves a satisfactory score. Eritrea is the poorest performer in this area with a score of five out of 100, showing a significant lack of information on its budget process. Five countries (Equatorial Guinea, Ethiopia, Liberia, Madagascar and Zimbabwe) achieve a score of 30, at the bottom of the poor performance band.

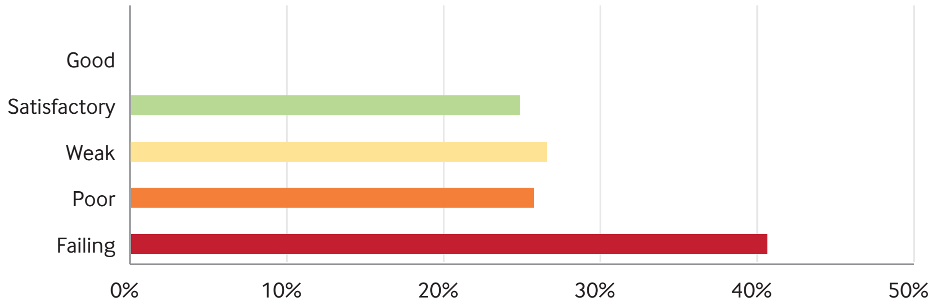


Figure 9. Resource revenue as a percentage of government revenue, average per revenue management performance band in sub-Saharan Africa[45]

A first step toward accountability and oversight in resource revenue management is creating transparency of resource revenues flows in the national budget process. Seventeen countries disaggregate resource revenue contribution to national budgets, but only ten provided other important budget information for the latest financial year, including revenue projections, budget, government expenditures and details about national debt. This is concerning because the more countries depend on natural resources, the less transparent they are in how they manage revenues. (See Figure 9.)

Box 7. Public Interest Accountability Committee reports on Ghana's oil revenues

Ghana's Petroleum Revenue Management Act (PPRMA) established the Public Interest and Accountability Committee (PIAC), a citizen oversight body, to report on and oversee petroleum revenues.[46] PIAC reports make timely and disaggregated disclosures on oil revenues, contributing to a better score in budget transparency. PIAC also tracks expenditure of petroleum revenues on earmarked areas. Ghana's mining sector revenue management does not have similar mechanisms in place, reflected in its 28 points lower score.

In many resource-rich countries, commodity-fueled public spending has resulted in fiscal imbalances and high public debt. Governments can set up fiscal rules and savings and stabilization funds to balance public finances. According to the RGI, 13 out of 28 countries in the region have a fiscal rule in place to constrain spending, budget balance or borrowing. In anticipation of a need to manage volatile revenues, emerging oil and gas producers such as Tanzania and Uganda have adopted new oil and gas revenue management frameworks. In part, their lessons are informed by experiences in Ghana, which experienced a debt crisis between 2011 and 2017. A possible contributing factor was that Ghana did not have a fiscal rule in place to constrain government spending, even though it had rules for petroleum revenue management. In 2014, Ghana's public debt grew by about 40 times compared to petroleum revenues saved in funds and the interest rate on its debt was seven times higher than the rate of return on the savings fund.[47]

45 NRGI, *RGI resource revenue and GDP data (2017)*, www.resourcedata.org/dataset/resource-revenue-data.
46 Ghana Public Interest and Accountability Committee, piacghana.org.
47 Aisha Adam, *Ghana's Petroleum Revenue Management Act: Back to Basics (NRGI, 2016)*, resourcegovernance.org/analysis-tools/publications/ghana-petroleum-revenue-management-act-back-basics.

Botswana managed to comply with its fiscal rule during the global commodity price crash, but overall, compliance levels are low. As many as nine countries have fiscal rules as a result of membership in sub-regional monetary unions—among RGI countries, a unique feature in sub-Saharan Africa.[48] These rules have been especially ineffective: no country complied with a supranational rule. Governments may be reluctant to commit to unpopular spending cuts, and rather opt for modifying, suspending or simply disregarding rules. Fiscal rules can be useful instruments, but they need to be clear, adequate for the country's economic conditions and easy to monitor to serve their purpose.[49]

Recommendations

- Finance ministries should release budget data including disaggregated resource revenues and projections for future resource revenues, and expenditures.
- Finance ministries, parliamentary budget committees and other public finance institutions should consider adopting fiscal rules to balance revenues and expenditures across commodity cycles.
- Governments and regional currency unions should take implementation into account when designing revenue management rules, focusing on clarity and independent oversight.

48 As supranational rules, those that set clear targets and report on progress toward the target are considered for the index: CEMAC for Cameroon, Chad, Congo, Equatorial Guinea and Gabon, and WAEMU (UEMOA) for Burkina Faso, Côte d'Ivoire, Mali and Niger. Note: ECOWAS/WAMI rules were not included due to lack of information on their applicability since 2014.

49 David Mihalyi, *How did fiscal rules hold up in the commodity price crash?* (NRGI, 2018), resourcegovernance.org/analysis-tools/publications/how-did-fiscal-rules-hold-commodity-price-crash.

SUBNATIONAL REVENUE SHARING

Thirteen sub-Saharan African countries assessed in the RGI have put in place rules to distribute part of the extractive revenues collected by national governments to the local level. Most countries allocate all or a greater share of subnational transfers to resource-producing regions. The Africa Mining Vision, among others, encourages countries to set up systems for distributing revenues back to the communities closest to extraction sites.[50] Revenue sharing can also contribute to peace and stability: in Nigeria, sharing of revenues with the Niger Delta is a critical way to address oil-related conflicts. Looking at transparency and accountability of the system in these 13 countries, Chad performs best, scoring a satisfactory 67 out of 100, and ranks seventh globally. Niger also achieves a satisfactory score of 62. DRC's oil and gas scores just eight out of 100 and ranks last in the index.

An independent audit is a requirement in eight countries, but in five of them, the researchers could not verify that audits had taken place.

Revenue sharing is one of the subcomponents where sub-Saharan African countries on average achieve their highest score for the legal framework (75 out of 100). But the implementation gap, which characterizes Africa's resource governance in general, is also wide. In several instances, provisions for sharing have been implemented with considerable delay. At the time of writing this report, Guinea is putting in place regulation and institutions to implement revenue sharing provisions of its 2011 mining code.[51] The DRC's EITI reports shows that in 2014 and 2015, all revenues that should have been disbursed to local authorities were not transferred.[52]

Table 3. Scores and auditing rules and practices of subnational resource revenue transfers

Country	Subnational resource revenue sharing score	Subnational transfer audit rule	Subnational transfer audit practice	EITI reports provide information on subnational revenue sharing
Chad	67	✔	✔	✔
Niger	62	✔	✔	✔
Nigeria	57	✔	-	✔
South Sudan	54	✔	-	-
Burkina Faso	53	✔	-	✔
Mozambique	49	✔	-	✔
Ethiopia	47	✔	✔	✔
Ghana (mining)	39	-	-	✔
Madagascar	39	-	-	✔
DRC (mining)	36	-	-	✔
Sudan	31	✔	-	-
Angola	31	-	-	-
Guinea	23	-	-	✔
DRC (oil and gas)	8	-	-	✔

50 African Union, *Africa Mining Vision (2009)*, www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf.

51 Lado, Hervé, *Les gestionnaires de communes minières en première ligne de la mise en œuvre du fonds de développement en Guinée* (NRGI, 2019). https://resourcegovernance.org/blog/les-gestionnaires-de-communes-minieres-en-premiere-ligne-de-la-mise-en-ouvre-du-fonds-de

52 Government of the DRC, *2015 Democratic Republic of Congo EITI Report* (2018), rapport_de_conciliation_itie_rdc_2015_-_signe_envoye_st.pdf.

Independent verification of the amounts transferred to each subnational entity sets better performers apart. (See Table 3.) This can be a regular audit by a supreme audit institution or similar entity. An independent audit is a requirement in eight countries, but in five of them, the researchers could not verify that audits had taken place. Where an official audit is not a requirement or results are not published, comparisons of obligations and transfers included in EITI reports are a helpful complement.

Box 8. Mozambique's EITI reports support oversight of revenue transfers

In Mozambique, petroleum and mining laws earmark a share of extractive revenues for community development in areas where extractive projects are located. After initial uncertainty around the amounts to be shared, and revenues not always being transferred in practice, a 2013 regulation specified the percentage to be shared and defined that the funds should be used for community development projects, for example on education and health.[53] Mozambique's EITI reports list transfers to each district, and the 2014 report estimated that total transfers corresponded to 96 percent of what should have been transferred, acting as an important tool for verification.[54]

Recommendations

- Governments should implement and enforce revenue sharing rules by putting in place required regulations and institutions, to gain trust of local communities.
- Governments at all levels should report on transferred revenues, disaggregated by subnational entity and revenue stream, in a timely fashion.
- Supreme audit institutions or similar entities should conduct independent audits and publish audited results on revenue sharing to reconcile actual transfers against what should be transferred.
- Citizens, communities and their representatives should exploit available data, including in EITI reports, and ask questions in the event of discrepancies.

53 Government of Mozambique, *Petroleum Fiscal Law (Law 12/2007 Article 11), Petroleum Law (Law 22/2014 Article 48), Mining Law (20/2014, Article 20), and previous laws from 2007; World Bank, Sharing Natural Resource Revenues with Affected Communities: Policy Options for Mozambique, (2014),* openknowledge.worldbank.org/bitstream/handle/10986/20264/ACS10342Final.pdf?sequence=4&isAllowed=y; Ministerial Circular 1-MPD-MF/2013.

54 Government of Mozambique, *Mozambique EITI report 2014* (2015), eiti.org/sites/default/files/documents/6o_relatorio_vfinal_en_1805.pdf.

SOVEREIGN WEALTH FUNDS

The RGI assesses nine countries in sub-Saharan Africa that have set up sovereign wealth funds to save, invest and balance resource revenues. The Ghana Stabilization Fund achieved a score of 93, the second-best governed fund in the index and the only one to sit in the good category in the region. Ghana's high ranking is a result of clear rules and advanced oversight mechanisms, including by the parliament. Botswana's Pula Fund achieves a satisfactory score of 65, even though it does not have binding rules on how much is deposited into and withdrawn from the fund each year.

Sub-Saharan Africa is, on average, the lowest-scoring region in relation to sovereign wealth funds. Six funds, which together manage over $8 billion in resource revenues, attain failing scores. These funds are found in countries that achieve poor scores in control for corruption. Nigeria's Excess Crude Account (ECA) is the most poorly governed sovereign wealth fund assessed by the index, ranking last alongside the Qatari Investment Authority. The government discloses almost none of the rules or practices governing deposits, withdrawals or investments of the ECA. Nigeria has other sovereign wealth funds, some of which are more transparent. As the largest fund by asset balance, the potential revenue loss through ECA constitutes a critical challenge in the country where over 90 percent of government revenues come from the oil sector.

Table 4. Sovereign wealth funds in sub-Saharan Africa, Resource Governance Index scores and assets under management[55]

Country	Fund name	Assets under management (USD millions)	Fund score	Fund rank (/33)
Ghana	Ghana Stabilization Fund	208	93	3
Botswana	Pula Fund	6,040	65	12
Uganda	Petroleum Revenue Investment Reserve	72	36	21
Angola	Fundo Soberano de Angola	4,882	25	24
Gabon	Fonds Souverain de la République Gabonaise Fonds Gabonais d'Investissements Stratégiques	1,000	23	25
Chad	Mécanisme de stérilisation des revenus pétroliers provenant de l'exploitation des trois champs de Komé, Miandoum et Bolobo	N/A	17	30
Eq. Guinea	Fund for Future Generations	80	7	31
Sudan	Oil Revenue Stabilisation Account	N/A	7	32
Nigeria	Excess Crude Account	2,400	4	33

Emerging producers may fall prey to yet another risk: setting up funds prematurely when resource revenues are still small, distant or uncertain. Especially in countries with high debt, these funds may cost more than the revenue they can generate.[56] To assure citizens that funds are saved for future generations and invested according to principles all stakeholders accept, sub-Saharan African governments should ensure transparency and oversight when setting up sovereign wealth funds.

Recommendations

- Ministries should ensure sovereign wealth funds are subject to oversight independent of the fund's management and the executive. Parliamentary approvals for withdrawals, and a rules-based deposit, withdrawal and investment framework audited by a supreme audit institution or external auditor can help.
- The funds should publish annual reports containing information on assets, investments and returns, which help assess their feasibility of a fund as a revenue management tool.

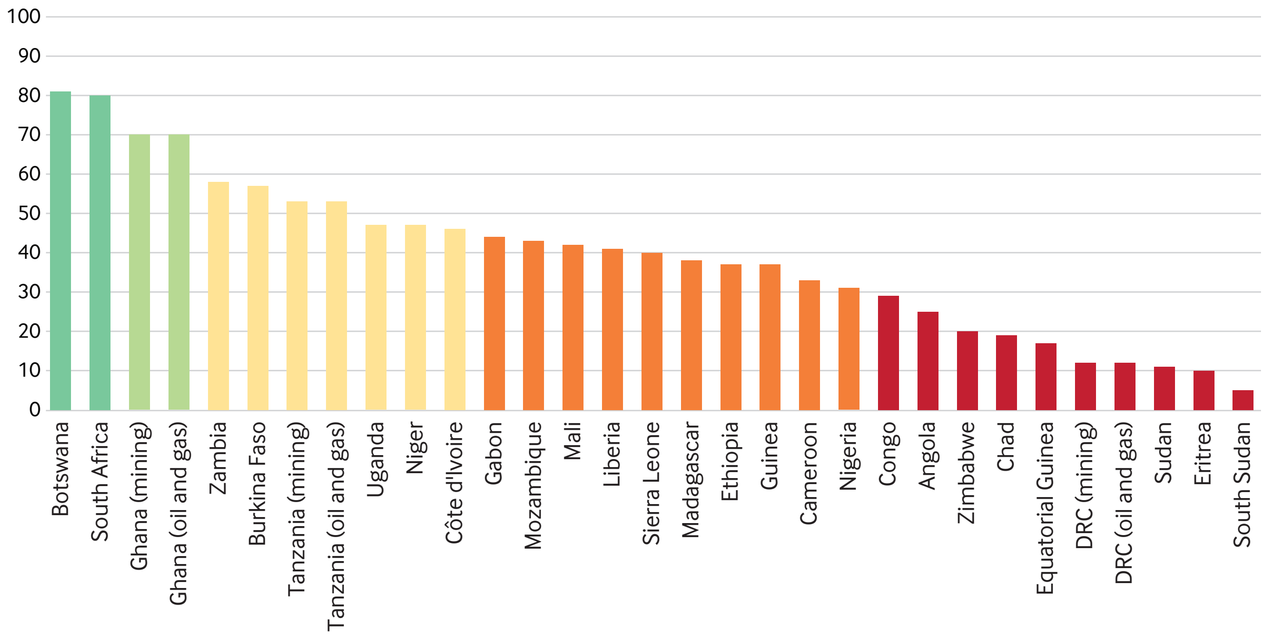
55 Fund annual reports, Ministries of Finance and other RGI justifying documents were used to compile the asset data: https://www.resourcedata.org/document?_question_limit=0. Data is from 2014-2017, most recent year available.

56 Andrew Bauer and David Mihalyi, *Premature Funds: How Overenthusiasm and Bad Advice Can Leave Countries Poorer (NRGI, 2018)*, resourcegovernance.org/sites/default/files/documents/premature-funds.pdf.

Enabling environment

Governance deficits tend to plague especially resource-rich countries, so it is important to situate the preceding resource-sector findings in the context of broader national governance.[57] The enabling environment component of the RGI covers seven areas of national governance that support resource governance: voice and accountability, government effectiveness, regulatory quality, rule of law, control of corruption, political stability and absence of violence and open data. Botswana and South Africa get a boost for their composite scores from their good enabling environments. Ghana also performs satisfactorily. Ten countries score in the failing category, many of them with poor results also for value realization and revenue management.

Figure 10. Sub-Saharan Africa Resource Governance Index enabling environment scores



Control of corruption is linked to many areas of resource governance. Governance of SOEs and sovereign wealth funds tends to go hand in hand with better scores for control of corruption. There is a similar pattern on transparent ownership of extractive companies: sub-Saharan African countries that have put in place good or satisfactory rules requiring public disclosure of financial interests in the sector (beneficial owners and public officials' assets) score an average of 66 on control of corruption, in comparison to those with weak, poor or failing rules in this area, which score an average of 35.

The implementation gap is wider where rule of law and control of corruption subcomponents of the enabling environment are lowest. Implementation challenges discussed in this report are by no means unique to the extractive sector. Global

57 Recently, the International Monetary Fund (IMF) estimated that improving governance in sub-Saharan Africa could significantly accelerate economic growth in the region. See Amine Hammadi, Marshall Mills, Nelson Sobrinho, Vimal Thakoor and Ricardo Velloso, *A Governance Dividend for Sub-Saharan Africa? IMF Working Paper No. 19/1 (IMF, 2019),* www.imf.org/en/Publications/WP/Issues/2019/01/11/A-Governance-Dividend-for-Sub-Saharan-Africa-45871?cid=em-COM-123-38237.

Integrity's Africa Integrity Indicators show countries perform better "in law" than "in practice" in many areas of public policy.[58] Lack of cross-sectoral coordination or rules developed in siloes may hinder transparency for example in environmental and social issues, where rules often derive from environmental and land laws in addition to extractive ones.

Sub-Saharan Africa is the lowest scoring region on the open data element of the enabling environment. Access to meaningful data is a basis on which public oversight rests, but alone it is not enough. Voice and accountability, which measures freedom of speech, association and civic space, is strongly associated with good results in value realization and revenue management. On average, the 28 countries achieve a score of 48 out of 100 in voice and accountability. Using data from the Worldwide Governance Indicators, on average, between 1996 and 2016 this score improved in the region, for example in Ghana, Liberia and Nigeria.[59] However, developments are not uniform and countries such as South Sudan, Gabon and Eritrea have made negative progress. Oversight through a strong civil society, media and government checks and balances are a critical part of holding authorities and companies accountable in general, and for following resource governance rules in particular.

Using data from the Worldwide Governance Indicators, on average, between 1996 and 2016 the voice and accountability score improved in sub-Saharan African countries. However, developments are not uniform.

Recommendations

- All stakeholders should build on and protect progress in voice and accountability and facilitate multi-stakeholder dialogue on oil, gas and mining policy.
- Governments should invest in data generation in open data formats to base policies and public debate on sound analysis and to monitor compliance by companies.
- Governments should design, and oversight institutions should monitor compliance with especially those rules that are critical for controlling corruption, and helping countries curb illicit financial flows.

58 Global Integrity, *Accountability – Africa Integrity Indicators Findings (2015)*, www.globalintegrity.org/wp-content/uploads/2016/03/Accountability-2015.08.pdf.
59 World Bank, *Worldwide Governance Indicators (2018)*, info.worldbank.org/governance/wgi/.

Conclusion: Toward closing the governance gaps

Good governance means strong, comprehensive rules; competent institutions to enforce them; independent oversight; and willingness on the part of governments to follow the rules. In areas of licensing and revenue management, the 28 sub-Saharan African countries assessed in the 2017 Resource Governance Index have significantly strengthened extractive sector laws. The availability of data on extractive revenues has also improved. But in many areas, practices lag behind the rules. The data and examples from the index point to a need for varied, complementary responses from strengthening government capacity to supporting the space and ability of oversight actors to monitor compliance. They also point to a need for more contextualized, country-specific research on the institutional and political dynamics behind implementation gaps.

Strengthening the capacity and voice of local communities and civil society is critical to realizing the objectives of laws and policies to mitigate environmental degradation, prevent loss of livelihoods and support local development. Public disclosure of impact assessments and mitigation plans helps countries assess the trade-offs between national benefits and local costs and integrate them into investment decisions; this also increases trust between communities, governments and investors. Stakeholders in DRC, Mozambique and other countries have used contracts and details on revenue distribution to monitor legal and contractual obligations and highlight where compliance is lacking.

Supreme audit institutions and parliaments are an important check on government practice, ensuring that governments follow rules designed to guard public benefits from resources. In Ghana, Tanzania and Uganda, for example, they have the mandate to audit state-owned enterprises or sovereign wealth funds. Such institutions collect and manage billions of dollars of resource revenues in many countries. Independent oversight is especially important when political will might contravene implementation; for example, ensuring that despite public pressure to increase spending in downturns governments adhere to fiscal rules, and that officials in charge of license awards resist conflicts of interest. Results of audits should be made accessible to the public to foster links between civic and official oversight.

Because new laws are constantly being developed across the continent, countries have the opportunity to analyze experiences from past reforms. In addition to the good practices shown by the RGI, the African Mining Legislation Atlas and its "guiding template" (an Africa-focused guide to drafting mining laws) are resources tailored to the African context that can help legislators to design rules suited to specific needs and institutional capacity, which may be more easily implemented.[60] After passing new laws in the sector, governments and legislators should without undue delay create implementing regulations and institutions to complete legal reform. Finally, harnessing technology to disclose information can reduce the time lag from legislation to enforcement.[61]

Closing the various governance gaps, particularly that between rules and practices, is important for African countries to collect the yields from natural resources and invest them in sustainable development. To that end, governments, citizens and companies can use the RGI to explore good resource governance practices and track success of governance reforms.

60 African Minerals Legislation Atlas, www.a-mla.org.

61 NRGI's data tools, resourceprojects.org and resourcecontracts.org can complement cadasters and data platforms under development in many countries.

Appendix I. Resource Governance Index framework

VALUE REALIZATION

LICENSING	TAXATION	LOCAL IMPACT	STATE-OWNED ENTERPRISES
RESERVES DISCLOSURE	PRODUCTION DISCLOSURE	EIA/SIA RULES	SOE-GOVERNMENT TRANSFERS RULES
CADASTER	EXPORT DISCLOSURE	EIA/SIA DISCLOSURE	SOE-GOVERNMENT TRANSFERS DISCLOSURE
PRE-LICENSING ROUND RULES	COMPANY PAYMENT RULES	ENVIRONMENTAL MITIGATION PLAN RULES	SOE FINANCIAL REPORTING RULES
PRE-LICENSING ROUND PRACTICE	COMPANY PAYMENT DISCLOSURE	ENVIRONMENTAL MITIGATION PLAN DISCLOSURE	SOE NON-COMMERCIAL ACTIVITY PRACTICE
POST-LICENSING ROUND RULES	TAXATION RULES	ENVIRONMENTAL COMPLIANCE RULES	SOE FINANCIAL REPORTING PRACTICE
POST-LICENSING ROUND PRACTICE	TAX AUTHORITY RULES	ENVIRONMENTAL COMPLIANCE PRACTICE	SOE PRODUCTION DISCLOSURE
FINANCIAL INTEREST DISCLOSURE RULES	TAX AUTHORITY PRACTICE	COMPENSATION TO LAND USERS AND OWNERS RULES	COMMODITY SALE RULES
FINANCIAL INTEREST DISCLOSURE PRACTICE	EITI AFFILIATION AND REPORTING		COMMODITY SALE DISCLOSURES
CONTRACT DISCLOSURE RULES			SOE JOINT VENTURES AND SUBSIDIARIES DISCLOSURE
CONTRACT DISCLOSURE			SOE CORPORATE GOVERNANCE PRACTICE

REVENUE MANAGEMENT

NATIONAL BUDGETING	SUBNATIONAL RESOURCE REVENUE SHARING	SOVEREIGN WEALTH FUNDS
ONLINE DATA PORTAL	SUBNATIONAL TRANSFER AGENCY RULES	SWF DEPOSIT AND WITHDRAWAL RULES
FISCAL RULES	SUBNATIONAL TRANSFER RULES	SWF DEPOSIT AND WITHDRAWAL PRACTICE
FISCAL RULE PRACTICE	SUBNATIONAL TRANSFER DISCLOSURE	SWF INVESTMENT RULES
NATIONAL BUDGET DISCLOSURE	SUBNATIONAL TRANSFER AUDIT RULE	SWF INVESTMENT PRACTICE
NATIONAL DEBT DISCLOSURE	SUBNATIONAL TRANSFER AUDIT PRACTICE	SWF FINANCIAL REPORTING RULES
		SWF FINANCIAL REPORTING PRACTICE

ENABLING ENVIRONMENT

VOICE AND ACCOUNTABILITY
GOVERNMENT EFFECTIVENESS
REGULATORY QUALITY
RULE OF LAW
CONTROL OF CORRUPTION
POLITICAL STABILITY AND ABSENCE OF VIOLENCE
OPEN DATA
OPEN DATA INVENTORY
OPEN DATA BAROMETER
OPEN DATA INDEX

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