Dealing with the Resource Curse Syndrome in the Ghanaian Oil Sector through Reforms of Appropriate Laws and Policies

Research Thesis in partial fulfilment of the LL.M in International Trade and Investment Law in Africa

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Supervisor: Dr Oluyeju

Declaration

I, LIZA KWARTENG-ANTWI, declare that this dissertation is my original work. It has not been submitted before to any other university or institution. Where works of other people are used, references have been provided. I hereby present this work in partial fulfillment for the award of the LLM degree in International Trade and Investment Law in Africa.

Signed

.... LIZA KWARTENG-ANTWI

4th October 2017. Pretoria, South Africa

Acknowledgement

I am truly grateful to you, my God and father- the living God, for your faithfulness and grace upon my life. To You be all the glory forever and ever!

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Dedication

To my dearest mum, Agnes Asamoah, you longed to see this day! Rest in the peace of the Lord.

And to you, my soul-mate; Dennis Kwaku Antwi- you are truly God-given. I love you.

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LIST OF ABBREVIATIONS

ABFA	Annual Budget Funding Amount
ATI	Accountability and Transparency Initiatives
BOG	Bank of Ghana
CSO	Civil Society Organisation
CT	Corporate Tax
EPC	Exploration Production Concession Contract
GDP	Gross Domestic Product
GHEITI	Ghana Extractive Industry Transparency Initiative
GNPC	Ghana National Petroleum Corporation
GoG	Government of Ghana
GPF	Ghana Petroleum Funds
GPWF	Ghana Petroleum Wealth Fund
GRA	Ghana Revenue Authority
GSF	Ghana Stabilisation Fund
IAC	Investment Advisory Committee
IMF	International Monetary Fund
IOC	International Oil Companies
NGO	Non-Governmental Organisation
PCA	Petroleum Concession Agreement
PHF	Petroleum Holding Fund
PIAC	Public Interest Accountability Committee
PNDCL	Provisional National Defence Council Law
PPTA	Petroleum Profits Tax Act
PRMA	Petroleum Revenue Management Act
PRRT	Petroleum Resource Rent Tax
PRT	Petroleum Revenue Tax
PSA	Petroleum Sharing Agreement
PSC	Production Sharing Contract
RRT	Resource Rent Tax
SPT	Special Petroleum Tax

VAT	Value Added Tax

Abstract

Most resource-rich nations, particularly in sub-Saharan Africa are often unable to properly utilize the revenues generated from their resources. The problem has always been that, governments of these resource-rich states are unable to harness revenues and efficiently utilize them towards growth and development.

This situation is mostly described as the "resource curse phenomenon or the "paradox of plenty". The issue of the so called curse bedeviling such resource-rich states seem to emanate from over dependence on these resources and failure by governments to diversify various sectors of their economies.

The fear that emanates from the culture of dependence on these natural resources is that, they are exhaustible in nature. Therefore any prudent government tasked with the management of these resources in trust for its people must take necessary steps to use the revenues generated from these resources to diversify other sectors of the economy. The need to invest wisely and diversify the economy is also important for sustainable development. This is because the resources belong to the present and the future generations.

Ghana discovered oil in commercial quantities in July 2007 and started production in 2010. This discovery and subsequent production has moved the nation from a low-income status to a middle-income status. Whether the move to a middle- income status has translated positively in the lives of Ghanaians is a question that remains unanswered. For over a century, Ghana mined gold, bauxite, diamonds and other minerals just to mention a few, but the nation did not benefit much from these resources due to poor management and persistent corruption. For over seven years now, the country has been producing oil but it seems the revenues generated from the sale of these petroleum resources have not been used equitably and efficiently. To avoid the mistakes of the past, Ghana needs proper management systems and sound legislation in order to utilize efficiently, its resources and possibly avert the "resource curse" syndrome.

This paper examines whether Ghana is experiencing the "resource curse", the type of management systems in place and the gaps that are in the industry specific legislations.

It is hoped that, the findings, conclusions and recommendations therein will serve as a guide to resource-rich sub-Saharan African states in general and Ghana in particular.

CHAPTER 1
GENERAL INTRODUCTION

1.1 Introduction

> Oil is money, and we need money to do the schools, the roads, the hospitals. If you find oil, you manage it well. Can you complain about that? Even without oil, we are doing so well, already. Now, with oil as a shot in the arm, we're going to fly.[1]

Africa as a continent abounds in natural resources. More than thirty percent of the world's known mineral reserves are found in Africa. Resources such as gold, diamonds, copper, chromium, uranium, coal and iron ore are found in large quantities in Africa. Ghana, like most African countries is endowed with a wealth of minerals. For over a century, Ghana has been in the mining business. Minerals such as gold, manganese, bauxite, and copper have been mined. Ghana also boasts of industrial minerals and rocks such as granites, silica, gneisses and quartzite. Worth mentioning is also Ghana's aquatic resource of fish.

Ghana discovered oil in commercial quantities in July 2007, by a consortium of foreign oil companies at an exploration well in west cape three points.[2] Among West Africa's emerging oil producers, Sao Tome and Principe has the highest reserve estimate at 4 billion barrels, followed by Ghana.[3] The country's oil and gas discovery in commercial quantities in 2007 was not the first attempt at exploration. The earliest attempt at exploration was in the 1960s, when Ghana's first oil wells were drilled around half Assini in the onshore Tano basin.[4] Even though the exploration yielded no positive results then, later in the 1970s, Saltpond field yielded a meaningful discovery.

However, the discovery of oil in commercial quantities was indeed welcomed with a bit of skeptism by Ghanaians and well-wishers across the globe, who seemed abreast with the history of Ghana's mining. Ghana had internal struggles in managing her

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[1] John Agyekum Kufour, the then president of Ghana, in an interview with BBC news on Ghana's oil find http://www.news.bbc.co.uk/2/hi/Africa/676652.htm (assessed; 22nd march, 2017).

[2] N Annan and F Afful 'Confronting the oil curse; civil society roles in managing Ghana's oil find' (2015).

[3] Harvey R 'Future oil revenues and political dynamics' South African Institute of Foreign Affairs (2006).

[4] Harvey R (n 2 above).

natural resources, including bauxite, manganese and gold during its earlier discoveries.[5]This skeptism was not triggered in isolation because for over a century, Ghana mined gold, diamonds, manganese, copper etc. The revenue from these minerals did not make any significant impact on the nation's economy due to poor management and associated corruption. Sub-Saharan Africa has a bad reputation for the mismanagement of natural resources and inevitably experiences the "Dutch disease"[6] or the resource curse syndrome.[7]

The key question therefore is what are the mechanisms linking natural resource endowments and their prices to development in Ghana? Even though the discovery of oil moved Ghana from a low-income country, to a middle-income country, management of these resources has dire consequence not just for the current generation but the future generations too.[8]Interestingly, the evidence seems rather overwhelming that bad economic policies are correlated with resource rents.[9] It is therefore necessary to embark on an analysis of the industry specific laws and a take closer look at resource revenue management, if Ghana is to avoid the resource curse syndrome. It also necessitates the need to borrow lessons from a country like Norway that seems to have an immunization against the "Resource Curse".

1.2 Research problem

When properly managed, oil and gas can trigger a rapid economic growth and development. This indeed can be achieved through industrialization, diversification and economic transformation.[10]

The discovery of oil in Ghana heightened expectations among Ghanaians, as they anticipated a huge improvement in the national economy. With a potential oil production income of $1 billion a year for the next twenty years,[11] Ghana's oil

[5] N Annan and F Afful 'Confronting the oil curse; civil society roles in managing Ghana's oil find' (2015).
[6] Robinson J et al 'Political foundations of the resource curse' *Journal of Development Economics* (2006).
[7] D Kuzu and D Nangtomah 'The economy and the resource curse syndrome; can Ghana make a difference?'
[8] Kuzu and Nangtomah (n 7 above).
[9] Kuzu and Nangtomah (n 7 above).
[10] Harvey R (n 2 above).
[11] Robinson JA et al 'Political foundations of the resource curse' (2006) 79 *Journal of Development Economics* 447- 468.

revenues could contribute significantly to national development. The depressing reality however is that, after so many years of receipt of oil income, no real development is evident and there seems to be rather a decline in the living conditions of the majority of Ghanaians.

For example, when oil was finally discovered, the then government assured Ghanaians of efficient, transparent and equitable management of the newfound oil and gas resource. The government promised to achieve the above aspirations through policy and legislative initiatives. However, sadly, as at June 2010, when oil production had begun, neither of the above policies, a revenue management law nor an independent regulator existed for the oil and gas sector.[12] When the Ghana Petroleum Revenue Management Act was finally passed in 2015, unfortunately, the Act confers executive control and a wide range of discretionary powers on the Minister of Finance with regards to petroleum funds. This indeed raises a red flag because of past experiences. In the recent past, funds established for special purposes such as the Ghana Education Trust Fund were used for purposes other than what it was set up to do.[13]GNPC has a reputation for non-transparency. Worst to mention is that, there are no effective checks and balances on the authority exercised by the corporation, because there is little or no public or parliamentary scrutiny.[14]The amendment to the Petroleum Revenue Act, now also allows the state to engage in oil- backed borrowing. The problem with oil backed-borrowing is that, loans obtained can result in high external indebtedness, coupled with repayment difficulties, should oil prices plummet.

It is therefore against this backdrop that this study seeks to make analysis of the oil and gas industry specific laws and interrogate the resource management practices in Ghana, in an attempt to propose the legislative and policy measures needed to avoid the "resource curse" syndrome.

1.3 Research questions

The broad question, which this study will seek to answer, is how can the "resource curse" syndrome be averted in Ghana through appropriate policy and legislative

[12] Kuzu and Nangtomah (n 7 above).
[13] Kuzu and Nangtomah (n 7 above)
[14] R Harvey 'Future oil revenues and political dynamics in West and East Africa: a slippery slope?' (2014) *South African Institute of International Affairs*.

reforms? In answering this broad question, the following sub-questions will also be answered-

i. What is the "Resource Curse" and how has it affected African development narrative?

ii. What are the gaps in the extant policies and laws governing the Ghanaian oil and gas industry?

iii. How can the "resource curse" syndrome be averted through policy and legislative reforms?

iv. Can any lessons be learnt from Norway that has been able to prevent the "resource curse" and its related symptoms?

1.4 Thesis statement

The issue here is that, even though Ghana like most African countries is resource-rich, the problem has been how to properly translate resource wealth into economic development, through proper management of these resources. It is in this wise that this study will argue that, with appropriate reforms of the related policies and industry specific laws that govern the oil and gas sector, Ghana would be able to avert the "resource curse" syndrome.

1.5 Purpose of the study

The primary purpose of the study is to legally explore how "resource curse" syndrome can be avoided in the oil and gas sector through appropriate legislative and policy reforms to enhance proper resource management practices in Ghana.

1.6 Literature review

Resource curse also referred to as the paradox of plenty, is premised on the idea that, many resource rich countries are ironically, less well off in terms of economic growth and development, in comparison to countries that are not resource rich.

"It is defined as, "a situation where resource booms leads to a lower GDP"[15] It is now conventional wisdom that, resources are a curse for currently developing countries.[16] It has been hypothesized to happen as a result of:[17]

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[15] JA Robinson et al 'Political foundations of the resource curse' (2006) 79 *Journal of Development Economics* 447- 468

[16] Robinson et al (n 11 above).

- Decline in the competiveness of other economic sectors. The decline in the competiveness is as a result of the swings in the real exchange rate because of the resource revenues that are attracted into the economy.
- Price volatility of natural resources, as a result of exposure to commodity market swings.
- Government mismanagement of resources. This can be attributed to weak, ineffectual legal system and legal institutions, coupled with corrupt government institutions.

According to Smith:

> Projects of mining, instead of replacing the capital employed in them, together with the ordinary profits of stock, commonly absorb both capital and stock, they are the projects, therefore, to which of all others, a prudent law-giver, who desired to increase the capital of his nation, would least choose to give any extraordinary encouragement.

However convincing the above position is, oil and gas offers the potential for exceptional revenue generation. The problem therefore has never been the discovery of the resources but the management thereof.

According to Stevenson, Roll and Spelling, the empirical tone suggests that resource boom has had negative economic impacts for producing nations.[18] Roll strongly affirms the above position by hinting in his recent study of oil- rich countries in the Gulf of Guinea region. He states that, many countries development indications are lower today than they were at independence. He attributes this decline in development to non-diversification of these economies and the politics that are tainted with corruption lack of public service delivery and inefficient government which functions only when it's relevant for selling oil.[19] Auty also shares the views of various authors and thus argues vehemently that, resource-rich countries that are in the "developing country category" have not lived up to the expectation as regards their economic performance.

The link between poor democratic performance and the "resource curse" is however not conclusive from available literature. Analysis of the numerous obstacles to reform and various factors such as political economic factors tend to buttress the conclusion that bad governance is contributory to the "resource curse" syndrome. There are also

[17] Note 28 above
[18] Gelb et al 'Adjustment to Windfall Gains in Natural Resources and the macro economy' (1988)
[19] Karl TL *Paradox of plenty: oil booms and petro-states*.

very strong proponents of the theory that, resource rich environments are characterized by an adverse growth effect on their Gross Domestic Product (GDP).

The large World Bank project overseen by Lal and Myint, drew the same conclusion that, "policy failure is the prime cause of underdevelopment of the resource abundant countries.[20] "Policy mistakes will in fact be rational political strategies as politicians respond to incentives induced by resource rents".[21]

Particularly for Ghana, Ross Harvey further argues that, even though Ghana's economic performance may be weakened, underlying political resilience suggest that, Ghana is likely to overcome the potentially destructive effects of an oil revenue windfall. He concludes that, Ghana is a potential exception to the "resource curse" however the bulge of youth unemployment and relatively limited access to economic opportunities outside the extractive industries remain a cause of concern. Although Harvey's assertion seems to hold water, the author submits that, the means to overcome the curse lies not just in the political resilience of the country but political resilience that is coupled with sound legislation, proper enforcement mechanisms and effective resource management practices. Oil and Gas offers a potential for exceptional revenue generation however the sharp disparities in the contribution of natural resources to the economies of many countries in sub-Saharan Africa could be the result of structural gaps that exist in some countries. Even though Gupta[22] and Karnick and Fernandes[23] suggest a positive correlation between growth and resource abundance, Sachs and Warner[24] exposes a strong inverse link between resource curse abundance and economic growth. This indeed is the primary and principal premise of the resource curse hypothesis. Oil and gas as resources are, on the face of it, tools for development. The necessary question that follows therefore is: "why does it not turn out as anticipated?" Quite sadly, abundant natural resources, rather than been the driving force behind growth and development have more often than not, been a harbinger of

[20] L Deepak & M Hla *The political economy of poverty, equity and growth* (1996).
[21] Robinson JA et al (n 15 above).
[22] Gupta, AS 2007 'Determinants of tax revenue efforts in developing countries: International Monetary Fund Working Paper 07/184, Washington DC.
[23] Karnik, A & Fernandes, C. (2009) 'Natural resource dependence; a macroeconomic model for the United Arab Emirates' *Applied Economics* 41(9) pp.1157-1174.
[24] Sachs, JD and Warner, AM (1997) 'Natural resource abundance and economic growth' Center For International Development and Harvard Institute for International Development ,Cambridge, MA: Harvard University.

the dispiriting curse, by promoting poor governance, conflict and pervasive poverty.[25] Collier and Hoeffler[26] and also Ross[27] drew the exact same conclusion that, resource abundance causes conflicts in societies. This then leads to poverty and correlated reduction in growth rates. Further, those in power see resource rent as worth fighting for due to their plunderous and selfish desires.

Interestingly, from the bulk of empirical evidence available, it seems that the character of the resource itself should be examined before establishing whether there exist a positive relationship between that resource find and development.

However, if the curse is to be avoided, it is prudent to enquire what the drivers of these trends are, in Africa. According to Diamond and Mosbacher,[28] oil booms may be the catalyst that kills the prospects of development in poor countries. From an empirical perspective, the contributory factors may include but not limited to:

- Weak integration of the extractive sector into national socio-economic activities.
- Lack of value addition to export commodities
- Weak forward and backward linkages to the rest of the economy
- Effects of the "Dutch disease"
- Poor legal and regulatory frameworks, which have only exacerbated the situation, compromising transparency and accountability[29].

The author however submits that, poor legislative reforms and bad economic policies are correlated with resource rents.

1.7 Research methodology

This study is a desktop and library based study. Relevant laws and policies that govern the oil and gas sector in Ghana will be analyzed. The author will also rely on secondary

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[25] MJA Sabah, 'Resource curse reduction through innovation: the case of Kuwait' unpublished Ph.d thesis, University of Portsmouth 2011.

[26] Collier, P & Hoeffler, A. (2000) 'Greed and grievance in civil war' Policy Research Working Paper 2355, Development Research Group. Washington DC: the World Bank

[27] Ross M (2001) 'Extractive sectors and the poor' Oxfam America Report. htpp://www.oxfamamerica.org/static/media/files/extractive-sectors-and-the-poor.pdf. (Accessed on 7th September, 2017.)

[28] Diamond L & Mosbacher J (n 18 above)

[29] ECDM 'Great Insights' 2014.

sources like articles, books, and papers, that are relevant to the research, published by distinguished academics and experts.

1.8 Scope and delineation

The expected output of the study is to be able to discuss some recent developments in Ghana relating to the management of its oil resources, identify the shortcomings and to come up with recommendations for redressing the identified shortcomings. The paper did not focus on any economic analysis, as regards the "Resource Curse" theory. In areas where economic theories are necessary to explain a point, the theories will be properly discussed.

1.9 Overview of chapters

The study consists of five chapters. Following the introductory chapter, the second chapter will provide a detailed discussion of the "Resource Curse" and how it has affected African development narrative. The third chapter discusses the gaps in the extant policies and laws governing the Ghanaian oil and gas industry. Chapter four examines how the "resource curse" syndrome can be averted in Ghana through appropriate police and legislative reforms. Sound lessons will be drawn from Norway that has been able to prevent the curse and related symptoms. Chapter five offers conclusions and policy recommendations.

CHAPTER 2

THE PROBLEM OF RESOURCE CURSE SYNDROME

> Men of a fat and fertile soil are most commonly effeminate and cowards; whereas contrariwise a barren country makes men temperate by necessity, and by consequence careful, vigilant and industrious.[30]

2.1 Introduction

In this chapter, the bulk of literature and theories that examines the prevalence of the "curse" in most resource-abundant nations would be discussed**.** The correlations between natural resource abundance and poor growth, governance and development, scores will be highlighted. Also, the evidence that resource abundance translates into a curse for most resource-rich nations will be examined.

2.2 Conceptualizing the "Resource Curse" Hypothesis

Concerns about the effect or impact of natural resource booms on a society dates back to around the fourteenth century.[31] The great Arab philosopher; Ibn Khaldum in 1967 submitted that, the fifth stage of the state is one of "waste and squandering". In the sixteenth century, the famous French philosopher; Jean Bodin, also made his famous comment as quoted above,[32] however, the first use of the term, "Resource Curse" dates back to 1993 when it was used in formal economic literature.

The resource curse hypothesis is premised on the idea that, even though large revenues generated by the sale of hydrocarbons and other natural resources, are expected to promote the economic growth and an all-round development of a state, more often than not, the reverse is the case. "Many resource-rich countries appear to have fared worse in terms of economic progress and poverty reduction than countries without such apparent benefits; and this seems to have been the case of oil exporting countries in particular. In economic literature, that performance has over the years led to the emergence of the "Resource Curse" thesis or that of the "paradox of plenty." The

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[30] This comment was made by Jean Bodin, a French philosopher in the 16th Century. This quote was cited in the works of Paul Stevens 'The resource curse revisited' Chatham House, Royal Institute of International Affairs, August 2015.

[31] Stevens P 'The resource curse revisited' Appendix: A Literature Review' Chatham House, Royal Institute of International Affairs, August 2015. http://www.chathamhouse.org/publication/resource-curse-revisited (accessed on 9 August, 2017).

[32] Stevens (n 31 above).

earlier quote by Jean Bodin, could not have been put any more succinctly than he did, since just a century after this delightful comment, Spain's new world wealth[33] triggered a sharp decline in the economic wealth of the country.[34]

Initially, the "resource Curse" focus was fixed on primary resources and natural resources in general, however, in the 1970's the experience of oil exporters shifted the focus, as a result of the first oil price shock.[35] Due to this, economic literature on the correlation between hydrocarbon abundance and bad development prospects begun to emerge.[36]The most cited experience in relation to the "resource curse" hypothesis is that of the Netherlands in the 1970s. Netherlands' discovery of the Groningen gas field led to a decline in the export of its primary commodities in the world market, specifically, a decline in manufacturing.[37] For developing countries however, economists have successfully established that, the sector of the economy that is mostly affected is agriculture.[38]

The focus again shifted in the 1990s when the impact of oil, gas and other mineral revenues were assessed on governance. The conclusion reached indicated that, resource boom tend to have a negative impact on governance, as poor policies are often correlated with resource rents.[39]

2.3 Symptoms of the "Resource Curse"

Through the experiences of some developed and developing economies of the "oil economy club", an inference may be drawn that, oil has both favorable and unfavorable effects on an economy. For Ghana in particular, the obvious expectations of a favorable effect was captured under the creation of jobs and the generation of revenue to accelerate development.

The unfavorable effect is most often seen in a decline in trade, crowding-out effect, "Dutch Disease", socio-cultural and political effects amongst others.[40] Suffice to mention that, particularly for Ghana, the "Dutch Disease" seems to be the prevalent

[33] It is hinted that, the wealth could be traced to Spain's long- ties relationship the Arab world. Therefore, the shook in the world oil price affected Spain, as its growth rates declined.

[34] Stevenson P(note 31 above).

[35] http://www.geoexpro.com/articles/2015/06/the-first-oil-shock

[36] Paul Stevens (n 30 above).

[37] Paul Stevens (n 30 above).

[38] Paul Stevens (n 30 above)

[39] Gelb A.H 'Adjustment to windfall gains in natural resources and the macro economy'.

[40] Paul Stevens (n 31 above).

unfavorable effect at this point in the life of its oil economy. The so-called “Dutch Disease” is measured by a decline in the competiveness of the nation’s primary and traditional commodities and other non-traditional export commodities, at the discovery of natural resource in commercial quantities. Particular to Ghana, this would be measured in terms of a decline in the competiveness of traditional primary commodities such as gold, diamonds, cocoa, timber and bauxite amongst others, plus other non- traditional export commodities such as cashew nuts.[41]

The Dutch disease according to available scholarly literature is caused by the appreciation of the nation’s real exchange rate.[42] This is because the oil and gas sector, that seems to be- and inevitably become the top sector of the economy, due to the revenue it generates, tend to dictate the prices of the other factors of production. The effect of such a dictation is inflation, as the traditional and non-traditional sectors of the economy gradually begin to shrink. The contractions of these sectors inevitably translate into unemployment, due to structural change in the economy.

2.4 Transmission mechanisms of the “resource curse” syndrome

Empirical work in the field of economics purports to establish a statistical link between large resource revenues and poor economic performance. In this regard, Stevenson[43] introduced six transmission mechanisms of the resource curse hypothesis. The mechanisms are introduced to shed more light on the various mediums through which large revenues accruing to a resource-rich country, ironically translate into poor economic and/or political performance.

The six mechanisms as introduced include:

2.4.1 Long -term decline in terms of trade

This category of the mechanisms was formulated based on the ideology of Prebisch[44] and Singer[45] in the 1950s. The long-term decline in terms of trade exposes the position

[41] I.K. Acheampong & B.Baah Kumi ‘The Dutch disease in the context of Ghana’s oil and gas find: the plausible economic effects on the Ghanaian economy’ *Indian Development Review* Vol.9 (2011) 239-254.

[42] Kuzu and Nangtomah (n 7 above).

[43] Http://www.chathamhouse.org /publication/ resource-curse-revisited

[44] Prebisch, R. (1950) ‘Toward a new trade policy for development’ in proceedings of the United Nations conference on trade and development New York, Vols. 1- VIII.

[45]Singer, HW (1950) ‘The distribution of trade between investing and borrowing countries’ *America Economic Review* 40(2) 473.

that, overtime, natural resource revenues are unable to buy more but rather fewer capital goods. The result is a stagnant effect on development creating investment in a resource-rich nations' economy.

Simply put, under this category use of data on prices, wages and manufacturing mark-ups were used to analyze the movements in the price of primary products. The results revealed evidence of a negative effect on the terms of primary producers.[46]

Particularly for oil and gas, empirically, it has been established that due to the decline in real prices over a period of time, it ultimately results in poor economic performance. This is because when a government becomes accustomed to the receipt and management of high revenues, it becomes problematic when it has to now accept and manage very low or declining revenues.[47] It is often said that, such a phenomenon stretches the competence of the government.

However, it is not always the case that, a decline in the terms of trade, which inevitably causes poor performance, is explained as an element of the resource curse hypothesis.

2.4.2 Revenue volatility

It has often been suggested that, revenue volatility is the reason for the resource curse.[48] Mikesell[49], for example, during the period between 1972 -1992 found that economies that relied heavily on primary exports faced a much greater trade volatility as compared to industrial economies.

Trade volatility attracts quite a lot of negative effects that has a direct bearing on the economic growth and development of that particular nation. A clear example can be drawn from the fact that, revenue volatility makes it extremely difficult for a government to make prudent fiscal policies. This in turn affects the confidence that investors have in that economy, as the economy is mostly characterized by uncertainties. For oil-dependent economies, the revenue price volatility creates a real concern because of the high volatility characteristic of these hydrocarbons.

Revenue volatility may also affect government expenditure, resulting in budget deficits. In Oil and Gas production, it affects both the oil company and the government since revenue projections may not be met. Also, budget expectations may end up in

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[46] MJA Sabah (n 26 above).

[47] Paul Stevens (31 above).

[48] MJA Sabah (n 26 above).

[49] Mikesell, R (1997) 'Explaining the resource curse with special reference to mineral exporting countries' *Resources Policy* 23 (4): 191-199.

massive disappointments, as the expected revenue will not accrue to the state. Revenue volatility affects debt-management of the state in situations where debts were collateralized against annual budgetary allocations or collateralized in the form of oil-backed borrowing. It is however suggested that, revenue volatility does not always have a negative impact on growth and development.[50] For example, the resource-rich nation of Kuwait has been shielded from the negative effects of price volatility in its' oil industry. This success is however attributed to the prudent decision of Kuwait, in its' establishment of sovereign wealth funds.[51]The purpose of the fund is to serve as a cushion for the pernicious effects that is associated with revenue volatility, in the oil and gas sector.

2.4.3 The "Dutch disease"

The primary and most potent symptom of the resource curse is the "Dutch Disease". This phenomenon occurs when the natural resource boom of a country, causes a sharp decline or reduction in the nation's traditional and non-traditional export performance.[52] The term originated in the 1960's in the Netherlands, through a crisis linked to the discovery of vast deposits of natural gas in the North Sea.[53] The resource boom triggered inflation as the Dutch Guilder[54] begun to rise. This resulted in the non-competiveness of all non-oil export products from the Netherlands, in the world markets.

Also, in the 1970's, this phenomenon hit the Great Britain when it thought it prudent to drill the North Sea oil off the coast of Scotland. This move by Great Britain was as a result of the quadrupling of oil prices at the time. It seemed as though Great Britain had made the right move because, in the 1970's, it had risen to the ranks of a net exporter of oil rather than its previous status of a net importer. Like any resource boom effect, inflation was experienced as the Pound Sterling rose in value, however, the benefits were short-lived because soon afterwards the nation was hit by a recession due to the

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[50] Garaibeh, H (1987) 'Government income sources and the development of taxation system- the case of Jordan, Egypt and Kuwait' in H Beblawi and G Luciani (eds) *The rentier state* Volume II, London: Croom Helm.
[51] MJA Sabah (n 25 above).
[52]Kuzu and Nangtomah(n 9 above).
[53]Robinson JA et al (n 11 above).
[54] Dutch Guilder was the currency used by the Netherlands until the introduction and use of the Euro-currency of the European Union, of which Netherlands is a member.

demand of high wages by British workers. Britain's export commodities therefore became uncompetitive.

Empirical findings establish the idea that, revenue increase as a result of natural resource boom will certainly cause a de-industrialization or de- agriculturalization of the nation's economy. The effect of such an occurrence is the increase in imports and the lack of competiveness of the nation's traditional and non-traditional export sectors.

Economist who found a link between the discovery of large deposits of natural gas by the Netherlands, and the resultant effect of a decline in its' manufacturing sector, introduced the term. The decline in manufacturing was as a result of resources that were pulled away from hitherto vibrant sectors of the economy, to the gas production sector. In scholarly assessment of the impact of the Dutch disease, the conclusion was drawn that, the "Dutch disease" is not exclusive to only oil-rich countries but also non-oil rich economies.[55]A classic example based on the above conclusion, is the 1970's booming of the Swiss bonds and money exports, consequently triggering a real appreciation of the Swiss franc. The effect was seen in a decline in the country's traditional exports and export competing industries.

2.4.4 Crowding-out effects

This category is closely related to the "Dutch disease" mechanism; however, it is premised on an increase in government spending, which causes a decline in private consumption.

This mechanism is evident when oil, gas or mineral investment project that is large, relative to the rest of the economy effectively stakes first claim to the scarce resources', as a result, the rest of the economy finds it difficult to secure the factors needed to develop.[56] This is mostly the case in smaller countries, especially, if the project is dominant in a particular region. Government spending has always been a problematic issue because when the governments' spending is supported by higher interest rates in the form of taxes, it causes a decline in private spending and investment.

[55] Al-Sabah, M (1988) 'The Dutch Disease in an oil exporting country: Kuwait' OPEC Review 129- 144.

[56] Harvey (n 3 above).

2.4.5 Role of the state

Revenues from natural resources, particularly oil and Gas, accrue mostly to the government. The reason is that, in most states, natural resources are the property of the state. The controversy that always characterizes the role of the state in the allocation or distribution of revenue is often centered on, "how much should be spent", "where it should be spent" and "when it must be spent".

The controversy is not really a negative thing but rather important as the public sector actually forms a big part of every nations' economy. Spending has a direct implication on the political economy of the state. This role of the government is tied to the mandate that it is given by the citizenry. The mandate therefore confers a responsibility on the government to ensure economic development and real poverty alleviation in the lives of its citizens. The mandate confers a right on the state government to interfere and intervene in the economy as and when necessary. The intervention of the state may have both negative and positive implications. The positive implication is seen in the reduction of cost and the strengthening of human capabilities.[57] On the flip side, the negative effect could be seen in the dampening of innovation and the stifling of private entrepreneurial activity.[58] In balancing its' economic, social and political role, most developing economies subsidize petroleum products in order to support its' poor. This practice by most developing nations came under much criticism by most International Financial Institutions (IFIs) such as the International Monetary Fund (IMF) in recent times. The subsidy scheme has been criticized for widening the economic disparity between the rich and the poor in most developing countries. It is argued that, rather than the subsidy scheme achieving its' primary aim of cushioning the poor, the inefficiency of the scheme has rather resulted in the rich and upper-income earners been the beneficiaries rather than the poor. It is therefore prudent that the role of the state is carefully balanced to achieve the much desired outcome of economic growth and development which will also invariably, result in good quality living conditions of its people.

2.4.6 Socio-cultural and political impacts

In most cases, the discovery and subsequent production of oil in commercial quantities boost he patriotism of the citizens of that nation due to positive expectations of the

[57] MJA Sabah (n 26 above).
[58] MJA Sabah (n 26 above).

resource boom. Sadly, more often than not, particularly in Africa, there are cases where abundance of oil and gas or other natural resource has caused civil wars and other negative socio-cultural and political impacts.

Scholarship in the field of economics established a proposal that, abundance of natural resources has a negative correlation as regards economic policy choices and decision-making. Rent seeking agenda by government officials and politicians also create conflict over the distribution of resource-wealth. The reasons stipulated above may cause an imbalance in the social peace of that nation and may even evolve into civil war, if care is not taken.

In states where strong and efficient institutions are present, the effect or impact is often minimal. It therefore drives home the point that, the type of state actually determines the socio-cultural and political impact to be expected. States that had weaker institutions prior the resource booms often show a high prevalence of socio-cultural and political impacts.

According to Auty and Gelb,[59], in their formulation of the typology of states,[60] a benevolent state seems to be the best option in order to minimize any negative socio-cultural and political impacts, as a result of the resource boom. The characteristic of a benevolent state, based on the typology reveals that, it is one that: [61]

- Is keen on the actualization of a welfare state through an investment in infrastructural development and human capital.
- Has accountable executive and efficient institutions
- Has vibrant and efficient civil services
- Adheres to the rule of law
- Allows an active participation of civil society in decision and policy making process
- Has open and transparent policy making process

On the other side of the coin, a predatory state is characterized also as:[62]

- Rent-seeking
- Lobbying

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[59] Stevenson (n 11 above).
[60] The typology is based on whether a state is homogenous or fractional, and also benevolent or predatory.
[61] Gelb et al (n 39 above).
[62] Gelb et al (n 60 above).

- Uncompetitive industrialization

It is also conventional wisdom that, the negative socio-cultural and political impact is often experienced by states that fractional,[63]coupled also with a concentration of the oil and gas or mineral resource in a particular region or area of the country. This is because; there is always enormous pressure exerted on the government by the indigenes of that area, to receive priority in revenue allocation geared at job creation and infrastructural development. At the same time, government also has a duty towards all citizens to manage the resources of the state-irrespective of where it is located for the common of its citizens.

As rent seeking is a reason for politicians to remain in power, so also, it is an incentive for others to seek power. For those who succeed to remain in power, there is always the need to reward their supporters with the state revenue. This always causes an imbalance in the socio-cultural and political harmony of that state, especially if it is a fractional state as earlier mentioned.

2.5 Oil and Gas: A Blessing or a Curse for Africa?

> It is unfortunate that economists have to debate whether natural resources are a blessing or a curse for a developing nation. Minerals, diamonds or oil may appear to represent automatic wealth but resource-rich countries usually become mired in corruption. High oil revenues, for instance, allow a government to maintain power and reward political supporters without doing much for its people.[64]

It's an established fact that, oil and natural resources account for more than one third of the world's trade. This makes business in the extractive industries rather lucrative.[65]The extractive industries indeed attract quite a lot of investment into Africa. The United Nations estimates that, by 2050, the consumption of oil and other natural resources could almost triple to 140 billion tons per year.[66]

It is submitted that, during the period of 1990-2006, the rising prices of oil caused oil-producing countries GDP to grow around 40% faster than that of the rest of the

[63] The fractional category is defined as consisting of different racial and ethnic population groups within the nation.

[64] Cowen, T (2007) 'A way for resource rich countries to audit their way out of corruption'.

[65] 'Blessing or a Curse' http://www.giz.de .

[66] Robinson JA et al (n 17 above).

world.[67] The other side of the argument also presents that; the high oil prices also had some negative impacts on some oil-exporting economies. This is because, the high oil prices caused a borrowing boom among oil producers. This accounted for the high indebtedness of most oil rich economies and thus resulting in a slower growth and compromising levels of productivity of these economies.[68]

To establish whether resources are a curse or blessing for Africa is rather a complex one. It is suggested that, resource abundance, particularly, oil abundance should be viewed as a two edged sword; one with both benefits (blessings) and dangers (curses). "As a tool in the hand, it may be used for good or evil".[69] Oil and Gas can be a useful resource that can finance other sectors of the economy, through the creation of jobs and value addition.[70]However, it is conventional wisdom that, oil-exporting countries, particularly, sub-Saharan oil exporting countries have the lowest development scores. Failure in the development of these resource rich economies hangs on the overdependence on resources, failure to build upon their resource base productively and exert the necessary caution in its' use.

Notwithstanding the dark cloud that seems to hover around the resource rich economies, it is very possible for countries with large extractive industries to soar above the "curse".[71] Countries such as Botswana, Malaysia, Chile and Norway have made the list of countries that have overcome the curse. These countries have become successful in their resource management as a result of sound management and developmental policies that are aimed at poverty alleviation.

To attempt to answer the question: "whether or not resources are a curse for Africa" would demand that, an assessment is made and limited to a specific criterion. The author suggests that, such an assessment should be carried out through the lens of a country- specific, the nature of the resource[72] and "the chosen time period of such an

[67] Ross M (n 27above).
[68] Manzano, O& Rigobon, R (2001) 'Resource curse or debt overhang' National Bureau of Economic Research Working Paper 8390 New York.
[69] Frankel, J (2010) 'Natural resource curse, a survey' Faculty Research Working Paper Series, Harvard Kennedy School.
[70] 'Black Bonanza' *The African Report*, July-August 2017 NO.92, Pg. 68.
[71] Wright , G & Czelusta, J (2002) *Resource based economic growth, past and present* USA: Stanford University Press 34-37.
[72] Sachs JD and Warner AM (n 26 above).

assessment"[73]. The reason propounded in favor of the latter assessment criterion is that, much of the empirical work that focused on the period between 1970 and 1990 were influenced by the economically troubled state of oil-producing countries.[74]

However, there is a bulk of evidence that also indicate that, prior 1970s, resource-rich countries grew at a much faster rate compared to the non-resource rich or the so-called resource-deficient countries.[75]

It must be borne in mind that, the price volatility of oil provides the basis for the inference that, the resource of a "Resource Curse" diagnosis of any particular oil economy may, at any particular time be influenced and distorted by the price fluctuations of oil and gas in the world commodity market.

Following the suggested criterion, a good example would be a comparison between resource- rich nations of Nigeria and Botswana:

Even though Nigeria is Africa's leading oil producer, it has ironically made it to the list of the 20 poorest countries in the world.[76] In Niger Delta, which is the hub of oil production in Nigeria, a large percentage of the population survives on less than two dollars a day. This ties in very well with the adage that; "the needle that sews a thousand clothes, itself remains naked".[77] Obviously, rather than poverty alleviation, the "black gold" has rather succeeded in a rapid growth in corruption, armed conflict, social problems and environmental damage.[78] It is very clear that the billions of dollars in oil revenue that rains on the oil industry of Nigeria fails to water the Niger Delta region and other relevant communities.

For Botswana, "the resource curse" and its symptomatic effect of the "Dutch disease" is not the inevitable consequence of natural resource wealth. The government of Botswana has proven to have the political will to alleviate poverty through the equitable distribution of its resource revenue. The country has also functional institutions of democracy and the Rule of law. It has been cited by Transparency International as the country with the lowest level of corruption in sub-Saharan Africa.

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[73] Ross M (n 28 above).
[74] MJA Sabah (n 26 above).
[75] Stevenson P (n 31 above).
[76] 'Blessing or Curse' http://www.giz.de.
[77] Credit to Mr. Norman Taku (Assistant Director, Centre for Human Rights, University of Pretoria, South Africa) who shared the proverb during a discussion on natural resource revenue management in the Niger Delta region of Nigeria.
[78] Karnik & Fernandes (n 23 above).

The above comparison therefore highlights the conclusion that weakness in the legal structure and governance predicates a high prevalence of the resource curse syndrome.[79] Also, the nature of resource concerned (in this case, diamonds for Botswana and oil for Nigeria) and the countries concerned are indicators of whether or not resources are a curse or a blessing. It is therefore impossible to draw a final conclusion on whether or not natural resources are a curse or blessing for Africa. However, taking a general standpoint, resources have proven to be more of a curse than a blessing for Africa. It is reported that:[80]

> Ten of the world's least developed countries are in sub-Saharan Africa. They are expected to fall short of most of the Millennium Development Goals (MDGs) adopted by the United Nations, even though they are rich in resources.

The above report therefore corroborates the view that, oil and gas, as natural resources, may be more of a curse than the anticipated blessing for Africa.

The prevalence of the "Resource curse effects on some African economies cannot be overlooked. So strong is the curse that, the expectation of resource booms, even sometimes seems manifest the symptoms of the curse. This is alarming because the traditional premise of the resource curse rested on the idea that resource rich economies experience a series of economic and political effects from natural resource extraction.[81] New empirical findings suggest that, the curse could still take effect from just a mere expectation of resource boom. In this regard, countries like Sao Tome and Principe and Madagascar are great examples.

There seems therefore to be much more to the "curse" than mere extraction of a particular natural resource.[82]One cause of the resource curse effect could be the relatively easy access to investment capital and credit to support speculative ventures. Scholarships in economics suggest that the promise of a resource boom raises high expectations of potential future economic benefits. Whether or not the resource curse is triggered by mere expectation of resource boom or actual extraction of the natural

[79] Sabah (n 26 above).
[80] http://www.unchronicle.org/mdgs-and-least-developed-countries-challenges-landlock (accessed July 2017).
[81] http://www.academic.oup.com: 'The resource curse without natural resources: expectations of resource booms and their impact'.
[82] n 80 above.

resource, most resource dependent economies in Africa are still under the serious and deadly effects of the curse.

According to Diamond and Mosbacher[83], a country like Equatorial Guinea, has over one billion barrels of oil reserves. Since the year 1995, it has exported as much as 400,000 barrels of oil per day. Theoretically, the country is wealthier than France, United Kingdom and Japan, when compared in terms of Gross Domestic Product (GDP). However, the symptoms of the resource curse are quite visible, as this "so-called wealth" does not reflect in the lives of the people – a mere population of 700,000.[84] More than 70% of the population lives on less than two-dollar a day coupled with a rise in infant mortality rate since its first discovery of oil.[85]

The recent study by keen and Mcpherson[86] indicated that, most resource rich countries in Africa also rank amongst the lowest on the Human Development Index.[87] Examples include Angola that has one of the highest global mortality rates and the Democratic Republic of Congo (DRC), which is tagged with the poorest performance on almost all fronts even though it boasts of large uranium reserves.[88]

Empirical studies and observations suggest that, oil rich countries that desire to soar above the curse, must consciously put the right structures such as adequate and sound laws, policies, processes and procedures targeted at zero tolerance towards corruption.

For Africa, this conscious decision and action is non- negotiable, as more extraction and exports of billions of barrels are expected from the East African Rift Valley and the West African Gulf of Guinea.[89]

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[83] n 28 above.

[84] n 29 above.

[85]n 29 above.

[86] Keen, M & Mansour, M 'Public resource mobilization and aid' (2010) *African Economic Outlook* 2011.

[87] http://www.hr.undp.org./en/composite / HDI(accessed on 13 July 2017).

[88] http:// www.projectsiq.co.za/uranium-mining-in-africa.htm.

[89] Diamond L & Mosbacher (n 29 above)

2.6 Conclusion

This chapter has established that the "resource curse" is prevalent in most resource-rich nations in sub-Saharan Africa. The prevalence of this dispiriting curse is attributable to bad economic policies and gaps in the regulatory framework of these nations. The discussion also revealed that lack of strategic diversification plans by these resource-rich nations could also contribute to the problem.

From an economic perspective, it is imperative that, to reduce or if possible to avoid the resource curse, resource rich countries position themselves strategically, by shifting from a culture of sole dependence on these natural resources, to a rather solid dependence on other sectors of their economies. This can be achieved through diversification, by securing other revenue sources. In the next chapter, the discussion will focus on the gaps in the extant policies and laws that often result in the prevalence of the "curse".

CHAPTER 3

GHANA AND THE "RESOURCE CURSE" PHENOMENON

It's a blessing and a curse. Watch out, one don't make things worse. For the best things used ill can become evil; and the worst things should prove to sell, if used well.[90]

3.1 Introduction

In the previous chapter, a detailed discussion on the resource curse phenomenon and how it has affected African development narrative was presented. In this chapter, the discussion would take a narrow perspective focusing on whether or not Ghana is suffering from the resource curse or mere symptoms in its' oil and gas sector, and how the gaps in the extant policies and laws governing the oil and gas sector have contributed to the results. A conclusion would be drawn using the transmission mechanism hypothesis as formulated by Stevens in 2003.[91]

3.2 Ghana's oil history

Ghana's first exploratory attempt was in the 1960's although it yielded no positive results. The first discovery of oil was in the 1970's by Agripetco (a united states Oil and Gas firm).[92] However, the 1970 exploration did not yield a meaningful discovery in commercial quantities, therefore the exploratory project was abandoned for a while.
Fortunately for Ghana, after thirty-seven years of an abandoned exploratory activity, in 2007, oil and gas were discovered in commercial quantities at the Saltpond field. The jubilee oil field as it is named is estimated to have 800 million barrels of proven reserves, and an upside potential also estimated at 3 billion barrels of oil. Ghana comfortably took its seat amongst the club of oil producing nations. As phase one production began in December 2010, it was expected to deliver 120,000 barrels per day, under full production. Proven reserves may increase innovation, through new discovery and improved technology.[93]Suffice to mention however that, before jubilee field, Ghana had been producing crude oil on a limited scale, since the 1980s from the saltpond fields.

[90] Palliam et al (2011) 'Succession issues among family entrepreneurs in the countries of the Gulf' *International Journal Of Business Administration* Vol.2 No.2 .
[91] Stevenson (n 31 above).
[92] *The Ghana Policy Journal* Vol 4 (December 2010) Institute of Economic Affairs.
[93] Gatsi, J G, (2007) *Oil and gas management in Ghana*.

Again, another meaningful discovery was made by Tullow oil around the deep water Tano block. Located about 60km offshore between the deep water Tano and west cape three points blocks in Ghana is the jubilee oil field.[94]Based on the fiscal regime[95] at the time and "a price assumption of US$75 per barrel, the potential government revenue was expected to be about US$1.0 billion on average per year between 2011 and 2029"[96]. This expectation however, has not been fully met because although Ghana is pretty much a new kid on the block of oil producing nations, it has nevertheless tasted its' own fair share uncertainties associated with exploration, development and production of these hydrocarbons. On this effect, Tullow oil reported that:[97]

> The Jubilee Field started by producing an average of 24,395 barrels per day for the three final days of November 2010. The production levels have increased up to an average level of 37,932 barrels per day in December 2010. But the production forecast of 120,000 barrels of oil per day in June, 2011, was not achieved due to technical challenges faced with the wells.

The Ghana National Petroleum Company (GNPC), which is the national oil company, in partnership with other oil companies, constitutes the partners or major players in the oil field. These partners are:[98]

- Tullow
- Kosmos
- Anadarko
- Sabre oil and Gas
- Ghana National Petroleum corporation (GNPC)

The GNPC, as the national oil company is placed strategically to partner with these oil companies to ensure maximum realization of benefits to the state. As, it is conventional wisdom that, oil and gas exploration, development and production is less costly as compared to onshore exploration, Ghana's oil and Gas exploration, development and production is done on an onshore basis. Exploratory exercise carried out after jubilee fields indicated that, other areas of the country, for example the Keta basin and other onshore areas of the country, would also yield positive outcomes in commercial

[94] Gatsi (n 92 above).
[95] The fiscal regime comprises the following elements: a 5 percent royalty for oil revenue; a 10 percent initial carried interest, a share of the oil rent growing with the rent amounts; and 35 percent income tax.
[96]Gelb et al (n 39 above).
[97]Gatsi (n 92 above).
[98] Gatsi (n 2 above)

quantities. The oil and gas industry is categorized into proven reserve, probable reserve and possible reserve due to the uncertainty that characterizes oil exploration, production and development.[99]

3.3 Stages of oil production in Ghana

The history of Ghana's oil exploration, development and production brings to light four phases as per the records of the GNPC:[100]

- **Initial Phase**

This stage covers the period between 1896- 1969. This phase was characterized by onshore exploration relating to oil and Gas seepages. The exploration focused on the Tano Basin however this era was characterized also with no seismic data and geological understanding was not available at the time.

- **Second Phase**

This covers the period of 1970-1984. During this phase, exploration was offshore. The period also witnessed a rekindled national interest in black gold exploration. Appropriate laws were also enacted during this period. The offshore exploration resulted in significant discovery of gas, although not in commercial quantities. Following the positive exploration activity, the Saltpond field was developed for oil production. The period also witnessed a lot of sub-commercial discoveries of Oil and Gas. The Provisional National Defense Council Law (PNDCL) 64,84 and 188 were promulgated under this second phase. Through the promulgation of these laws, the GNPC was established; fiscal regimes were crafted, coupled with exploration development and production regulations.

- **Third phase**

This was the period between the year 1985 up to the year, 2000. Under this phase, GNPC began its operations as enshrined under the PNDCL 64. The operations of the GNPC triggered its' partnership with other international oil companies, which led to

[99] Gatsi (n 92 above).
[100] Gatsi (92 above)

the collection of relevant data, crucial to the growth and development of Ghana's Oil and Gas sector.

- **Current Phase**

This is the period from the year 2001 to date. It is described as the "game changer" for Ghana, as the period has refocused on intense exploratory activities. The outcome of which is the discovery of oil and Gas in commercial quantities in the Jubilee field. Exploratory activities have been intensified under this phase and the GNPC has been quite robust in its' role-playing as the national oil company. This phase has also witnessed twenty-three new discoveries after the Jubilee field.

3.4 Expectations of Ghana's resource booms

The discovery of oil in commercial quantities heightened expectations amongst Ghanaians. At the discovery, the country's average per capita income was still under four hundred dollars per annum, with a high percentage of the population living on less than two dollars per day.

The announcement of the discovery therefore increased the anticipation amongst the citizenry of a solid improvement in living conditions both socially and economically. The government supported this positive anticipation by even engaging the citizens in a nation wide discussion and debate on how the petrol cash should and would be spent. Certainly this high expectation was also corroborated by various independent surveys and projections made by different institutions and organizations both domestically and abroad. For example, Reuters[101] conducted one such survey and the results of the survey indicated projections that, Ghana's was marked to be one of the world's fastest growth rates, accelerated by its' oil production.

The bottom line however remained that, despite the sound projections made, the most important element was the government's ability to translate oil receipts into real development that will trickle down unto the people in the form of socio-economic emancipation.

[101] Reuters is an international news agency headquartered in London http://www.reuters.com .

3.5 The Ghana oil sector: Resource curse or the symptomatic "Dutch Disease"?

At the discovery of oil in commercial quantities, Ghana was described as a nation "at historic crossroads, facing the twin challenges of democratic consolidation and responsible use of its' oil revenues".[102] Ghana was earmarked as a nation that could possibly soar above the curse due to sound policies and its adherence to liberal democratic principles. However, it was also predicted that, its new status of an oil-producing nation would weaken its democratic principles.

Fortunately for Ghana, the latter prediction has not yet manifested. This is because, in the year 2012, Ghana's democracy was tested when the nation went to the polls to elect a new president. The then government in power, the National Democratic Congress (NDC) was declared winner, but the opposition disputed the results: New Patriotic Party (NPP), led by their flag bearer, Nana Akuffo- Addo. In 2013, the Supreme Court dismissed the allegations of electoral fraud.[103] Still, the cardinal principles that hold together the nations' status as a liberal democratic society stood the test of time. It is often argued that, the success of Ghana rest more on the fact that, Ghana has a robust civil society, a strong parliament and solid institutions that supports its' democracy. This is evidenced in its' democratic journey since the election of Jerry John Rawlings in 1992.

In an article by Dominik Kopinski, in 2013, it was submitted optimistically that, Ghana would be able to overcome the scourge. " This was based on a conclusion that, the weight of the civil society, the institutionalization of a democratic process, and the weight of Ghana's economic performance".[104] According to Kopinski, the curse should be viewed more as a treatable disease. Quite recently, in 2014, Ghana was again cited and considered as one of the foremost countries in Africa poised to overcome the curse.[105] The reason for the above selection was also based on Ghana's strong democracy and its apparent institutional assets.[106]

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102 M.Pellerin 'Ghanaian democracy and oil challenge' (September 2011).

103 M Pellerin 'Ghana and the oil sector: beyond the curse?' (September 2015).

104 D.Kopinski, A Polus & W Tycholiz, 'Resource curse or resource disease? oil in Ghana' *African Affairs* (2013) 112(449) 583-601.

105 JR Helibrunn, *Oil, democracy and development in Africa*.

106 n 105 above.

All indicators against the curse are promising for Ghana's future. Some of these indicators include:

Firstly, in 2015, freedom house[107] ranked Ghana as one of the six nations in sub-Saharan Africa, described as "freer"[108] in terms of political rights as well as civil liberties.

Secondly, Ghana was ranked as one of the five countries in the Africa where freedom of the media is warmly embraced.

Thirdly, Ghana ranked fourth in terms of rule of law on the whole continent. Under the rule of law ranking, it has enjoyed progressive steps since the year 2009: 7.5% to 8.5% in 2015.[109]

This indeed is a great step in the right direction for Ghana, even though the country retrogressed on accountability (transparency and corruption), from 61.4 to 57.3 in 2015. The adoption of the National Anti-Corruption Action Plan by the Commission on Human Rights And Administrative Justice (CHRAJ) in 2013 seems to down the effect of the retrogression.[110]

However, the fact remains that, there is a persistent corruption, with some institutions lacking independence, coupled with partisan interferences (nepotism, tribalism, ethnicity, etc.) which exposes the fragility of the nation and thus its ability to soar above the curse remains a cause for concern.

The central question hangs on what the indications and their implications are for Ghana's oil and gas sector. More importantly is whether or not Ghana is experiencing the "resource curse syndrome" or mere symptoms ("Dutch Disease"). To reach such a conclusion, the author submits that, assessing the situation through the transmission mechanism lens of Stevens would be the most effective way.

According to Stevens, the transmission mechanism rest on six legs:[111]

- Long-term declines in trade
- Revenue volatility
- Dutch-disease
- Crowding out effects

[107] Freedom in the World 'Discarding democracy, return to the iron fist' 2015 www.freedomhouse.org..
[108] n 106 above.
[109] n 40 above.
[110] Gelb et al (n 39) above.
[111] n 28 above.

- Increasing role of the state
- Socio- economic and political impacts

It is imperative that, to reach a sound conclusion, Ghana's oil and Gas revenue management and its effect on the nations' economy are tested against each of these six legs of the transmission mechanism. Through the lens of the transmission mechanisms of Stevens as discussed under chapter 3, Ghana seems to show clear signs of both the "Dutch Disease" and the effects of Revenue Volatility. However, this paper would concentrate on Ghana's "Dutch- Disease symptoms.

Also, the bulk of available literature corroborates the position that, Ghana seems to show symptoms of the "Dutch disease" and not the "Resource Curse" in its entirety. From the above transmission mechanism as formulated by Stevens, there is strong evidence to corroborate the position that, Ghana suffers from the "Dutch – Disease" mechanism.

3.6 Why a "Dutch-diseased status for Ghana?

Under the "Dutch disease" hypothesis as discussed in chapter 2, it was submitted that, economist have successfully established that, at the discovery of oil and gas, the sector of the economy that is mostly affected is the agricultural sector.[112]

In Ghana, this position as established by economist, has indeed been the case since the discovery of oil and gas in commercial quantities. It is therefore right to conclude that the decline in agricultural contribution to the economy of Ghana, establishes its' "Dutch diseased" status. Agriculture contributes to the development of Ghana in three different ways: economic activity, livelihood and the provision of environmental services. Although the sector also employs around 44.7% of the country's population, since the production of oil begun in 2010, Ghana's agricultural sectors' contribution to the GDP has declined steadily. "Gross Domestic Product (GDP) is the estimate of the total value of final goods and services produced in the country over a given a period."[113]

[112] Stevens (n 30 above).
[113] Ghana Statistical Service 'Annual Gross Domestic Product' September 2015.

Agriculture provides a competitive advantage to Ghana because the nation has fertile land and cheap labor. Ghana boasts of 1.9 million hectares of irrigable land but so far only 28000 hectares of this irrigable land have been irrigated. The consequence has been that, certain food crops such as tomatoes are then imported from neighboring countries. This does not make any economic sense as the increase in imports only increases the demand for foreign exchange and inevitably causes distortions in the economy, through balance of payment issues. The necessary question that follows is: "how does the discovery of oil and gas affect agriculture?" The oil sector affects the agricultural sector in various ways; however, two effects always emerge as the most potent. These are labor mobility and increased foreign exchange into the economy.

- Labor mobility

The resource boom in oil and gas has dire consequences on the sectors of the economy in terms of labor demand. This is evident in instances where most people, especially the youth, leave or abandon their farms or careers in agriculture to seek "greener pastures" in the oil and gas industry. More often than not, their expectations of a lucrative job in the oil and gas sector are not met since most of these jobs are non-existent.

- Increased foreign exchange

  The resource booms in an economy often lead to the appreciation of the local currency and inevitably causes a rise in the price of capital goods. In agricultural sector, the appreciation of the local currency results in expensive agricultural inputs. Agricultural exports then become expensive hence uncompetitive. Farmers and investors in the agricultural sector are therefore discouraged.

It has been submitted that, the government of Ghana has shifted focus in terms of its' revenue allocation to the agricultural sector to the petroleum revenues as determined under the Annual Budget Funding Amount (ABFA). For example, in the 2014 budget, 70% of agricultural budget went into the construction of four sea defense walls projects,[114] rather than food crop production or aquaculture. This clearly indicates that, the petroleum revenue has failed to complement the usual allocation. This is indeed a cause for concern since oil and gas are exhaustible assets- flow can cease to flow. The

[114] Http://www.ghananewsagency.org /…/agriculture-sector-needs-a strategic-investment-plan-dr.a…(accessed on 8th September, 2017)

decline in agriculture is corroborated by statistical report from the Ghana Ministry of Food Agriculture indicating that the sector recorded a growth of 7.4% in 2008, 7.2% in 2009, 5.3% in 2010 and 0.8% in 2011and also by the statement that:[115]

> In the Agriculture sector, the least growing sector with a share of 19.0 percent, growth rates declined from 4.6 percent in 2014 to 0.0 percent in 2015

The result has been the poor contribution of agriculture to the GDP. The table below highlights the decline:

[115] Note 112 above

Table 1.2: Distribution of Gross Domestic Product (at Basic Prices) by Economic Activity (percent)

		2006	2007	2008	2009	2010	2011	2012	2013	2014*	2015**
1.	**AGRICULTURE**	**30.4**	**29.1**	**31.0**	**31.8**	**29.8**	**25.3**	**22.9**	**22.4**	**21.5**	**19.0**
1.01	Crops	21.3	20.3	22.4	23.6	21.7	19.1	17.2	17.4	16.8	**14.6**
	o/w. Cocoa	3.0	2.7	2.5	2.5	3.2	3.6	2.6	2.2	2.2	**2.1**
1.02	Livestock	2.5	2.3	2.1	2.0	2.0	1.8	1.6	1.4	1.2	**1.2**
1.03	Forestry and Logging	4.1	4.2	3.7	3.7	3.7	2.8	2.6	2.2	2.3	**2.2**
1.04	Fishing	2.5	2.3	2.7	2.5	2.3	1.7	1.5	1.4	1.2	**1.1**
2.	**INDUSTRY**	**20.8**	**20.7**	**20.4**	**19.0**	**19.1**	**25.6**	**28.0**	**27.8**	**26.6**	**26.9**
2.01	Mining and Quarrying	2.8	2.8	2.4	2.1	2.3	8.4	9.5	9.4	8.0	**6.4**
	*o/w. Oil****	0.0	0.0	0.0	0.0	0.4	6.7	7.7	8.2	7.2	**6.0**
2.02	Manufacturing	10.2	9.1	7.9	6.9	6.8	6.9	5.8	5.3	4.9	**4.7**
2.03	Electricity	0.8	0.6	0.5	0.5	0.6	0.5	0.5	0.4	0.4	**0.4**
2.04	Water and Sewerage	1.3	1.0	0.8	0.7	0.8	0.8	0.7	0.6	0.5	**0.6**
2.05	Construction	5.7	7.2	8.7	8.8	8.5	8.9	11.5	12.0	12.7	**14.8**
3.	**SERVICES**	**48.8**	**50.2**	**48.6**	**49.2**	**51.1**	**49.1**	**49.1**	**49.8**	**51.9**	**54.1**
3.01	Trade; Repair Of Vehicles, Household Goods	6.4	6.1	6.0	5.9	6.2	5.9	5.6	5.8	5.6	**5.8**
3.02	Hotels and Restaurants	5.0	5.6	6.0	6.2	6.0	5.4	4.8	5.8	5.6	**5.2**
3.03	Transport and Storage	13.2	13.1	11.4	10.5	10.6	10.7	11.0	11.2	12.3	**11.6**
3.04	Information and communication	2.7	2.4	2.2	1.8	1.9	1.8	2.2	1.7	2.3	**2.4**
3.05	Financial and Insurance Activities	2.7	3.4	3.8	4.3	5.2	4.4	4.7	6.5	8.4	**10.3**
3.06	Real Estate, Professional, Administrative & Support Service activities	5.1	4.7	4.1	4.1	4.5	4.6	4.8	3.9	3.6	**3.8**
3.07	Public Administration & Defence; Social Security	4.8	5.9	6.3	7.0	7.0	7.0	6.8	5.9	5.4	**5.8**
3.08	Education	3.7	3.9	3.9	4.2	4.3	4.1	4.3	3.6	3.6	**3.9**
3.09	Health And Social Work	1.4	1.4	1.3	1.4	1.6	1.3	1.3	1.1	1.0	**1.1**
3.10	Community, Social & Personal Service Activities	3.7	3.7	3.6	3.7	4.0	3.9	3.7	4.3	4.1	**4.1**
4.	**GROSS DOMESTIC PRODUCT at basic prices**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**

*Revised
** Provisional
***Oil means Oil and Gas

Despite research indications that agriculture public expenditures have the highest returns in terms of agricultural productivity,[116]it has not been given that much attention in terms of investment through budgetary allocations. Agriculture can significantly reduce poverty and thus accelerate development but the production of oil and gas in commercial quantities has sought to widen the funding gap in public expenditure. Statistics available as at 2016 also indicated that, the share of agriculture in public spending was at a low 8.5%, which is indeed very low if the Maputo declaration of minimum spending is anything to go by.[117]

In 2015, The Africa Centre For Energy Policy[118]through its' massive campaigns advised the ministry of finance to channel funds from the ABFA towards diversification. The Centre advised that, the ministry could achieve diversification through agricultural modernization and education. According to the Centre, this is necessary to achieve food sufficiency and security, reduction of rural-urban migration and reduction in poverty.

The response from government has always been that, agriculture is one of the four priority areas that have received oil revenues since Ghana's oil production in 2010. However, the oil revenues have not really complemented agriculture the way it is supposed to. Oil has indeed become the second largest export of Ghana after gold and thus overtaking cocoa.

According to a report issued by Ghana Statiscal Service, oil exports were pegged at US$ 2.7 billion in 2011 to an increased of US$ 3billion in 2012. The fact that oil has overtaken cocoa, cements the idea that agriculture has not been given the requisite attention needed to grow. This can be blamed on the resource abundance in oil and gas.

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[116] According to research conducted by the Ministry of Food and Agriculture in Ghana, agricultural public expenditure yields the highest returns. For example for a marginal cedi invested in agriculture, GHC 16.8 is returned.

[117] Http://www.nepad.org /resource/au -2003-maputo-declaration-agriculture-and-food-security (accessed on 17th September, 2017)

[118] http://www.acepghana.com / (accessed on 8th August, 2017).

3.7 Conclusion

In this chapter, the discussion on whether Ghana is suffering from the resource curse or mere symptoms has been concluded with the submission by the author that, the country is not suffering from the resource curse but just mere symptoms of the "Dutch-disease." This conclusion was reached, using the transmission mechanisms, as formulated by Stevens and discussed under chapter two. The "Dutch-disease phenomenon" as is currently experienced by Ghana, is as a result of the gaps in policies and legislation of the oil and gas sector. The next chapter examines the gaps in the policy and legislative framework in the oil and gas industry and how the "resource curse" can be averted through policy and legislative reforms.

CHAPTER 4
THE REGULATORY FRAMEWORK FOR THE OIL AND GAS SECTOR

> Having more money to play with tends to weaken prudence and normal procedures of "due diligence". Thus the importance of making the "right choices" seems somehow less important. Of particular importance is when governments decide on capital spending without thought to the recurrent spending implications.[119]

4.1 Introduction

In chapter 3, it was submitted that Ghana, is not currently experiencing the "resource curse" in its' entirety when assessed through the transmission mechanisms lens as formulated by Stevens,[120] however, it is showing mere symptoms of the curse through effects of revenue volatility and the "Dutch Disease". It was also conclude that, even though a country like Ghana seems to have avoided the full potency of the curse, it is still vulnerable, should the management of its' revenues not be sound and efficient.

In this chapter, the need for Ghana to practice proper management of its natural resource, specifically, the management of its oil and gas revenue would be discussed. The Regulatory framework of the Oil and Gas sector would be analyzed with specific focus on the Petroleum Revenue Management Act 815 of 2011 as amended by Act 893. Lessons from Norway that has been successful in the management of its resources would also be discussed.

4.2 Petroleum revenue management

Petroleum management framework is a very important element in the management of hydrocarbons, as hydrocarbon-resources are exhaustible in nature. The revenue management framework of every resource-rich nation must be sound and adequate to ensure sustainable development for its beneficiaries.

In most resource-rich countries, the management of these resources attracts various stakeholders. This is mostly reflected in the works of civil society organizations (CSOs) and political parties, and also International Financial Institutions (IFIs) such as the World Bank and the International Monetary Funds (IMF), who are also

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[119] Sarraf, M & Jwanji, M (2001) 'Beating the resource curse: the case of Bostwana' Environmental Economics Series, Paper N0.83.
[120] Gelb et al (n 39 above)

development partners for most developing nations that are characterized by less advanced economies.

The importance of the works of these stakeholders, more especially the IFIs, as regards the effective management and utilization of revenue accruing from these resources cannot be overemphasized. In most cases, the IFIs provide guidance to these less advanced economies through the imposition of certain rules to ensure that, the economic aspirations of these nations are actualized.

The presence of key stakeholders, in the revenue management serves a system of checks and balances in the government's duty of collection, spending-allocation and the overall management of their resource revenue. This pushes the government to have specific legislation that is targeted at transparency and accountability. These ensure proper utilization of the resource revenues and consequently translate into sustainable development.

4.3 Petroleum revenue management in Ghana

For Ghana, proper management of its' hydrocarbon revenue is imperative, if the country is to soar above the curse. The legal frameworks for the petroleum revenue management are;

- The 1992 Constitution of the Republic Of Ghana
- The Petroleum Revenue Management Act, 2011 (Act 815), as amended by Act 893
- The Petroleum Income Tax Law, 1987 (PNDCL 188)

Petroleum revenue forms a huge percentage of most resource-rich nations. The revenues from the Ghana oil and gas sector, is collected from various sources within the industry. It is therefore important to discuss the sources of petroleum revenue before analyzing the industry specific laws.

4.4 Sources of Petroleum Revenue in Ghana

Revenues from the oil and gas sector in Ghana are gathered and collected from various sources within the industry. The sources include:[121]

- **Royalty**

  Royalty is what the resource owner, in this case receives as a percentage of gross production. This revenue still accrues to the government even though the state did not contribute to the gross production cost. In Ghana, royalty is payable irrespective of whether the oil company made profit or not.

  The petroleum management Act, 2011 (Act 815) stipulates that, petroleum revenue can be received as petroleum instead of cash unless on the day of payment, the US dollar equivalent of the payment shall be shown as receipt into the Petroleum Holding Fund. The petroleum royalty percentage in Ghana is at prescribed percentage of 5% to 10%, subject to the negotiations of the contractor. In terms of the petroleum agreement, Gas royalty is fixed at 3% of the gross production- a very low rate.

- **Carried Interest**

  In terms of the Petroleum Revenue Management Act, carried interest is defined as the interest held by the state in the oil company, such that the operator is responsible for the exploration and development cost not subject to any reimbursement from the resource owner, in this case the government of Ghana.

  In Ghana, there is a special directive to the national oil company (GNPC). In terms of the directive, at the commencement of Act 815,the cash or barrels of oil ceded to the GNPC shall not exceed 15% of the net cash flow from the carried interest and participating interest for a period not exceeding 15 years. This directive ensures that, the GNPC operates fully and effectively in the interest of the state.

[121] Gatsi (n 98 above).

- **Additional Interest**

Under the Petroleum laws of Ghana, the state through the GNPC is allowed to acquire a maximum of 10% additional interest distinct from the participatory interest. It must however pay for this interest.

Thus, unlike the carried interest, which does not demand any contribution by the state towards the cost associated with the demand and production of any petroleum operations, the additional interest demands that the state makes a contribution through payment for the acquired interest. Currently, the additional interest, which is pegged at 10%, secures a higher revenue stakes for the state.

- **Petroleum Income Tax**

Like any other tax, this is the legally imposed amount which is payable on the income that is generated from the Oil and Gas production. There are various types of income taxes. These include employment tax, corporate tax, and sub-contractors withholding tax. In Ghana, the Internal Revenue Act, 2000 (Act 592) as amended regulates the downstream petroleum operations. The Petroleum Income Tax Law, and the Petroleum Agreement regulate the upstream petroleum activity. In the case of conflict between the two provisions, the Petroleum Agreement prevailed. Currently, the prescribed percentage of upstream activities cost, payable as income tax is 35%.

- **Capital Gain Taxes And Dividend Income**

In Ghana, all upstream operational dividends, under the Petroleum Agreement and the Petroleum Income Tax, is not subject to any tax deductions. Downstream activities dividends are subjected to the payment of the required tax, as prescribed under the Petroleum Income Tax regulations.

Capital Gain taxes takes into account, the gains made on chargeable assets such as goodwill. Gain or loss that is associated with the disposal of depreciable assets does not attract any capital gain taxes because they are mostly captured under the ordinary income tax computation.

- **Additional Oil Entitlement**

Through this source of revenue, the state is able to share in the excess profits that accrue to the international oil companies. It is based on the rate of return achieved against the expected or targeted rate of return.[122]

- **Surface Rental**

This is the rental amount the oil companies are charged for blocks that are assigned to them, for their petroleum operation activities. They are charged per square kilometer. The rental amounts are charged on government property, public lands, some very specific services provided by the public enterprises,[123]amongst others. The surface rental of the Ghana petroleum sector is currently charged as follows:[124]

- Initial exploration period – US $ 30 per square kilometer
- First extension period – US $ 50 per square kilometer
- Second extension period –US $ 75 per square kilometer
- Development and production period- US $100 per square kilometer

- **Technology Allowance**

This type of revenue is generated from the oil companies to help the national oil company (GNPC) to acquire or procure the necessary machinery and equipment needed for the petroleum operations.

- **Training allowance**

This is an annual payment made by the IOCs to the GNPC. The payment received, is used to assist the GNPC in building human resource capacity and the training of human resource. This is necessary to ensure proficiency in its mandate as the national oil company and also its' duty of ensuring and securing skill transfer for the citizens of Ghana.

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[122] Gatsi (n 98 above).
[123] Gatsi (n 98 above).
[124] Gatsi (n 98 above).

4.5 Resource revenue management in Ghana

The sharp disparities as regards the contribution of natural resources to the economies of most countries in sub-Saharan Africa could be attributed to the result of structural gaps that exist in these countries.

Even though natural resources are a significant part of the potential wealth of most resource-rich African states, the manner in which these resources are managed, can have either a positive or negative impact on government revenue.[125]

The government of Ghana, has indeed tried to manage its' resources effectively through constant revision of the legal regimes that regulate the minerals and mining sectors. An example is the minerals and mining Act, 1986 (PNDCL 153) which has been subjected to various amendments and currently been replaced with the Minerals and Mining Act, 2006 (703).

The purpose of Act 703 has been succinctly summarized in its' preamble as:[126]

An Act to revise and consolidate the law relating to minerals and mining and to provide for connected purposes.

An analytical overview of the legal regime of natural resources in Ghana exposes the need for amendment, as regards certain parts of the various legislations. This is because the legislative framework exposes a lot of uncertainty. For example, the Petroleum Exploration and Production Act, 1994 (PNDCL 84) is characterized by uncertainty in certain parts.

Firstly, section 18 of the Act stipulates that:[127]

There shall be payable to the Republic by a contractor such annual rental charges as may be prescribed by the Secretary except as may otherwise be provided in accordance with the terms of a petroleum agreement in respect of the area to which such agreement relates during the initial exploration period or any extensions of such period.

Secondly, section 19 also states that:[128]

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125 Broadway and Keen, 2010

126 Ghana Minerals and Mining Act, 703, 2006.

127 Petroleum Exploration and Production Act, 1984 (PNDCL)

128 n 126 above

"A contractor sha11, subject to the provisions of this Law, pay company income-tax in accordance with the laws of Ghana, except as may otherwise be provided in accordance with the terms of a petroleum agreement."

One of the fundamental principles of a good tax system is certainty. From the above sections, it can be concluded that, the expression; "pay company income tax" is rather vague.

Also, section 20 stipulates that:[129]

"There shall be payable to the Republic royalty in respect of any petroleum produced in Ghana, except as may otherwise be provided in accordance with the terms of a petroleum agreement."

The above is also a clear evidence of vagueness as it stipulates that, payment of royalties must be in accordance with the terms of a petroleum agreement. This means that the uncertainty therein, as it stands, has been left to judicial interpretation. Also, the Petroleum Agreements as referred to, in the above sections, are drawn based on the existing Model Petroleum Agreement. The problem with the Model Petroleum Agreement is that, it is also characterized by inconsistencies.

Suffice to mention however that, for the purposes of this paper, as earlier stated, the Petroleum Revenue Management Act, 2011 (Act 815), as amended by Act 893 would be the focus of analysis.

4.6 Analysis of Resource Revenue Management in Ghana under the Petroleum Revenue Management Act, 2011 (Act 815), as amended

> An Act to provide the framework for the collection, allocation and management of petroleum revenue in a transparent and accountable manner for the benefit of the citizens of Ghana, in accordance with Article 36 of the constitution and for related matters[130]

The Act (as amended) has indeed improved the transparency of petroleum revenue allocation. This opinion is according to the publications of key institutions in Ghana's petroleum revenue management: The Public Interest And Accountability Committee

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[129] n 126 above

[130] Preamble, Petroleum Revenue Management Act 2011, (Act 815)

(PIAC), Ministry Of Finance, The Bank Of Ghana and the Ghana National Petroleum Corporation (GNPC).[131]

Even though the amendment brought about some much-needed reforms, there are still some concerns that, some important issues were not addressed. Specifically, issues relating to revenue volatility and expenditure, smoothing and fiscal sustainability were not adequately addressed. The Act is characterized by complexities in its' execution and interpretation. These indeed are critical challenges. There also seem to be a digression from the spirit of the Act.[132]

However, Petroleum Revenue Management Act (as amended) was promulgated to ensure amongst other things, the transparent, equitable and accountable use of oil and gas revenue, for the benefit of the citizens of Ghana to whom the resources belong:[133]

The amended Act also seek to achieve the proper, equitable and proper utilization of the petroleum revenues through sound allocation of the revenues:

> An Act to amend the Petroleum Revenue Management Act, 2011 (Act 815) to provide for the allocation of funds to the Ghana Infrastructure Investment Fund for the purposes of infrastructure development, the provision of the composition of the Investment Advisory Committee and for related matters.

The objective of the act is in line with the spirit of the 1992 constitution of the Republic of Ghana as enshrined under article 257(6):[134]

> Every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property of the Republic of Ghana and shall be vested in the President on behalf of, and in trust for the people of Ghana.

The preamble also reveals that, the management of the resources must be done in accordance with article 36 of the constitution. This means that, section 36 is very

[131] http://www.reportingoilandgas.org: "Ghana Petroleum Revenue Management Act: Back To Basics" Adam. A (accessed on 23 September 2017).

[132] n 133 above

[133] Preamble, Petroleum Revenue Management Act, 2015, (Act 893)

[134] Article 257(6) Of The 1992 Constitution Of The Republic Of Ghana

important in terms of the interpretation of Act 815 hence it is described as the Directive Principles Of State Policy. Section 36(2)(d) of the 1992 Constitution states that:[135]

> 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.

The above implies that managing the petroleum revenues to achieve development is a nation wide agenda, which takes into account the development of all regions within the Republic. It also exposes a special focus on rural development. This is laudable because it seeks to bridge the disparity gap between the urban and rural folks, and also, the much-needed redress in the imbalances in development in rural and urban areas of the nation. As earlier stated, the key areas of Act 815(as amended) would be discussed, more specifically, the transparency and accountability, withdrawals against petroleum funds and allocation of petroleum revenue.

4.6.1 Transparency and Accountability

Section 8 of Act 815 spells out the obligation of the minister of finance in the management of petroleum revenues. It states that:[136]

> (1) For the purpose of transparency and accountability, the records of petroleum receipts in whatever form, shall simultaneously be published by the Minister in the *Gazette* and in at least two state owned daily newspapers, within thirty calendar days after the end of the applicable quarter.
>
> (2) The information required to be made public shall also be published online on the website of the Ministry and presented to parliament on the date of the Gazette publication.
>
> (3) The Minister shall publish the total petroleum output lifted and the reference price in the same manner as provided in subsections (1) and (2).

To achieve a rather transparent management of the oil and gas resources, there is a need to make the right and adequate effort to enlighten the citizenry (to whom these resources belong) about the collection of revenues, the total amount collected, how it was collected, where the collected revenue would be kept, how the revenue would be spent and on what it would be spent amongst others.

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135 Section 36(2)(d), 1992 Constitution Of The Republic Of Ghana

136 Section 8, Petroleum Revenue Management Act, 2011(Act 815)

Even though institutions such as the PIAC as established under section 51 of the Act serve as an institution to support the proper and effective management of the resources, in the interest of the public. It is supposed to achieve this by ensuring that, the public is informed about all the happenings in the oil and gas industry and the management thereof (on-a semi annual basis), there is still a huge challenge in fully satisfying the latter duty. This is because, for example, currently, the monitoring and evaluation report as published by the PIAC is only in English language hence it is not as effective and adequate as it ought to be. Also, Section 48 of the PRMA, as amended stipulates that:[137]

> "(1) The minister shall submit an annual report on the Petroleum Funds as part of the annual presentation of the budget statement and economic policies to Parliament.
>
> The annual report shall be prepared in a manner that makes easy for the dissemination to the public and shall include the following information for the financial year for which *the* report is prepared:
> (i) The receipts and transfers to and from the Petroleum Holding Fund,
>
> (ii) The deposits into and withdrawals from Ghana Stabilization Fund and the Ghana Heritage Fund, and
>
> (iii) A balanced sheet including a note listing qualifying instruments of the Ghana Petroleum Funds;
>
> *(b)* A report from the Minister describing the stage of implementation of the programmed activities funded by and the expenditures incurred on the activities covered by the Annual Budget Funding Amount in the financial year of that report;
>
> *(c)* A report Signed by the minister describing the activities the Petroleum Funds in the financial year of the report, including the advice provided by the Investment Advisory Committee, any reports prepared the Auditor–general drawing attention to particular issues or matters that may be of concern or interest to Parliament;
> *(d)* The income derived from the investment of the Ghana stabilization Fund and Ghana Heritage Fund during the financial year under review compared with the income of the previous two financial years.
>
> *(e)* A of the income in paragraph *(d)* with

[137] Section 48, Petroleum Revenue Management Act, 2011(Act 815)

(i) The benchmark performance indices provided to Minister, and
(ii) The income of the previous two financial years;

(I) The liabilities of government borrowings; and
(g) a list of persons holding positions required for the operation and performance of the Ghana Stabilization Fund and the Ghana Heritage Fund, including
(i) the minister,
(ii) the chairperson and members of the Investment Advisory Committee,
(ii) the Governor, and
(iv) the investment manager, if any.

(3) The sources of the information described in subsection (2) in whatever form including the reports and statements, shall be annexed to the annual report."

Fortunately for Ghana, it is very clear that, the executive seems to comply with the above provisions. The report is prescribed as part of the annual budget. Below is an extract of the report, as prepared by the minister of finance.

MINISTRY OF FINANCE

PETROLEUM RECEIPTS AND DISTRIBUTION REPORT FOR 1ST QUARTER OF 2017

Pursuant to Section 8 of the Petroleum Revenue Management Act, 2011 (Act 815), as amended (Act 893), the Minister is required to publish petroleum receipts (defined in Section 6 of the Act), namely, total output lifted and reference price, among others, on quarterly basis. This publication, under the authority of the Minister responsible for Finance, covers petroleum receipts for the first quarter of 2017.

ITEM	UNIT	JUBILEE	TEN	TOTAL
		35TH LIFT	1ST LIFT	
		QTR 1 2017		
Volume Lifted	**Barrels**			
o/w Ghana Group GOG/GNPC		984,163	996,459	1,980,622
Partners		6,764,057	2,988,413	9,752,470
Ghana Group Lift				
Date of Lift	d/m/y	27th December, 2016	8th December, 2016	
Reference Price per barrel	US$	53.596	52.590	
Price Option Fee	US$	0.08	0.10	
Diffferential (Premium)	US$	(0.168)	(1.50)	
Market Price Per Barrel	US$	53.508	51.190	
Cargo Value	**US$**	**52,660,593.80**	**51,008,736.21**	**103,669,330.01**
Gross Receipt from Ghana Group's Lift	**US$**	**52,660,593.80**	**51,008,736.21**	**103,669,330.01**
o/w Royalties	US$	14,661,506.78	13,249,022.39	27,910,529.17
o/w Carried and Participating Interest	US$	37,999,087.02	37,759,713.82	75,758,800.84
Transfer to GNPC	**US$**	**14,437,587.02**	**21,900,634.02**	**36,338,221.04**
Equity Financing Cost	US$	4,339,801.31	15,103,885.53	19,443,686.84
Net Carried & Participating Interest (30%)	US$	10,097,785.71	6,796,748.49	16,894,534.20
GOG Net Receips from Lifting	**US$**	**38,223,006.78**	**29,108,102.19**	**67,331,108.97**
o/w Royalties	US$	14,661,506.78	13,249,022.39	27,910,529.17
o/w Net Carried & Participating Interest (70%)	US$	23,561,500.00	15,859,079.80	39,420,579.80
Other Petroleum Receipts	**US$**	-	**27,344,208.50**	**27,344,208.50**
Corporate Income Tax (Tullow)	US$	-	27,314,273	27,314,273.00
Surface Rentals (Tullow)	US$	-	15,961.50	15,961.50
Surface Rentals (AMNI)	US$	-	13,974.00	13,974.00
Net GOG Receipts	**US$**	**38,223,006.78**	**56,452,310.69**	**94,675,317.47**

Ken Ofori-Atta
Minister

*Source: Ministry Of Finance, Ghana

Added to this, Section 49 of the Act as amended, outlines fundamental principles of petroleum revenue management. These are tools to ensure effective management. It is submitted that, section 48 and 49 read together helps to draw a conclusion that, effective and proper management of the resources would be achieved if the provisions were complied with. This is because; the law highlights all international best practices necessary to achieve effective implementation. Section 49(1) states that:

> The management of petroleum revenue and savings shall always be carried out with the highest internationally accepted standards of transparency and good governance.

Although the Act allows for some information to be considered as classified, Section 46(9) also allows for the disclosure of such classified information upon the request of the public. Under the Act, the classified information is time-bound, meaning that, after the expiry of a defined period, the information may be disclosed upon public request. Such a disclosure should be accompanied by reasons why the information was then deemed classified unless such reasons still persist, after the expiration of the prescribed time under the Act. The prescribed expiration period, under the Act, is now three years. As set under the Act, there is no absolute consideration of an information or data as “classified” at the time of reporting by the minister of finance. The minister of finance is expected to give reasons why any information whatsoever is treated as classified. The minister in making such a declaration must take into account the principles of transparency as outlined under the Act, and the publics’ constitutional right to information.

The declaration of confidentiality should not in any way constitute a barrier to the flow of information. Information should be readily ascertainable by parliament and the PIAC upon request.

With the provisions and guidelines for transparency as outlined in the Act, Ghana should be able to avoid the “resource curse” in its’ entirety should proper implementation of these provisions, become its priority.

4.6.2 Institutional Support Provisions Under The Petroleum Revenue Management Act, 2011 (Act 815)

The Petroleum Revenue Management Act, (Act 815) establishes some key institutions to support the objectives as stipulated under the Act, and also to serve as a shield against government and relevant government institutions from digressing from the spirit of the Act. These institutions are discussed below.

- **Public Interest And Accountability Committee (PIAC)**

Under the Petroleum Revenue Management Act (815) of 2011 (PRMA), which seeks to guide the government of the republic of Ghana on proper utilization of its newly found oil and gas resources, the PIAC was established. PIAC was established under section 5 of the PRMA is a watchdog over petroleum fund. The duties of the committee is summarized as, monitoring and evaluation of compliance with the PRMA. The objective for the establishment the PIAC are captured succinctly under section 52 as:[138]

> (a) To monitor and evaluate compliance with this Act by government and other relevant institutions in the management and use of the petroleum revenues and investments as provided in this Act;
> (b) To provide space and platform for the public to debate whether spending prospects and management and use of revenues conform to the development priorities as provided under section 21 (3); and
> (c) To provide independent assessment on the management and use of petroleum revenues to assist Parliament and the executive in the oversight and performance of related functions respectively.

The committee was fully fledged to begin its task in September 2011. As of now the committee boasts of the publication of 11 reports, six of which are annual reports and five of which are semi-annual report.

Interestingly, even though the committee has been mandated to oversee the implementation of the PRMA by the government relevant state, this institutional mandate has a narrow scope targeted at petroleum revenue savings and not a mandate to conduct an inquiry into why the country debt has skyrocketed and the impact thereof.

Sadly, this narrow scope has due consequences, for citizens in the management of resources, for example a recent PIAC report indicates that the nations last USD 1

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[138] Section 54, Petroleum Revenue Management Act, 2011(Act 815)

billion Eurobond attracted an interest of 8% whilst return on petroleum funds averaged 2%. The mathematics is clear that for each dollar saved, a loss of $6 was attracted.

The committee, as part its' duties, issue a report to the citizens and stakeholders about the performance of petroleum revenues in Ghana. Its also provides platforms for the citizens to engage in a healthy dialogue on the management of petroleum revenues, feedback is then collated and shared with policy makers.[139] In its reports the committee covers a broad range of issues such as related to management of petroleum revenue. These involve:

- Liftings and marketing
- Sum total of accrued revenues
- Allocation of revenue
- Utilization of revenues

The committee reports also take into account issues and findings associated with key institutions under the PRMA (Act 815) as amended by PRMA (Act 893). The committee then examines the issues and findings that are relevant to the performance of the duties of the institution. Thus the above been said, the role of the PIAC insuring the proper and accountable utilization of petroleum revenue cannot be over emphasized. Its' building capacity must therefore be the focus of government in other to achieve the set objectives for its establishment.

[139] Http://Www.Allafrica.Com "Ghana : Highlight Of PIAC Report On Management Of Petroleum Revenues For Year 2016 (Accessed On 9th September, 2017)

[139] Section 21(5) And 21(6) Petroleum Revenue Management Act, 2011.

DISBURSEMENT OF ABFA TO PRIORITY AREAS IN 2016

PRIORITY AREA	DISBURSEMENT	
	Amount (GH¢)	%
Expenditure and Amortization of Loans for Oil and Gas Infrastructure	-	
Road and Other Infrastructure	199,447,492.13	64.11
Agriculture Modernization	27,671,280.88	8.89
Capacity Building (including Oil and Gas)	83,037,283.91	26.69
Total Spending in Priority Areas	**310,156,056.92**	
Transfers to the Public Interest and Accountability Committee	967,000.00	0.31
Total ABFA Spending	**311,123,056.92**	**100**

Source: PIAC's construct, 2017 (based on Ministry of Finance Data)

- **Investment Advisory Committee**

This committee was established under Section 29 of the PRMA (Act 815). It is tasked with the duty of providing general guidelines to the minister of finance. The committee together with the Bank of Ghana, which is responsible for the operational management of the petroleum funds, and the minister of finance, are responsible for the formulation of the general investment policy.

The implementation of the formulated policies is the responsibility of the Bank of Ghana. The Bank is therefore required to prepare and present investment reports to this effect. The minister appoints the members of the committee.

The minister is also responsible for determining how much should be paid as remuneration to the committee members. It must however be mentioned that, any advisory guideline given by the Investment Advisory Committee to the minister has no binding effect whatsoever on the minister.

- **The Ghana Extractive Industries Transparency Initiative**

The Petroleum Revenue Management Act of 2011, (Act 815) does not recognize the Ghana Extractive Industries Transparency Initiative (GEITI), but it is an initiative that supports the proper and efficient management of resource revenues in Ghana. Therefore, it is worth discussing its' composition and objectives.

The extractive industry transparency initiative was launched in Johannesburg, South Africa in September 2002. The initiative is aimed at promoting transparency of payments in the extractive industries. It therefore provides the missing link as regards the transparency and accountability in the flow of revenue from the extractive industries.[140]

The initiative is voluntary in nature. It is supported by a coalition of companies, governments and civil society organizations.[141] The initiative also assists governments in budget practice. This initiative helps to enlighten citizens on the use of the revenues that accrues to their governments and empowers them to hold their governments accountable. The initiative rests on the idea that, should transparency be successfully promoted in revenue management, governments would be forced to properly utilize natural resources. This will also be a tool of assistance by which governments will undertake their financial and macroeconomic planning. The main focus of the initiative is on revenue generation and its allocation or disbursement in resource revenue management.

The Ghana Extractive Industry Initiative Transparency Initiative (GEITI) is the Ghana chapter of the Global Initiative. The GEITI aims at satisfying all the due processes and objectives associated with revenue management practice in Ghana and also the promotion of transparency regarding the receipts of natural resource revenue.

4.6.3 Established Funds under the Petroleum Revenue Management Act, 2011(as amended)

Natural resources, most especially, oil and gas resources are exhaustible in nature, hence the need for the establishment of sovereign wealth funds. The wealth funds in Ghana are the stabilization fund and the Ghana heritage fund. Together, the two funds are referred to as the Ghana petroleum funds.

Each fund in the sovereign wealth funds is held separately from the consolidated fund. The consolidated fund is the general government funds, which is housed at the bank of Ghana. It serves the recipient of all revenues that are due to the state. The consolidated

[140] Http://www.gheiti.gov.gh
[141] n 139 above

fund receives its' funding from the Annual Budget funding amount, which is the source of funding for the national budget.

The Act, as amended recognizes the establishment of these funds in the efficient management of petroleum revenues in Ghana. These funds are:

- The Petroleum Holding Fund
- The Stabilization Fund
- The Heritage Fund

Even though the Annual Budget Funding Amount (ABFA) is not expressly mentioned as one the cardinal funds, it may however be classified as such by default due to the fact that, under Act 815, provision is made for direct transfer to the ABFA. For proper analysis and understanding of Ghana's petroleum management style, it is prudent therefore to discuss these funds as recognized under the Act 815.

4.6.4 The Petroleum Holding Fund, allocation and permitted withdrawals

The petroleum holding fund is a fund that is designated as a recipient of petroleum revenue with the mandate of disbursing such revenue. The Act authorizes disbursements of the Holding Funds as follows:[142]

- 70% of the Benchmark Annual Revenues to the Budget
- 21% of the Ghana Stabilization Fund
- 9% to the Heritage Fund

From the above percentages, it is very clear that, financing the annual budget seems to be the most important priority of fund. The fund is held at the Bank of Ghana, which is the central bank of the state. The funds that are paid into this account are not part of the normal tax revenue of the state and hence it should not be treated as such. Section 5 (1) of Act 815 prohibits the use of the funds for certain activities. These prohibitions are as follows:[143]

Firstly, the funds cannot be used to provide credit to government, public enterprises, private sector entities or any other entity or persons.

Also, the Petroleum Holding Fund cannot be used as collateral for guarantees, commitments or other liabilities of any entity.

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[142] http://ghanaweb.com "Ghana's Petroleum Revenue Management Bill Promises Greater Transparency And Accountability" Adams MA

[143] http://www.adb.org (accessed on 7th October, 2017).

Lastly, it is prohibited for any borrowing to be made against the Petroleum Holding Fund.

The above indicates that, Ghana has indeed incorporated international best practices into its revenue management bill. The challenge therefore hangs on sound implementation, as any loophole in its' implementation would result in a smooth acceleration towards the "resource curse".

In terms of Section 5(2) of Act (815) as amended, the reasons for the prohibition against the petroleum reserves is explained. It is based on the reasoning that, to maintain revenue flows from the petroleum sector and to broadly achieve the objectives of Act 815, it is thus expedient that, no borrowing is allowed against the petroleum reserve. In terms of Act 815, petroleum reserve is defined as follows:[144]

> "The petroleum that can be economically extracted from the petroleum resources and which is anticipated to be economically recoverable by the application a development project to known discoveries from a future date."

Petroleum resources on the other hand is also defined as:[145]

> Petroleum in its' natural state that has either been discovered or that has the potential of being discovered.

The prohibitions against reserve borrowing is indeed laudable however as excellent as the broad prohibitions in this section might be, the positive effects would not be realized without strict implementation and enforcement. In order to achieve compliance with the stipulated objectives for which the fund was established, there is a great need for the challenges associated with implementation to be addressed. Currently, the challenge that is faced under implementation centers on the different roles played by the minister of finance on one hand and the minister of petroleum and the petroleum commission on the other hand. Whilst the former is responsible for overall revenue management, the latter has oversight responsibilities as regards the operations of the Petroleum Act. There is therefore the need for the right synergy between the different mandates. This is because, it poses enforcement difficulties towards the prohibition against reserved based financing or reserved backed financing.

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[144] Petroleum Revenue Management Act, 2011(Act 815)

[145] n 141 above

- **Stabilization Fund**

The stabilization fund is aimed at mitigating negative effects that are associated with oil revenue, such as price and revenue volatility. These negative effects have a direct bearing on the national budget because revenues accrued from these resources are a source of funding for the national budget. It is thus, important as a sustenance tool against any shortfall in the flow of revenue, as the price volatility associated with oil and gas revenue is a constant factor in the management thereof.

- **Heritage Fund**

The heritage fund serves as a savings reservoir for the benefit of future generations, to support their development when the oil and gas resources are finally depleted. The fund is also a recipient of excess petroleum revenue. The fund as earlier stated, is a creation of the Petroleum Revenue Management Act, 2011 (Act 815) as amended by Act 893 of 2015.

It receives a percentage of the oil and gas revenue that accrues to the Petroleum Holding Fund. Currently, the percentage is pegged at 9%. This percentage was set by parliament, since it was mandated to do so under Act 815. The bank of Ghana is the custodian of the fund and thus holds it in trust until the funds are finally depleted. The 9% as it is currently pegged means that only that amount goes to the fund out of all the petroleum revenue received. The remaining 91% is disbursed to the annual budget funding amount and the stabilization fund. The 91% is splitted as follows:[146]

- Stabilization Fund – 21%
- Annual Budget Funding Amount – 70%

The percentage that accrues to the heritage fund, as agreed by parliament may only be reviewed or changed after fifteen years. The objective for which the fund was set up implies that, the fund may only be touched when these conditions have been fulfilled:[147]

- Resources must be finally depleted.
- A period of one year must lapse after such depletion occurs.

[146] http://www.reportingoilandgas.org

[147] Section 20, Petroleum Revenue Management Act, 2011.

Also, when the resources are finally depleted, the amount that is generated under the heritage fund and the stabilization would then be merged into a single fund called the Ghana petroleum wealth. This means that, the former names would no longer exist. Interest on the fund may be used or spent after ten years subject to a simple parliamentary majority.

- **The Annual Budget Funding Amount**

  This account as set up by the government receives the allocation from the total oil and gas revenue. The percentage as set currently is 70%. It is specifically set up in support of government budgets.

  In terms of section 21 of Act 815, the Annual Budget funding Amount is part of the national budget, therefore its' use and associated expenditure have to go through the same budgetary processes that are necessary to ensure the efficient allocation, responsible monitoring of expenditure.

  The purpose of the fund is captured under section 21(2) of Act 815 as follows:[148]

> The use of the annual allocation of the Annual Budget Funding Amount shall be
> (a) To maximize the rate of economic development;
> (b) To promote equality of economic opportunity with a view to ensure the well-being of citizens;
> (c) To undertake even and balanced development of the regions; and
> (d) Guided by a medium-term expenditure framework aligned with a long-term national development plan approved by Parliament.

In order to maximize the impact of the use of petroleum revenue, the Minister of Finance is required to prioritize not more than four areas specified in the law for the use of petroleum revenue subject to review every three years except that, he may make a special request for such a release. Parliament may release revenue to address national disasters as they occur. The scope of the ministers' mandate is also stipulated under section 21(5) and 21(6) as follows:[149]

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[148] Section 21, Petroleum Revenue Management Act, 2011.
[149] Section 21(5) And 21(6) Petroleum Revenue Management Act, 2011.

(5) In order to maximize the impact of the use of the petroleum revenue, the Minister shall prioritize not more than four areas specified in subsection (3) when submitting a programme of activities for the use of the petroleum revenue.

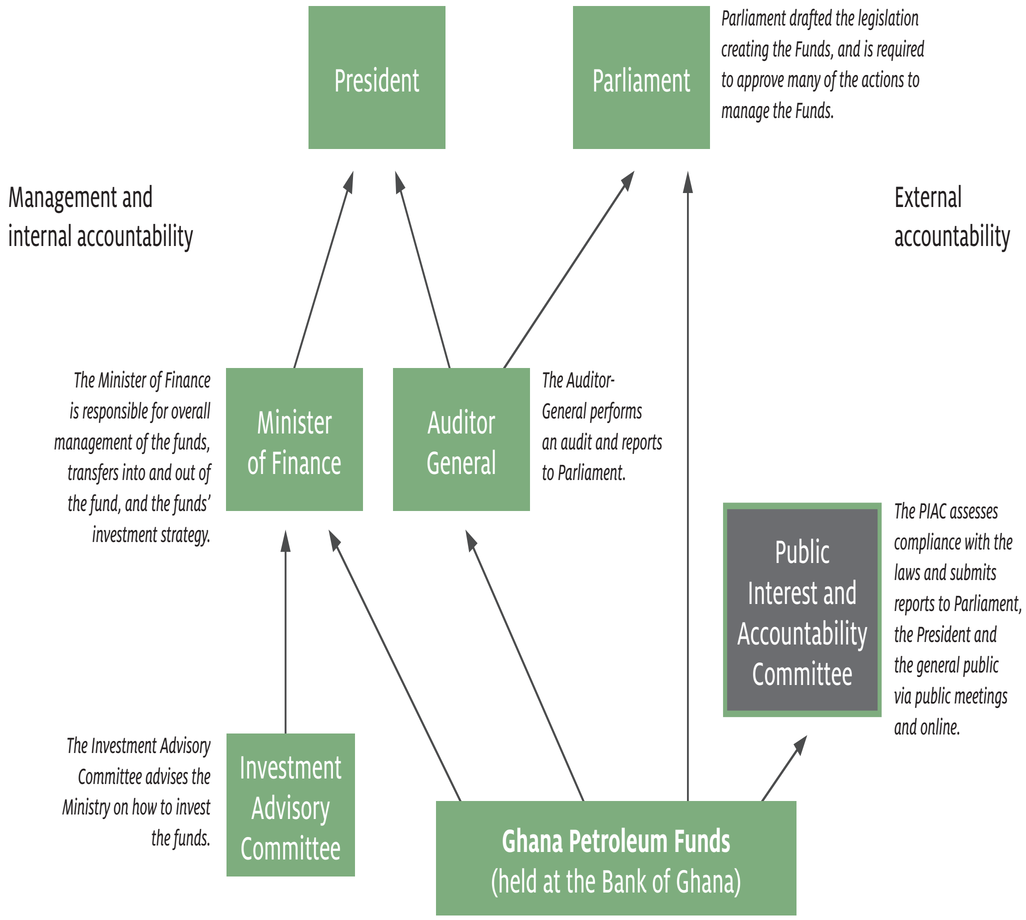
(6) The programme shall be reviewed every three years after the initial prioritization, except that in the event of a national disaster, the Minister may make a special request to Parliament for a release of revenue.

Despite all the checks in place against the abuse of the Annual Budget Funding Amount, the recent debate in Ghana has actually focused on the abuse of the funds and its' earmarked status of been the source of funding for the free Senior High School[150] project by the ruling government.

[150] The project is aimed at giving citizens of Ghana free senior high school education. This was the ruling party's initiative and a pillar of campaign in the 2016 presidential elections. The sustainability of the project has been questioned by the opposition, however the bone of contention is the source of funding for the project.

GHANA

Management and Accountability



8 January 2013 Natural Resource Funds

* Petroleum Governance Structure Under The Petroleum Revenue Management Act, 2011.

*Source: Natural Resource Governance Institute

4.6.5 Resource revenue management: lessons from Norway

Norway's management of Petroleum Revenues is indeed an epitome of a successful management of natural resources. Undeniably, the nation has been able to avert the "resource curse" that has hit most resource-rich nations of the world and turned the "curse" into a "blessing".

The nation's revenue management style has made Norway one of the richest countries in the world. The country can also boast of sound economic fundamentals, scoring high on all economic and social indicators and most importantly, as one of the biggest sovereign wealth funds in the world. The management of the Norwegian petroleum revenue is compliant with international best practices. For the purposes of petroleum funds management the following lessons are highlighted:

Firstly, the fiscal regime is based on corporate taxation. The resource rent tax is 50% profit tax plus 28% of corporate income tax. The corporate income tax is exerted regardless of the sector of the economy. This means that, the fiscal regime in place secures for the government, a marginal profit of 78%. This is a brilliant move to ensure maximum benefit to the state.

Secondly, the management style is also characterized by a strong system of checks and balances. In Norway, the Ministry Of Petroleum And Energy is responsible for the management of petroleum resources. The ministry however assigns duties to the Norwegian Petroleum Directorate. This is an agency that is accountable to the Ministry Of Petroleum. For fiscal issues, the petroleum tax office and the fiscal policy framework assist the ministry of finance. This relieves the minister of finance of any unnecessary burden and thus, ensures efficiency.

Added to that, Norway has a fiscal policy guideline that guides the spending and savings decisions aimed at both short and medium term stabilization of the economy. The policy is also complemented by a long-term savings plan. This is laudable because spending and savings decisions are not taken subject to the discretion of the minister of finance.

Lastly, the management of its' petroleum funds, which is named the government pension fund global (GPFG) is characterized by five key principles that are in line with best international practices. These principles are:

- The focused role of the GPFG as a stabilization and savings vehicle.

- All petroleum revenues flow into the GPFG, including returns on the funds' financial instruments.
- The integration of the GPFG with the state budget. Petroleum revenues spent are allocated through the state budget. This does not allow direct domestic investment (DDI) or off-budget allocations.
- Petroleum revenue savings are invested only international financial market with a log-term investment projection. This helps to avoid the "Dutch disease" and ensure sound financial returns and risk diversification.
- Fund is managed with high level of transparency.

These principles as espoused above are contributory factors to the successful management of the Norwegian petroleum resources.

4.6.6 Problems with the Petroleum Revenue Management Act, 2011 (Act 815) as amended by Petroleum Revenue Management Act, 2015 (Act 893)

Even though Act 815 as amended by Act 893 has indeed improved transparency and accountability in the management of petroleum revenues in Ghana, there are still some sections of the Act that needs to undergo a proper review. These sections include:

Firstly, section 20 of the Act, which allows that, on the basis of a simple majority, the government can relax the restrictions imposed on the heritage fund, exposes the growth of the fund to an impending danger.

Secondly, the law has failed to address what exactly may constitute urgency for the restrictions to be lifted. It has also failed to address how often the application can be done within a particular time frame. This indeed is a serious loophole and thus subject to abuse. There should indeed be a limitation on how much can be withdrawn.

Also, section 21(5) also grants the minister of finance the mandate to prioritize not more than four sectors for spending the Annual Budget Funding Amount (ABFA). However, based on the average size of revenues that are received, it is quite unrealistic to maximize benefits from such prioritization.

Added to that, Government has also failed in developing a long-term national development plan. This plan is however necessary as a requirement for spending petroleum revenue.

Furthermore, section 49 when analyzed also indicates that, there is a clear gap in the provision. Under subsection 1 of the Act, the law stipulates that, the management of the funds would be carried out with the highest internationally accepted standards however, subsection 3 immediately deducts from this obligation by shielding the minister through the imposed mandate to withhold any information or data subject to his discretion. This reveals that, the law has failed to adequately embrace transparency by protecting political interest and agenda.

More so, it does not also give any guidelines on what the minister may conclude as "privileged or confidential information or data". Even though the minister's wide discretion in this regard seems to be mitigated somewhat by the duty to provide written explanation for deeming an information or data to be confidential, the explanation that may be provided is not subject to any judicial review or process nor is it released to the public. The minister is also backed by the Act to keep such information until after a period of three years of making such a decision.

Worth mention too, is that, section 25 poses a huge challenge. Even though under section 29 and 30, the Act establishes the Investment Advisory Committee (IAC), the advice or guidance that it presents to the minister is of no binding effect. Interestingly, the minister's mandate in relation to the committee reveals a sharp conflict of interest. The conflict of interest arises in the ministers' role of appointing the members of the committee and also in determining their requisite remuneration. This automatically is an indication of an undue influence the minister may have on the committee members.

Lastly, section 38(1) and 38(2) are problematic. The minister is authorized to "take an urgent investment" or make an "overall management decision" in consultation with the governor however the Act has failed to define what constitutes or defines "urgent". This non-restriction on the authority granted the minister is too wide as the minister might make risky investment decisions, at the expense of Ghanaians.

4.7 Conclusion

This chapter carried out an analysis of the Ghana revenue management, specifically, the petroleum revenue management. The chapter highlighted that, even though the Petroleum Revenue Management Act, 2011 (Act 815) has gone through a recent amendment to ensure an efficient and accountable use of petroleum revenue, there still persist some problems that needs to be addressed immediately. The chapter also highlighted sound lessons from Norway which has been very successful at its' petroleum revenue management. The much-needed review of these sections of the revenue management Act must be carried out expediently, if Ghana is to avoid the curse. This is because of the negative correlation that exists between petroleum revenues and bad legislative policies.

CHAPTER 5
CONCLUSIONS AND RECOMMENDATIONS

> " Any real or potential shift in production from previously key sectors of the economy with the capacity of increasing reliance on natural resources, significant appreciation in a country's currency that may adversely affect the overall exports and fiscal situation should be of concern. It is therefore proper that with Ghana joining oil producing nations, effective management of oil resources in a manner that will keep agricultural production at acceptable levels should direct the debate about the discovery."[151]

5.1 Introduction

This chapter will attempt to mark out ways in which the so-called "resource-curse" syndrome may be averted in Ghana.

In this study, it has been successfully established that Ghana has not been able to properly translate its petroleum revenues into real development. The oil and gas sector shows clear symptoms of the "resource curse". The study has also established that appropriate reforms of the specific laws that govern the oil and gas sector would be able to avert the "resource curse".

5.2 Research findings

In chapter 2, it was successfully established that, the "resource curse" is prevalent in most resource-rich nations in sub-Saharan Africa. The prevalence of this dispiriting curse is attributable to bad economic policies and gaps in the regulatory framework of these nations. The discussion also revealed that lack of strategic diversification plans by these resource-rich nations could also contribute to the problem.

In chapter 3, the discussion on Ghana and the "resource curse" phenomenon revealed that, the country is not suffering from the "resource curse" but mere symptoms of the "Dutch-disease." This result was arrived at using the transmission mechanisms, as formulated by Paul Stevenson and discussed under chapter 2. It was concluded that, the "Dutch-disease" phenomenon as currently experienced by Ghana, is as a result of the gaps in policies and legislation of the oil and gas sector.

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[151] Gatsi (n 92 above)

In chapter 4, an analysis of the Ghana revenue management, specifically, the petroleum revenue management was undertaken. The chapter highlighted that, even though the Petroleum Revenue Management Act, 2011 (Act 815) has gone through a recent amendment to ensure an efficient and accountable use of petroleum revenue, there still persist some problems that needs to be addressed immediately. The chapter also marked out sound lessons from Norway, which has been very successful at its' petroleum revenue management.

5.3 Recommendations

In view of the above findings, the following recommendations are submitted. It is hoped that, adherence to these would treat Ghana's "Dutch-diseased" status and avoid the "Resource Curse" in its entirety.

Firstly Ghana must embrace diversification through agricultural development. The government needs to come up with various policies and programs that will incentivize the youth to engage in agriculture rather than chasing after non-existent oil and gas jobs. This will ensure that, total agricultural production meets the food security, industrial and export needs of the country. To this effect, there must be an effective revenue mobilization from the oil and gas sector to the agricultural production sector.

In 2009, a World Bank report[152] indicated that, agriculture could function in tandem with the other sectors to accelerate growth, reduce poverty and sustainable development.

This is because, in Ghana, the agricultural sector employs over 60 percent of the population. It is therefore prudent that, the government uses the revenue from the oil and gas sector to fund farmers. This would cushion the economy from the revenue volatility and exhaustible nature of oil and gas resources.

It is recommended that, the government through its policies and legislative reforms, narrow the Annual Budget Funding Amount (ABFA) allocation to agricultural modernization. Besides enhancing food sufficiency and security, agricultural development will result in a huge reduction in rural-urban migration and also contribute significantly to poverty reduction.

Secondly, Ghana must practice efficient and equitable petroleum revenue management.

[152] Http:// www.worldbank.org/projects/P102675? Lang=en

Even though the Petroleum Revenue Management, 2011(ACT 815) as amended has improved transparency and accountability in the petroleum revenue management of Ghana, there are still some sections of the Act, that needs further revision. The proposed revision and amendment is necessary to ensure the efficient utilization of the resource revenues to achieve the development objectives as set under the Act. It is also important that, the further amendments of the Act as proposed be carried out expediently to avert the threat of the impending "resource curse", that has hit most resource- rich nations.

It is therefore recommended that, the Act undergoes further amendment, if Ghana is to enjoy any meaningful development from its' petroleum revenues. This must of course be done, bearing in mind the mistake of the country's past regarding its poor antecedent in the management of its' mineral revenues before the discovery of oil.

Regarding the further review of the Petroleum revenue management Act, 2011(as amended), the following must be considered.

The provision under Section 20 of the PRMA that a simple majority may relax the restrictions imposed on the heritage fund must be revised. Even if the restrictions on the fund may be relaxed, the restriction lifting should be tied to a clearly stipulated and certain financial balance as opposed to the years at which it is currently tied to. Also there must be a limitation on how much can be withdrawn from the fund. It is prudent that the limitation is tied to a certain percentage of the total revenue that has accrued under the fund. Added to that, Section 21(5), which mandates the minister to select four priority areas for development funded by the Annual Budget Funding Amount, must be revised. To feel the impact of development in priority areas, the number of areas selected as priority areas by the minister under this section should be reduced to at least two main areas. The selection must also be subjected to review only after at least eight years to achieve the utmost benefit. This is because; the political trend in Ghana dictates an average of two terms in office by a particular ruling party. Pegging review at eight years ensures that, various development agendas for the nation are not subjected to the whims and caprices of politicians.

Currently, the selection of at least four priority areas is quite broad and thus a bit ambitious. This is not to say that other sectors that are not selected, as priority areas are not important but rather the developmental needs of the nation necessitates so. Areas that are characterized by quick-multiplier effect should inform the choice of two areas.

Added to that, the ministers' mandate as given under Section 49 to withhold information from the public must be amended by the withdrawal of that mandate. However, should it not be withdrawn completely, it must at least be limited, to ensure that, the reasons for such classification of confidentiality are made available to the public.

More so, the advice from the Investment Advisory Committee should be binding on the minister if such decisions are taken by a majority of the members of the committee. The Act must also clearly define the meaning of "urgent" in relation to investment.

Further more, there is more room for improvement in the standards of transparency under the management of petroleum funds in Ghana. The petroleum revenue management should strive to meet the principles espoused in the Linaburg-Madwell Transparency Index.[153] Currently, the country has not met in full the principles espoused in the Linaburg-Madwell Transparency Index. Under the index, it is imperative that full publication is made to the effect of who Ghana's fund managers are, published accounts of the fund, the website of the named managers amongst others. This will ensure transparency in the administration of petroleum revenues.

Lastly, Ghana needs to be strategic investment of its petroleum funds. The government of Ghana needs to invest strategically by taking into consideration the modern investors attitude towards the extractive industries. The evidence now suggests that, other areas of focus such as real estate and construction are worth investing in. The discovery of oil and gas by many nations in recent times has caused a rather low demand for petroleum products hence the drop in oil prices in 2016. A prudent resource-rich government must therefore invest revenue generated from petroleum into other profitable sectors.

In 2016, 40% of announced Greenfield Foreign Direct Investment (FDI) went into real estate and same portion was invested in construction. This brings to light a sharp shift in investments because the previous years were characterized by the extractive industries topping the FDI charts.

[153] The Linaburg- Maduell Transparency Index was developed in 2008 at the sovereign wealth funds. The index is based on a method of rating transparency with respect to sovereign wealth funds. It is based on ten essential principles that depict sovereign wealth transparency to the Public. The ratings are on a scale of 1-8. It has some essential principles against which these ratings are done.

The necessary question that must be asked is: “what has informed the sudden shift of investments in the extractives to real estate and construction?” This may be answered in two folds:

Firstly, the periodic volatility of energy and other commodity prices and secondly, the new trend towards diversification, aimed at Africa’s growth. According to Wilbur Smith[154], investors are encouraged at the sight of “cranes dotting the skylines” of Africa’s cities.

The new trend is characterized by global private equity and sovereign wealth funds and “Direct Domestic Investment” (DDI) throwing billion of dollars into construction of industrial parks, retail facilities and houses.

Particularly for Ghana, the investment projects undertaking by Black Ivy[155] corroborates the facts presented. This might just be a step in the right direction for Africa in general and Ghana in particular because the price volatility attributed to petroleum has really affected most resource- rich states like Nigeria and Angola. The shift from over reliance on the extractives might just be what Ghana needs at this point in its’ development agenda, as deduced from the objectives of the petroleum revenue management Act.

It is submitted however that, all is not gloomy for Ghana, as the nation has been projected as the third fastest growing market in 2018 at a strong percentage of 9.2%.

5.4 Conclusion

Should the standards as espoused in in the Linaburg-Madwell model and the transparency principles as set in the Petroleum Revenue Management Act, 2011(Act 815), as amended be adhered to, structures and institutions would be able to function effectively without let or hindrance. Also the lessons drawn from Norway in the management of its’ resource revenue must guide the Ghanaian law and policy makers. The various institutions tasked with investment advice and recommendations to the ministry of finance and the minister of finance must also make such investment decisions, taking into cognizance the attitude of the modern investor towards the

[154] Wilbur Smith is the current commerce secretary of the United States of America.
[155] Black Ivy is a permanent capital company based in the United States of America.

extractives. With these as tools in hand, the "Dutch-diseased" status of Ghana would be treated and the impending "resource curse" can be averted

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