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Does Ghana, A Developing Resource-Rich Country, Need Sovereign Wealth Funds? A Case Study of Ghana's Sovereign Wealth Funds

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Abstract
Natural resources generate wealth for developing resource-rich countries associated with substantial financial inflows. Managing such huge returns creates challenges resulting in corruption and mismanagement in developing resource-rich countries. Developing resource-rich countries have thus resorted to Sovereign Wealth Funds on the advice of their development partners. Meanwhile, developing resource-rich countries borrow to address developmental challenges. Ghana's Petroleum Revenue Management Act creates Sovereign Wealth Funds. This paper argues that due to Ghana's developmental challenges, Ghana requires the immediate use of the revenue rather than borrowing domestically and overseas for capital projects. Ghana must rethink the creation of Sovereign Wealth Funds.
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1. Introduction

Natural resources yield vast revenue, and their management has become challenging, especially with some resource-rich countries in Africa associated with corruption and mismanagement. Developing resource-rich countries have been advised to follow the example of Norway and save natural resource revenue abroad for future generations in Sovereign Wealth Funds (SWFs) (Wills *et al*. 2016). Developing resource-rich countries are at a crossroads and torn between utilising the resource revenue to build their jurisdictions or saving for the benefit of future generations. The management of Ghana's petroleum revenue is regulated by the Petroleum Revenue Management Act, 2011, (Act 815) and its Amendment Act, 2015, (Act 893), (PRMA). Under this law, Ghana has established SWFs. The memorandum accompanying the bill to Parliament justified the SWF creation under the PRMA based on savings for future generations.

This article investigates the establishment and desirability of the SWFs under the PRMA. The exercise becomes more prominent against the fact that Ghana borrows from international financial institutions and investors in Ghana and abroad. The interest payment on these loans and investments hinders Ghana's development agenda since a substantial part of the revenue generated services the interest on these loans. This article seeks to unravel this puzzle and advise Ghana about the continued maintenance of the SWFs since Ghana has infrastructure and developmental challenges.

The article has five sections. After this introduction, section two discusses the theoretical underpinnings of SWFs by defining them and ascertaining the benefits and disadvantages of establishing SWFs for the developing resource-rich country and the country of investment. Section three discusses the operationalisation of the SWFs under the PRMA by reference to reports issued by PIAC. The section further assesses the SWFs' management and attempts to state Ghana's debt portfolio as of 2021. Section four critiques the SWFs and makes a case for their use of the SWFs. Section five makes recommendations, followed by conclusions.

2. Theoretical Underpinnings

According to section 11(1) of the PRMA, the Ghana Petroleum Funds consist of the Ghana Stabilisation Fund and the Ghana Heritage Fund, classified as sovereign wealth funds (SWFs) under the PRMA (PRMA, 2011). This section discusses what an SWF is, how it works, its management, and why it matters. The purpose of the Ghana Stabilisation Fund is to support the budget during losses. Under section 9 (2) and clause 3 (2) of the PRMA, the Ghana Heritage Fund creates a legacy to help future generations with the depletion of petroleum resources. (PRMA, 2011 & 2015) According to sections 9 and 10 of the PRMA, these funds exist to manage the oil revenue optimally to avoid the resource curse.

SWFs are mediums through which States invest in numerous assets financed with revenue from commodity exports and excess funds (Alhashel, 2015). SWFs originated in the 1950s and were created by oil and resource-rich countries to stabilise their economies and provide wealth for future generations(Weiss, 2008). SWFs are government-controlled funds invested in assets for safe returns (Balding, 2011, Drezner, 2008)). Kuwait, in 1953,

established an office in London to manage the oil revenue surplus and subsequently created the Kuwait Investment Authority as a public government entity to manage the funds as SWFs. The creation of SWFs helps create a pool of funds to address the problems of the State. SWFs serve to strengthen the economic capacity of the country, establishing the fund (Gyeyir, 2019). Therefore, a unique feature of SWFs is to allow their growth to enable resource-rich countries to fall on them during periods of famine (Balding, 2012).

The growth of SWFs necessitated guidance for regulating their operation (Aggarwal & Wondel, 2018). In 2008, the International Working Group of Sovereign Wealth Funds convened a forum to set a framework for establishing the SWFs (Sovereign Wealth Funds, 2008). The meeting resulted in the Santiago Principles comprising 24 voluntary principles to regulate the nature of SWFs by promoting understanding and transparency (Aggarwal & Wondel 2018). The Santiago Principles focused on the legal framework for their operation, the institutional and governance structure, and the investment risk and management structure. Following the Santiago Principles, the International Working Group on SWFs established the International Forum of Sovereign Wealth Funds, culminating in the Kuwait Declaration in 2009 to meet and exchange views on issues of common interest to facilitate and understand the Santiago Principles and activities of SWFs (Kuwait Declaration 2008).

The Santiago Principles define SWFs as special-purpose investment funds created by national governments for macroeconomic purposes. SWFs get funded from the balance of payments surplus, revenue from privatisation, fiscal surpluses and export revenue. The Santiago definition's critical elements are that the government owns the funds, the investments occur in foreign financial assets, and the funds must set objectives. SWFs are an investment owned by the government and set up for macroeconomic reasons (Bahgat 2008)). It is an investment fund owned by the government and entrusted with managing and investing its wealth in private financial markets (Dixon & Monk 2012). From these definitions, SWFs refer to significant funds controlled by governments invested abroad in private markets (Kimmitt 2008). The descriptions feature accumulated funds of the State and an investment mechanism to manage the funds (Alhashel 2015). The establishment of SWFs is essential since it makes resources available for a country's development (Balin 2009).

In the context of resource-rich countries in Africa, SWFs serve as a tool for managing resource revenues (Dixon & Monk 2015). SWFs matter because they exist to improve the living conditions in states that have set them up by providing an endowment for future generations upon depleting natural resources (Alhashel 2015, Aizenman & Glick 2007, & Beck & Fidora 2011). They require prudent management of the resource revenues or surplus from the country's reserves (Alhashel 2015). SWFs exist to protect budgets and economies against unpredictable prices globally, mobilise excess liquidity in the marketplace, build an endowment for future generations and use the money for social and economic development (Razanov 2005). SWFs exist in developing countries to ensure that resources generated from natural resources are invested and managed in SWFs to reduce the effect of the resource curse (Oshionebo 2015).

There are various reasons for setting up SWFs. First, since the funds stay abroad, it helps to stabilise the economy through predictable budget allocations (Dixon & Monk 2015). Second, the State can utilise the funds during financial instability (Dixon & Monk 2015). The availability of the Fund helps to maintain a balance between expectations and the long-term commitment of the nation (Dixon & Monk 2015). The International Monetary Fund (IMF) and the International Working Group of Sovereign Wealth Funds (Santiago Principles) distinguish between the five main types of SWFs (Al-Hassan *et al*. 2013). These are Stabilisation Funds, Savings Funds, Pension Reserve Funds, Reserve Investment Funds, and Development Funds as examples (Al-Hassan et al. 2013). The distinction relates to the objectives for setting up the Fund based on the country's needs (Al-Hassan et al. 2013). Ghana's reason for setting up SWFs is two-fold; to support the budget in terms of a shortfall in oil revenue and provide an endowment to support development for future generations upon the depletion of petroleum reserves.

The management of the SWF, per the reports of the Public Interest Accountability Committee (PIAC) and the Auditor-General, reveals that the establishment of SWFs is not appropriate for Ghana (Wills *et al*. 2016). The thrust of this article is for Ghana to re-think SWFs.

Establishing SWFs must yield the necessary returns to enable the investing country to commit the returns to development. However, the issue remains whether it is prudent for developing resource-rich countries to allocate the money to development immediately upon receipt rather than waiting to receive returns on the investment. The above argument becomes essential in the face of caution on developing countries to achieve the United Nations Development Goals (Millennium Development Goals 2015).

This paper advocates a paradigm shift in how Ghana and other developing countries have resorted to SWFs by neglecting to utilise the funds for development. It proposes a legal regime that ensures the strict application of these resource revenues domestically to address developmental challenges within deprived economies (Wills *et al*. 2016). The developed countries rich in natural resources may resort to creating SWFs (Wills *et al.* 2016). The proposal above would require developing resource-rich countries to rethink the creation of SWFs and an amendment of the PRMA to establish, implement, and manage the SWFs (Gyeyir 2019 & Skancke 2003).

The International Working Group of Sovereign Wealth Funds and the Santiago Principles support

establishing a sound legal framework to help the operations of SWFs achieve their purpose. A robust legal regime for the process of SWFs is necessary because resource curse occurs mainly due to policy decisions by decision-makers (Oshionebo 2015). It is essential to address the gaps within the law to avoid exploiting weaknesses (Oshionebo 2015). This requires a sound legal framework to promote a better institutional and governance structure to manage the SWFs (Al-Hassan *et al*. 2013). In the absence of operating a robust legal regime, SWFs will not benefit Ghana.

Two legal regimes exist in developing resource-rich countries for the management of SWFs. The first type is SWFs established with a separate legal identity under a statute with perpetual succession, which can sue and be sued with operational management structures (Oshionebo 2015, Ayensu 2013 and Al-Hassan 2013). The different legal personality status allows the managers of the SWFs to decide if the board is independent of the government and works without interference promoting operational independence (Oshionebo 2015). However, this may be a mirage since the government appoints the board members (Oshionebo 2015).

The second type of management focuses on joint control by the central bank in conjunction with other agencies (Oshionebo 2015). This type runs on three separate models. First, the Ministry of Finance mandates the Central Bank to manage the SWF under an operational management agreement (Al-Hassan *et al*. 2013). Second, the Ministry of Finance set up a fund management entity within the Ministry to manage the SWF (Al- Hassan *et al*. 2013). Third, the Ministry of Finance appoints an external entity to manage the SWF (Al-Hassan *et al*. 2013). Ghana, under the PRMA, operates the first model under the second type where the Ministry of Finance has an operational management agreement with the Bank of Ghana for the day-to-day management of the SWFs. In this model, management cannot be independent due to interference from the government (Oshionebo 2015). There is a tendency for secrecy surrounding the operation, and the lack of a separate legal personality works against the model (Oshionebo 2015).

The issue for both types is whether those in charge of management can independently work to establish the SWFs geared towards the development of the nation (Al-Hassan 2013). The different SWF types show that a country must examine its circumstances and determine which model best serves its interest (Al-Hassan 2013). This article advocates operating an SWF under a separate legal personality with diverse members serving on the board, contrary to operating under the second model. The Minister for Finance, the Bank of Ghana and the Investment Advisory Committee currently manages Ghana's SWFs who are all appointees of the state.

SWFs have benefits for the country investing and the investment destination. For example, Bernanke, the Chairman of the Federal Reserves of the United States of America, stated that Western financial institutions survived the financial crisis through emergency funding from SWFs from Asia and Arab (Bahgat 2008). It shows the magnitude of the revenue made available to developed countries by countries with established SWFs. The next section discusses the benefits and limitations of creating SWFs within the investing and recipient countries' context. The essence of the discussion seeks to ascertain whether it is prudent for resource-rich countries in developing economies to embrace SWFs or design a legal regime to use the revenue from natural resources.

The operation of SWFs may have a positive or an adverse effect on the firm where the investment takes place and the country that has invested it (Alhashel 2015). SWFs operated as "shock absorbers" during the financial crisis in the United States of America and Europe and assisted financial institutions such as Citigroup, Bear Stearns, Morgan Stanley, Merrill Lynch, and Fortis (Betbeze 2009). The United States and Europe, the United States Federal Reserves, the European Union and the Organisation for Economic and Development (OECD) have recognised the role of SWFs in improving the effectiveness of financial crises on their economies (O'Brien 2008).

The benefits that accrue to the investing country include the State's ability to diversify the resources and use the returns during lean seasons (Makhlouf 2010). Since the investing economy cannot absorb the available resource revenue due to a lack of economic capacity, its returns result in a low risk to the country Makhlouf 2010). The target country benefits include easy access to capital by banks and companies and stabilising the economy because of the placement of the funds over long periods and provision of money to banks and companies that cannot raise additional finances due to financial challenges (Makhlouf 2010, Keller 2007).

The United States of America's economic policy embraces open investment, which accounts for the United States of America's development (Haley 2006)). The development of the United States of America as a world economic power is due to its openness to foreign direct investment (Nowak 1992). It's the reason why it's argued that direct foreign investments hold many benefits for the United States (Schaefer & Strongin 1989). Although the investing country also gains, the investing countries' returns mean that developing countries would be better off if they apply these resources in developing their countries (Oshionebo 2015).

Regarding risk, the investing country and the target country of the investment experience adverse effects. Some states that invest in SWFs are undemocratic and therefore raise transparency and accountability with the governance of these funds with particular reference to Russia and China (O'Brien 2008)). The undemocratic nature of some governments that own the SWFs has become a source of concern for the Western countries where these investments occur, putting forward several interests (Oshionebo 2015). The fears include the possibility of

the SWFs owned by foreign governments becoming majority shareholders in Western companies through their continuous investments with the option of taking decisions to favour the investing government (Oshionebo 2015)).

The risk of the threat of financial contagion, subtle political power, and national security concerns exist (O'Brien 2008). National security concerns raised are that if SWFs succeed in acquiring companies of national interest, it may hurt the country, necessitating laws to restrict interest in critical companies (Oshionebo 2015). SWFs are now motivated not by profits alone but by non-financial considerations, which may position the importance of SWFs in conflict with national security concerns of the investment destination (Slawotsky 2009).

For these reasons, certain countries have passed laws to regulate or prevent the acquisition of stakes by SWFs in companies classified as being of national interest, including the Investment Canada Act, the Defense Production Act of 1950 and the Foreign Investment and National Security Act of 2007 (Oshionebo 2015). These laws depict that although the Western world acknowledges the vital role of SWFs in their economies, they quickly safeguard and protect the national interest so that the nation's attention remains supreme.

The surge in investments by SWFs could be a yardstick for exercising a subtle political power through takeovers and acquisitions where board decisions taken by these companies reflect the interest of the donor countries (O'Brien 2008). In this regard, the information obtained by members of the board may help to access the delicate details of the company for insider dealing (Oshionebo 2015 & Slawotsky 2009). Therefore, the target countries are cautious not to cede the control of their corporate institutions into the hands of foreign investors to dictate companies' policy and political orientation in the target country (Slawotsky 2009).

SWFs can affect economies adversely if owners of SWFs decide to withdraw their investment from the destination countries unexpectedly (Oshionebo 2015). The effect of withdrawal of investments would affect the economies if the economies are not doing well, but the impact would be minimal if the economies are doing well (Jackson 2008). Suppose the owners of the SWFs decide to diversify their investment and look for investments in other areas. In that case, it may affect the financial system of the economy, including a fall in the share prices of the securities (Jackson 2008 & Jen 2007). The next section assesses whether resorting to SWFs under the PRMA would optimally help manage Ghana's oil revenue to counteract the effect of the resource curse and overcome mismanagement.

3. Operationalisation of the SWFs in Ghana

The creation of the SWFs under the PRMA has been in operation since 2011. The SWFs under the PRMA comprise the Ghana Stabilisation Fund and the Ghana Heritage Fund. This section seeks to ascertain the operationalisation of these funds under the PRMA. It determines whether the continued retention of the provisions of the Ghana Heritage Fund and the manipulation of the Ghana Stabilisation Fund hold potential for the development of Ghana.

3.1 Ghana Stabilisation Fund

The Ghana Stabilisation Fund (GSF), helps sustain public expenditure during a shortfall in projected oil revenues per section 9 of the PRMA. The GSF Fund receives a percentage of the petroleum revenue from the Petroleum Holding Fund as determined by Parliament. The PRMA states that where the petroleum revenue exceeds one-quarter of the Annual Budget Funding Amount (ABFA), the excess income must go into the Ghana Petroleum Funds. Out of this amount, a minimum of 30 per cent goes to the Ghana Heritage Fund (GHF), and the excess is transferred into the GSF quarterly. The stipulated amount is reviewable every three years.

With the Parliament's approval, the Minister for Finance and Economic Planning (Minister) has the mandate to recommend the remaining amount in the GSF. The amount recommended and approved is reviewed from time to time regarding the macroeconomic conditions. The excess in the GSF gets transferred into the Contingency Fund or payment of debts subject to parliamentary approval on attaining the agreed amount.

Stabilisation Funds have the function of cushioning public expenditure during periods of a shortfall in petroleum revenues. The Fund can perform this function if allowed to grow. Capping the GSF and transferring the excess into the Contingency Fund and payment of debt approved by Parliament amounts to an abuse of funds. The continued practice of capping the GSF would hamper the Fund's growth. The PRMA fails to mention the type of debt the excess amount should service and is subject to abuse (ACEP 2011). Since the transfer from the GSF started in 2014, the amount of money borrowed by the State has increased from $ 4,677,268,250.0 in 2014 to $ 9,915,808,690.0 in 2017 (Gyeyir 2019). The capping of the GSF makes resources available to the government to spend because no guidelines exist in the PRMA. The Minister recommends capping the Fund, which takes place after amounts accumulate in the Fund (ACEP 2011).

The condition for using the GSF is when there is a shortfall in petroleum revenue. The growth of GSF would be difficult until the Minister's power of capping and transfer is set against conditions in the PRMA. Such a decision requires an amendment to the PRMA and prevents the Minister from capping the Fund when it accumulates enough money. The alternative argument could be that the GHF should receive the outstanding

amount not transferred into the Contingency Fund or used to pay debts upon attaining the ceiling (ACEP 2011). The crucial issue remains whether the political elite would champion the amendment as proposed seeing that such a step would deprive them of access to funds.

The Contingency Fund is a public fund under the Constitution of Ghana meant to finance urgent or unforeseen events with no provision in the budget subject to the approval of the finance committee of Parliament (Ghana's 92 Constitution). The Contingency Fund and the Consolidated Fund exist outside the PRMA, but they receive transfers from the GSF for the purposes stated above (ACEP 2011). Since these two funds are outside the strict monitoring of the PRMA, it becomes difficult to monitor how amounts allocated to these funds get utilised (ACEP 2011). Capping the GSF weakens the concept of creating a stabilisation fund to serve as an SWF under the PRMA. This article granted supports the creation of the SWFs and suggests that the right of the Minister to go into the GSF hampers the growth of the GSF and creates accountability challenges.

The Minister's power to cap the GSF has been manipulated to make part of the oil revenue available to the government. I illustrate this fact by reference to the powers of the Minister under the PRMA. The Bank of Ghana transferred US$ 351.05 million into the Ghana Petroleum Funds, with the GSF receiving US$ 245.73 million and the Ghana Heritage Fund receiving US$ 105.31 (PIAC Report, 2013). The GSF earned US$ 1.40 million and US$ 1.12 million accrued to the Ghana Heritage Fund as interest (PIAC Report 2013). The closing book balance of the GSF came up to US$ 319, 034,153.16 at the end of 2013 (PIAC Report 2013).

With this closing book balance, the Minister capped the Fund at US$ 250 million in 2013 when presenting the 2014 budget statement, which made US$ 69,034,153.16 available to the government for spending (PIAC Report 2013). The caution on the conduct of the Minister is that Parliament should cap the Fund before it accumulates money so as not to influence the Minister's recommendation. The Minister breached the PRMA since transfers from the GSF to the Consolidated Fund occur only during shortfalls in petroleum receipts. There was no reported shortfall in petroleum revenues when the transfer occurred (PIAC Report 2013).

PIAC further observed that the expenditures described as capacity building was rather expenses incurred for the purchase of consumables, goods, and services for the Ministry of Food and Agriculture and the Ministry of Lands and Natural Resources (PIAC 2003). Other agencies that benefitted from the money meant for capacity building included National Disaster Management Organisation (NADMO), Creative Industry, the Livelihood Empowerment against Poverty (LEAP), Microfinance and Small Loans Centre (MASLOC), the Venture Capital Fund and the Exim Guarantee Fund (PIAC Report 2013). PIAC observed that the payments to these organisations could not qualify as capacity building (PIAC Report 2013). The article suggests vesting PIAC with powers of prosecution under the PRMA to initiate prosecution and eradicate some of these expenditures through an amendment.

In 2014, the GSF was capped at US$ 250 million, leaving an excess of US$ 305.68 million, which was transferred into the Contingency Fund or for debt repayment (PIAC Report 2014). The Bank of Ghana transferred US$ 17.43 million into the Contingency Fund, and the balance of US$ 288.25 million was lodged into the debt service account for the payment of debts approved by Parliament(PIAC Report 2014). Only US$ 179.81 million was utilised to pay domestic debts, leaving an amount of US$ 108.44 million, which, if left in the GSF, would have attracted interest (PIAC Report 2014). The provision of capping is not helpful because it results in the transfer of the oil revenue into the Contingency Fund and the debt service account, but the funds may lie idle as it happened in 2014 (PIAC Report 2014).

The PIAC reports' observations indicate that the government is taking advantage of the provision on capping to obtain money from the GSF where there is no shortfall in petroleum revenues, as required under the PRMA. The practice continues but is not right, as the economy will suffer during a shortfall in petroleum revenues to the extent that SWFs exist under the PRMA (PIAC Report 2014). This article argues for the amendment of the provisions on capping. The transfer from the GSF needs revision, and Parliament must examine and approve it if satisfied with the rationale for such transfers. However, the Minister failed to produce any written record that Parliament granted such approval to utilise the oil revenues (PIAC Report 2014). An amendment of the provisions discussed above, which gives the Minister access to oil revenue, would minimise the effects of the mismanagement.

The Minister capped the GSF in 2015 at US$ 300 million, however in the mid-year budget review, the Minister reduced the Fund to US$ 150 million and made US$ 95.02 million available to the government (PIAC Report 2015). The PIAC continues to lament that the fund cannot grow to cushion the nation in times of shortfall in oil revenue if the trend continues and recommends a 'static' cap instead of the 'moving' cap operated by Finance Ministers (PIAC Report 2015). This article argues for the amendment of the PRMA to set a condition precedent before the Minister invokes the right to cap the GSF. Until the change takes care of these lapses, enacting the PRMA to ensure the management of the oil revenue to benefit all Ghanaians may be a mirage.

The PIAC report of 2018 further shows the abuse of the GSF contrary to the object of setting up the Fund (PIAC Report 2018). The GSF exists to cushion the public in the event of shortfalls in oil revenue. The GSF must grow and serve its purpose; however, since its inception, an amount of US$ 714.81 million has been

withdrawn from the Fund (PIAC Report 2018). An amount of US$ 53.69 million supported the national budget, which is the core function of the Fund (PIAC Report 2018). An amount of US$ 619. 73 million and US$ 41.19 million were applied to debt repayment and transfer into the Contingency Fund, respectively (PIAC Report 2018). Generally, the GSF is not serving its purpose, and PIAC expressed their misgivings regarding these withdrawals and questioned the Minister's action PIAC Report 2018).

The article argues that the quest to use the PRMA to curtail mismanagement and avoid the resource curse may be difficult to achieve under the current law regulating the management of Ghana's oil revenue.

3.2 Ghana Heritage Fund

The Ghana Heritage Fund (GHF), like the GSF, is an SWF created under PRMA to support future development upon depletion of petroleum reserves. The Fund receives from the Petroleum Holding Fund a percentage of petroleum revenue determined by Parliament as savings. Parliament has the right to review the restriction of transfers from the GHF after fifteen years by transferring the accrued interest into a fund established by or under the PRMA.

After fifteen years, the right of Parliament to vote and review the restrictions placed on the Ghana Heritage Fund puts the Fund in danger of growth (ACEP 2011). The relaxation may serve the interest of a ruling government due to the voting pattern of Ghana's Parliament because, since the inception of the fourth Republic of Ghana in 1992, governments in power have majority members in Parliament and hence control it through the system of voting. Parliament cannot defeat any bill, loan agreement or contract presented to Parliament because the government has the numbers to carry the votes. However, the 2020 general elections in Ghana produced an equal number of parliamentarians, with 137 members each for the New Patriotic Party (NPP) and the National Democratic Congress (NDC), with one independent member who has decided to work with the NPP giving NPP 138 members of Parliament.

The power in the PRMA to remove the restriction on the Ghana Heritage Fund reveals two issues. First, it shows no justifiable reason to let the money remain abroad to attract interest when Ghana faces developmental challenges. Second, it is surprising to borrow and pay interest on local and foreign loans contracted for development when the country has money overseas. As a developing country, Ghana cannot do away with loans; however, if the money left in the SWFs implements programmes to address development, the quantum of loans contracted by Ghana might reduce (Wills *et al*. 2016). With these issues, the creation of the GSF and GHF needs reconsideration and this article recommends an amendment of the PRMA to use these funds to address developmental challenges facing Ghana.

The creation of the SWFs as discussed under section 2 above makes money available to the jurisdiction where the investment takes place. On the other hand as in the case of Ghana, due to liquidity challenges, the country continues to borrow to finance its development projects. Associated with this borrowing is the payment interest on the loans contracted. The 2021 Annual Public Debt Report for 2021 submitted to Parliament on 31st March 2021shows the dynamics of Ghana's debt portfolio.

The report shows that Ghana's external debt stock at the end of December 2021 stood at GHC 170,009.8 million (USD$ 28,339.2 million) (Annual Public Debt Report 2021). The external debt portfolio consists of multilateral, bilateral, and commercial sources as well as export credits and other concessional debts which at the end of December 2021 stood at US$ 16, 234.7 million representing 57.3 per cent of the external debt stock. The debt servicing comprising principal repayments and interest payments and charges for 2021 on government external debt amounted to US$ 2,209.4 million. On the domestic front, the total debt amounted to GHC 181,777.2 million as of the end of December 2021.

This article argues that the principal and interest payable on these debts would have been reduced if the SWFs had been applied to solve some developmental challenges. The resort to the SWFs means that although Ghana will borrow, the amount would be reduced affording Ghana some breathing space regarding repayment of principal and interest.

4. Critique of the SWFs

SWFs enable a nation to save for trying times, as discussed under section 2 above and its associated benefits. As they exist under the PRMA, the SWFs do not optimally function as a vehicle to help manage the oil revenues of Ghana. The capping of the Stabilisation Fund by the Minister without any guidelines adversely affects the administration of the resource revenue. The Minister's recommendation requires approval by Parliament, but no evidence exists to show that Parliament has set parameters for support.

The provision gives the Minister an unfettered power for the Stabilisation Fund to accumulate, and the Minister proceeds to cap the amount. The outstanding amount after the capping goes into the Contingency Fund or payment of other debts. The Contingency Fund and the other account are outside the remit of the PRMA. The inability of the PRMA to audit the Contingency Fund and the other accounts which receive these transfers smacks of a lack of accountability which is not conducive to the operation of the PRMA.

The Heritage Fund serves as savings for future generations to support development when the petroleum reserves are depleted. Savings connotes excess amount after paying for all expenses. Ghana borrows to finance infrastructure development (Otto 2015). The current situation in Ghana regarding development makes it imperative to use the money to develop the economy (Otto 2015). Using these funds to build the nation would have an immediate benefit to Ghanaians and serve future generations. The massive infrastructural developments undertaken by Ghana's first President, Kwame Nkrumah, illustrate the cross-generational use of infrastructures that serve Ghanaians (Otto 2015). The PRMA states that the Ghana Petroleum Fund, and subsequently the Ghana Petroleum Wealth Fund, must be invested in qualifying instruments outside Ghana. The rate of interest offered on these investments is low as to interest rates on borrowing, and it makes no economic sense to continue the cycle of indebtedness (Otto 2015 & Adams 2015).

The established funds in Ghana include the GSF and the GHF classified as Sovereign Wealth Funds, which the article argues cannot serve the interest of Ghana due to developmental challenges. The other funds are the Petroleum Holding Fund, the Annual Budget Funding Amount, the Consolidated Fund, and the Contingency Fund. This article focused on the operations of the SWFs and not the other funds.

Firstly, the power of the Minister to cap the GSF and send the excess amount into the Contingency Fund or to pay debts approved by Parliament. Secondly, the ABFA is transferred into the Consolidated Fund to finance projects in four sectors of the economy without a development plan. Thirdly, the ABFA can also serve as collateral for a loan contracted by the government. The PRMA has not given any guidelines and the amount, which may lead to uncontrolled borrowing. Fourthly, the oversight body created under the PRMA cannot audit the Contingency Fund and the Consolidated Fund despite receiving oil revenues. The operation of the funds currently does not show accountability on the part of the government.

The PMRA creates multiple funds, making tracking and accountability difficult since some of the funds' utilisation occurs outside the audit regime existing under the PRMA. This article suggests the amendment of the PRMA to allow PIAC to audit the Consolidated Fund and the Contingency Fund regarding the receipt of oil revenue. The Minister must furnish PIAC with a report of monetary expenditure, pending an amendment to the PRMA, to ensure transparency and accountability. Such an amendment will give PIAC access to financial expenses outside the PRMA. The continued operation of the SWFs under PRMA in its current structure would not ensure development in Ghana, as the reports of PIAC demonstrate.

5. Recommendations and Conclusions

The establishment of the SWFs and their utilisation under the PRMA reveals defects inherent in applying the oil revenues. First, the Consolidated Fund and the Contingency Fund established under the Constitution receive part of the oil revenue but are not subject to the audit regime existing under the PRMA. The PRMA needs an amendment to bring the transfers to these accounts under the PRMA for PIAC to scrutinise.

Second, the Minister of Finance's discretionary power to cap the Ghana Stabilisation Fund and transfer the excess amount into the Contingency Fund or the payment of debt approved by Parliament requires an amendment. The lack of guidelines for exercising these powers benefits the government by making oil revenue available to spend in areas outside the scope of the PRMA. It is necessary to amend the PRMA to ensure strict conditions regulating the transfer and expenditure of such sums.

The amendments recommended requires immediate attention because, if the PRMA remains in its current form, it will make more revenue available to the State to spend outside the PRMA. The article further argues against the operation of SWFs, because Ghana cannot invest the oil revenue and borrow money with interest to finance development. The interest earned on the investments when Ghana uses it would have lost its value. This article suggests the use of money to create the necessary infrastructure for building the economy.

Concerning capping the Ghana Stabilisation Fund, the Minister of Finance, a political appointee, would continue to use that power to favour their government. In its current form, maintaining these provisions in the PRMA would not curb the mismanagement of the oil revenue, defeating the purpose of enacting the PRMA.

The reports of the PIAC reveal the manipulation of the Ghana Stabilisation Fund. These infractions show signs of mismanagement of the oil revenue, the reason for enacting the PRMA. The yearly PIAC reports reveal these infractions due to the absence of power in the PIAC to prosecute offenders. The lack of authority for PIAC to prosecute offenders has necessitated the signing of a memorandum of agreement with the Economic and Organised Crime Office (EOCO) to investigate and prosecute offenders of cases of oil-funded projects that do not exist. Under Ghana's constitution, the Attorney-General is vested in initiating and prosecuting criminal offences or at the office's authorisation. Amending the PRMA to clothe PIAC with prosecutorial powers would help ameliorate the infractions. PIAC must have prosecutorial powers so that violations of the PRMA would elicit prosecutions and the application of sanctions if found liable. Alternatively, since Ghana now has established the office of a Special Prosecutor, PIAC may resort to the office to handle prosecutions regarding infractions of the PRMA. Be that as it may, this power seems to have been diluted by the same Act, which states that the Attorney-General shall authorise the office to initiate and conduct prosecution of corruption and

corruption-related offences. This article argues that once the Special Prosecutor has the power to prosecute, PIAC must also be vested with the ability to prosecute but without the fiat of the Attorney-General. The acceptance of permitting the PIAC to prosecute with the authority of the Attorney General would not solve the issues raised in this article since the government may not be prepared to prosecute one of its own, which is the status quo. The challenge the reforms proposed will face is the political will to implement these recommendations.

The discovery of oil in commercial quantities in Ghana marked a 'turning point' in the country's search for hydrocarbons (Manteaw 2009). The discovery of oil in commercial quantities is the first since independence made Ghanaians jubilate (Gyampo 2010). If the resource-rich government fails to use the income for public investment but uses it for consumption, it creates developmental challenges (Sachs 2007). Ghana's quest to optimise its oil revenue resulted in the enactment of the PRMA. This article has explored whether the existence of sovereign wealth funds under the law is necessary for managing Ghana's oil revenue. The article has done so by evaluating the provisions of the PRMA on SWFs and its impact on the economy.

In conclusion, this article argues that enacting the PRMA is laudable because it is Ghana's first attempt to separate a resource revenue from the Consolidated Fund. However, the analysis of the operationalisation of the SWFs under PRMA, coupled with the reports issued by the PIAC, reveals disquieting findings. Be that as it may, it is possible to use resource revenues to improve the economic conditions of a resource-rich country, which has become the dilemma of oil-exporting countries (Karl 2007).

This article argues for a paradigm shift in the operation of the SWFs of managing Ghana's oil revenue to optimise oil revenues. The SWFs' creation may not be appropriate for Ghana's position now. Ghana requires a legal framework that will commit the use of the money to the development of Ghana and restrict the influence of politicians. Ghana may not benefit from the SWFs if Ghana fails to implement the recommendations in this article. Until implementing these measures, Ghana may not benefit from the revenue from the commercial discovery of oil.

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