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Intergenerational Versus Intragenerational Equities and the Development of Resource-Rich But Poor Countries: The Case of Ghana

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Abstract
The fundamental objective of the paper is to proffer credible and empirical evidence to show that whilst the concept of intergenerational equity may be laudable, the proposition by the intergenerational equity theorists that a reasonable portion of resource revenue ought to be saved in financial instrument is not a prudent policy for the management of natural resource revenue in countries currently experiencing under development.

The paper seeks to argue that basic amenities like education and health, which are currently in huge deficit, must be provided for in the country before a policy for saving of revenue in financial instruments are fashioned out and implemented in Ghana. This stance is buttressed by the legitimate concern that monies be locked up in some financial institutions (mostly of foreign origin) whilst the country borrows huge sums of money from these same foreign sources at huge interest. The intergenerational equity proposition is therefore seen as a principle that is rooted in antiquity.

Recommendations made include the following; that resource-rich but poor countries ought to put in place legal and institutional framework and where they exist they must be resourced and all enforced to ensure that the country derives maximum benefits from resource endowment. Also, resource-endowed but poor countries ought to sieve policies imposed or introduced by foreign sources like the IMF and the World Bank before adopting and implementing them in their various countries.
Keywords: Intergenerational equity, Intragenerational equity, developing countries, Resource-Rich but poor countries, Ghana

Introduction

Sometime in June 2007, petroleum was discovered in commercial quantities off the West Coast of Ghana, referred to as the Jubilee Fields. However, the first production of oil in the Jubilee fields occurred in December 2010. The Jubilee Field is estimated to have about 80 million barrels of proven reserves and upside potential of about 3 billion barrels of oil. [1]It has also been said that when considered as a proportion of Ghana's annual income, production from the Jubilee Field at its peak is estimated to generate up to 30% of the government's income, if pegged at a price of US$75/barrel.[2] Ghana's oil reserves can be said to be relatively small on a global scale as its potential three billion barrels are significantly below those of major oil producers such as Saudi Arabia with 265 billion, Canada with 175 billion, Venezuela with 95 billion and Nigeria with 38 billion. However, that the petroleum revenue will impact on the Ghanaian economy since production in 2010 cannot be over estimated. For instance, it has been predicted that in view of Ghana's levels of income, the reserves are likely to comprise a relatively significant portion of the Gross Domestic Product (GDP) of the country. It is predicted further that Ghana's estimated oil reserves at its peak, may place it fifteenth (15th) in the world by barrels of oil per dollar of GDP of US$1.0 billion per year on the average.

This estimated reserve is about the same amount of development assistance Ghana receives per annum from its foreign donors.[3] Ghana's real Gross Domestic Products (GDP) growth in 2011 was 14.4% comprising 6.9% from oil revenue and 7.5% representing revenue from the other sectors. This means that revenue from oil alone accounted for about 48% of Ghana's real GDP growth in 2011, exceeding the conservative estimates referred to above.[4] Indeed critical sectors like agriculture and road construction, which suffered negative growth in 2010, would have performed worse but for the injection of a portion of the petroleum revenue comprising

[1]Public Interest and Accountability Committee (PIAC) [2012]
[2]Rick Vander Ploeg, Radoslav (Radek) Stefanski and Samuel Wills – Harnessing Oil Revenue in Ghana, www.theigc.org - 15 July, 2011, pgs 2-3 Accessed on 24.05.13
[3] Ibid Rick et al. p.1
[4] Ghana's 2012 Budget p.15

GH13, 147,652.00 and 134,102,367.20 or its dollar equivalent of $8,374,300 and $85,415520.5 respectively as at December 2011.

The evidence shows that there would have been further negative growth in road investments and worsening growth for agriculture investments without the injections from petroleum revenue aforementioned.[1] Again, it is estimated that Ghana could produce 120 million cubic feet of gas per day, which upon completion of the gas plant in the Western Region will be processed to earn Ghana estimated revenue of US$260 million annually per a price of US$2 per a thousand cubic feet.[2] On the whole, gas and related activities and taxes therefore could earn the country more than US$260 million per year.

In general terms, petroleum serves myriad and diverse purpose, including electricity, transportation, industrial and domestic applications, heating and indeed over 2,000 end-products. Furthermore, petroleum is said to be the most valuable commodity in the world. There is evidence to show that two (2) billion dollars a day now changes hands in worldwide petroleum transactions. It is indeed referred to as "the world's first trillion dollar industry in terms of annual dollar sales" [3]. In relation to the International Oil Companies (I0Cs) engaged in the petroleum exploitation, extraction and refinery, and some limited number of citizens in the petroleum producing countries, the Petroleum industry provides jobs for millions of people worldwide. [4] The ILO has further estimated that each job in petroleum exploration, extraction and refinery generates one to four indirect jobs in the industry through the supply of the needed inputs or benefits from value-added activities. [5]

There is evidence to the effect however that most countries, especially developing countries that are endowed with natural resources such as petroleum spend their energies and resources to fashion out legal and institutional framework such as the Petroleum Revenue Management Act[6] that will ensure that their natural resources will secure them development and improve the living conditions of the present generation. On the contrary, very little is done to put in place efficient legal and institutional framework to ensure that natural resources are managed efficiently to benefit generations yet unborn. Indeed, where these institutional and legal framework exist, very little is done by such countries to transform the legal and institutional framework into practical steps, including education on and commitment to the enforcement of the laws and regulations geared towards the achievement of this goal in contumacious disregard of the widely accepted principle of intergenerational equity and its bed-mate intra-generational equity. In some instances, the legal and institutional framework are nothing more than a wholesale importation of laws and policies from the industrialized economies who in some cases impose certain policies on the underdeveloped countries through the IMF and the world Bank in most cases without modification to suit the peculiar needs of the people in that particular country. One of such policies is the investment of petroleum revenue in foreign financial instruments.[7]

The fundamental question for determination by this paper is whether or not the proposition by intergenerational equity proponents to the extent that revenue from natural resources ought to be saved in some financial instruments to ensure that future generations also benefit from resource endowment is feasible as far as resource-rich but poor countries such as Ghana is concerned. The paper seeks to argue that in view of the undoubted huge deficit in basic amenities like educational that the said basic infrastructure are provided for in the country before a policy for saving of revenue in financial instruments are fashioned out and implemented in Ghana.

Thus question that can legitimately be asked is: Why should monies be locked up in some financial institutions (mostly of foreign origin) whilst the country borrows huge sums of money from these same foreign sources at huge interest. Indeed it is no secret that most of such foreign loans are secured by sovereign guarantee by which the borrowing- State mortgages all its resources however strategic and wherever they may be found.

The fundamental objective of the paper, therefore, is to proffer credible and empirical evidence to show that whilst the concept of intergenerational equity may be laudable, the proposition by the intergenerational equity theorists that a reasonable portion of resource revenue ought to be saved in financial instrument is not a prudent policy for the management of natural resource revenue in countries currently experiencing under development. In the view of the paper, this project will serve as a process for the strengthening of the foundation

[1] PIAC Report supra at pp. 24-25
[2] International Labour Organization (ILO) 2002. Oil and Gas Production; Oil refining Ghttp/www/oil.org/public/English/dialogue/sectors/oilgas.htm
[3] Doyle J. 1994 CRUDE AWAKING: The Oil Mess in America: Wasting Energy Jobs the Environment Washington, DC: Friends Earth.
[4] ILO report supra
[5] Ibid 96 ILO report
[6] The Petroleum Revenue Management Act, 2011 (Act 815)
[7] See the Petroleum Revenue Management Act (Act 815)

for further inquiry by researchers and indeed that all stakeholders may be interested in building on that foundation. It may also serve as a beacon for law and policy makers to fashion out appropriate legal and institutional frameworks geared towards the maximization of the benefits of resource endowment.

Review of Relevant Literature on the Topic

According to Edith Brown Weiss, the concept of intergenerational equity is premised on the principle that; "[e]very generation needs to pass the Earth and our natural and cultural resources least as good condition as we received them."[1] In support of her claim, the author posits that the principle of intergenerational equity is anchored on three basic principles as follows;

"First, each generation should be required to conserve the diversity of the natural and cultural resource base, so that it does not unduly restrict the options available to future generations in solving their problems and satisfying their own values, and should also be entitled to diversity comparable to that enjoyed by previous generations. This principle is called "conservation of options." Second, each generation should be required to maintain the quality of the planet so that it is passed on in no worse condition than that in which it was received, and should also be entitled to planetary quality comparable to that enjoyed by previous generations. This is the principle of "conservation of quality." Third, each generation should provide its members with equitable rights of access to the legacy of past generations and should conserve this access for future generations. This is the principle of "conservation of access."[2]

The principle of intergenerational equity is said to be the central to the concept of sustainable development[3] which in itself borders on the promotion of equitable relationships between generations, as espoused in the Brundtland Commission[4] in which it was established that the concept refers to "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." The commission's report was adopted by the United Nations at The Earth Summit in Rio thus: "Equity derives from a concept of social justice. It represents a belief that there are some things which people should have, that there are basic needs that should be fulfilled, that burdens and rewards should not be spread too divergently across the community, and that policy should be directed with impartiality, fairness and justice towards these ends."[5]

This position is further confirmed by Weiss Brown when she posits that the concept of intergenerational equity is the essence of sustainability which can be possible only if the present generation considers the Earth and its resources …"not only as an investment opportunity but as a trust, passed to us by our ancestors, to be enjoyed and passed on to our descendants for their use."[6] The author states further that members of the present generation are not only beneficiaries of the Earth but also that we "hold the Earth in trust for future generations.[7] The author states further that the principle recognizes the right of each generation to use the Earth's resources for its own benefit, subject to certain constrains that limit the actions of the present generation in dictating how each generation should manage its resources thereby ensuring "a reasonably secure and flexible natural resource base for future generations that they can use to satisfy their own values and preferences."[8]

Whilst general principles of equity address imbalances within a society[9] intergenerational equity seeks

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[1] E. Brown Weiss, 'In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity' (Transnational/United Nations University, 1989, adapted in 'Environmental change and international law: New Challenges and Dimension' Edited by Edith Brown Weiss, United Nations University Press. The United Nations University, 1992 available at http://unu.edu

[2] Ibid

[3] Sharon Beder in 'Costing the Earth: Equity, Sustainable Development and Environmental Economics' New Zealand Journal of Environmental Law, 4, 2000, pp. 227-243.

[4] Also known as the World Commission on Environment and Development 1990, Our Common Future, Australian edn, Oxford University Press, Melbourne, p.85.

[5] The Rio Summit was held in 1992 to discuss what is popularly known 'Agenda 21' pursuant to which the Rio Declaration was made.

[6] See Weiss Brown at n. 12 above.

[7] Ibid

[8] Ibid

[9] For instance article 5(6) of the 1992 Constitution of Ghana stipulates "…the State [of Ghana] shall take appropriate measures to-(b) reasonable regional and gender balance in recruitment and appointment to public offices…(d) [and undertake] even and balanced development of all regions and every part of each region of Ghana …[by] redressing by redressing any imbalance in development between the rural and urban areas."

to preserve opportunities universally for future generations. It also focuses on temporal-that is, it is time-specific-rather than geographic distribution of available resources over time among generations. That is, its main focus is on prudent management and distribution of the benefits of resources for the benefit of a determinable generation. This means that the timeframe over which a principle of intergenerational equity can be said to operate must, for practical purposes, be limited.[1] Sixty years (the rough time lapse between a grandparent's birth that of her grandchild), or ninety years (the length of a long human life) has been cited as a plausible timeframe within which a generation is measured.[2]

There is no doubt that the concept of intergenerational equity is known world-wide. Indeed there is incontrovertible evidence to the effect that: "African customary law contains deep roots for the principle that we are only tenants on Earth, with obligations to past and future generations. Under the principles of customary land law in Ghana, land is owned by a community, which goes on from one generation to the next. This proposition is confirmed by a profound statement by Nana Sir Ofori-Atta who said: "I conceive that land belongs to a vast family of whom many are dead, a few are living, and countless are still unborn."[3] Customary laws and practices of other African communities and indeed of peoples in other areas of the world, also view natural resources as held in common with the community promoting responsible stewardship and imposing restrictions on rights of use.

Similarly, Samuel Awuah-Nyamekye and Paul Sarfo-Mensah have also confirmed that: "Ownership of land is often tied to the living, the dead and unborn. In the various tribal societies, which constitute the traditional areas, the living with the chiefs as the principal trustees is said to be holding the land in care for their ancestors and the unborn. This spiritual connectedness may invoke extreme conservatism to protection and management of land."[4]

It is significant to note that the principle of intergenerational equity is not only rooted in customary laws and practices of other African communities, and indeed of peoples in other areas of the world, also view natural resources as held in common with the community promoting responsible stewardship and imposing restrictions on rights of use…[5] but also in most of the established religions of the world, like Judaism and Christianity.[6]

Additionally, the principle of intergenerational equity is deeply rooted in international law[7]. For instance, the Preamble to the Universal Declaration of Human Rights begins thus: `'Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world..."[8] The concept of intergenerational equity indeed accords with Principle

[1] Alan S. Manne, Equity, Efficiency, and Discounting, in DISCOUNTING AND INTERGENERATIONAL EQUITY

[2] Birnbacher,

[3] The statement is attributed to Nana Sir Ofori-Atta one of the distinguished Chiefs who ruled over the Akyem Abuakwa Traditional Area in Ghana. The statement was cited by N.A. Ollennu, in in his book titled 'Principles of Customary Land Law in Ghana', 4 (Sweet & Maxwell, 1962). For further discussion of relationship between generations, see also A. Allott, Essays in African Law, 70 (Greenwood Press, 1975).

[4] Ensuring Equitable Distribution Of Land In Ghana: Spirituality Or Policy? A Case Study From The Forest-Savanna Agroecological Zone Of Ghana. The International Indigenous Policy Journal Vol. 2 Issue 4, Traditional Knowledge, Spirituality, and Land,10-21-2011, Article 9, p. 1-http://ir.lib.uwo.ca/iipj < Accessed on 24.05.13.See also Busia, K. A. (1951). The Position of the Chief in the Modern Political System of Ashanti. London: OUP.

[5] See Schapera, A Handbook of Tswana Law and Custom (F. Cass, 1970); X. Vlanc Jouvan, "Problems of Harmonization of Traditional and Modern Concepts in the Land Law of French-Speaking Africa and Madagascar," Integration of Customary and Modern Legal Systems in Africa (Africana, 1971). L. Obeng, "Benevolent Yokes in Different Worlds," in (Global Resources: Perspectives and Alternatives, 21-32 (C.N. McRostie, ea. University Park Press, 19%0).

[6] See for example Genesis 1:1-31, 17:7-8. "I will maintain my Covenant between Me and you, and your offspring to come, as an everlasting covenant throughout the ages, to be God to you and to your offspring to come. I give the land you sojourn in to you and to your offspring to come, all the land of Canaan, as an everlasting possession. I will be their God." Genesis 17:7-X. Islamic law is also said to regard man as having inherited "all the resources of life and nature" and having certain religious duties to God in using them.[44] Each generation is entitled to use the resources but must care for them and pass them to future generations. On this see 'Islamic Principles for the Conservation of the Natural Environment', 13-14 (IUCN and Saudi Arabia, 1983) cited in Weiss Brown supra.

[7] See Weiss Brown, supra

[8] The Declaration was adopted by the United Nations General assembly on 10th December,1948 t Parlais de Chaillot, Paris.

3 of the Rio Declaration on Environment and Development which states that; “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”[1] The essence of the Declaration is that all members of the human family have a temporal dimension, which brings all generations within its ambit. The reference to equal and inalienable rights also affirms the basic equality of such generations in the human community which transcends the current generation, thus envisaging a partnership between the living, the dead and the unborn. This partnership bond therefore makes it imperative for each generation to pass the planet on in no worse condition than it received it in and to provide equitable access to its resources and benefits. Each generation is thus both a trustee for the planet with obligations to care for it and a beneficiary with rights to use it.[2] The concept of intergenerational equity indeed accords with Principle 3 of the Rio Declaration on Environment and Development which states that; “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”[3]

This fiduciary relationship therefore imposes a duty on generation to conserve and maintain the planet at the level of quality received, as failure to do so will impose an enormous obligation on succeeding generation to repair any damage resulting from the default of any particular generation at a heavy cost. [4] Whilst admitting that in the course of time, a reasonable harm or injury may be inevitable and therefore proposes that to insulate future generations from the debilitating effect of the possible default on the part of any generation to maintain the Earth and its natural resources in a qualitative state, Brown proposes that *such generation ought to distribute the costs (harm) across several generations, by means of revenue bonds and other financial measures, so that the benefits and costs of remediation are distributed together*. This, according to Brown, therefore imposes a duty on the generation “inflicting the harm to pass on a sufficiently higher level of income so that immediate successor generations have sufficient wealth to manage the deterioration effectively.”[5]

It is important to state at this point that the concept of intergenerational equity evolved with its bedmate ‘*intra-generational equity*’. In contrast to the tenets of the principle of intergenerational equity which transcends a determinable generation espoused above, the notion of intra-generational equity, as the term suggests is concerned with the maintenance and distribution of the benefits and costs of natural resource extraction between contemporaries across the entire jurisdiction endowed with such natural resources.

The Principles of Intergenerational Equity and the Concept of Investment

As highlighted variously in this paper, the concept of intergenerational equity states is anchored on the principle that humans hold the natural and cultural environment of the Earth[6] in common both with other members of the present generation and with other generations, past and future. The concept is predicated on the under-listed principles. It needs to be said however that the list must not be seen as exhaustive. It comprises the notion that:

(a) All humans must treat the Earth well. This means that:

- (i) humans need to treat the Earth (including all natural resources) as if it was not given to us by our parents.
- (ii) the Earth (including all the natural resources) is loaned to humans by our children.
- (iii) the Earth (and all the natural resources) is borrowed by humans from their children.

(b) The concept further draws on the economic principles of “Generational Savings and Dis-savings”. Savings in this sense refers to the transfer of capital, which ought to be greater than the quantum inherited. The second strand, referred to as Dis-savings also refers to the transfer of capital smaller than as inherited.

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[1]Rio Declaration on Environment and Development, UN Doc. A/CONF. 151/26 (1992), reprinted in 31 ILM 874
[2] Weiss Brown see note 12 above. The author says further that the principle of intergenerational equity may be said to be the cornerstone of other branches of International Law, including: The United Nations Charter, the Preamble to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the American Declaration on the Rights and Duties of Man, the Declaration on the Elimination of Discrimination against Women, the Declaration on the Rights of the Child, and many other human rights documents reveal a fundamental belief in the dignity of all members of human society and in an equality of rights that extends in time as well as space.
[3]Rio Declaration on Environment and Development, UN Doc. A/CONF. 151/26 (1992), reprinted in 31 ILM 874
[4] Ibid.
[5]Ibid. This paper will subject this claim to critical analysis in the course of this discussion.

[6]Earth is defined generally to include the natural resource endowment.

(c) The advocates of the concept of intergenerational equity have also fashioned out the principle of 'Everlasting Mortgage' and 'Everlasting Partnership'[1] between the living, the dead and the yet unborn.

A number of commentators have proposed several measures to ensure the maximization of the benefits of resource endowment to ensure that it benefits both the present and future generations. Such advocates include Paul Stevens[2]. According to him, although it would seem extreme, it is better to leave natural resources in the ground. He explains further that it is not being suggested that natural resources ought to be left in the ground indefinitely, rather, the proposition is that natural resources ought to be developed at a slower pace than is currently being done. Even though Stevens accepts the proposition that the need for economic development calls for an expeditious extraction of natural resources, he however posits that if a country is to derive maximum benefits from natural resource endowment, then a slower development pace is common sense.[3]

This proposition has been corroborated by Humphreys et. al. [4] that "… leaving oil in the ground…just might be the safest place for the asset, especially if there exists the risk that governments may use revenue for their purposes rather than for the good of society as has happened so often already." This position has also been emphasized by Joseph E. Stiglitz who, in justifying the proposition for the need to delay the extraction of oil said that "…there is a strong argument for waiting: the assets will not disappear. Indeed if the price of oil rises overtime, the value of the assets beneath the ground grows overtime…the return to waiting may be higher than on any other investment the government might make."[5]

Other proponents and stakeholders have however fashioned out other strategies with a view of ensuring that all generations enjoy the benefits of resource endowment. This policy, it is argued, helps to prevent a situation where spending commitments cannot be kept and sustained when commodity prices collapse. According to Eifert, Gelb and Tallroth[6], high quality spending mainly prevents rent-seeking, patronage and waste, and that;

"Rapid growth in public spending, which often follows oil price increases, reduces spending quality and introduces entitlements, including recurrent cost commitments, which are often not sustainable in the long run. Efficiency often suffers from a high proportion of unfinished projects as well as from capital investments that cannot be effectively used because of shortages of recurrent resources."

One of such measures is the creation of a fund into which revenues from natural resources are saved. One of such funds which have gained global recognition is the Norwegian *Government Petroleum Fund,* now called *Government Pension Fund – Global,* which was established by legislation[7] "to facilitate government savings to fund the pension expenditure of the National Insurance Scheme, and to strengthen long-term considerations in the allocation of government petroleum revenues."[8]

A number of commentators and the laws of some resource-endowed developing countries have variously proposed that resource funds should be saved in *stabilization and heritage funds* instead of utilizing them as capital expenditure, that is the provision of public goods such as schools, hospitals and road construction in order to ensure that the benefits of resource endowment is not only enjoyed by the current generation but also

[1] On this see n. 31 above

[2] Paul Stevens, *Resource Impact – Curse or Blessing? A Literature Review,* (Centre for Energy, Petroleum and Mineral Law and Policy, University of Dundee, 25 March 2003)

[3] Ibid p.18. Again the Paramount Chief of the Akyem Abuakwa Traditional Council in Ghana is known to have engaged in a crusade against the destruction as a result of illicit mining operations and that it would be better to protect butterflies than engage in mining operations which does not benefit the people.

[4] Escaping the Resource Curse (2007) Columbia University Press, p.15.

[5] Id p. 39

[6] Benn Eifert, Alan Gelb and Nils Borje Tallroth, 'The Political Economy of Fiscal Policy and Economic Management in Oil Exporting Countries' (World Bank Policy Research Working Paper 2899, The World Bank, Washington D.C., 2002) p2.

[7] Government Petroleum Fund Act No.36 of 22 June 1990 (the Act). The 1990 Act has been superseded by Government Pension Fund Act No.123 of 2005, which came into effect on 1 January 2006. The latter Act amalgamates the Government Petroleum Fund and the National Insurance Scheme Fund. The merged fund is now called Government Pension Fund – Global. The original macroeconomic policy objectives were price stabilisation to shield the national economy from international oil price volatility, and savings for sustainable use and management.

[8] Ibid

for future generations. This means that a resource-rich country ought not to increase its spending even if its revenue is more than budgeted for as a result of resource booms.

The over ridding principle for the setting aside of a portion of oil revenue and saved in an account is to ensure that it

a) cushions the impact on or sustain public expenditure capacity during periods of unanticipated revenue short falls whether caused by a fail in the petroleum price or through adverse production charges. This is the rational for the establishment of the Ghana Stabilization Fund.[1]

b) provides an endowment to support the welfare of future generations after the underground petroleum has been depleted.[2]

In recent times, savings in petroleum funds in the form of investment in financial institutions in particular have become popular in most oil-rich countries[3] as against savings in the nature of investment expenditure on projects such as education to develop human capital, or on transport infrastructure to provide market access and reduce transportation costs in doing business.

"Foreign savings" policy is justified by the proponents on the ground that: "Holding the account (for the savings) in domestic institutions or in domestic currency would increase the vulnerability of the country to the "Dutch Disease", which would result in further distortions of the economy."[4] Even more preposterous, with all due deference, is the suggestion that "…most domestic banking systems do not have the controls and capacity necessary to ensure the integrity and safety of an oil account, particularly given its potential magnitude. Further, the selection of a domestic institution to be custodian [of oil revenue] is likely to be a highly politicized process".[5]

In the opinion of the authors of this paper, the overriding motive for the insistence by the powerful institutions and individuals from the developed countries that resource rich but poor countries ought to invest a reasonable portion of their resource revenue in foreign financial instruments like the Eurobond is to enable those developed countries and their institutions recycle these same monies back to those resource rich but poor countries as loans and investment by the international oil companies in the oil and gas sector which further ensures their subjugation of those countries indebted to them.

The dismal position expressed above to be counteracted implies that countries like Ghana instead of investing a reasonable portion of resource revenues in a foreign financial institution which in turn recycles such huge funds as loans to and investment in natural resource projects in poor but resource-rich countries, such countries should rather invest such moneys in 'public goods' such as education, health and road infrastructure. This is because, apart from the claim that such oil revenues invested in foreign institutions are recycled back to these same resource-rich but poor countries like Ghana, as has been shown earlier, there is evidence to the effect that such funds are not yielding the expected returns for these underdeveloped resource-rich-nations causing further impoverishment not only for the current generation but also for future generations.

The need for accumulation of human capital which is undoubtedly a potent tool for the realization by a resource-abundant country of its development goals for both the current and future generations has been succinctly established by numerous experts and commentators on the subject. Evidence suggests that countries that emerge from poverty accumulate human and physical capital and then, once they become richer, are

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[1] Memorandum to the Petroleum Revenue Management Bill www.mofex.google.gh/sites/default/files/reports/petroleumrevenue…Accessed on 25.05.2013

[2] ibid s.11. We shall subsequently subject these proposals to critical analysis and seek to establish our preferred potion which is that revenue from natural resources, especially petroleum in developing countries is best utilized if same are invested public goods instead of keeping them in an account or other financial instruments like bonds.

[3] See for example the Ghana Petroleum Revenue Fund 2011 (Act 815) See also the Sao Tome and Principe Oil Law available at http://www.earthinstitute.columbia.edu/cgsd/STP/documents/OilRevenueLawgazeted_ooopdf Accessed on 15.04.2013

[4] Joseph C. Bell and Teresa Maurea Faria: Critical Issues For Revenue Management Law. This was the authors' contribution to the Escaping the Resource Curse book. See note 15 at p. 286 of the book

[5] Id at p.299. In view of the credit crunch disaster and the underpinning massive unprecedented corruption and financial malfeasance due mainly to noncompliance with basic financial regulations and best practices, one wonders whether persons like Joseph Bell and Teresa Mauria will still stand by such propositions as the one contained in note 73 below.

increasingly likely to improve their institutions[1]. Thus, instead of saving resource revenue in financial instruments, same should rather be invested in the provision of the public goods emphasised in this paper. Indeed it is strongly argued that if Ghana's first President Doctor Kwame Nkrumah had saved the huge monies in the coffers of the state at the time of independence, a large number of Ghanaians may not have benefitted from the policy of free education and indeed the huge educational infrastructure constructed in the 1960s would not have seen the light of day. Significantly the policy of free education implemented by the said first President was purposely to address the imbalance existing between the northern part of Ghana and the southern part of the country. There is no doubt that these policies which on the face of it appears to be akin to the principle of intra-generational equity, in view of the obvious benefits that has trickled down on subsequent generations after the generation in whose time these projects were implemented.

This paper agrees in part with the various propositions by the proponents of the intergenerational concept who have sought to establish that the current generation ought to save revenue from natural resources to cater for the needs of future generations. The paper does not however share the position of the intergenerational equity proponents that natural resource revenue from resource-endowed but poor countries be invested in an account instead of investing in public goods as expatiated above. In the view of this paper, Governments in resource-endowed but poor countries will be better off if they put in place, reform or enforce institutional and legal framework that will ensure that the imbalance regarding development in such countries is addressed by the country the benefits of which will invariably trickle down on future generations as well. It is in this regard that Ghana must be commended at least for putting in place some legal framework geared towards correcting the developmental deficit in the country as a whole and the imbalance between the Regions in the country.

The Constitution of Ghana[2] is replete with a number of provisions with the view to addressing such developmental imbalances. For instance it is provided under that Constitution that; "The State shall take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Ghana and to provide adequate means of livelihood and suitable employment and public assistance to the needy."[3]

The State shall, in particular, take all necessary steps to establish a sound and healthy economy whose underlying principles shall include - undertaking even and balanced development of all regions and every part of each region of Ghana, and, in particular, improving the conditions of life in the rural areas, and generally, redressing any imbalance in development between the rural and the urban areas;[4]

It is further provided under the Constitution that: "The State shall take appropriate measures needed to protect and safeguard the national environment for posterity; and shall seek co-operation with other states and bodies for purposes of protecting the wider international environment for mankind."[5]

Thus, in the case of resource-rich but poor countries like Ghana, the principle of intra-generational equity which refers to the prudent management of natural resource extraction and the revenue accruing from it to ensure the maximization of the benefits associated with it for the current generation appears to be more appropriate. The writers are not by this pronouncement adverse to the sterling tenets of the concept of intergenerational equity. The opinion of this paper however is that in view of the enormous deficit in basic amenities in underdeveloped countries it would be more prudent to ensure the utilization of the revenue from the natural resources for the provision of such necessary basic amenities before considering investing same in financial instruments like bonds. Ghana should invest revenue from natural resources in such financial instruments and also in local financial institutions.

Other countries such as Alaska in the United States have however adopted other measures such as direct cash distribution to the citizenry. The Alaska fund is referred to as *'Permanent Fund'*. The Fund, by law receives at least 25 percent of oil royalties received by the state government. Each year a dividend from this fund is given to all those have resided in the state for at least one calendar year. The dividend is calculated as 52.5% of the

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[1] Id., at pp. 297-98. For instance, the United States of America and Norway have been cited as excellent examples of the proposition that human capital accumulation leads to economic growth. According to Gavin Wright and Jesse Czelusta,[1] based on the US historical experience as the World's leading educator in mining engineering and metallurgy by the late nineteenth century, natural resource must not be seen as a mere "gifts of nature" or resource endowment. But that they are better understood as the results of investment of various kinds in capital infrastructure and knowledge in a broad sense.

[2] The 1992 Constitution of Ghana

[3] Ibid at Article 36 (1)

[4] Article 36 (2) (d)

[5] Article 36 (9)

Fund's nominal investment income (hence not including the share of oil royalties that has been added to the fund) averaged over five years, divided by the number of eligible recipients. In most years it has lain between US$800 and US$2,000.[1]

It is interesting to note that Ghana has adopted a similar strategy geared towards improvement of the lives of the indigent in the country. The policy is referred to as the Livelihood for Empowerment Programme (LEP). This policy is however not linked specifically to revenue from natural resources.

Conclusion and Recommendations

This paper has sought to establish that the concept of intergenerational equity is a principle that is rooted in antiquity. It is further shown that the principle of intergenerational equity is well known and accepted globally. This paper does not however share the position of the intergenerational equity theorists to the extent that they seek to offer a universal proposition that a reasonable portion of revenue from natural resources be saved on financial instruments as same is deemed inimical to the drive for the provision of basic amenities for the benefit of the public in underdeveloped countries like Ghana.

In view of the foregoing therefore this paper recommends that resource-rich but poor countries ought to put in place legal and institutional framework and where they exist they must be resourced and all enforced to ensure that the country derives maximum benefits from resource endowment. Further, resource-endowed but poor countries ought to sieve policies imposed or introduced by foreign sources like the IMF and the World Bank before adopting and implementing them in their various countries. Parliament should therefore amend the Petroleum Revenue Management Act (Act 815) in order to adopt the direct cash distribution policy adopted by some countries like Bolivia, Chile, and the state of Alaska in the United States of America.

[1] Alaska Permanent Fund Corporation website: http://www.apfc.org/home/Content/aboutFund/aboutPermFund.cfm and http://www.apfc.org/home/Content/dividend/dividend.cfm. .

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