THE SWF'S LEGAL STATUTS

البنيان القانوني لصناديق الثروة السيادية

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Abstract:

Despite the several definitions of sovereign wealth funds, the majority of scholars and economists consider them tasked with governments' wealth and financial reserves management, which is considered a "savings under duress"; others generally distinguish between them in accordance with their basic objectives.

In addition to the variation in conceptualization, other problematic emerged, such as providing illegal and immoral facilities, lack of transparency, accountability and non-disclosure, their size, their fate in the case of bankruptcy, and therefore, these conceptual and legal imbalances may make these funds for political purposes or used in money laundering and corruption, in the absence of constitutional and legislative oversight.

Key words:
SWFs; constitution; legislation; governance; accountability; disclosure; control...

ملخص:

رغم التعاريف المختلفة لصناديق الثروة السيادية، فإن غالبية الفقهاء والاقتصاديين يعتبرونها هي المكلفة بإدارة الثروات والاحتياطات المالية للحكومات، فهي "مدخرات بالإكراه" تختلف عن صناديق الاستقرار أو صناديق الادخار للأجيال القادمة.

وإضافة إلى التباين في المفاهيم، ظهرت إشكالات أخرى منها تقديمها تسهيلات غير قانونية ولا أخلاقية أو وافتقارها إلى الشفافية والمساءلة وعدم الكشف عن حجمها ومآلها في حالة الإفلاس، وعليه، هذه الإختلالات المفاهيمية والقانونية قد تجعل هذه الصناديق لأغراض سياسية أو تستعمل في تبييض الأموال والفساد، خاصة وأن الرقابة الدستورية والتشريعية غير كافية.

الكلمات المفتاحية:

صندوق، ثروة سيادية، دستور، تشريع، حوكمة، مساءلة، كشف، رقابة...

1. Introduction:

More recently, SWFs have received considerable attention and criticism on the world stage and this is reflected in studies on their nature, historical origins, size, strategies, legal structure (constitution, legislation) and regulatory oversight (Bryan, 2008, p01), particularly with regard to the legal basis of which it's created, such as the Organic Law, the Finance Law, the Constitution, the Companies Law, and other laws and regulations.

International monitors criticize sovereign wealth funds for their secrecy, lack of transparency and the unclearness of their legal and regulatory status; Even politicians (***like German Chancellor Merkel***) and not just lawmakers and stakeholders, are wary of using these funds to third-party agents to conceal their properties in a form of large corporations, allowing for enacting hidden wealth policies of enrichment at the developed countries' expense.

Commentators, as in America**(1)** are concerned about the national security implications of SWFs; thus although there is little evidence that these funds are spying on corporations, and despite industrial fears about some of their implications and effects, developing countries are the most threatened by these funds because of the great lax oversight over foreign flows and the relative weakness of the military, economy and diplomacy; They are also far less cautious to avoid risks by adopting strategies and activating the legislative structures (IWG, 2008) to ward off the risks of espionage and economic blackmail as a bargaining chip to destabilization (Bryan, 2008, p12).

The Problematic: It's said that there is often no effectiveness of SWFs, especially in emerging economies, because of the lack of appropriate legal and regulatory frameworks. How?

(1)- The Dubai Ports disaster has sparked new concerns in the United States that China's sovereign wealth funds will use the power of their companies to steal knowledge from US companies, and that Iran could use them to smuggle potential terrorists to the USA, according to the Egyptian People's newspaper, February 26th, 2006.

This paper aims at highlighting the appropriate solutions to reconcile the state sovereignty with the inevitability of SWFs existence and the role of the Constitution in maintaining its purposes.

The paper is set in two main chapters; the first is devoted to the conceptual framework in four sub-chapters; the second to the legal and monitoring side of SWFs, also in four sub-chapters.

2. The Conceptual framework of SWFs:

The definitions used by researchers about the concept of sovereign wealth funds are recently still controversial and rising debates, thus there are those who put these definitions in one of eleven categories, but the results showed full agreement and substantive to only two characteristics: these funds are owned by governments, so they are investment funds and therefore we conclude that there is no substantive definition of these new instruments of state intervention (Javier and Tomás, 2014, p01).

2.1. Criteria of discrimination:

There are many definitions of SWFS, for example, what distinguishes between sovereign wealth funds that are the result of oil and natural gas revenues (so-called commodity funds) and sovereign wealth funds that are based on an excess of exports (so-called non-commodity funds); another classification for SWFs, so made by the IMF as funds or arrangements (Abdelmadjid, 2009, p02)...These bodies are distinguished by their main objectives: stabilization funds, savings funds for future generations, reserve investment companies, development funds and emergency pension reserve funds.

Some scholars exclude, from the study, the category of funds that are based solely on local investment. Other scholars provide a classification of funds according to the role they play in sovereignty and what lies behind their legitimate claims within the state: such as postcolonial sovereign wealth funds, rentier SWFs, productive SWFs, regional SWFs, development funds (Abderrahman, 2010, p05), ethical philosophical SWFs (Giorgio, 2014, p03).

2.2. Definition of SWFs:

Sovereign wealth funds are defined by the U.S. Treasury as "Government investment funds, funded by foreign currency reserves but managed separately from official currency reserves. Basically, they are pools of money governments invest for profit. Often this money is used to invest in foreign companies".

Given their multiple concepts, a fairly broad definition has been developed by the IMF that some governments are creating (IMF, 2013, p44):

a. Government funds for a special purpose are usually called SWFs.

b. Assets of the economy for long-term objectives.

c. Funds normally invested arise from commodity sales, privatization proceeds, and/or accumulation of foreign financial assets by the authorities.

The IMF provides a basis for providing appropriate guidance to prevent risks that may arise from these funds and undermines the credibility of "non-binding law" instruments, and always according to the IMF, the main decision is whether there are some legal or administrative directives that result in the encumbered assets in a way that prevents the availability of its readiness to monetary authorities (Simone, 2009).

So there are some studies that focus on the challenges to SWF definitions, such as in 2008 by Balding and Rozanov in 2011, focusing on the definition set by the International Working Group on SWFs in 2008 covered by the Santiago Principles (E.C., 2009, p05) Generally, the conceptual analyzes were from different angles and areas such as finance and international law, and were summarized in eleven commonly used elements to identify sovereign wealth funds, namely **(see fig. 1)**:

Figure 1: Key features included in the definition of SWFs

Trait	*Description*	*Perc.*
• Investment tool	• Instead of a running company	• 100 %
• Property	• Owned by an entity in the state	• 100 %
• International	• Its bonds include foreign investments	• 68%
• Responsibilities	• Has no explicit pension obligations	• 58%
• Source of funds	• Funded through commodity and non-commodity resources	• 53%
• Risks	• Invest higher than risk-free assets	• 42%
• long term	• Follow-up on long-term investment objectives	• 42%
• Financial objective	• Paid by a financial target to the maximum	• 32%
• Sovereign power	• Excludes sub-national governments	• 16%
• Independent structure	• Managed separately from monetary authorities	• 16%

Source: Javier Capapé and Tomás Guerrero Blanco, 2014, p.05.

2.3. Modernity of SWFs:

Sovereign wealth funds are a recent phenomenon,[2*] thus the beginning of their establishment dated back to the first oil strikes in the Persian Gulf countries in the 1950s. For example, the Kuwait Investment Authority (KIA), which began in 1953 for the purpose of managing "excess" oil revenues, expected Kuwait to save for the coming years.

The pro-fund wave was founded during the 1970s oil boom when oil exporters such as the U.A.E., K.S.A. and Alberta used their sovereign wealth funds as a means of absorbing excess liquidity to avoid a deterioration of their economies. Lately another boom in oil and natural resources combined with a huge accumulation of foreign exchange reserves among non-commodity exporters has stimulated a new group of countries to create SWFs, including South Korea, Iran and Algeria

(2)- Although some jurists argue that it is nothing new to exist, the French Deposits and Consignments Fund, created in 1816, was the first sovereign wealth fund, in a speech by Hildebrand Westdes on the challenge of sovereign wealth funds at the International Center for Monetary and Banking Studies, Geneva, 18 December 2007.

* In French**:** La Caisse des dépôts et consignations

(Bouflih, 2010, p83); These SWFs were geographically and economically diverse from their counterparts.

Many of these modern funds represent countries that are not commodity exporters, do not necessarily face excessive liquidity, and their economies are often still quite backward and perhaps all of these scenarios have stimulated the establishment of sovereign funds.

In the past 10 years, the scope and size of all sovereign funds have changed, and although they are a recent phenomenon, they have almost doubled in size since 2000 from $ 1.5 trillion to $ 3 trillion, and at the same rate of growth, they are looking to exceed the holdings of total foreign exchange reserves in total volume by 2011 (Bryan, 2008, p02).

2.4. SWFs objectives and their financing way:

SWFs are state-owned investment, often financed by foreign exchange assets that are invested globally; usually emerge when governments have budget surpluses and little or no international debt, with one or more of the following aims (Caroline, 2013, p07):

- Isolation of budget and economy from high volatility in revenues
- Assist monetary authorities in managing excess liquidity
- Development of local infrastructure
- Build savings for future generations

Sovereign wealth funds are financed through three strategies (Bryan, 2008, p04):

1. ***Revenues of goods owned or taxed by the government:*** This is usually the case for countries exporting natural resources such as Norway and the UAE.
2. ***Transfer of assets from foreign exchange reserves:*** For countries exporting unnatural resources such as Singapore, China and South Korea; they are the primary beneficiaries of this method.
3. ***Transfer of assets from Foreign Exchange Reserves:*** by disbursing sovereign debt on international markets at least in part for all funds.

Figure 2: Sum-up on the disparity between SWFs

Country	*Fund*	*Law*	*Objectives*
• Australia • Azerbaijan • Bahrain • Botswana • Canada • Chile	• Future Fund • Government Oil Fund • Reserve Fund for Future Generations • Paula Fund • Alberta Fund • Financial liability funds	• Act of 3 April 2006 • Presidential Decree No. 240 • Royal Decree of 17 July 2006 • Bank of Botswana Act (CAP 55:01) of 1993 • Trust Fund Act 1976 • Fiscal Policy and Fiscal Responsibility Act of September 2006	• Enhancing the long-term financial position • efficient management of gains • Promote Bahrain's long-term financial management • Investment objectives • providing a portion of the royalties and other income • contribute to macroeconomic stability

Source: Santiago Principles, International Working Group on SWFs, 2008, pp.31-37.

3.1. Legalization and oversight over SWFs:

The legal foundations and forms by which sovereign wealth funds are established vary from country to country and are often based on specific legislation and, in a few cases, through the Constitution (IMF, 2007, p10), and according to surveys, they have been established as legal entities separate from the state or central bank. The rest consider them to be separate legal entities (a group of assets) and therefore sovereign wealth funds that fall under the first category either have a legal personality and were established under a certain statutory law, or are a private company established under the law of companies, so funds that

fall under the second category are usually monitored by the Ministry of Finance and practically managed by the central bank or legal management agency, and while many of these funds were also established under specific statutory laws, some enacted by fiscal laws, and others under central bank law (IMF, 2007, p10).

The regulatory and supervisory structures vary widely among these funds. The transparency of each fund is always directly related to the open political system in the country, while the funds in democratic countries such as Norway, Canada, the United States and Australia are very open, accountable and transparent, in countries like the United Arab Emirates, Saudi Arabia and Qatar are not so ((Bryan, 2008, p08)

3.2. The basic approach and legal form:

The legal framework of the SWF should be sound and supportive of its effective operation and achievement of its stated objectives (IWG, 2008), thus the sound legal framework supports the institutional structure and strong governance of the SWF, as well as a clear delineation of responsibilities between the SWF and other government agencies.This framework facilitates the formulation and implementation of appropriate objectives and investment policies. It's necessary for the Fund effective work to achieve its stated objective.

The legal framework of the SWF generally follows one of three approaches:

- The first type of SWF is established as a separate legal identity from the full ability to dispose of it and to govern it by a specific statute.
- The second category of SWFs takes the form of a state-owned company, and although these companies are usually governed by the Public Companies Law, other specific laws may apply to them.
- The third category of SWFs is formed by a group of assets without a separate legal identity, and the assets group is owned by the state or the central bank, and in these cases, legislation usually sets out specific rules governing the pool of assets, provided that the general

legal framework should be sound, all these structures can be used to meet the requirements of this principle.

They are summarized as following:

• Constitutive Act: **41%**

• Financial law: **22%**

• Constitution: **15%**

• Companies Law: **15%**

• Other laws and regulations: **28%**

The general principle of the legal framework to ensure the legal integrity and dealings of the SWF (IMF, 2012, p28) has several implications:

First, the authorization of the fund must be clearly established under domestic law.

Secondly, the legal structure should include a clear mandate for the manager to invest the assets of the funds and conduct all related transactions.

Thirdly, irrespective of the special legal structure of the Fund, the real and legal beneficiaries of the fund assets should be legally clear. This clarity contributes to accountability in the home country, and is often an urgent requirement under recipient country regulations.

3.3. The role of public disclosure of legislation

Normally, Sovereign Wealth Funds legislation is publicly available, and statutory laws, corporate laws, and budget laws under which such funds are enacted are publicly disclosed and made publicly available (Abdelmadjid, 2009, p05) . An established fund as an independent legal entity also publishes its charter. In cases where the establishment of sovereign wealth funds as a pool of assets, the administrative agreement between the Ministry of Finance and the Central Bank is revealed publicly.

Disclosure of the legal basis and structure of the Fund enhances public understanding and confidence in its management mandate. Clarity and disclosure of the legal relationship between the Fund and other state bodies (such as the Central Bank, development banks, state-owned

enterprises and institutions ...) contribute to a better understanding of the responsibilities entrusted to the Fund in facing other government bodies, as well as its organizational structures and institutional establishment to ensure its professional management.

There are many ways in which the legal basis and structure of SWFs are disclosed. For those without legal identity, their basis and legal structure are usually described in provisions publicly available.*

The ffective management of SWFs requires a solid legal framework based on well-established rules to strengthen the institutional framework and governance structure (Abdallah, 2004); the legal structure of SWFs with a legal identity and the ability to act under common law, is disclosed through the founding laws generally available; finally those that are formed as state-owned companies are usually subject to the country's corporate law as well as other laws regulating private and public companies which may require the disclosure of background information about the fund's structure in the company's register which may be open to audience, in addition, some SWFs reveal the main features of their company structure on their websites.

In 2008, the Sovereign Wealth Fund Institute developed a transparency rating index for SWFs called the Linaburg-Maduell Index, which is based on ten basic principles that depict the transparency of the funds to the public. Each principle adds one point of transparency to the index, but although the funds of countries such as China, Qatar and Iran Saudi Arabia, Oman, Libya, and Brunei (but also Russia) have a low rating, compared to evidence of adequate transparency, countries such as Chile, Ireland, Azerbaijan, Australia, New Zealand, Canada, France, Brazil, United States and United Arab Emirates have a high sufficient transparency; but this global indicator (index) of transparency is not necessarily synonymous to the democracy index (RMI, 2013, p06).

In Norway:

* For example, the Botswana Sovereign Wealth Fund was established under a provision in the Bank of Botswana Act.

The monthly pension figures of the Government Pension Fund and its holdings are published on a quarterly basis, and its managers are directly accountable to the legislature and thus to the Norwegian people.

In the United Arab Emirates:

The Abu Dhabi Investment Authority (ADIA) is highly confidential in its operations and its size has never been made public, as well as for its holdings or even the names of its top managers, and because this fund is accountable only by the Shaikh of Abu Dhabi (unelected), it has much scope in both its investment and transparency.

In Kuwait:

The Kuwait Investment Authority (KIA) announced its size for the first time since 30 years, with a figure of $ 234 billion, representing only half the size expected by most analysts.

After a simple presentation of a list of sovereign wealth fund owners، we find almost 65% of them exist in undemocratic countries, and it can also be seen that, on average, they are very opaque and are subject to lose oversight and under vague local organizational structures and this creates even greater uncertainties about simple valuations such as the size of each fund.

In USA:

Within most developed countries that receive direct investment, there is a more comprehensive and robust regulatory system. A regulatory body called the US Foreign Investment Commission (CFIUS) has the right to review all foreign investments, including those related to SWFs, demand conditions on foreign investments and impose fines if a foreign entity violates these conditions(Achraf, 2008) and, if necessary, prohibits or discontinues foreign investments in the United States* and given the powers and authorities of the long-term commission*, sovereign wealth

* The US president issued directives to pass a US law that strengthens national security reviews of foreign transactions.

* An example is the announcement that the China Investment Corporation will relinquish its right to vote in the Blackstone Group. Prior to the announcement of the Blackstone deal, the Chinese

funds have sought to negotiate with them in advance to prevent any potential long-term investment review.

The July 2007 reforms∗ strengthened the Commission's ability through:

- Allow them to block investments that could cause technology transfer from US companies to foreign owners.
- Punish foreign investors who do not comply with US laws with international sanctions.
- Confirm its role as the sole negotiator on foreign investment.
- Giving them the ability to terminate quotas outside of US sovereign wealth funds if they engage in anti-competitive activities or acquisitions in industries vital to national security.
- Give them the right to force sovereign funds to disclose their property to external authorities.
- Making its provisions irrevocable even by Congress (Bryan, 2008, p11).

In Europe and Japan:

Its regulatory structures exist and are similar to those of the US Foreign Investment Committee, but its powers and oversight functions are far less visible. Germany, Italy, the UK and France all protect their vital industries and businesses through "blacklists" where foreign investors are prohibited from making acquisitions of specific companies.

France and Japan governments only have active oversight agencies, such as the US Committee, to analyze foreign investment in areas vital to the economy or in companies not included in the "blacklists". Moreover, France, Germany, and the United Kingdom never intervened in direct investment by recently, on the other hand, Chancellor Merkel, in response to the growing awareness of the power of sovereign wealth

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authorities consulted a number of committee members and agreed on measures to expedite their approval.

∗ The reforms were passed with the support of the Republican and Democratic parties in Congress to clarify the national security audit of foreign acquisitions and mergers, run by the US Foreign Investment Commission, the new law requires greater transparency for the US government, as well as for investors, see:
http://www.globalization101.org/sovereign-wealth-funds-2/

funds (Achraf, 2008, p03), advocated the existence of an entity similar to the American Committee for supervision and regulation of Foreign Investments in the German Economy.*

3.4. The relationship with state sovereignty:

Sovereignty is the unity and practice of every human authority in the state, but rather a combination of all powers; it is the power to do everything in the state without accountability, such as enacting and enforcing laws, following the "sovereignty" of sovereign wealth funds, more broadly, through mechanisms which allow citizens of these wealthy countries to have a greater role in the strategic accumulation and operation of funds (Rami, 2009).

Moreover, partly as a result of their strengthening, SWFs show obvious effects in parallel with their real economic and financial dimension and also affect the constitutional sphere through new forms of leverage, because of economic crises or from power when they wish to exclude their "political" status (Giorgio, 2014, p04). The rise of SWFs relates to its relations with state sovereignty, although many acknowledge weaknesses in the current post-Westphalia international political system, due to the impact of known phenomena of globalization.

In fact, sovereignty is relevant both from the point of view of the mother country, or from the point of view of the host country: in the first, it indicates a strengthening of sovereign power and in the second the possibility of its erosion (Salam, 2009). In this context, it is said that "the challenges today do not arise from the usurpation of public power by private sector institutions but from the usurpation of private power by external actors reaching across borders."

But this interesting perspective, in which "States are no longer satisfied with the exercise of traditional (and usually limited) forms of public power as they have begun to reshape as major players in markets of economic power" diminishes sovereignty relations with the

* In 2008, Germany enacted a law requiring parliamentary approval for any foreign takeover of more than 25 per cent of the voting rights of any German company.

Constitution, as a limit to the exercise of power. The question of responsibility has been somewhat neglected (Dariusz, 2009).

Many sovereign wealth funds are located in China, Saudi Arabia, Qatar, Iran and other countries outside the dynamics of a democratic state; if their objectives are only macroeconomic and financial speculation, it may suffice that the "governance framework of the fund must be sound and establish a clear and effective division of roles and responsibilities to facilitate accountability and operational autonomy in its management to pursue its objective "and that each fund ensures, in every way, public disclosure of its activity" (Adnan, 2013).

If SWFs are also a tool for strategic control and whatever the original motivation, its investments in some sectors can be used for purposes other than maximizing returns because "commercial and investment decisions can be influenced by the political interest of funds' owners "and thus all instruments designed to combat the opacity of the funds and measure their transparency won't be enough.

For host countries, speaking of forms of parliamentary accountability is only possible for countries that fall into the group of democracies, or in a difficult democratic transition, only a few sovereign wealth funds of countries such as Norway, Australia, Russia, and Kuwait are not accountable before the parliament (even only with its annual report in parliament).

SWFs in countries that are considered autocratic (such as absolute monarchies of the Arab Gulf) or authoritarian (China, Venezuela, Nigeria...), pursuing forms of parliamentary accountability is impossible, and perhaps completely useless.

Some countries have adopted protectionist laws such as the USA, Australia, and Germany, but protectionism is consistent with constitutionalism only in terms, because purely protectionist policies have different objectives of restricting the exercise of power.

The experience of Italian legislation, however, is very interesting, the shift in Law No.21/2012, which deals with corporate structures, giving

the Italian government special powers to authorize certain acquisitions in the areas of defense and national security, as well as in activities of strategic importance.

In Norway, the Global Government Pension Fund, which is essentially a sovereign pension fund, has extensive and sufficient experience within all global SWFs. The management of this fund falls into the Parliamentary Trust Department, and the Ministry of Finance is the responsible for the management of this fund, and every year, it provides to Parliament a report on its performance and evaluation of its administration, and in accordance with the provisions of its law of 2005 (see section 5 of the law) "the capital of the government pension fund can only be used to transfer from the budget of the central government on the decision of the parliament."

3.5. SWFs and constitutions:

Some SWFs were founded on the Constitution, in particular, the experience of the Singapore Constitution, the Constitution of Papua New Guinea and the constitutions of some states in America with SWFs (Alabama, Alaska, New Mexico, North Dakota, Texas, Wyoming, and Louisiana).*

Article 22 paragraphs (c) and (d) of the Singapore Constitution regulate the appointment of directors of government companies and make provisions on the budgets of these state companies (two rich and powerful sovereign wealth funds in Singapore: Private Investment Corporation Limited and Temasek Holdings).

Article 212 (a) of the Constitution of Papua New Guinea establishes the Sovereign Wealth Fund and entrusts it with a specific organic law, approved in 2012, as a task to implement the constitutional provisions.

* In the United States, there are no federal funds for sovereign wealth, but some have been created by individual states as a result of the system of government in this country inspired by true federalism. In Nigeria, which also adopted a federal system of government, the Federal Law of 2011, established a federal fund called the "Sovereign Investment Authority", which raised some constitutional issues regarding the sharing of the proceeds of the Fund between the federal, state and local governments, Federal Nigeria 1999 constitution, article 162(1).

As for the experience of the United States of America, we recall Amendment No. 394 of the Constitution of Alabama in 1982 which provides: "For the continuing benefit of the state of Alabama and the citizens thereof, there is hereby created an irrevocable, permanent trust fund named "The Alabama Heritage Trust Fund" which shall be funded and administered in accordance with the provisions of this amendment."

By placing the characteristics and purposes of SWFs in the constitutions of some countries, the economic revenues and gains produced by each SWF are directly linked to ensuring the rights of citizens in vital sectors of social welfare policy such as education, etc..., and the constitution of these SWFs can therefore promote better protection of those fundamental rights, including those relating to the relations between the rights of present and future generations are at the heart of the objectives of these SWFs and are general considerations that can extend to all SWFs.

Figure 3: Management and disclosure of sovereign wealth funds

Country	Administration and Oversight
1 Australia	1 An independent body
2 Azerbaijan	2 President of the Republic
3 Bahrain	3 Supervisory Board + Executive Director
4 China	4 Government ownership, administered by the Ministry of Finance, Operations and management team
5 Korea	5 institutional internal controls
6 Kuwait	6 A nine-member steering committee
7 Norway	7 Board of
8 The UAE	8 political authorities and executive management
9 Abu Dhabi Investment Authority	9 Government of Abu Dhabi

Source: Santiago Principles, International Working Group on SWFs, 2008, pp.31-37.

4. Conclusion:

During a presentation to the National Revenue and Finance Committee, the Central Bank of Nigeria (CBN) proposed the inclusion of the provisions of the sovereign wealth fund in the country's constitution as it is secretly used as an alternative to calculating excess crude, in order to provide long-term savings for economic stability, infrastructure development and intergenerational equity.

Norway, Russia, Qatar, Iran, Kuwait, United Arab Emirates, Botswana, Angola and Libya, among others, have used sovereign wealth funds as a preventive mechanism against the negative effects of instability in commodity prices. Based on these and other challenges, some argue that they make these funds a constitutional duty to nurture future generations, reduce apparent tension and imbalances in government financial relationship, strengthen the budget process, and enable states and local governments to borrow to finance public spending. Thus, the institutionalization of these bodies will inevitably reach the desired results if the necessary political will, collective resolve for social justice, accountability and best practices are met.

As for the institutional and legal status of Algeria, it falls within the scope of the (RMI, p20) countries that lack laws and regulations that promote integrity and openness, including initial guidelines for transparency and therefore a freedom of information law. Perhaps for this reason, senior international experts of Arab and Western nationalities justified Qatar's refusal to establish a joint sovereign wealth fund with Algeria.

Thus, after consulting the Qatari government before responding to the Algerian request, and their refusal to participate in this type of investment due to the lack of adequate guarantees from the Algerian side, especially those related to with the excessive interference by politicians in economic matters, the limited powers of the governor of the Central Bank, the lack of sufficient transparency in financial and economic dealings with abroad, and the lack of clarity of economic vision among

economic decision makers in Algeria about the nature of the objectives, the strategy that they hope to achieve behind the establishment of a sovereign fund (Boukrouh, 2013).

5. Results:

- ✓ Sovereign wealth funds are prominent international financial institutions despite conceptual differences.
- ✓ The Constitutional Law does not contain sufficient tools and components to encircle the power of sovereign wealth funds.
- ✓ Most sovereign funds rely on sources of self-regulation.
- ✓ Many countries have adopted difficult national protection laws.
- ✓ Most countries lack a constitutionalization of sovereign wealth funds.
- ✓ Continuation of legal uncertainty surrounding this type of fund.

6. Recommendations:

- ✓ Establishing legal enforcement mechanisms to suppress any illegal behavior.
- ✓ Strengthening governance standards and quality of information provided to markets.
- ✓ Preparinge a code of conduct for SWFs.
- ✓ Developping a common approach to SWFs.
- ✓ Analyzing the forms of regulation of SWFs and developping uniform laws within the international scope.
- ✓ Redrafting of texts regulating SWFs to protect the people wealth

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