Legal Foundations of Legislative Review: Parliamentary Ratification of Mining Agreements in Africa.

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Abstract

The governance of mineral resources in Africa continues to pose complex constitutional and policy challenges. Across the continent, executive dominance in resource contracting has often resulted in opacity, weakened accountability, and limited public participation. Ghana's 1992 Constitution establishes a unique legal safeguard: the requirement of parliamentary ratification for all agreements relating to the exploitation of natural resources. This paper adopts a doctrinal approach to analyse the legal and institutional significance of parliamentary ratification as a mechanism of democratic oversight in the governance of mining contracts. Anchored in the Ghanaian constitutional and statutory framework, and drawing comparative insights from Tanzania and the Democratic Republic of Congo (DRC), the study argues that legislative scrutiny enhances accountability, aligns resource governance with constitutional principles, and mitigates the risks of executive overreach. Nonetheless, weaknesses in legislative capacity, procedural clarity, and political independence continue to undermine the transformative potential of ratification. The paper concludes by proposing legal and institutional reforms to strengthen parliamentary oversight and promote a more transparent, accountable, and equitable extractive regime across Africa.
Keywords: Parliamentary ratification, mining contracts, constitutional accountability, resource governance, democratic oversight, extractive industries.

A. Introduction

The governance of natural resources in Africa remains one of the most enduring legal and developmental challenges on the continent.[1] While the extractive sector constitutes a major source of public revenue, foreign investment, and industrial growth, it has also been a site of contestation between the imperatives of economic development, national sovereignty, and public accountability.[2] At the heart of this tension lies the question of how resource contracts are negotiated, approved, and monitored, and more importantly,

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1 *Arthur, P.* (2014), Governance of natural resource management in Africa: contemporary perspectives; In Managing Africa's natural resources: Capacities for development (pp. 39–65). London: Palgrave Macmillan UK.

2 *Arthur P* (2014) (n 2), pp 39–65.

which state institutions bear ultimate responsibility for ensuring that such contracts serve the collective good.

Across much of Africa, the executive branch has historically dominated the negotiation and approval of mining and petroleum contracts.[3] These agreements are often complex, confidential, and long-term, granting private investors extensive fiscal and operational privileges. In many cases, the process has been characterised by secrecy, inadequate legislative oversight, and limited public participation.[4] This executive concentration of power, combined with asymmetrical bargaining dynamics between resource-rich but institutionally weak states and multinational corporations has frequently produced outcomes that provide short-term political or financial gains over sustainable national development.[5]

To counteract these deficiencies, parliamentary ratification has emerged as a key legal mechanism for restoring balance and legitimacy to the governance of extractive resources.[6] Ratification entails the formal approval by a national legislature of contracts or agreements negotiated by the executive branch. Within constitutional democracies, it represents a procedural checkpoint, ensuring that the exploitation of natural resources is consistent with national policy objectives, statutory standards, and the public interest.[7] In effect, it operationalises the principle that sovereignty over natural resources belongs to the people, who exercise that sovereignty through their elected representatives in Parliament.[8]

Ghana provides one of the most constitutionally entrenched examples of this approach. Article 268(1) of the 1992 Constitution mandates that *"any transaction, contract or undertaking involving the grant of a right or concession by or on behalf of any person or authority of the Republic to any other person or body of persons for the exploitation of any mineral, water or other natural resource of Ghana"* must receive parliamentary ratification before taking effect.[9] This constitutional requirement reflects a deliberate attempt by the framers of the Constitution to constrain executive discretion in resource governance and to embed democratic accountability into the contractual process. It is both a procedural safeguard and a substantive guarantee of public interest oversight. However, the practice of

3 *Buur, L., Pedersen*, *R. H., Nystrand, M. J., Macuane*, *J. J., & Jacob, T.* (2020), The politics of natural resource investments and rights in Africa: A theoretical approach. The Extractive Industries and Society, *7*(3), 918–930.

4 *Buur, L., Pedersen, R. H., Nystrand et al* (2020) (n 4), pp 918–930.

5 *Ayangafac, C., Bulcha, D., Bekele, S.* (2016), Why Do Some African Countries Negotiate Unfair Natural Resource Contracts? In Nyeck, S. (eds) Public Procurement Reform and Governance in Africa, Contemporary African Political Economy, Palgrave Macmillan, New York, Available at <https://doi.org/10.1057/978-1-137-52137-8_3> assessed 11 November 2025.

6 *Botchway, F. N., & Rukuba-Ngaiza, N*. (2015), The Constitutional Regime for Resource Governance in Africa: The Difficult March toward Accountability. *World Bank Legal Rev.*, *6*, 149.

7 *Kusi-Appiah, F*. (2023), Sustainable Natural Resource Governance in Ghana: An Appraisal of Legal Provisions on Public Participation and Accountability. African Journal of International and Comparative Law, *31*(1), 32–54.

8 *Kusi-Appiah, F*. (2023), (n 8), pp 32–54.

9 1992 Constitution of Ghana, Article 168(1).

ratification in Ghana has not always matched its constitutional ideal.[10] In some instances, ratification has been treated as a mere formality, an administrative step occurring after executive negotiation rather than a substantive review. Parliamentary debates are often cursory, constrained by limited time, inadequate technical expertise, and partisan alignment.[11] Furthermore, there is no statutory framework prescribing the procedure for ratification, leaving much of the process to ad hoc parliamentary practice and executive discretion.[12] There are also many contracts that have been operationalised without Parliamentary ratification and yet do not suffer from any sanctions regime.[13] These gaps raise important governance questions. How effective is parliamentary ratification as a tool of accountability? To what extent does it balance democratic legitimacy with administrative efficiency? And how might the Ghanaian experience inform broader reforms in Africa's resource governance landscape?

This paper situates these questions within a comparative doctrinal analysis, using Ghana as the anchor jurisdiction and drawing lessons from Tanzania and the Democratic Republic of Congo (DRC). Both comparator countries have adopted divergent yet instructive approaches: Tanzania, through assertive statutory intervention grounded in resource nationalism, and the DRC, through transparency and publication obligations in lieu of formal ratification. The comparative analysis enables a broader understanding of how constitutional and legislative design shapes the balance between executive authority, parliamentary oversight, and public accountability in the extractive sector.

Methodologically, the paper adopts a doctrinal legal approach, analysing constitutional provisions, statutes, regulations, and case law. It further draws on normative frameworks such as the Africa Mining Vision and the Extractive Industries Transparency Initiative (EITI) standards to situate the discussion within regional and international best practices. The analysis proceeds on the premise that legal frameworks are not merely procedural devices but instruments of governance, shaping institutional behaviour, policy outcomes, and democratic legitimacy. The argument advanced is twofold. First, parliamentary ratification, when effectively operationalised, is a vital constitutional mechanism for ensuring transparency, public accountability, and the equitable management of resource wealth. Second, the Ghanaian model, while robust, requires significant procedural and institutional strengthening to realise its full potential. Comparative insights from Tanzania and the DRC suggest that the effectiveness of parliamentary ratification depends less on its formal

10 *Kusi-Appiah, F*. (2023), (n 8), pp 32–54.

11 *Kusi-Appiah, F*. (2023), (n 8), pp 32–54.

12 Although article 268(1) of the 1992 Constitution provides for parliamentary ratification of natural resources contract, there is no statute that details when the agreements should be submitted to parliament and what format it should take once it arrives in parliament.

13 Mining leases without ratification: 'Prosecute' past ministers, 18th January 2019. Online newspaper article: Available at <https://reportingoilandgas.org/mining-leases-without-ratification-prosecute-past-ministers-dr-manteaw/>Assessed on 11 October 2025.

existence and more on the political will, institutional capacity, and procedural clarity with which it is implemented.

The paper proceeds as follows. Section 2 articulates the theoretical and constitutional rationale for parliamentary ratification, situating it within democratic and accountability frameworks. Section 3 examines the legal architecture supporting ratification in Ghana, Tanzania, and the DRC. Section 4 analyses the governance benefits of ratification, particularly its role in promoting transparency and checks on executive authority. Section 5 discusses the challenges and limitations of the current frameworks. In section 6, the paper offers policy and legal reform recommendations. Section 7 concludes by reflecting on the constitutional and developmental significance of ratification in advancing democratic resource governance in Africa.

B. The Rational for Parliamentary Ratification

The rationale for parliamentary ratification of mining and natural resource contracts lies in constitutional theory, democratic governance, and public accountability.[14] In African resource economies, the state is often the trustee of natural wealth,[15] but this trusteeship is only legitimate when exercised through transparent and accountable institutions. Ratification, therefore, acts as a constitutional bridge between executive negotiation and public consent, ensuring that the exploitation of finite resources aligns with the national interest and the rule of law.[16]

The principle of parliamentary ratification draws upon the broader doctrines of separation of powers, representative democracy, and sovereignty of the people. In Ghana, sovereignty is explicitly vested in the people by Article 1(1) of the 1992 Constitution, which provides that "the sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised." By requiring parliamentary ratification for natural resource contracts, Article 268(1) operationalises this principle, ensuring that executive acts concerning public resources are subject to legislative consent. This constitutional design reflects a commitment to democratic legitimacy in the management of natural resources.[17] Mining contracts are not ordinary commercial transactions, they are public law instruments that define how collective national wealth is distributed between the state and private entities.[18] As such, they must pass through a democratic filter. Parliamentary ratification provides this legitimacy by ensuring that the people, through their elected representatives, have an opportunity to scrutinise and,

14 *Kusi-Appiah, F*. (2023), (n 8), pp 32–54.

15 *Huffel, S. V.* (2024). The evolving developmental role of the state as public trustee of South Africa's natural resources and property. Law, Democracy and Development, *28*, 152–173.

16 *Kusi-Appiah, F*. (2023), (n 8), pp 32–54.

17 *Currie-Alder, B*. (2005), Unpacking participatory natural resource management: a conceptual framework to distinguish democratic governance from resource capture. Environments, 33(2), 1.

18 *Currie-Alder, B.* (2005) (n 18), pp 1.

if necessary, withhold approval for resource agreements that may not serve the public interest.[19]

Comparatively, Tanzania's Natural Wealth and Resources (Permanent Sovereignty) Act 2017 expresses a similar rationale by declaring that all natural wealth and resources "shall be held in trust by the President on behalf of the People of the United Republic of Tanzania."[20] The statute requires that all contracts related to the exploitation of natural resources be reviewed by Parliament before becoming binding.[21] This legislative practice resonates with Ghana's constitutional model, affirming that sovereignty over natural resources belongs to the people, and the legislature is its institutional custodian.

The theoretical foundation of ratification also draws from international law principles, particularly the doctrine of permanent sovereignty over natural resources, articulated by the United Nations General Assembly Resolution 1803 (XVII) (1962).[22] This doctrine recognises that the people of each nation have the right to freely dispose of their natural wealth in accordance with national interests. Parliamentary ratification, in this sense, is an internal mechanism for giving effect to this external principle. It ensures that the state's contractual commitments are not merely acts of executive will but expressions of national consent.

I. Public Interest and State's Fiduciary Role

Natural resources, particularly minerals, are held in trust by the state for the benefit of its citizens.[23] This fiduciary relationship imposes obligations of care, loyalty, and transparency on public officials involved in the management of extractive resources. As custodians of public assets, state actors must ensure that contracts governing the exploitation of these assets reflect fair value and protect long-term national interests. Parliamentary ratification enhances this fiduciary accountability by compelling the executive to justify the terms of each contract before a representative body. In Ghana, the process serves as a procedural safeguard against executive excesses, ensuring that resource rights are not granted without legislative oversight. In The Republic v High Court, General Jurisdiction 6, Accra; Ex Parte Attorney-General (Exton Cubic Group Ltd), the majority of the Supreme Court reaffirmed that any mining lease or concession involving the exploitation of natural resources requires parliamentary ratification before it can acquire legal validity. The Court held that until such ratification is obtained, the agreement is of no legal effect, and no enforceable rights

19 *Nyamai, A. M*. (2020). A Critical analysis of public participation in parliamentary ratification of oil and gas agreements (Doctoral dissertation, Strathmore University).

20 Natural Wealth and Resources (Permanent Sovereignty) Act, 2017 Act 5 of 2017, section 5(2).

21 Natural Wealth and Resources (Permanent Sovereignty) Act, 2017 Act 5 of 2017, section 5(2).

22 *G.A. Res*. 1803 (XVII), U.N. Doc. A/5209 (Dec. 14, 1962).

23 *Huffel, S. V.* (2024) (n 16) pp 152–173.

accrue to the contracting party.[24] Moreover, the public interest dimension of ratification extends beyond legality to encompass intergenerational equity and sustainable development. Mining contracts typically span decades, influencing not only present economic returns but also future environmental and social costs.[25] Legislative scrutiny introduces a forum for interrogating these long-term implications, whether through parliamentary committees, public hearings, or stakeholder consultations. In theory, this transforms ratification into a site for balancing economic opportunity with ecological stewardship and social justice.

II. Accountability and Rule of Law

Parliamentary ratification also strengthens the rule of law in extractive governance by embedding legality and procedural regularity into resource contracting.[26] It ensures that all mining agreements pass through a defined constitutional pathway before attaining validity.[27] This requirement mitigates risks of corruption, irregular approvals, or clandestine dealings[28] that have historically plagued extractive sectors across Africa.[29] In Ghana, the procedural significance of ratification lies not only in parliamentary approval but also in its public visibility. Contracts laid before Parliament become part of the public record, subject to media scrutiny and academic commentary. This transparency fosters public trust, enhances investor confidence, and anchors the legitimacy of state actions within the constitutional framework.

Furthermore, ratification reinforces checks and balances between the branches of government.[30] It prevents the executive from unilaterally binding the state to long-term

24 The Republic v High Court, General Jurisdiction 6, Accra; Ex Parte Attorney-General (Exton Cubic Group Ltd) [2020] GHASC 97.

25 UNDP and UN Environment (2018). Managing mining for sustainable development: A sourcebook. Bangkok: United Nations Development Programme.

26 *Duri, J.* (2022). Overview Of Parliamentary Oversight Tools and Mechanisms, Transparency International. Available at <https://knowledgehub.transparency.org/assets/uploads/kproducts/Overview-of-parliamentary-oversight-tools-and-mechanisms-2022-final.pdf> Last assessed on 20th September 2025.

27 *Duri, J.* (2022). Overview Of Parliamentary Oversight Tools and Mechanisms, Transparency International. Available at <https://knowledgehub.transparency.org/assets/uploads/kproducts/Overview-of-parliamentary-oversight-tools-and-mechanisms-2022-final.pdf> Last assessed on 20th September 2025.

28 *Duri, J*. (2022). Overview Of Parliamentary Oversight Tools and Mechanisms, Transparency International. Available at <https://knowledgehub.transparency.org/assets/uploads/kproducts/Overview-of-parliamentary-oversight-tools-and-mechanisms-2022-final.pdf> Last assessed on 20th September 2025.

29 *Knutsen, C. H., Kotsadam, A., Olsen, E. H., & Wig, T.* (2017), Mining and local corruption in Africa, American Journal of Political Science, 61(2), 320–334.

30 *Akili, R. H*. (2023). The Role of the Legislature, In Maintaining the Balance of Power in the Constitutional Legal System. Jurnal Multidisiplin Sahombu, 3(01), 77–85.

financial and environmental obligations without representative consent.[31] In doing so, it also protects Parliament's budgetary oversight role, since mining contracts often have fiscal implications through royalty rates, tax exemptions, and revenue-sharing mechanisms.[32] However, for ratification to perform these functions effectively, it must be supported by clear procedures, adequate institutional capacity, and genuine political will. In practice, legislative oversight can be undermined by partisan majorities, time constraints, or lack of technical expertise. These challenges, explored in later sections, demonstrate that ratification's normative strength must be matched by procedural rigor if it is to serve as a true instrument of accountability.

C. Legal Frameworks for Parliamentary Ratification

The legal basis for parliamentary ratification of mining and natural resource contracts in Africa is rooted in constitutional provisions, statutory enactments, and judicial interpretation. These frameworks collectively define how state institutions share authority in the governance of extractive resources. In Ghana, the executive negotiates the contract, parliament ratifies it and the judiciary interprets and enforces rights and obligation under it. Ghana's constitutional and legislative architecture provides one of the clearest examples of a mandatory ratification regime in Africa.[33] By contrast, Tanzania's framework relies primarily on statutory innovation,[34] while the DRC depends on transparency and disclosure obligations rather than direct legislative approval.[35] This section examines these frameworks comparatively, highlighting Ghana's doctrinal distinctiveness and the lessons it offers for the continent.

Ghana's constitutional requirement for parliamentary ratification is anchored in Article 268(1) of the 1992 Constitution, which provides that any transaction "involving the grant of a right or concession by or on behalf of any person or authority of the Republic to any other person or body of persons for the exploitation of any mineral, water or other natural resource" must receive parliamentary approval before taking effect.[36] This provision confers a binding constitutional duty and situates Parliament as the ultimate guardian of the national interest in the exploitation of natural resources. The Ghanaian judiciary has

31 *Akili, R. H*. (2023) (n 31), pp 77–85.

32 *Bowman, J. P*. (2023), Evaristus Oshionebo, Mineral Mining in Africa: Legal and Fiscal Regimes.

33 1992 Constitution of Ghana, Article 168(1).

34 *Poncian, J., & Kigodi, H. M*. (2018), Transparency initiatives and Tanzania's extractive industry governance, Development Studies Research, 5(1), 106–121.

35 *Gervasoni, A*. (2024) Mining Law in the Democratic Republic of Congo (DRC): Challenges and Perspectives of Transition in Search of a Sustainable Model of Development" (2024) 1 *Antwerp Law Review.* Available at https://antwerplawreview.be/wp-content/uploads/2024/10/A.-Gervasoni-Mining-law-in-the-Democratic-Republic-of-Congo-DRC-challenges-and-perspectives-of-transition-in-search-of-a-sustainable-model-of-development-.pdf Last assessed on 12th October 2025.

36 1992 Constitution, Article 268(1).

reinforced the constitutional importance of this requirement. In Exton Cubic Group Ltd case, the Supreme Court held unequivocally that any natural resource contract not ratified by Parliament is void ab initio and cannot bind the Republic.[37] The Court reasoned that Article 268 establishes a condition precedent to validity, and that failure to comply with this requirement constitutes a constitutional breach. This position underscores the view that the executive's powers in resource contracting are constitutionally constrained by legislative consent. Again, in John Ndebugre v. Attorney General and others, the Supreme Court in Ghana emphasised the power of Parliament to ratify natural resources contract.[38]

Complementing the constitutional framework, the Minerals and Mining Act 2006 (Act 703) vests all minerals in the President of Ghana, acting in trust for the people.[39] Section 5 of the Act provides that mineral rights, whether reconnaissance, prospecting, or mining leases are granted by the Minister for Lands and Natural Resources, subject to parliamentary ratification in accordance with Article 268.[40] This statutory structure integrates the constitutional mandate into the everyday administrative practice of mineral governance. In practice, however, the ratification process is procedurally underdeveloped. The Constitution provides no clear guidance on timelines, committee procedures, or the extent of parliamentary scrutiny. Since the coming into force of the constitution in January 1993, parliament has also not passed any law guiding the process of ratification. Typically, agreements are negotiated by the Ministry of Lands and Natural Resources and the Minerals Commission, after which they are laid before Parliament for approval.[41] Parliamentary debates are often time constrained, and members may not receive full documentation in advance.[42] Nonetheless, every ratified agreement gains the force of law, ensuring its enforceability under domestic and international standards. This legal arrangement gives Ghana a hybrid model, one that blends constitutional supremacy with administrative discretion. It establishes a strong legal safeguard but leaves procedural discretion in the hands of Parliament. The absence of codified rules for how ratification is conducted remains a critical gap that invites executive influence and diminishes legislative efficiency.

Tanzania provides an alternative model in which parliamentary authority arises primarily from legislative enactment rather than direct constitutional mandate. Although the 1977 Constitution of the United Republic of Tanzania does not expressly require ratification, Parliament has assumed a central role through the Natural Wealth and Resources (Permanent Sovereignty) Act 2017 and the Natural Wealth and Resources (Review and Renegotia-

37 The Republic v High Court, General Jurisdiction 6, Accra; Ex Parte Attorney-General (Exton Cubic Group Ltd) [2020] GHASC 97.

38 John Akparibo Ndebugre v. The Attorney General, Aker Asa and Chemu Power Company Ltd Dlsc2855.

39 Minerals and Mining Act 2006 (Act 703), Section 1(1).

40 Minerals and Mining Act 2006 (Act 703), Section 5.

41 Extractive Industries Transparency Initiative (GHEITI) (2020).

42 *Kusi-Appiah, F.* (2023), (n 8), pp 32–54.

tion of Unconscionable Terms) Act 2017.[43] These twin statutes emerged from a wave of resource nationalism and were designed to reclaim public control over extractive contracts that were previously negotiated with minimal scrutiny. Under section 4 of the Permanent Sovereignty Act, natural wealth and resources belong to the people of Tanzania, and that the government holds them in trust for their benefit. Section 6 further mandates that all arrangements or agreements related to natural wealth shall be reviewed by Parliament.[44] This provision establishes a statutory ratification framework that mirrors the constitutional function performed under Article 268 in Ghana. Importantly, Parliament is empowered not only to approve but also to renegotiate contracts deemed inconsistent with national interest. The companion Review and Renegotiation of Unconscionable Terms Act empowers the government to revisit or nullify contract clauses that undermine Tanzania's sovereignty or economic welfare.[45] Together, these laws effectively transform Parliament into a gatekeeper for extractive contracting and a forum for reasserting public control over natural resources.

However, Tanzania's experience reveals the tension between formal empowerment and political reality. While Parliament is statutorily empowered, it operates within a political system characterised by executive dominance and limited opposition influence.[46] As a result, parliamentary review may sometimes reflect the policy preferences of the ruling party rather than independent legislative judgment. Nonetheless, the Tanzanian framework demonstrates how legislative authority can be strengthened through ordinary legislation, even without constitutional amendment.

On the other hand, the Democratic Republic of Congo (DRC) presents a markedly different approach. Its 2006 Constitution and Mining Code 2002 (as amended in 2018) do not impose a formal parliamentary ratification requirement. Instead, the country relies on transparency and disclosure obligations to promote accountability in mining governance. Amendments made in 2018 reflects the Extractive Industries Transparency Initiative (EITI) and requires that licenses granted by the Mining License Registry be published in the government's Official Journal. This transparency model stems from the DRC's historical experience with opaque "resource-for-infrastructure" agreements, most notably the Sino-Congolese contracts that raised concerns about corruption, undervaluation, and debt exposure.[47] In response, civil society organisations and parliamentary committees began demanding post-hoc reviews of major contracts, effectively introducing parliamentary scrutiny through

43 Natural Wealth and Resources (Permanent Sovereignty) Act 2017 (Tanzania), ss 4–6.

44 Natural Wealth and Resources (Permanent Sovereignty) Act 2017 (Tanzania), ss 4–6.

45 Natural Wealth and Resources (Review and Renegotiation of Unconscionable Terms) Act 2017 (Tanzania), s 4.

46 *Roder, K*. (2019). "Bulldozer politics", state-making and (neo-) extractive industries in Tanzania's gold mining sector, The Extractive Industries and Society, 6(2), 407–412.

47 Skaltsounis, P. (2025), The Sicomines Agreement: Strategic Partnership or Unequal Exchange between China and Democratic Republic of Congo? African Studies Quarterly, 23(2), 76–88.; Lempereur, P. (2024). China's Debt Trap Diplomacy in the Democratic Republic of Congo: A case study of a failed state (2006–2023) through Neoclassical Geopolitics.

practice rather than law.[48] While this informal oversight has occasionally led to the renegotiation of controversial agreements, the absence of a binding ratification requirement weakens the enforceability of legislative scrutiny. Parliament's influence depends largely on political will and public pressure rather than constitutional or statutory authority. The DRC's model therefore emphasises transparency over legality, a useful but incomplete substitute for formal ratification.

I. Regional and International Frameworks

Across these jurisdictions, regional and international instruments have reinforced the principle of legislative oversight in natural resource governance. The Africa Mining Vision (AMV), adopted by the African Union in 2009, calls for the integration of extractive industries into national development frameworks through "transparent, equitable and optimal exploitation" of mineral resources.[49] Although the AMV does not mandate parliamentary ratification, it encourages member states to strengthen institutional checks and public participation in resource contracting.

Similarly, the Extractive Industries Transparency Initiative (EITI), of which Ghana, Tanzania, and the DRC are all implementing members, promotes disclosure of extractive contracts as a condition of membership.[50] The 2019 EITI Standard, particularly Requirement 2.4, calls for publication of the full text of any contracts and licenses that provide the terms attached to the exploitation of oil, gas or minerals.[51] While not legally binding, EITI standards have influenced domestic reforms by embedding transparency expectations into governance norms and donor conditionalities.

These soft-law frameworks complement domestic legislation by reinforcing the moral and policy rationale for parliamentary oversight. They establish benchmarks that African parliaments can use to evaluate the adequacy of their legal regimes, ensuring that national resource governance aligns with international best practices.

Comparatively, Ghana's model represents the strongest form of legislative control among the three jurisdictions. Its constitutional embedding of ratification makes parliamentary approval a condition precedent to legality, whereas Tanzania's statutory regime allows for political flexibility and the DRC's system relies primarily on ex-post transparency. However, the Ghanaian model's strength is partly offset by its procedural vagueness and limited parliamentary capacity. The absence of codified processes and expert support

48 *Skaltsounis, P* (2025) (n 48), pp 76–88.

49 African Union, Africa mining vision, Available at <https://www.delvedatabase.org/uploads/resources/Africa-Mining-Vision.pdf> Last assessed on 15th September 2025.

50 *Nadibaidze, T., & Maisuradze, D*. (2016). Extractive Industries Transparency Initiative (EITI). *Institute for Development of Freedom of Information*, *12*.

51 Extractive Industries Transparency Initiative. (2019, June 17). *The EITI standard;* Available at *<2019*. https://eiti.org/sites/default/files/attachments/changes-to-2016-standard-bc274.pdf> assessed 9 October 2025.

structures can render ratification a perfunctory exercise rather than a substantive review. Tanzania, despite its statutory clarity, risks politicisation due to executive influence. The DRC's transparency-only approach may promote disclosure but lacks the legal force of veto or approval that defines genuine legislative oversight.

D. Benefits of Parliamentary Ratification

Parliamentary ratification of mining contracts offers an essential mechanism for reinforcing democratic accountability, enhancing legal certainty, and embedding transparency within the governance of natural resources.[52] In Africa, where executive dominance and opaque contracting have historically undermined public confidence in the extractive sector,[53] legislative involvement in contract approval represents both a constitutional safeguard and a policy innovation. One of the most direct benefits of parliamentary ratification is the enhancement of transparency in extractive sector governance.[54] Ratification introduces a mandatory stage of public disclosure that compels the executive to lay agreements before the legislature. In Ghana, this process has contributed to the opening of contract negotiations to public scrutiny. Parliamentary debates, though sometimes limited are held in open session making it possible for the media to report on the terms and controversies surrounding mining agreements.[55] This transparency, even when imperfect, serves to legitimise the process by demonstrating that the contracts affecting public resources are subject to democratic oversight.

By contrast, jurisdictions without a formal ratification requirement, such as the DRC and Nigeria, often struggle to achieve comparable levels of visibility. Although the DRC's Mining Code requires that contracts be published in official sources, the process occurs *after* execution, denying Parliament and the public the opportunity for meaningful input before commitments are finalised.[56] Ghana's pre-execution ratification model thus offers a stronger mechanism for ex-ante accountability, ensuring that agreements are scrutinised before they acquire legal effect. This is in sharp contrast to Nigeria where the executive dominate the negotiations and signing of mining contracts without any legislative role for parliament. In fact, in the oil and gas industry, the presidency often plays a direct role in the

52 John Akparibo Ndebugre v. The Attorney General, Aker Asa and Chemu Power Company Ltd Dlsc2855.

53 *Ayangafac, C., Bulcha, D., & Bekele, S.* (2016). Why Do Some African Countries Negotiate Unfair Natural Resource Contracts? In Public Procurement Reform and Governance in Africa (pp. 51–73). New York: Palgrave Macmillan US.

54 John Akparibo Ndebugre v. The Attorney General, Aker Asa and Chemu Power Company Ltd Dlsc2855.

55 *Dzisah, W. S.* (2016). The Print media coverage of Ghana's legislature. Journal of Communications, Media and Society (JOCMAS), 3(1), 3–29.

56 *Gervasoni, A.* (2024) (n 36).

assignment of petroleum rights without any participation from outside the executive arm of government.

However, transparency plays a preventive role in curbing corruption and elite capture. The public nature of parliamentary debate deters the negotiation of lopsided contracts that disproportionately benefit foreign investors or politically connected actors.[57] As the Natural Resource Governance Institute (NRGI) has argued, transparency in extractive contracting reduces the informational asymmetries that allow private interests to exploit state weaknesses.[58] Parliamentary ratification, by mandating disclosure and debate, therefore strengthens the integrity of the contracting process and fosters public trust in state institutions.

I. Strengthening Constitutional Checks and Balances

Parliamentary ratification contributes to the constitutional balance of power. In most African democracies, the executive branch wields extensive authority over natural resource management.[59] Parliamentary ratification introduces a constitutional counterweight by requiring that executive actions be subjected to legislative consent. In Ghana, the Supreme Court has affirmed that the executive cannot unilaterally bind the Republic in natural resource transactions without parliamentary approval.[60] It underscores the position that legislative consent is a condition precedent to the validity of natural resource agreements.[61] Thus Parliament not merely an approving body but also a constitutional co-author of natural resource policy. From a theoretical perspective, this aligns with Madisonian principles of checks and balances, ensuring that no single branch of government monopolises control over resource wealth.[62] It also operationalises the fiduciary principle underlying resource

57 *Wang, V*. (2005). The accountability function of parliament in new democracies: Tanzanian perspectives. Chr. Michelsen Institute.

58 Pitman, R. Contract Transparency is an Extractive Industries Success Story—But It's Not Over Yet. Blog Post 8th December 2020. Natural Resources Governance Institute; Available at < https://resourcegovernance.org/articles/contract-transparency-extractive-industries-success-story-its-not-over-yet#:~:text=With%20the%20coronavirus%20pandemic%20and,changes%20will%20impact%20national%20assets.&text=Finally%2C%20as%20governments%20and%20companies,Resource%20Governance%20Institute%20(NRGI)> Last assessed 9th October 2025.

59 *Okeke-Uzodike, U., Amao, O. B., Idoniboye-Obu, S., & Whetho, A.* (2014). From adversity to prosperity: Towards a 'new'governance paradigm for natural resource management in Africa's conflict zones. African Security Review, 23(3), 243–263.

60 The Republic v High Court, General Jurisdiction 6, Accra; Ex Parte Attorney-General (Exton Cubic Group Ltd) [2020] GHASC 97.

61 The Republic v High Court, General Jurisdiction 6, Accra; Ex Parte Attorney-General (Exton Cubic Group Ltd) [2020] GHASC 97.

62 *James Madison*, Federalist Papers No. 51 (1788).

governance, namely, that the state holds natural resources in trust for the people and must account for their management through representative institutions.[63]

In Tanzania, the Natural Wealth and Resources (Permanent Sovereignty) Act 2017 similarly embeds parliamentary review as a safeguard against executive discretion.[64] The Tanzanian legislature's power to review and renegotiate unconscionable contracts represents an effort to recalibrate the balance between state sovereignty and investor interests. Although executive influence remains strong, the statutory requirement of parliamentary review provides a formal avenue for oversight that can evolve into substantive accountability with institutional maturity. Parliamentary ratification also enhances legal certainty and contractual legitimacy. When a contract is ratified by Parliament, it becomes imbued with the authority of law and gains stability within the domestic legal order. This dual effect benefits both the state and investors by reducing the risk of future invalidation and reinforcing confidence in the rule of law. In Ghana, once a natural resource agreement is ratified, it is insulated from unilateral alteration by the executive.[65] This legal sanctity ensures that subsequent governments cannot easily repudiate or modify the terms of the agreement without risking legal action. Investors, in turn, perceive ratified agreements as more secure, while citizens can rely on the fact that public representatives have vetted the transaction. This fosters an environment of predictable governance, balancing private investment confidence with public accountability.

Comparatively, in jurisdictions such as the DRC, where executive approval alone confers contractual validity, agreements are more likely to be vulnerable to legal and political disputes.[11] Parliamentary ratification thus offers an institutional guarantee that contracts conform to constitutional and statutory norms, reducing the incidence of arbitral challenges and the reputational costs of policy reversals.

Ratification also contributes to policy coherence by integrating resource contracting into broader national development priorities. Through parliamentary debate, legislators can assess whether proposed agreements align with national economic strategies, environmental protection objectives, and community development policies.[66] In Ghana, parliamentary committees often invite the Ministry of Finance, the Environmental Protection Agency (EPA), and the Minerals Commission to provide technical inputs before ratification. Although these interactions are not always systematic, they promote a degree of inter-agency coordination that is absent in purely executive-driven models. Ratification thereby transforms contract approval into a multi-sectoral process that considers fiscal, environmental, and social implications.

63 African Commission on Human and Peoples' Rights, Principles and Guidelines on Economic, Social and Cultural Rights (2009).

64 Natural Wealth and Resources (Permanent Sovereignty) Act 2017 (Tanzania), Section 6.

65 Constitution of Ghana 1992, Article 75(2).

66 Minerals and Mining Act 2006 (Ghana), Section 5–6. The sections provide broad policy guidelines on determining areas that can safely be the subject matter of mineral rights and the mode by which minerals mined in Ghana can be disposed off.

Similarly, Tanzania's statutory framework enables Parliament to revisit contracts that undermine local content obligations or environmental safeguards.[67] This form of ex-post correction ensures that extractive agreements remain consistent with evolving public policy objectives. The DRC's transparency provisions, though less robust, have similarly enabled parliamentary committees to question the terms of controversial agreements, especially where issues of debt sustainability or environmental degradation arise.[68] Through these mechanisms, parliamentary ratification advances a vision of extractive governance that is not purely transactional but developmental, linking resource exploitation to broader societal goals of equity, sustainability, and national transformation.

II. Public Participation and Democratic Ownership

The process of parliamentary ratification also fosters democratic ownership of natural resource governance.[69] By bringing extractive agreements into the public domain, it allows citizens, through their representatives to influence decisions about how their natural endowments are managed. Although the Ghanaian process remains largely elite-driven, ratification creates an avenue for civil society advocacy and public discourse. Media coverage and civil society briefings surrounding high-profile mining and petroleum agreements have helped demystify the contracting process and increase public awareness of the economic stakes involved.[70] This participatory dimension enhances the legitimacy of state decisions and mitigates public resentment that often accompanies opaque or unpopular deals. Moreover, the Africa Mining Vision (AMV) and the EITI Standard both emphasise the need for public participation in extractive governance.[71] Ratification, by opening legislative space for public observation and input, operationalises these soft-law commitments in a tangible way. It serves as a bridge between the constitutional ideal of sovereignty of the people and the practical realities of state-led resource management.

67 Natural Wealth and Resources (Review and Renegotiation of Unconscionable Terms) Act 2017 (Tanzania), s 4.

68 Resource Matters and Centre Carter, Analyse des Contrats Sino-Congolais: Transparence et Défis (2021) 5–7.

69 Political parties and natural resource governance A practical guide for developing resource policy positions 2018. Natural Resource Governance Institute; Available at < https://www.idea.int/sites /default/files/publications/political-parties-and-natural-resource-governance.pdf > assessed 9 October 2025.

70 IMANI Urges Parliament to Reject Flawed Atlantic Lithium Agreement, Online newspaper article dated 12 November 2025. Available at <https://www.newsghana.com.gh/imani-urges-parliament-to-reject-flawed-atlantic-lithium-agreement/> Last assessed on 13th November 2025.

71 African Union, Africa Mining Vision (2009). Available at <https://au.int/sites/default/files/documents/30995-doc-africa_mining_vision_english_1.pdf> assessed 9 October 2025; EITI Standard 2019 (2019) Requirement 2.4. Available at https://api.eiti.org/sites/default/files/2022-01/EN%20EITI%20GN_2.4.pdf Last assessed on 12th October 2025.

A comparative analysis suggests that Ghana's constitutional model provides the strongest legal guarantee of the benefits outlined above, particularly in ensuring transparency, legality, and legitimacy. However, its practical impact is constrained by institutional weaknesses limited technical capacity, insufficient public disclosure, and political dominance of the executive. Tanzania's statutory model, though driven by resource nationalism, demonstrates how legislative empowerment can reshape the extractive governance landscape without constitutional amendment. The DRC's transparency model, while lacking formal ratification, underscores the importance of disclosure as a precursor to meaningful accountability. Together, these experiences illustrate that the efficacy of parliamentary ratification depends not merely on its legal existence but on the quality of its implementation. Ratification must be accompanied by procedural clarity, technical capacity, and an enabling political environment if its theoretical benefits are to be fully realised.

E. Challenges and Limitation of Parliamentary Ratification

While the constitutional requirement for parliamentary ratification of mining contracts represents a major step toward democratic accountability and transparent governance, its practical implementation in Africa, particularly in Ghana has revealed several institutional, procedural, and political weaknesses. These challenges limit the transformative potential of legislative oversight and raise questions about whether ratification, as currently practised, effectively ensures accountability or merely adds a procedural formality to the contracting process.

The most persistent limitation to effective parliamentary ratification in Ghana and other African states is the enduring dominance of the executive branch in governance.[72] Although Article 268(1) of the 1992 Constitution of Ghana mandates parliamentary approval for natural resource agreements, the process is often driven and controlled by the executive, which retains discretion over contract negotiation, timing, and presentation to Parliament.[73] In practice, Parliament typically receives mining contracts for approval after negotiations have been completed by the Ministry of Lands and Natural Resources and the Minerals Commission. At this stage, Parliament's role becomes largely reactive and constrained, with limited opportunity to modify substantive terms.[74] The absence of a statutory mechanism empowering Parliament to propose amendments or to delay approval until concerns are addressed further weakens its oversight function.[75] This executive dominance is exacerbated

72 *Buur, L*., et al (2020) (n 4); pp 918–930.

73 *Buur, L*., et al (2020) (n 4); pp 918–930.

74 *Buur, L*., et al (2020) (n 4); pp 918–930.

75 John Akparibo Ndebugre v. The Attorney General, Aker Asa and Chemu Power Company Ltd Dlsc2855. The Supreme Court of Ghana in the case held that parliament's role is limited to approval of the initial agreement. Once ratified, the executive remains responsible for its implementation. Parliament's ratification does not give it continuing control over the contract's life cycle.

by partisan politics. In Ghana's majoritarian parliamentary system, the ruling party almost always holds a majority in Parliament, allowing the executive to secure easy ratification of its preferred contracts.[76] Consequently, debates are often perfunctory and lack substantive scrutiny. Members of Parliament (MPs) rarely challenge the executive's position for fear of political repercussions, particularly when the party hierarchy exerts control over committee assignments, leadership positions, and electoral endorsements.[77]

A similar pattern is observed in Tanzania, where, despite the 2017 legislative reforms that enhanced parliamentary powers over natural resource contracts, the dominance of the Chama Cha Mapinduzi (CCM) party has limited genuine legislative independence.[78] The DRC presents an even more executive-centred model, where parliamentary involvement remains minimal, and contract approval occurs almost exclusively within the Ministry of Mines.[79] Thus, across jurisdictions, executive control continues to overshadow legislative autonomy, undermining the intended purpose of parliamentary ratification as a constitutional check on power.

Parliamentary ratification requires not only political will but also technical expertise. Mining contracts are highly complex legal instruments involving fiscal regimes, environmental standards, stabilization clauses, and dispute resolution mechanisms.[80] Effective scrutiny therefore depends on the ability of legislators and parliamentary committees to comprehend and interrogate these provisions. The absence of a permanent technical advisory unit dedicated to extractive industries weakens institutional memory. Each Parliament begins afresh with new members who may lack prior experience with mining contracts.[81] Capacity-building initiatives supported by external actors such as the Natural Resource Governance Institute (NRGI) and the Ghana Extractive Industries Transparency Initiative (GHEITI), have improved awareness but have not yet achieved structural sustainability.[82]

76 *Gyimah-Boadi, E., & Prempeh, H. K*. (2012). Oil, politics, and Ghana's democracy. Journal of democracy, 23(3), 94–108.

77 *Olaore, O., & Stapenhurst, R*. (2018). Parliamentary Oversight of Extractive Industries. JACL, 2, 1.

78 *Omary, I. N*. (2023). One-Party Dominance and Democratic Backsliding in Botswana and Tanzania: Whither Peace and Development?

79 *Talla, M. M.* (2010). Revisiting mining contracts in the DRC: Impossible Transparency in a Weak State. TRAVAIL, capital et société, 43(1).; Center, C. (2017). A state affair: privatizing Congo's copper sector. Atlanta, GA: The Carter Center.

80 *Phillips, S. K*. (2025). Mining law and governance: structures and challenges; In Comparative environmental law (pp. 389–415). Edward Elgar Publishing.

81 *François, A., & Grossman, E*. (2015). How to define legislative turnover? The incidence of measures of renewal and levels of analysis. The Journal of Legislative Studies, 21(4), 457–475.

82 Strengthening Parliamentary Law-making and Oversight of the Oil, Gas and Mining Sectors. Undated Report by Natural Resources Governance Institute. Available at <https://resourcegovernance.org/sites/default/files/documents/strenghtening-law-making-brochre.pdf > Last assessed on 12th October 2025.

The problem is not unique to Ghana. In Tanzania, legislative committees often lack the financial and technical resources to evaluate complex contracts, leading to superficial debates and reliance on executive summaries.[83] The DRC faces even greater challenges, with legislative review often constrained by inadequate legal expertise and chronic underfunding of parliamentary operations.[84] Without significant investment in institutional capacity, the effectiveness of ratification remains largely symbolic.

I. Lack of Transparency and Limited Public Participation

Although parliamentary ratification is meant to promote transparency, the process itself often suffers from opacity. In Ghana, the Constitution does not require that contracts be published prior to ratification, nor does it mandate public hearings or consultations.[85] As a result, the public and civil society organisations have little opportunity to review or comment on proposed agreements before they are approved. In practice, many contracts are laid before Parliament shortly before adjournment, leaving minimal time for debate or public input.[86]The absence of a statutory disclosure framework compounds the problem, as ministries and parliamentary secretariats exercise discretion over whether and when to release contract documents. Even when agreements are eventually published, they may appear long after ratification, reducing opportunities for accountability.

This contrasts with emerging international best practices, such as those under the Extractive Industries Transparency Initiative (EITI), which encourages pre-ratification disclosure of contract terms.[87] In Tanzania, while the 2017 reforms have strengthened public discourse around extractive governance, Parliament still conducts most reviews in closed sessions.[88] In the DRC, the Mining Code's requirement to publish contracts within a defined number of days after signature provides transparency after the fact, but without parliamentary ratification, the public cannot influence decisions in real time.[89]

83 *Baregu, M*. (2004), Parliamentary oversight of defence and security in Tanzania's multiparty parliament. Guarding the Guardians. Pretoria: Institute for Security Studies. Available at <www. iss. co. za/index. Php> Last assessed on 12th October 2025.

84 *Magha-A Ngimba Charles Gimba*, Analysis of the D.R. Congo Legal Framework Pertaining to the Mining Industry: Comparative Perspectives from the South African Framework (PhD thesis, Aston University 2024).

85 Constitution of Ghana 1992, Article 268(1).

86 *Ayee, J., Soreide, T., Shukla, G. P., & Le, T. M*. (2011). Political economy of the mining sector in Ghana. World Bank Policy Research Working Paper, (5730).

87 *Heller, P. & Westenberg, E*. (2016) Five Steps to Disclosing Contracts and Licences in EITI. Natural Resources Governance Institute. Available at https://resourcegovernance.org/sites/default/files/nrgi_EITI-Contracts.pdf. Last assessed on 12th October 2025.

88 *Poncian, J., & Kigodi, H. M*. (2018). Transparency initiatives and Tanzania's extractive industry governance. Development Studies Research, 5(1), 106–121.

89 Mining Code (DRC) 2002 (as amended in 2018).

The lack of transparency undermines public confidence in the ratification process and reinforces perceptions that resource governance remains elite-driven.[90] Without institutionalised procedures for public participation, such as stakeholder hearings, open-access repositories, or media engagement parliamentary ratification risks replicating the opacity it is designed to eliminate.

II. Procedural Ambiguities and Absence of Statutory Guidelines

A further limitation arises from the absence of clear statutory procedures governing how parliamentary ratification should occur. Article 268(1) of the Ghanaian Constitution establishes the *obligation* to obtain parliamentary approval but does not specify the process by which it must be done. Neither the Minerals and Mining Act 2006 (Act 703) nor any subsidiary legislation provides detailed guidance on how agreements are to be presented, debated, or approved. This procedural lacuna has led to inconsistencies in practice. There is no standard timeline for deliberation, and in some instances, Parliament has ratified contracts within days of receipt. Such variability undermines procedural fairness, invites legal uncertainty, and weakens the constitutional significance of ratification.

Comparatively, Tanzania's Natural Wealth and Resources (Permanent Sovereignty) Act 2017 provides a clearer statutory process, including provisions for review and renegotiation of unconscionable terms.[91] The DRC's Mining Code similarly outlines procedural steps for contract approval within the executive branch, though not within Parliament. Ghana's lack of codified ratification procedures stands out as a critical gap that must be addressed through legislative reform. Codification would not only promote consistency but also strengthen the enforceability of Article 268 by transforming it from a broad constitutional principle into a precise administrative process with defined roles, timelines, and consequences for non-compliance.

III. Judicial and Institutional Enforcement Gaps

Although Ghana's Supreme Court has underscored the constitutional necessity of parliamentary ratification, enforcement remains weak. In the Exton Cubic case, the Court held that unratified agreements are void, but no formal institutional mechanism exists to ensure that all contracts are submitted for ratification. There have been instances where resource agreements were implemented without parliamentary approval, either due to administrative oversight or deliberate executive expediency. The absence of sanctions for non-compliance and the lack of a public registry of ratified contracts make detection and redress difficult. Furthermore, the judiciary's reliance on ex-post adjudication means that irregularities may only come to light after disputes arise.

90 *Okada, K., & Shinkuma, T*. (2022). Transparency and natural resources in sub-Saharan Africa. Resources Policy, 76, 102574.

91 Natural Wealth and Resources (Permanent Sovereignty) Act 2017 (Tanzania).

In Tanzania and the DRC, judicial enforcement is even weaker. Courts rarely review contract ratification procedures, viewing them as political questions outside the judicial domain. The lack of institutional synergy between the judiciary, Parliament, and oversight bodies limits accountability and perpetuates procedural laxity.

To realise its full potential, parliamentary ratification must evolve from a procedural ritual into a substantive process of accountability and deliberation. This requires reforms to strengthen legislative independence, codify ratification procedures, build technical capacity, and institutionalise transparency. Without such reforms, ratification risks remaining a formalistic exercise that legitimises executive decisions rather than subjecting them to democratic scrutiny.

F. Policy and Legal Reform

The preceding analysis demonstrates that, while parliamentary ratification of mining contracts provides a constitutional anchor for democratic oversight and public accountability, the mechanism remains underdeveloped in practice. Executive dominance, procedural uncertainty, and limited capacity have rendered the process largely formalistic. To transform parliamentary ratification into an effective governance tool, both Ghana and other African states must adopt targeted reforms that address legal, institutional, and political deficiencies. This section proposes five interrelated reforms: (1) codification of ratification procedures; (2) institutional strengthening of Parliament; (3) integration of transparency and stakeholder participation; (4) regional peer learning and harmonisation; and (5) broader governance alignment.

I. Enactment of Specific Legislation on Ratification Procedures

A key reform priority is the codification of clear procedural rules governing how parliamentary ratification should be conducted. Although Article 268(1) of the 1992 Constitution of Ghana mandates parliamentary approval for natural resource agreements, it does not specify the steps involved. The absence of such clarity has allowed inconsistency in how contracts are laid, debated, and approved. To resolve this, Parliament should enact a natural resources ratification procedures law or alternatively, introduce a dedicated part within the Minerals and Mining Act 2006 (Act 703) as well as other analogous natural resources legislation to address the following. The law should specify the timeline for submission and consideration of contracts. It should indicate the roles of the relevant parliamentary committees, the criteria for assessing contracts, including compliance with national policy, fiscal soundness, and environmental obligations. The law should outline the right of Parliament to request clarifications, amendments, or renegotiations. It should also indicate the legal consequences for non-compliance, such as rendering unratified contracts void ab initio after a defined period.

Codification would ensure uniform practice, provide legal certainty, and reduce executive discretion. Tanzania's Natural Wealth and Resources (Permanent Sovereignty) Act 2017, which operationalises parliamentary review of extractive agreements, offers a relevant model for procedural clarity.[92] Such legislation would further align Ghana with the Africa Mining Vision (AMV) and the Extractive Industries Transparency Initiative (EITI) standards, both of which emphasise the importance of formalised oversight mechanisms.

II. Strengthening Parliamentary Capacity and Technical Expertise

Effective legislative scrutiny depends on Parliament's institutional strength. The complexity of mining contracts requires MPs to possess or access technical expertise in law, economics, geology, and environmental science.[93] Without such knowledge, ratification risks being a mere rubber stamp. Ghana should establish a Parliamentary Technical Advisory Unit on Extractive Industries, modelled after the UK's Parliamentary Office of Science and Technology (POST) or Nigeria's National Assembly Budget and Research Office (NABRO). The unit would provide non-partisan, expert analyses of contracts and their fiscal and environmental implications. In addition, reforms should include continuous training programmes for MPs and their backroom staff on resource governance and contract law. There should be institutional partnerships with universities, think tanks, and civil society to provide policy briefings and legal reviews. The government should consider adequate budgetary allocation for oversight committees so that, among other things, they can integrate independent consultants during contract reviews to enhance objectivity.

Building such capacity would enable Parliament to interrogate executive submissions more rigorously, align contract terms with national priorities, and ensure that legislative decisions are informed rather than political. Tanzania's experience illustrates the benefits of equipping Parliament with professional staff capable of interpreting fiscal and environmental data.[94] Similarly, Ghana's collaboration with GHEITI and the Natural Resource Governance Institute (NRGI) should be institutionalised and expanded to provide continuous technical support rather than ad hoc interventions.

III. Institutional Transparency and Stakeholder Participation

Transparency and public participation are central to the democratic legitimacy of ratification. Yet, as demonstrated earlier, Ghana's process remains largely closed to public scrutiny. Mining contracts are often laid before Parliament without prior publication or

92 Natural Wealth and Resources (Permanent Sovereignty) Act 2017 (Tanzania).

93 *Evelyn, D*. (2019), Balancing mining contracts and mining legislation: experiences and challenges, Mineral Economics, 32(2), 153–169.

94 *Amundsen, I.* (2010) Support for Parliaments-Tanzania and Beyond (Chr. Michelsen Institute 2010); Available at <https://www.cmi.no/publications/file/3822/support-for-parliaments-tanzania-and-beyond.pdf> assessed 9 October 2025.

stakeholder consultation. To remedy this, Ghana should legislate for mandatory disclosure of all mining agreements prior to parliamentary consideration. The proposed framework for natural resources ratification procedures could require publication of the full text of draft agreements at least 30 days before the agreement is laid before parliament. It can also include, open parliamentary hearings to solicit inputs from affected communities, trade unions, and civil society organisations. By establishment an online contract repository accessible to the public, it would encourage greater public participation. Such provisions would align Ghana's practice with the EITI Standard 2019, which calls for proactive disclosure of contracts and beneficial ownership information.[95] Public participation would also reduce corruption risks, enhance public trust, and democratise the governance of mineral resources. The DRC's Mining Code, which mandates publication of contracts within 60 days, represents an incremental step toward transparency, though Ghana can go further by ensuring participation *before* rather than *after* ratification.

IV. Promoting Regional Standards and Peer Learning

The governance of extractive industries in Africa increasingly benefits from regional cooperation and the diffusion of best practices. Ghana, Tanzania, and the DRC all face similar challenges in balancing investor confidence with public accountability. To strengthen ratification systems, these countries should engage in inter-parliamentary peer learning and adopt regional policy frameworks.

At the ECOWAS level, the Directive on the Harmonisation of Guiding Principles and Policies in the Mining Sector (2009) encourages member states to ensure parliamentary participation and community engagement in mining governance.[96] The Africa Mining Vision Action Plan (2011) also highlights the importance of legislative oversight as a pillar of transparent and equitable resource management.[97] Ghana could take the lead in developing a Model Parliamentary Ratification Framework within ECOWAS or the African Legal Support Facility (ALSF), offering a template for standardised procedures across the continent. This could include guidelines on public disclosure, technical evaluation, and post-ratification monitoring. Peer review mechanisms, similar to the African Peer Review Mechanism (APRM) in governance, could be extended to natural resource management, creating incentives for compliance and learning through benchmarking.[98]

95 Extractive Industries Transparency Initiative (EITI), EITI Standard 2019 (2019) Requirement 2.4.

96 ECOWAS Directive on the Harmonisation of Guiding Principles and Policies in the Mining Sector (2009).

97 African Union, Africa mining vision, Available at <https://www.delvedatabase.org/uploads/resources/Africa-Mining-Vision.pdf> Last assessed on 15th September 2025.

98 *Mapuva, J.* (2011), The African Peer Review Mechanism: Lessons from the Pioneers, Journal of Contemporary African Studies, 29(3), 358–359.

V. Integrating Ratification into Broader Resource Governance Reforms

Parliamentary ratification should not be viewed in isolation but as part of a comprehensive resource governance architecture. The process must connect seamlessly with related frameworks on contract negotiation, revenue management, environmental protection, and local content regulation. In this direction, reforms could include linking parliamentary ratification to pre-negotiation disclosure requirements, ensuring that the executive consults Parliament before contract terms are finalised. It can also co-ordinating with the Public Procurement Authority (PPA) and the Attorney-General's Department to ensure that contracts comply with domestic procurement and legal standards. In addition, ratification can be embedded within national development planning frameworks. There can also be a post-ratification monitoring to evaluate whether contractual obligations such as royalty payments, environmental restoration, and community development projects, are being fulfilled.[14] By integrating these reforms, Ghana and its peers can move toward a more holistic and accountable extractive governance model that balances efficiency, sovereignty, and sustainability.

G. Conclusion

Parliamentary ratification of mining contracts represents one of the most significant mechanisms for embedding democratic accountability in the governance of Africa's extractive industries. It operationalises the constitutional principles of separation of powers, public participation, and the fiduciary duty of the state to manage natural resources on behalf of its citizens. Within the African context where executive discretion over mineral resources has historically been unchecked, the legal requirement of legislative approval provides a constitutional counterweight to opacity and elite capture.

Ghana's experience under Article 268 of the 1992 Constitution illustrates both the promise and the pitfalls of this system. The Ghanaian framework provides a clear constitutional obligation, reinforced by judicial authority, that no mining contract shall take effect without parliamentary ratification. This requirement, by subjecting executive agreements to legislative scrutiny, has enhanced the legitimacy of mining governance and introduced an important layer of transparency. However, as this study has demonstrated, the potential of this constitutional safeguard remains undermined by executive dominance, limited institutional capacity, procedural ambiguities, and a lack of systematic transparency. The comparative insights from Tanzania and the Democratic Republic of Congo (DRC) reveal that similar tensions exist across Africa's resource governance landscape. Tanzania's statutory reforms demonstrate the value of procedural codification and political will in strengthening legislative oversight, while the DRC underscores the limits of transparency without formal ratification. The Ghanaian model, therefore, occupies a middle ground, constitutionally robust yet operationally fragile, offering valuable lessons for legal and institutional reform across the continent.

To transform parliamentary ratification from a procedural formality into a substantive instrument of democratic control, African states must institutionalise clear procedures, strengthen parliamentary capacity, ensure public participation, and align domestic laws with regional and international best practices. Ultimately, the effectiveness of ratification will depend not merely on the existence of constitutional provisions, but on the political culture of accountability that sustains them.

When properly implemented, parliamentary ratification can bridge the gap between executive authority and public interest, ensuring that Africa's natural resource wealth serves as a foundation for inclusive development rather than a source of political contestation. It embodies the principle that natural resources belong to the people, and that their exploitation must be subject to the scrutiny of those elected to represent them.