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## RESPONSIBLE BORROWING/ LENDING POST DEBT CANCELLATION

### THE CASE OF ZAMBIA



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**Table of Contents**

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<i>Foreword</i> .....	3
<i>1. Introduction</i> .....	4
<i>2. Background</i> .....	4
<i>3. Best Practices</i> .....	5
<i>A. Public Consent and Transparency</i> .....	5
<i>B. Loan Terms and Conditions</i> .....	6
<i>C. Protection for Human rights and the Environment</i> .....	7
<i>D. Repayment Difficulties or Disputes</i> .....	7
<i>4. Current Practice: The Case of Zambia</i> .....	8
<i>A. Public Consent Transparency</i> .....	8
<i>i. Public consent and transparency</i> .....	8
<i>ii. Public disclosure of information</i> .....	9
<i>B. Loan Terms and Conditions</i> .....	10
<i>i. Purpose, Amount of loan, Interest rates, Fees and Charges</i> .....	10
<i>ii Legal Authorization</i> .....	13
<i>iii Conflict of Interest</i> .....	15
<i>iv Sale of Loan on Secondary Market</i> .....	16
<i>C. Protection for Human Rights and the Environment</i> .....	16
<i>i Need Assessment</i> .....	16
<i>ii Post Project Impact Implementation Assessment</i> .....	17
<i>iii Respect for Internationally Recognised Social, Labour and Environmental Standards</i> ..	17
<i>iv Development Loan Tying</i> .....	18
<i>D. Repayment Difficulties or Disputes</i> .....	18
<i>Change in circumstances, independent Arbitration and Loan Re-financing</i> .....	18
<i>5. Conclusion</i> .....	19

## **Foreword**

I am extremely honoured to have been asked to contribute to this important paper, *Responsible Lending/Borrowing: Post Debt Cancellation*. This work is very unique and relevant for anyone interested in economic justice issues or human rights for the people in the Global South.

As the convener for Jubilee Oregon and a Network Council member of Jubilee USA Network, our organisation has begun a partnership with the Jesuit Centre for Theological Reflection, the sponsor of Jubilee movement in Zambia. The Jubilee Movement is focused on achieving economic justice through the cancellation of illegitimate and oppressive debt from both International Financial Institutions and private lenders. Our partnership with JCTR has informal beginnings through personal contacts by my predecessor, Pat Rumer.

I have always felt the economic disparities between the developed and developing countries are a continuing manifestation of colonial and neo-colonial perspectives of these populations and that we all have a responsibility to address these disparities. We need action and change in perspective and in policy. The partnership between our two organisations is intended to provide personal relationships between our two organisations. It is through the stories of individuals that we can work in solidarity. It is through sharing each Organisation's strategies and difficulties that we can work toward our common goals of economic justice, ending extreme poverty, and being responsible to meet our obligations.

Although the Jubilee Movement has been working tirelessly and effectively on debt cancellation there seems to be no end to countries continuing to get into difficulties around debt. Even after debt relief, the trend in Zambia and other countries is to start the cycle all over and get more loans that may cause future difficulties that will negatively impact people's ability to rise up from extreme poverty. The concepts and proposals in this paper and in other work by both UNCTAD and EURODAD about responsible lending and borrowing must be made public and must be adopted by both lender and borrowing countries. This paper lays out a responsible lending and borrowing framework of practice that will improve the equity between lender and borrower. This is how we can break the cycle of unsustainable debt.

I am very fortunate to be able to learn from my brothers and sisters in Zambia. I hope that they will learn from us as well. Working on this paper together has provided a venue for developing and deepening our relationships.

**Robert Brown**

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## **Introduction**

Countries all over the world largely depend on tax revenue to finance their budgets. If and when tax revenue is not sufficient to cover the budget expenditure; governments fill in the deficit through loans (domestic and external borrowing) and/ or grants. On the other hand, countries with surplus revenue tend to lend to countries with a deficit in their budget to earn interest.

Borrowing in itself is not bad as it helps the borrowing country invest in productive activities that enable the country repay the loan and at the same time develop the economy. However, many countries have borrowed heavily and experienced serious difficulties in repaying the loan and delivering social services. For example, many least developed countries in the 1980s and 1990s were in a serious sovereign debt crisis leading to widespread calls for debt cancelation. Debts were subsequently cancelled through the Highly Indebted Poor Countries initiative and Multilateral Debt Relief Initiative for many countries such as Zambia and have produced positive results for these countries to once again grow their economies.

## **1. Background**

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Following debt cancellation in 2006; Zambia's debt was substantially reduced from US\$7.1 billion to approximately US \$1.5 billion. The 'rules of the game' that created debt crisis have however not changed and debt has been on the increase. The debt contraction process still lacks transparency, accountability and participation. Presently, external debt stands at US\$3.4 billion of which US\$ 1.2 billion is public debt and US\$2.2 billion is private debt. Domestic debt has also been on the increase, rising from K7.6 trillion (US\$1.7 billion) to K10.5 trillion (US \$2.3 billion) in 2009 (2007 and 2009 Economic Reports).

Even though the public debt to GDP ratio for Zambia is still small (24.1%) and there is room for government to borrow; there is need to borrow responsibly to avoid another debt crisis. The huge amounts that go into servicing these loans; which loans in the first place are spent on questionable projects, could be used to provide social services. Between 2003 and 2005 before debt relief, Zambia was paying an

average of US\$290 million per year and also paid an average of US\$58 million per year between 2007 and 2009 in form of debt service which could have been used on the social sector. Debt cancellation thus was a huge relief to Zambia not only in form of reduced debt stock but debt servicing amounts as well. It should be noted that debt (both external and domestic) has a cost to future generated resources as it attracts interest and can lead to indebtedness if not regulated in a transparent, accountable and participatory manner.

## **2. Best Practices**

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There are nonbinding principles that have been suggested by international Organisations like AFRODAD, EURODAD and UNCTAD to guide responsible lending/borrowing. These principles though voluntary are useful and if implemented by both the lending and borrowing country would avoid debt crises which often are a result of weak loan contraction processes and public debt management systems. Zambia too should endeavour to sign up to these principles as they will enable the country to borrow and manage its debt effectively and sustainably. These principles some of which are listed below are meant to ensure that the loan terms and conditions are fair, the loan contraction process is transparent and consultative, the human rights and the environment are protected and the repayment difficulties are resolved fairly.

### **A. Public Consent and Transparency**

- i. Parliamentary and Citizen Participation** – the loan contraction process must be transparent and participatory, i.e. parliaments and/or citizens and affected communities in the borrowing nation must be given adequate time and information to debate the taking-on of the loan, including purpose, terms and conditions of the loan in accordance with the national constitution.
- ii. Public disclosure of information** – the loan contract must be available to the public in lending and borrowing nations (e.g. transmitted to parliament, available for consultation on request,

published on the web, announced in the national press, radio and/or television as appropriate).

### **B. Loan Terms and Conditions**

- i. Purpose and amount of loan** – the loan agreement should be clear on the purpose for which the loan is borrowed and the actual amount being borrowed.
- ii. Interest rates** - the loan agreement document must indicate clearly the type and level of interest rates charged; that is whether the interest rate is fixed or variable.
- iii. Fees and Charges** – the loan agreement document must contain detailed figures and information of any fees charged as part of the transaction. Any such fees should not be charged at no more than international market prices for such goods or services.
- iv. Legal authorization to enter into the transaction** – the loan agreement document must be signed by authorised representatives of both borrowing and lender countries. The loan must also show that it has secured the necessary parliamentary and / or other administrative approvals in the borrowing country.
- v. Conflict of interest** – the document should also state any additional role the lender has played in relation to the loan i.e. if it has acted as consultant/ advisor to the borrower in addition to its role as lender. The details should be made public and available on demand.
- vi. Sale of loan on secondary market** – the loan should restrict the creditor's right to assign the debt to another party to restrict aggressive litigation actions i.e. the lender should not unilaterally sell the debt to a third party.

### **C. Protection for Human Rights and the Environment**

- i. Need assessment** – the borrower must provide clear documentation or other evidence which identifies the need for the loan.

- ii. **Post Project impact implementation assessment** – the lender has the fiduciary responsibility to ensure that activities financed are legal and viable as attested by an impact assessment.
- iii. **Respect for Internationally recognised social, labour and environmental standards** – the loan must not support any venture that contravenes internationally accepted minimum standards on social, labour and environmental protection.
- iv. **Development loan tying** – development loan contracts should not be tied to the purchase of goods or services from the lender.

***D. Repayment Difficulties or Disputes***

- i. **Change in circumstance** - the loan must recognise that there will be cases where a dramatic change in circumstances – beyond the will of either borrower or lender – means that the borrower is no longer able to meet its financial obligations on the loan. The contract should state clearly what happens in such circumstances and should allow for a modification of the terms of the agreement. The borrower must provide clear evidence which demonstrates that it is not able to meet its financial obligations on the loan
- ii. **Independent arbitration** - the loan document should provide a provision for an independent and transparent arbitration procedure in case of repayment difficulties or dispute (at the request of borrower or lender). There will be a stay on debt repayments while negotiations are underway. The borrower will also be protected from litigation while negotiations are in progress. Borrowers and lenders will abide by the decision of the independent arbitrator and there is a right to appeal.
- iii. **Loan refinancing** – the details of any restructuring/refinancing agreement must be made public. Any successor loan carries with it the properties of the original loan. Borrowers should not sign sovereign immunity waivers when debts are sold-on.

### **3. Current Practice: The Case of Zambia**

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With a debt to GDP ratio of about 24%, Zambia is very attractive to lenders. Her credit worthiness has been enhanced by a fast growing economy and the recent sovereign credit rating of B<sup>+</sup> by Fitch Rating and Standard and Poors. However, the fact that Zambia's public and publicly guaranteed external borrowing is still managed under the pre-debt cancellation laws leaves room for irresponsible borrowing and lending and eventually a return to debt crisis days.

#### **A. Public Consent and Transparency**

##### **i. Parliamentary and Citizen Participation**

Parliament is the supreme law making body in Zambia. It consists of elected representatives from all parts of the country representing the needs of people by way of formulating laws, including debt laws that serve people's interest. Under the Loans and Guarantees (Authorization) Act, Chapter 366 of the Laws of Zambia, the Minister of Finance and National Planning is empowered to contract loans on behalf of the government as approved by Parliament. While Parliament approves the loan amount to be raised through budget approval; it is only the Minister of Finance who determines the terms and conditions of specific loans. This provision has also been violated by ministry officials and diplomatic missions who have contracted loans and committed the country to debt without authorization from the ministry of Finance and National Planning only learns about this at the point when payment is due.

To make matters worse, loan funds and funded projects are not subject to auditing by the Office of the Auditor General. There is thus lack of oversight and accountability of loan funds even though they are public funds. There is therefore urgent need for establishment of transparent, accountable, participatory and comprehensive debt regulatory laws.

To ensure people's participation in the loan contraction process, a body should be established, separate from the implementing agencies of the loan funded project and should include members of civil society and the beneficiaries to ensure

transparency, participation and independence in evaluating and recommending the proposals for borrowing and loan contraction. Critical evaluations are needed in deciding whether or not the loan should be contracted, otherwise, loans contracted may only be beneficial in gaining political mileage for the ruling party and not to the citizens. This evaluation is in the context of who is really benefiting from the loan.

## **ii. Public Disclosure of Information**

All information regarding the terms and conditions of the loan starting from the submission of the loan proposals to its evaluation, approval, finalisation of contracts, procurement of goods and services, monitoring and evaluation of loan funded projects and decision making on loan repayments should be made public and should be availed to all the stakeholders including citizens.

A debt contraction law that only allows one person, the Minister of Finance or his appointed agent, to determine the terms and conditions on behalf of 13 million Zambian people cannot be said to be transparent and have public consent. While the loans are publicly announced including information such as interest and period of repayment at signing ceremonies, the loan agreement remains confidential and beyond the reach of the public. It therefore follows and rightly so that all matters pertaining to national development are properly scrutinized by all representatives of the people of Zambia and not just one person or a few individuals. There is need for a broader and inclusive loan contraction process which is not only limited to the Minister of Finance but also provides authority to parliament to strengthen its oversight role in the contraction and management of loans. This contraction process should therefore, ensure all information regarding the loan is public. This will ensure transparency and citizen participation in the loan contraction process and thus give legitimacy to the loan contracts.

In May 2011, government launched a 1 trillion Kwacha (approximately US\$200 million) road rehabilitation project to be partly financed through loans. While the project is a welcome move, the mode of financing and process of contracting the loan is un-transparent and subject to abuse. The source of the loan and the repayment conditions have not been disclosed despite numerous calls for that as

well as calls for prudence in debt contraction by wider society including civil society. The government has not been categorical about the source of funds; stating in one breath that the project will be financed from loans and in another from tax revenues (tax arrears from the mining sector). The lack of clarity on the source of funds shows lack of transparency on the part of government in loan contraction process and thus denies both ordinary citizens and Parliament information to assess whether the project is beneficial or not.

Another loan that lacked public disclosure was a loan contracted from Arab Bank for Economic Development in Africa (BADEA) and OPEC Fund for International Development (OFID) to rehabilitate 768 km of feeder roads on the Copper belt at a total cost of US\$14 million (US\$8 million and US\$6 million from BADEA and OFID respectively). The loan was sourced for the said project without full disclosure of information to government agencies responsible for the maintenance of feeder roads such as the Local Councils and the Rural Road Unit. Furthermore, this loan project has to-date not commenced and because of the delay, the coverage has reduced from 768 km to only 210 km as the cost of works has increased for the same distance coverage and yet government has not given a report on the project and any justification on the delay and reduction of coverage. This has resulted in the country losing out as they still have to pay the whole amount even if the coverage has reduced drastically.

## ***B. Loan Terms and Conditions***

### **i. Purpose, amount of loan, interest rates, fees and charges**

In Zambia, the only time the loan becomes public is when the loan agreement is signed and publicly announced through the media under headings such as, "...such and such a donor has given Zambia..." At this point it is too late to engage the government on the use of the loan, the projected impact on the lives of the beneficiaries, the loan amount and interest rate and impact on both the debt stock and debt sustainability. In any case, not all the conditions are made public. Conditions like fees associated with the loan transaction, disbursement pattern etc are not made available at the signing ceremonies and can only be known by accessing the loan agreement document which is not made a public document.

Some loans contracted in a particular year are not included in that year's economic report making it difficult in holding the government accountable and in keeping track of the country's debt stock. For example, according to the 2009 Economic Report, Zambia contracted a loan of US\$33 million from the International Development Assistance (IDA) for Increased Access to Electricity in 2009 and yet records obtained from the IDA website shows that the loan was contracted and approved in 2008.

This kind of secret environment is not healthy for responsible borrowing. It is very undemocratic and unfair to the citizens who service the debt through their tax contributions. Not even parliament has information regarding the loans that government intends to contract and after contraction; the only information released is in most cases the loan amount.

A loan that lacks most of these proposed standards of responsible borrowing and lending including that of full information disclosure on terms and conditions is Donegal International Vulture fund loan. On 17<sup>th</sup> April 1979, the Zambian and Romanian governments signed a loan agreement where Zambia borrowed US\$15 million with a 5.5% annual interest to acquire agricultural equipment, vehicles, spare parts, and technical assistance. According to a later agreement signed between Romania and Zambia on 4th August 1985, Zambia was required only to pay US\$5.5 million by instalments spread over 8 years. From 1992 to the end of 1998, Zambia on several occasions discussed with Romania a 40% debt reduction that would have enabled a debt conversion process, where Zambia would pay back the debt through exports and investments in Zambia.

In 1998, a further agreement between Zambia and Romania was signed where Zambia agreed to buy this debt at 12 cents for each dollar owed allowing Zambia to pay only US\$3.5 million. Zambia was given up to 31st January 1999 to confirm this offer after which Romania would have the liberty of selling the debt. On the 19th of January 1999, 12 Days before Zambia's deadline for this debt repayment arrangement to Romania was due, Donegal International bought this debt for US\$3.3 million from the Romanian government.

The Zambian government later acknowledged this debt transfer despite Romania breaching its word and its obligation to start servicing the debt to Donegal on

February 12, 1999. A settlement agreement was signed on the 1st of April 2003 between Zambia (signed by the then Minister of Finance and National Planning, Mr. Emmanuel Kasonde) and Donegal (signed by Donegal Chief Executive Officer, Mr. Michael Sheehan). In this agreement, Zambia committed itself to pay back 33% of the principal amount of the debt in the total amount of US\$14.8 million in 36 monthly instalments to Donegal. Each instalment was estimated at US\$1.1million. Upon noticing some irregularities in terms of the prior handling of the debt, Zambia's Attorney General ordered the debt service payments to Donegal to be stopped. This resulted in freezing of Zambia's assets in the United Kingdom particularly the British Virgin Islands where Donegal is registered. The payments were stopped after the Zambian government diligently paid three instalments amounting to US\$3.4 million. In 2005, Donegal initiated a court action in London, UK against Zambia asking for a debt payment of US\$55 million (US\$42.3 million plus interests) which is reported to have resulted in Zambia paying about \$15 million to Donegal.

The Minister of Finance and National Planning within constitutional powers negotiated the loan, renegotiated and further signed the acknowledgement letter recognizing Donegal International as the new owner of the debt. This was done without the involvement of Parliament and the public. While Parliament approves the budget which is partly financed through loans, it does not approve specific loans to be contracted and the terms and conditions associated with it.

Lack of public access to loan agreements did not help matters in this case. Judge Smiths' statement in his ruling that Donegal International and its local agents improperly sought and obtained confidential state information from public officials in the Government and the Bank of Zambia which should not have been disclosed to them indicates that loan agreements are not public documents in Zambia. If parliament and the public were informed about the debt Zambia owed the Romanian government, they most likely could have asked,

- Why Government had not asked/pressured for the Romania debt to be treated on comparable terms as other Paris Club debts that were falling under the HIPC Debt relief arrangement;
- Why Government had not acted quickly on the offer of the discounted rate from Romania;

- For details of the negotiations between the Government of the Republic of Zambia (GRZ) and the Romanian government and, between GRZ and Donegal.

While Romania realized Zambia's difficulties in settling its debt and rescheduled its payment due date, it was not honest enough by selling the debt to Donegal International 12 days before the due date for Zambia to repay. Donegal International was also insincere by buying debt when it very well knew that Zambia's debt situation was unsustainable and the country would soon qualify for HIPC.

## **ii. Legal authorization to enter into the transaction**

The loan agreements signed by the Zambian government are not subject to citizen/public approval through their representatives and as such lack any proof of approval by parliament. This has resulted in a number of loans being questioned and criticised by the public who only learn about the loans after the contracts are already signed. Some of the loans contracted by the government but rejected by the public include:

### **a. Loan on Mobile Hospitals**

This is a US\$53 million loan contracted by the Zambian government from China's Exim Bank for the purchase of 9 mobile hospitals from the China National Aero Technology Import and Export Corporation to be repaid over a period of 40 years. This loan has been considered by many including academicians, civil society Organisations, politicians and the health fraternity as not only unnecessary but also a drain on the country's financial resources for the loan would do nothing but commit future generations to unnecessary debt repayment. The main arguments for the public disapproval of this loan are that:

- There is no sufficient supporting infrastructure such as roads as most rural roads are impassable.
- There is high likely hood of abuse of the mobile facilities and their contents which will be very difficult to control.

- The pressure on the already understaffed health personnel at existing hospitals and other health care centres in the country.
- The life span of the mobile hospitals in comparison to the cost of the hospitals in both operational cost and in debt servicing does not make economic sense.

Coupled with this, the vehicles are not only expensive to maintain but also wear out with time thus compromising sustainability. Each trip will reportedly cost the government about US\$84,000 in allowances for the medical staff. The concept does not make sense because most fixed health institutions in the country lack adequate manpower to manage them. Mobile hospitals would thus not address the existing bottlenecks in the delivery of health services but will further worsen the shortage of health personnel. It is clear that the current loan contraction law does not respect the will of the people through citizen participation and parliamentary approval.

b. Loan on Hearses

In 2009, the government of the Republic of Zambia through the Ministry of Local Government and Housing purchased 100 hearses at total cost of US\$2.9million (US\$29,400 each) from China's Beijing Auto Works (BAW) which operates as Top Motors Limited in Zambia. This brought about public disapproval with regard to tender procedures and the necessity of the hearses in addressing the problems of the citizens such as poor health care and services as well as poverty. No prior information was given to the citizens and this did not even reflect in the country's budget and the government has not clarified the source of funds for this project. It remains unclear as to whether this was financed through government revenue or indeed through borrowing. This is therefore another typical example of lack of transparency, accountability and participation in the debt contraction process of Zambia.

**iii. Conflict of Interest**

Most of the development loans that Zambia contracts, especially from non traditional donors like India and China are tied loans. Some loans contracted by the Zambian government contradicting this important principle include:

- a. The US\$53 million mobile hospital loan stated above was a tied loan as Zambia had to buy mobile hospitals from China and nowhere else. This transaction therefore, solely benefits China by promoting its product and services as well as in terms of interest in loan repayment. This also makes it expensive for Zambia as the hospitals are not bought in comparison to the current market prices but bought because the country has no option.
- b. Another tied loan that Zambia contracted last year (2010) from the Indian government of US\$50million for extending the credit for the Itezhi -Tezhi power project. The condition of the loan was that 85% of all materials and equipment had to be sourced from India. One might ask to whom the benefit was really intended. Zambia was left with no choice but to purchase this great percentage of materials and equipment from India. Given this scenario we see that such loans greatly benefit the donor country as not only do they create a market for their goods but they also return a large chunk of the loan. The Zambian companies supplying the same goods on the other hand lose out on increased incomes and only a small percentage of their materials and equipment is purchased. It should be expected that loan contracted must benefit the indigenous people in whose name the loan is contracted.
- c. In 2008, Zambia also contracted a loan from India amounting to US\$10 million out of which US\$8.5 million was to be used for the purchase of Tata trucks which are produced in India. This was accompanied by general public outcry on why the country was not given the loan to purchase motor vehicles from any other source.

#### **iv. Sale of Loan on Secondary Market**

A loan that lacks most of these proposed standards of responsible borrowing and lending is Donegal International Vulture fund loan given above. This is especially true for the principle of not selling a loan on secondary market. This is where

Donegal International bought Zambia's debt to Romania at US\$3.3 million and sued for US\$55 million.

This is a clear case of exploitation resulting from sale of a loan to a third party without prior notification to the borrower. This was done when the government was negotiating repayment with the Romanian government. This was done without public knowledge and parliamentary approval and this resulted in the country paying more than the contracted principle and interest agreed upon in the initial loan agreement. This could have been avoided by ensuring enactment of a transparent, accountable and participatory debt contraction framework that promotes the tenets of responsible borrowing and lending.

It is therefore crucial that all Developed Countries emulate the United Kingdom in enacting a law that will prevent Vulture Funds from taking poor countries to courts for full payment plus costs and interest. The UK enacted this law (Debt Relief Bill) in April, 2010. It is (Jubilee UK, 2010) the first world law to restrict the ability of Vulture Funds to sue some of the world's poorest countries for full repayment of debts that they have bought up cheaply. In the Zambian case with Donegal International, the Judge of the London court in his ruling prevented Donegal International from getting its full claim from Zambia by ruling that though the claim was legal, it was unjustified. In the end Zambia paid US\$15.5 million instead of the claimed US\$55 million to Donegal for a loan they bought from Romania at US\$3.3 million.

### ***C. Protection for Human rights and the Environment***

#### **i. Need assessment**

It is critical that the borrower justifies the loan before any borrowing is done. This can only be done if a comprehensive needs assessment is done. This is rarely done in Zambia and thus government ends up borrowing for consumption or for investment that cannot provide sufficient returns to repay the loan. This was one of the major causes of the Zambia's debt crises.

One classical example that shows lack of needs assessment and respect of people's wishes is the US\$53 million loan contracted by the Zambian government from

China's Exim Bank for the purchase of mobile hospitals given in B ii. This loan has been considered by many including academicians, civil society Organisations, politicians and the health fraternity as not only unnecessary but also a drain on the country's financial resources for the loan would do nothing but commit future generations to unnecessary debt repayment.

**ii. Post Project Impact Implementation Assessment**

The agents implementing loan funded projects should carry out regular evaluations and produce progress reports. These should be submitted to the Ministry of Finance and National Planning and parliament and made public so that citizens are informed and can demand for explanations and justifications. The Zambian situation is such that progress reports are not publicly available and not presented to parliament. There is thus no report to the public on loan funded projects and even where the project takes longer than the planned time period, there are no explanations and justifications given to the public.

**iii. Respect for Internationally Recognised Social, Labour and Environmental Standards.**

Projects financed through loans must not violate rights of people who either work for the project or live in the area where the project is implemented. An environmental Impact Assessment is thus critical before a loan funded project or any other developmental project is approved so as to prevent any negative effects on the environment and the people. All projects and agreements should therefore, be accompanied by such a report which should be made public as well. This is especially true for projects requiring displacement of communities.

One such example is the US\$36 million Water and Sanitation Project for Central Province financed by the African Development Bank (ADB) and the Zambian government with ADB providing US\$33 million and government financing the remainder. The project included the construction of Mushimbili Dam to supply clean and safe water to residents of Kapiri Mposhi and this resulted in displacement and relocation of the affected community. While compensation was done, families were

worse off after displacement as land apportioned was smaller than originally owned thereby making them unable to rear animals which are a source of livelihood. This has also caused separation of the extended family as the land is not big enough to accommodate the extended family. Such violations are supposed to be prevented by doing a pre-impact assessment.

#### **iv. Development Loan Tying**

A loan contracted should not tie the borrower to purchase goods and/ services from the lender as this will result in conflict of interest where the goods and/services will not be obtained through a tender and competitive process. . Zambia has been a victim of tied development loans and these include: the US\$53 million from China's Exim Bank for the purchase of mobile hospitals from China; the US\$50 million loan for the Itezhi-Tezhi power project where 85% of all materials and equipment had to be sourced from India; and the US\$10 million from India out of which US\$8.5 million was to be used for the purchase of Tata trucks which are produced in India. The details of these loans have been given above in B iii.

#### ***D. Repayment Difficulties or Disputes:***

##### **Change in Circumstance, Independent Arbitration and Loan Re-financing**

Loan contracts signed between the lender and the borrower must be flexible enough to deal with changes in circumstances where the borrower is no longer able to meet its financial obligations on the loan. Further, the agreement should include a clause on the involvement of an independent arbitration procedure in case of a dispute or repayment difficulty and any successor loan should carry with it the properties of the original loan.

This would ensure avoidance of exploitation and worsening of living conditions of citizens of a borrowing country when the country fails to meet debt servicing obligation as stipulated in the loan contract or when a loan is sold to a third party. Such is the Zambian experience where it continued to pay over US\$300 million in debt service at the expense of basic social services such as health, education and Water and Sanitation which were in deplorable state due to poor financing. This

resulted in increased poverty levels and a debt crisis that culminated in debt relief through the Multi Lateral Debt Relief Initiative (MDRI) and the Highly Indebted Poor Countries Initiative (HIPC).

#### **4. Conclusion**

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In the absence of international binding lending and borrowing principles, it is important that Zambia adopts these principles. These principles will at least ensure responsible borrowing on Zambia's part. With the debt experience that Zambia has, it should act speedily to put in place an effective institutional framework that will regulate the country's borrowing and thus prevent it from falling back into another debt crisis. It is very clear that the debt crises of developing countries like Zambia are always a result of weak administrative, institutional and legal procedures for loan contraction and public debt management systems. This problem is also a symptom of poor governance in which the underlying premises should be consensus oriented approval mechanisms (not just the minister of finance), equity and inclusiveness (citizen participation), effectiveness and efficiency in the use of financial resources and accountability. Zambia ought to heed to people's demands, including JCTR that has demanded a revised debt contraction law that will ensure parliamentary oversight. Zambia also needs to learn from other African countries that have put in place sound measures to avoid debt crisis which include Nigeria, Ghana and Uganda. Human development and poverty eradication is a great possibility; but a possibility to be attained only if we responsibly contract and utilize the loans we mostly are eligible to borrow and turn to the most effective and sustainable means of resource mobilisation; domestic resource mobilization (tax and non tax revenue).

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