

**THE EXTERNAL DEBT MANAGEMENT PROBLEM: THE
CASE OF ZIMBABWE (2000 – 2012).**

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**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS OF THE MASTER OF PUBLIC ADMINISTRATION DEGREE**

DEPARTMENT OF POLITICAL AND ADMINISTRATIVE STUDIES

FACULTY OF SOCIAL STUDIES

UNIVERSITY OF ZIMBABWE

APRIL 2013

ABSTRACT

This research reflects on the debt management problem in Zimbabwe. Like any other country Zimbabwe has a Constitutional legal framework that touches on debt management. The major issue at hand is why Zimbabwe is failing to sustain its external debt stock whilst it has a Constitutional legal framework that focuses on debt management. The study hypothesized that inadequacy of the Constitutional legal frameworks has led to unsustainable debt. The research utilized purposive and snowball sampling in selecting the key respondents. Data was gathered through document study, questionnaires and interviews. Questionnaires were administered to key respondents and in some cases interviews were concurrently held. Though the Constitutional legal frameworks provide for the institutional set up to undertake debt management and provide for the legality of loan contraction, the research revealed that the Constitutional legal frameworks are inadequate in other matters relating to debt management. Research findings demonstrated that the Constitutional legal frameworks do not specify the loan contraction process, void on external borrowing ceiling and does not clearly provide for the circumstances under which borrowing is permissible and makes loan contraction exclusive. It is in light of these lacunas that the recommendations were premised on. The study promotes the strengthening of Constitutional legal frameworks relating to debt management.

ACKNOWLEDGEMENTS

I am whole-heartedly thankful to my supervisor, Mr. T Zinyama guidance and support from the start to the end of my research enabled me to develop and understand the subject. I am also appreciative to my lecturers who provided useful information and insightful comments: Mr. EV Masunungure, Dr G Zhou, Mr. H Taderera, Mrs. Zungura, and the late Professor J. MW. Makumbe. I would like to convey special thanks to my colleagues Mac Kenzie Saunyama, Prince Matsanyangwa (Pheltoe), Caroline Nyazika, Alouis Chilunjika and Godwin Chitereka for the company and support during the course of the programme.

Special acknowledgements also go to staff in the Ministry of Finance Mr Dutiro, Mrs. Mugwenhi and the Head of ZAADMO Mr. Bvumbe, ZIMCODD staff, staff from the Attorney General, Mr. Ratsakatika and all those who supported me in any respect during the completion of the project.

Lastly I would like to express my gratitude to my mom Catherine Guvamombe for all the unending love, financial support and encouragements during the laborious course of my programme.

DEDICATION

My dedication goes to the Almighty God. If it was not for your favor, this dissertation would not have seen the light of the day. Your love and grace has seen me this far.

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ABBREVIATIONS

AfBD	African Development Bank
AFRODAD	African Forum and Network on Debt and Development
COPAC	Constitutional Parliamentary Committee
CRF	Consolidated Revenue Fund
DFI	Domestic and International Finance
DMC	Debt Management Committee
DMO	Debt Management Office
ELC	External Loans Committee
ESAP	Economic Structural Adjustment Programme
GDP	Gross Domestic Product
HIPC	Heavily Indebted Poor Countries
IFI	International Financial Institutions
IMF	International Monetary Fund
RBZ	Reserve Bank of Zimbabwe
SPSS	Statistical Package for Social Sciences
ZAADDS	Zimbabwe Accelerated Arrears Clearance on Debt and Development Strategy
ZAADMO	Zimbabwe Aid and Debt Management Office
ZIMCODD	Zimbabwe Coalition on Debt and Development

CHAPTER ONE: INTRODUCTION

1.0 Introduction

This chapter provides the contextual background to the external debt management problem. The external debt management problem has resulted in failure to sustain the external debt stock. The essence of this chapter is to outline the objectives of the study, research questions, hypothesis of the study, and justification of the study. Delimitation and limitations are also discussed in this chapter. Thus, this chapter constitutes the basis of the whole study.

1.1 Background to the Problem

Developing countries, particularly in Africa, continue to face debilitating debt crisis. The debt crisis has limited the capacity of most African countries to develop and meet the socio-economic needs of their populace. Africa's indebtedness can be attributed to a constellation of both external and internal factors that mutually reinforce each other. The external factors included the oil shocks of 1973 and 1979, unfavorable developments in the terms of trade, deteriorating world economic conditions, the United States' policy of high interest rates and lack of observance of prudential standards by international private banks (Borchert and Schinke 1990:80; African Forum and Network on Debt and Development (AFRODAD) 2011a: 12). As a result, there was reduced demand for exports and budget deficits were experienced. African countries desperately fell back on loans and grants provided by developed countries (AFRODAD 2006: 24). Another important reason that led African countries to plunge into debt trap was a continuing legacy of colonialism and odious debts that were contracted by the colonial regimes (www.globalissues.org).

As with the rest of Africa, Zimbabwe's debt crisis can be attributed to both external and internal factors. The most significant external factor is the US\$700 million odious debt inherited at independence from the Smith regime (Jones 2011:10). In the first decade loans were contracted for national development and debt repayment. Also some loans were for drought relief loans for 1982 and 1983 droughts and rhetorically for financing the socialist approach adopted in redressing colonial imbalances (Ibid). By the end of the first decade, the heavy borrowings and spending resulted in huge budget deficits.

Trapped in the budget deficits, still Zimbabwe had to service its debts contracted in the first decade. As a result, Zimbabwe was bailed out by International Financial Institutions (IFI) such as World Bank, International Monetary Fund (IMF) and African Development Bank (AfBD) under Economic Structural Adjustment Programme (ESAP). Excessive borrowings under ESAP made significant changes in the structure, composition and magnitude of the country's external debt (Zimbabwe Diaspora Development Interface (ZDDI) 2010). However, these funds failed to translate into growth as economic growth fell from averaging 4.5 per cent in the 1980s to 2.9 per cent between 1991 and 1997 (Jones 2011:6).

Notwithstanding the external factors, the internal factors such as lack of financial discipline contributed to the debt crisis as the government forked out unbudgeted sums of money to finance Zimbabwean troops in the Democratic Republic of Congo (DRC) war in 1998 (Kanyenze 2006:21) and gratuities to war veterans. The borrowed funds were invested in non-productive sectors for example the US\$30 million of debt owed to Britain by Zimbabwean police to buy Land Rovers (Jones 2011:6) and the 2011 loan in Chinese Yuan worth US\$98 million for the construction of a defence college (Ibid. 35). These loans had no social impact on the citizens of Zimbabwe.

The third decade saw Zimbabwe adopting the controversial Land Reform Programme which worsened Zimbabwe's international relations and deterred international donors. In the year 2000 the World Bank and AfDB suspended their lending programmes to Zimbabwe as a result of failure to service accelerating arrears on existing loans (Leo and Moss 2009). After international donors have forsaken the country and the lending suspensions, the major source of foreign loans is the Chinese government. The debt situation was also worsened by the quasi fiscal activities between 2007 and 2009 by the Reserve Bank of Zimbabwe.

At the moment Zimbabwe's debt is unsustainable. The question asked is why Zimbabwe is failing to contain the debt whilst it has a Constitutional legal framework on debt management. In a bid to sustain the escalating external debt, the Ministry of Finance and the principals in the Government of National Unity (GNU) have agreed on Zimbabwe Accelerated Arrears Clearance on Debt and Development Strategy (ZAADDs) which is a debt management strategy. Some of the other options available to Zimbabwe include debt audit, to apply for the

High Indebted Poor Countries initiative (a success story to Liberia), to continue default or to use the mineral proceeds to pay off the debt (ZAADDS 2012).

1.2 Statement of the Problem

Zimbabwe's debt and arrears are continuously escalating and this has raised the question why Zimbabwe is failing to contain its external debt stock and reduce it to sustainable levels. The economy has failed to take off as the borrowed funds were invested in non-productive sectors. The resolution of Zimbabwe's external debt which stood at 118% of gross domestic product (GDP) as at 31 October 2011 and the clearance of arrears which are about 75% of GDP is one of the challenges retarding development in the country (ZAADS 2012: xv). Debt distress has earned Zimbabwe a pariah status.

Unsustainable debt overhang has negatively affected economic development. In support of this Iqbal and Kanbur (1997:34) argue that, 'if debt will exceed the country's repayment ability with some probability in the future, expected debt service is likely to be an increasing function of the country's output level'. Debt repayment reduces government spending in the social sector hence deteriorated living standards. As at 31 October 2012 the majority of Zimbabweans lived below the poverty datum line which stood at US\$531, 92 (www.zimstat.co.zw). As a result of the debt burden, economic development has been stagnant. The effects of this poor economic development have spelt over to the political and social sectors as they hinge on the economic development.

1.3 Objectives of the Study

This study seeks to achieve the following;

- To determine the nature of Zimbabwe's external debt.
- To ascertain the extent of Zimbabwe's external debt.
- To comparatively analyze the adequacy of Constitutional legal framework in relation to debt management.
- To proffer recommendations on how to strengthen external debt management.

1.4 Hypothesis

Inadequate constitutional legal frameworks have resulted in Zimbabwe's unsustainable debt levels.

1.5 Research Questions

Given the above objectives, the study seeks to answer the following research questions;

- What is the nature of Zimbabwe's external debt?
- What is the extent of Zimbabwe's external debt?
- How adequate is Zimbabwe's Constitutional legal framework in relation to debt management?
- How Zimbabwe's Constitutional legal framework does compare to those of other African countries?

1.6 Research Justification

The study will be significant to policy makers, academics and the general public in issues of debt management. By analyzing the adequacy of the Constitutional legal frameworks, policy makers are better positioned to advocate for the strengthening of the legislative framework. Policy makers are better able to challenge the practices, processes and strengthen frameworks guiding loan contraction for sustainable debt management. In this way, the study can be used as a tool to inform policy dialogue. Focus on the debt problem reflects efforts on national development since unsustainable debt management has a bearing on development. The debt management problem is currently a hotly contestable issue; the study will also contribute immensely to policy makers on how best to strengthen different institutions that deal with debt management.

1.7 Delimitation

The domain of the study is on external debt management. Focus is placed on the management of external public and publicly guaranteed loans. The principal institution within which the study will be conducted is the Ministry of Finance in the Zimbabwe Aid and Debt Management Office (ZAADMO). The study was also confined to the period of 2000 to 2012.

1.8 Limitations of the Study

The bureaucratic nature of the Government posed some challenge to the researcher as some delays and unstructured details were provided. Some officers in the Ministry of Finance were

unwilling to give out information and statistical figures on debt management. This was due to the effect of the Officials Secrecy Act which forbids government workers to disclose classified information.

1.9 Organization of the Study

Chapter One provides the contextual background to the research problem, the problem statement, goals and objectives of the study, research questions, hypothesis of the study and justification of the study. Delimitation and limitations are also discussed in the study. Thus the chapter constitutes the basis of the whole study.

Chapter Two reviews the literature on external debt. The chapter presents a critical analysis of concepts and principles underpinning debt management. Case experiences concerning external debt question are also discussed.

Chapter Three focuses on research methodology, that is, outlining the techniques and procedures used to gather pertinent data and information. Data was gathered through document study, surveys and interviews.

Chapter Four presents and analyses research findings. The data for this study is to be analysed using the triangulation method which involves the use of both qualitative and quantitative methods. Data was presented using charts, graphs and themes.

Finally, Chapter Five presents the conclusions and recommendations on the research. These are arrived at after careful, systematic distillation of research findings upon which the conclusions are premised and whereupon recommendations are then proffered.

CHAPTER TWO: LITERATURE REVIEW

2.0 Introduction

The essence of this chapter is to review literature relating to external debt management. The chapter discusses the concepts and principles underpinning external debt management in Zimbabwe. Other issues surrounding debt management and case experiences are also going to be reviewed.

2.1 External Public Debt Concept

External public debt refers to loans raised by a government outside the country. According to Zhou (2012: 152) it is a credit facility at the disposal of every government and entails government acquiring funds from external market. When the government borrows, the debt is public. The debt is also public as it is repaid by the citizens of the debtor country. According to Buchanan (1987: 279) borrowing, the creation of national debt, enables the government to finance public services without reducing real wealth of private individuals while funds are acquired. Whenever a government borrows from sources outside its boundaries, a public external debt is created.

2.1.1 External Sources of Finance

Capital inflows can be subdivided into bilateral and multilateral flows. Bilateral loans are loans from other governments, central banks and agencies such as public autonomous bodies and also official export credit agencies (ZIMCODD 2001:3) for example loans provided by the Paris and non-Paris. Multilateral debt has been defined as obligation of governments, government agencies and autonomous public bodies to international financial institutions as the World Bank, IMF and the AfDB (ZIMCODD 2001:4)

External loans can take the form of grants loans which are free gifts made in cash or kind (Eshag 1983: 131). For instance the US \$5 million given to Liberia by the United States government aid in cancelling Liberia's debts is a grant (AFRODAD 2011: 17). Loans are further subdivided into concessional and non-concessional loans. Concessional loans have interest rates below those available on the market and long grace periods, or a combination of these (<http://stats.oecd.org>). Non-concessional loans have shorter grace periods, attract high interests and have a burden on servicing the loan. Eshag (1983: 145) observed that grants and concessional loans are considered as the most desirable types of foreign assistance since they

represent a net addition to the resources available for development purpose and being free gifts that do not have to be repaid. Due to absence of debt management strategies, developing countries continue to contract non-concessional loans that impose heavy burdens on their economies.

2.1.2 Factors to Consider When Contracting Loans

When contracting loans a number of factors need to be well thought out. Firstly, there is need to consider the concessionality of the loan. As noted above concessional loans are the most favorable. Secondly, the debt servicing capacity of a nation needs also to be considered. Goode (1984: 204) argues that borrowing should be deliberate after careful appraisal of benefits and cost and possible debt repayment. If more benefits are to be realized from the loan, holding other factors constant, debt repayment is possible. Closely related to this, is the need to take into account absorptive capacity of the debtor country. Absorptive capacity entails the ability of a country to invest the funds into sectors and projects that promote development. If the loan fails to make positive changes on the level of national income then the absorptive capacity is poor (Eshag 1983: 130).

2.1.3 Rationale for Borrowing

According to the growth theory, developing countries must have foreign capital in order to grow and develop. The theory holds that developing countries suffer from savings gap (the difference between investment and saving) and the trade gap (the difference between imports and exports). Foreign capital is required to finance these gaps. Countries may also borrow to curb inflation, to initiate or expand socio-economic infrastructure, meeting unprecedented expenditures, increasing their international monetary reserves and to settle international transactions (Schatan 1987: 26, Altvarter et al 1989, Bade 1989: 1).

2.1.4 Implications of External Debt on Socio-Economic Development

Unsustainable external public debt has negative implications on the socio-economic development of debtor countries. Debt repayment imposes a burden on the debtor country. Debt burden is the decrease in well-being of citizens who are taxed to pay off the principal and interest on past debt (Hyman 1990:448). This debt burden can also be transferred to future generations who will bear the brunt of compulsory taxes (Buchanan 1983:280). The debt burden creates an obstacle to government's capacity to invest in human development as

resources are allocated to debt and interest payments (ZIMCODD 2001). According to Fry (1997: 108) external debt accumulation affect the position of savings and investment. An increase in government and government guaranteed foreign debt may also deter domestic investment because it raises the probability of higher taxes on domestic assets in the future (Ibid. 110).

2.2 Debt Management

Musgrave and Musgrave (1984: 156) define debt management as a fine art which requires a shrewd appraisal of market prospects from a considerable time ahead. According to Wheeler (2004: 4) debt management is a process of establishing and implementing a strategy for prudently managing the government's debt in order to meet the governments financing needs, its cost and risk objectives and any other debt management goal the government might have. Entailed in the definitions is the fact that debt management must be a wise process, carefully planned to deal with the debt of a government. Sound debt management must be guided by good governance. According to www.unescap.org good governance has the following characteristics; participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.

Government debt management legislation is a central element that is aimed at ensuring sound financial policies and clear responsibilities, accountabilities and transparency. Chapter two of the Borrowing Charter talks about predictable rules and regulations regarding debt management. AFRODAD's Borrowing Charter Section 2.1 states that all the loan contraction rules and regulations must be anchored on the constitutional provisions defining how public loans should be obtained, used and serviced. The predictable rules and regulations on debt management must include the borrowing powers, borrowing ceilings, borrowing approval and the authorization process. Many governments have in place legislations that relate to debt management. These legislations outline the borrowing powers, borrowing limits and other financial obligations such as guarantees and the roles and responsibilities and accountabilities of the different parties. All these issues are broadly contained in public finance management legislations administered by ministries of finance. Debt management legislations limit the potential abuse of power and the possibility of multiple issuers of government debt and

establish appropriate accountabilities for managing government debt portfolios (Wheeler 2004).

Legal frameworks must also clearly provide for the existence of the institutional framework to undertake debt management. According to Wheeler (Ibid) in most countries the responsibility for government debt management is centralized either within the ministry of finance or in the debt office outside that office advising on debt management strategy. Wheeler also notes that central banks also undertake a range of debt management functions. These include conducting daily open market operations in the domestic market. Other actors include the Auditor General who audits government finances and the Attorney General who advises on the loan contraction process so as to ensure that the process is consistent with national legislation.

2.2.1 Debt Management Guidelines According To IMF

Debt management guidelines are designed to assist policymakers in strengthening the quality of public debt management and reduce vulnerability to international financial shocks (IMF 2003: 4). The guidelines seek to identify sound practices in public debt management. Public debt management problems often result from the lack of attention paid by policymakers to the benefits of having a prudent debt management strategy and the costs of weak macroeconomic management.

Firstly, in debt management there is the need to allocate credit to desired aims. This principle requires the justification of the borrowing. Funds have to be used for the specific purposes they have been borrowed for. There must be the obligation to assign priorities for public and social necessities requiring loans and act upon them. In reality funds are diverted from desired aims or are invested into unproductive activities (National Audit Office 2006: 4).

Secondly, there must be general equilibrium. Entailed here is the point that debts contracted today must not negatively affect future generations (Ibid. 8). When contracting debts, it must be taken into account that present welfare does not compromise future economic growth and social welfare. In terms of taxes or savings whereas investment expenditure should be financed with debt to be paid with those investment pay-offs.

Thirdly, when contracting debts there is need to consider debt structure and sustainability criteria. This calls for debt structure analysis. The combination of the debts elements namely;

currencies, holders, interest rate terms, instruments and contracting government entities need to be analyzed. This analysis enables governments to fulfill debt payments within the lowest possible cost and within a sensible risk level (National Audit Office 2006: 9, IMF 2001: 7).

Fourthly, debt management requires transparency and accountability. There must be clarity of roles, responsibility and objectives of financial agencies responsible for debt management. Open processes of formulating and reporting debt management policies are a must and have to be plainly stated in the legal frameworks governing debt management. Information on debt management policies, stock and composition of its debt and financial assets including their maturity and interest rate structures must be publicly disclosed (IMF 2003: 6).

Fifthly, debt management also requires good governance. Good governance entails adequate legal frameworks and effective institutions. The legal framework should clarify the authority to borrow and to issue new debt, invest and undertake transactions on the government's behalf. There must also be management of internal operations and legal documentation for institutions that deal with debt issues. Good and sound business practices must be adhered to and staff responsibilities well-articulated. There must also be accurate and comprehensive Management Information Systems and code of conduct and conflict of interest guidelines for staff (Ibid. 7).

Last but not least, for debt management to be effective there is the need for the development and maintenance of an effective market for government securities. Debt managers must ensure that debt management policies and operations are consistent with the development of an efficient government securities market. This principle calls for portfolio diversification where by government tries to achieve a broad investor base for their domestic and foreign obligations, with due regard to cost and risk, and should treat investors equitably (Ibid. 8).

2.2.2 Rationale for Debt Management

Debt management is indispensable because government's debt portfolio is usually the largest financial portfolio containing complex and risky financial structures that generate sustainable risk to the government's balance sheet and to the country's financial stability (Wheeler 2004: 6). There is need for debt management so that the debt portfolio will not pose threats to the economy as a whole. Debt management also ensures that both the level and rate of growth in

public debts is sustainable and can be serviced under a wide range of circumstances while meeting cost and risk objectives (IMF 2001). Debt management guarantee the timely payment of government debts and this lowers government's debt servicing costs by reducing the credit premium and the liquidity premium in the short term structure of interest rates for government securities (Wheeler 2004: 6).

Debt management ensures a good debt structure in terms of maturity, currency or interest rate composition and little contingent liabilities. Poorly structured debt in terms of the above propagates economic crises (IMF 2001). In the absence of debt management systems Coats (1997: 48) notes that economies will fail to take off because there will be no mechanisms to check on the state of the economy and the distortions in fiscal and monetary policies. Corruption by government officials can be rampant as they can siphon the funds into private bank accounts.

2.2.3 Objectives of Debt Management

According to Wheeler (2004: 13) debt management seeks to finance the government's borrowing needs efficiently and to ensure that the government's debt servicing obligations are met, to ensure that the government debt portfolio is managed according to the government's cost and risk objectives, governments may also have secondary objectives such as maintaining the liquidity of government issues at various points on the yield curve in order to reduce liquidity premium and provide a pricing benchmark for private issuers.

2.3 Debt Management in Zimbabwe

This section focuses on Constitutional legal frameworks and the institutional framework that relates to Zimbabwe's external debt management.

2.3.1 Legal Framework

Zimbabwe's debt management is anchored in the Constitution which is the supreme law of the land. Section 104 is relevant to debt management as it states that all the costs of the Zimbabwean government should be charged upon the Consolidated Revenue Fund (CRF) and that debt charges include interest on debts are also charged upon the CRF. In addition to the Constitution, the Public Finance Management Act Chapter 22:19 is the premier legislation regarding debt management. Prior to enactment of the Public Finance Management Act in

2009, there were a number of Acts of Parliament in relation to debt management. These included the Appropriation act, State loans and Guarantees act and Audit and Exchequer Act. In 2009 all these acts were consolidated into one act that is the Public Finance Management Act.

2.3.2 Institutional Framework

The Ministry of Finance is the principal institution that undertakes debt management activities. All issues relating to borrowing were undertaken in the Domestic and International Financing Department now the Aid and Debt Management Office. The RBZ is also part of the institutional framework as it is the paying agent. The Office of the Attorney General is also part the institutional framework as it is the legal advisor and ensures that laws of Zimbabwe are complied with. The role of Parliament is to ratify the loans. Parliamentary Portfolio Committees investigate and propose recommendations on debt issues. Civic organizations also bargain for good debt management practices but they are sidelined as they are treated with suspicion.

2.4 Case experiences

2.4.1 The Case of Liberia

Effectiveness of Liberia's debt management can be attributed to the Public Finance Management Act of 2009. The Act is adequate as it provided for the role and authority of various contracting actors as well as a system which must be adhered to in respect of how loans guarantee can be procured and debt managed. It authorizes the Minister of Finance and the Debt Management Office (DMO) to approve loans after the legislature has inquired the purpose of the loans before they are acquired. The Act also states that all proceeds from government borrowing shall be credited to the Consolidated Fund. On reporting, Section 32 of the act specifies that the minister has to maintain up to date record of all debt. The role of the President on matters relating to financial or economic management is limited to guaranteeing and restricting government guarantees loans to state owned enterprises, delegate responsibility to the Minister of Finance to borrow. The president has also a supervisory responsibility over the Ministry of Finance (AFRODAD 2011: 22).

Debt management is also guided by the Debt Management Strategy adopted in 2009. The strategy imposes a ceiling on central government borrowing. Both domestic and external government borrowing is limited to 3% of the previous year's GDP. The policy also maintains that public debt will be contracted on highly concessional terms with a grant element of at least 50% (Ibid. 27).

The Debt Management Committee (DMC) is the supreme institution on debt matters. It ensures that strict rules and oversight functions are established to ensure prudent borrowing. The DMC is composed of the Minister of Finance as the chair, Governor of the Central Bank, Minister of Justice and the Minister of Planning and Economic Affairs. The core responsibilities of the DMC are to develop three year government debt management strategy that is embodied into the overall macro-economic development strategy review and approve loans for state enterprises and to set government borrowing limits. In addition the DMC will monitor borrowing and debt, make input to the borrowing process and debt policies and approve certain and specific types of loans that are made by and in government (Ibid. 26).

2.4.2 The Case of Nigeria

In the case of Nigeria the Debt Management Office Establishment Act of 2003 is the premier legislation regarding debt management. Part 2 of the Act establishes the DMO as the sole agency responsible for the management of the country's debt. Part 3 provides for the functions of the DMO as to maintain a reliable database of all loans and guaranteed loans, preparation and submission of a forecast of loan service obligations and to prepare and implement plans for efficient management of external and domestic debt obligations and participate in the negotiations. The act also authorizes the DMO to issue and manage federal government loans and issue guidelines for smooth operation. On external borrowing Part 6 of the Act states that the DMO advises the government on the financing gap and the amounts to be borrowed. This advice forms the basis for national borrowing programmes. The DMO also participates in negotiations and acquiring of the loans. The 2003 Debt Management Office Establishment Act also states that no external loans shall be approved or obtained unless its terms and conditions shall be laid before the National Assembly.

2.5 Conclusion

This chapter gave an appreciation of debt concept which comprises of how the debt is created, sources, nature and structure of external debt, factors considered before borrowing, the rationale for borrowing and the implications of debt on development. The chapter also focused on debt management and the principles underpinning good debt management. A synopsis of debt management in Zimbabwe was also discussed and country experiences were also discussed.

CHAPTER THREE: METHODOLOGY

3.0 Introduction

This chapter presents the guidelines and methods that are adhered to in gathering and analyzing data. The research was twofold; firstly, it will utilize desk research whereby academic books, professional journals, articles, and newspaper articles were extensively reviewed to get a better understanding of how Zimbabwe has managed its external debt. Secondly, field research was conducted whereby questionnaires and interviews were administered to gather relevant data.

3.1 Research Design

A research design is a plan or blue print of how a researcher intends to conduct a study. These are the plans on sampling, methods of data collection and how data would be processed and analyzed to give meaning to research findings (Blanche et al 2006). The study is aimed at explaining and describing debt management so both qualitative and quantitative data was gathered. Questionnaires with both closed and open ended questions were also administered. Data from closed ended questions was analyzed quantitatively and data from open ended questions was analyzed qualitatively. Qualitative data was gathered using interviews and document study. The study also adopted the case study approach where the case of Nigeria and Liberia's debt management were compared to Zimbabwe. The case study approach facilitates the researcher with the opportunity to get information from events that took place in Nigeria and Liberia.

3.2 Sampling

Sampling involves the selection of the specific research participants from the entire population. The identified population consisted of organizations and individuals who have information on debt management. To draw key respondents from the identified population, purposive sampling was used. Purposive sampling enabled the sample to reflect the population accurately and so that inferences can be drawn (Babbie 1992).

In purposive sampling, researcher used his own judgment to deliberately select organizations and key respondents. Organizations and key respondents were selected on the assumption that debt management is their mandate and they have information on debt management. Purposive sampling ensured that all the key organizations relevant to debt management were covered

thereby eliminating those that do not fit in the sample. This sampling technique enabled a variety of debt management issues to be explored since the sample was heterogeneous, that is, respondents had different viewpoints on certain issues for example, the adequacy of the constitutional and legal framework and the effectiveness of the ministry of finance. During the research, some unforeseen issues aroused; purposive sampling had the benefit that it enabled the researcher to take advantage of these unforeseen opportunities as they aroused (Ritchie and Lewis 2003).

The research also utilized snowball sampling technique. In snowball sampling, the researcher collected data from key respondents who then advised and provided information on other respondents whom they know (Crossman 2012). Snowball sampling had the advantages that it allowed the researcher to reach populations that are difficult to sample when using other sampling techniques and it required little planning (Castillo 2009).

3.3 Sampling frame

These were the organizations from which the researcher chose key respondents from. The researcher conducted interviews and administer questionnaires in these organizations chosen. The table below shows the organizations, key respondents and the rational for choosing the organizations and the key respondents.

3.4 Rationale for choosing the key respondents

Table 1 Rationale for choosing key respondents

Organization	Key respondents	RATIONALE
Ministry of Finance- Zimbabwe Aid and Debt Management Office (ZAADMO)	Chair person Director Members of staff i.e. economists.	It is the premier institution regarding public finance including public debt management.
Fiscal policy and advisory department	Economists	
Domestic and International Finance	Economists	
Office of the Attorney General - Legal Advisory Department	Director and one lawyer	To ensure that the laws and regulations of the land are observed and there are no violations
Legal Drafting Department	Director and one lawyer	
Parliamentary Portfolio Committee on Budget, Finance and Investment Promotion	Committee members	They conduct some investigations on debt issues and write reports so they have the knowledge. There is need to know what they observed and recommended for good debt management.
ZIMCODD	Director and Special Projects Officers	They research on Zimbabwe's external debt so they have information and knowledge on external debt. Since they are consultants, there is need to interview them in a bid to know the best they propose to Zimbabwe's debt management.
Comptroller and Auditor General	Director	The Comptroller and Auditor General is the auditor of government. He plays a major role in ensuring that the country borrows within its capabilities. He/she ensures monitors all government expenditures including debt payments.
University of Zimbabwe	Lecturers	They conduct academic researches on debt management

3.5 Data collection methods

These are the means which were employed by the researcher in extracting. The researcher used document research, questionnaires which comprised of more closed ended questions and few open ended questions and in-depth interviews. These different data gathering methods enabled triangulation, that is, the mixing of data and methods so that diverse viewpoints or stand points cast light upon the topic (Olsen 2004). Bryman (2001:509) defines triangulation as the use of more than one method or source of data in the study of a social phenomenon so that findings may be cross checked. Triangulation involves the use of both quantitative and qualitative data.

3.5.1 Documentary Research

In document search, the researcher systematically analyzed written records pertaining to external debt management (Oppenheim 1992:2). This enabled the researcher to be familiar with existing works and current discourse on government borrowing and how to manage the debt. The researcher drew information from government publications such as Acts of Parliament (Public Finance Management Act Chapter 22:19), Monetary Policy Statements, journal articles, newspapers, commentaries from organizations such as ZIMCODD and reports. The findings from document study pointed out challenges to prudent debt management and provided strategies and principles that can be used as benchmark for possible recommendations on the future debt management of Zimbabwe.

3.5.2 Questionnaires

A questionnaire is an instrument comprised of a series of questions that are filled in by the respondents themselves. The research employed a questionnaire that comprised both closed ended and open ended questions and distributed them to key respondents in the organizations chosen. Most of the questionnaires were handed out to key respondents at their work places and a few were sent via electronic mail. The respondents completed them within a week. This gave the respondents considerable time to consider questions carefully without pressuring them to react to questions right away. Questionnaires were distributed to heads of organizations and to junior staff. More questionnaires were distributed in the Ministry of Finance specifically in the ZAADMO.

Closed ended questions in the questionnaire had the advantage that they were easy to analyze as statistical interpretations were assessed, also they were more specific, thus communicate similar meanings (<http://edu-net.net>). Open-ended questions had the advantage they made the respondents feel more comfortable expressing their real reactions to questions on personally sensitive issues (Williamson, et al, 1977:142). This combination of closed and open ended questions in questionnaires enabled the researcher to give a balanced analysis of debt management by analyzing both qualitative and quantitative data.

3.5.3 In-Depth Interviews

In-depth interviews provided a way of generating data by asking key respondents to talk about Zimbabwe's debt management, expressing their own thoughts in their own words (Miller and Brewer 2003). Interview appointments were concurrent with questionnaire administration. Interview guides were given to key informants so that they familiarize themselves with the questions the researcher was going to ask. In-depth interviews had the advantages that the responses were immediate. On any unclear issues, the researcher probed the interviewee in a bid to get more extensive answers there and there. As a compliment to questionnaires interviews enabled the interviewee to explain ambiguities and correct any misunderstandings in the questions.

In the Ministry of Finance, within ZAADMO, the researcher interviewed the head and ZAADMO staff who are economists, a director in the Domestic and International Finance Department (DFI) and economists in the Fiscal and Policy Advisory Department. In the Office of the Attorney General, a lawyers from the Legal Advisory Department and another from the Legal Drafting Department were interviewed. At ZIMCODD, a special projects officer was interviewed. From the Parliamentary Portfolio Committee on Budget, Finance and Investment Promotion an honorable member of the committee was interviewed. At University of Zimbabwe lecturers from Faculty of Law and Political Science and Administrative Studies Department were also consulted.

3.6 Data Analysis Techniques

In analyzing data, the researcher transformed data into meaningful form in order to consider original research questions (Blanche et al 2006). Entailed here is the point that the research findings were analyzed and presented so that they can be meaningful to the end users. The

research utilized two methods to analyze the findings. These are Content Analysis and Statistical Package for Social Sciences (SPSS).

3.6.1 Content Analysis

This study employed content analysis. In content analysis, books, brochures, news reports, other written documents and speeches were analyzed. The researcher identified and noted the presence of certain words, phrases or concepts within text and emerging patterns. These were then coded and categorized into themes. Qualitative data generated through interviews and questionnaires was also analyzed in this same way and then grouped accordingly.

3.6.2 Statistical Package for Social Sciences (SPSS)

This is a computer based statistical program prevalently used in social science research that allows quantitative data to be managed and analyzed (Bryman, 2001:508). In this study, the program was used to analyzing the data from closed ended questions in questionnaires. The data was then grouped and categorized. SPSS enabled the researcher to determine frequencies in various responses to research questions. As a result, such frequencies were noted and were grouped into themes.

3.7 Data Presentation

This is the stage where the findings from the research were presented. Qualitative data from closed ended questions in questionnaires was organized, compressed and assembled and presented in form of pie charts and bar graphs. Qualitative data was presented in themes and subheadings.

3.8 Conclusion

This chapter highlighted the research methodology of the study. The study was twofold as it utilized document study and field surveys. In document study, Acts of Parliament, journal articles and research papers were reviewed to gain a better understanding of the Zimbabwean Constitutional legal frameworks in respect of debt management. Field surveys included questionnaire and in-depth interview administration. The study also adopted the triangulation method where qualitative and quantitative approaches were used for an in-depth assessment of the Constitutional legal frameworks regarding external debt management.

CHAPTER 4: DATA PRESENTATION AND ANALYSIS

4.0 Introduction

This chapter presents and analyses the research findings. The findings are from documentary research, surveys and interviews. The major findings from the study are presented using graphs and a thematic approach. The analysis of findings combines both qualitative and quantitative approaches. The Statistical Package for Social Sciences is used to generate frequencies. This chapter will serve as the basis for the recommendations and conclusions in Chapter five. As mentioned in the preamble, the study sought to support or refute the hypothesis that; *inadequate constitutional legal frameworks have resulted in Zimbabwe's unsustainable debt levels.*

4.1 Objectives Revisited

The principal objectives of this study were to:

- To analyze the nature of Zimbabwe's external debt.
- To ascertain the extent of Zimbabwe's external public debt.
- To comparatively analyze the adequacy of Constitutional legal framework in relation to debt management.
- To proffer recommendations on how to strengthen external debt management.

4.2 Research Findings

Most of the findings in this chapter are from document research, surveys and interviews. The key informants interviewed were the staff in the Ministry of Finance, specifically ZAADMO and Fiscal and Macroeconomic Policy Advisory Department, heads of various government departments and private organisations and lecturers from the Department of Political and Administrative Studies (POLAD) and Faculty of Law. Table 1 below shows the response rate of questionnaires administered.

Table 2 Response Rate to Questionnaires Administered

Name of Organization	Questionnaires administered	Questionnaires returned	Response rate (%)
Domestic and International Finance	13	11	87
Fiscal and Macro-economic policy Advisory	6	3	50
Attorney General's office (Legal Drafting and Advisory Department)	6	5	83
Parliamentary Portfolio Committee on Budget, Finance and Investment Promotion	4	3	75
Auditor General	3	3	100
ZIMCODD	4	4	100
University of Zimbabwe	4	3	75
total	40	32	

Table 2 shows that out of the 40 questionnaires were distributed in the above mentioned organisations and 32 were returned. The 32 questionnaires returned constitute 80% response rate which is sufficient to validate the hypothesis of the study. The 20% non-response rate can be attributed to non-cooperation of the respondents. In addition to this, some respondents had tight schedules hence they could not find time to attend to the questionnaires. The percentage response rates were calculated based on the number of returned questionnaires.

4.3 Nature of Zimbabwe' External Debt

The thrust of this section is to discuss the nature and extent of Zimbabwe's external debt stock. The nature of the debt concerns the sources of the loans, type of the loans and their

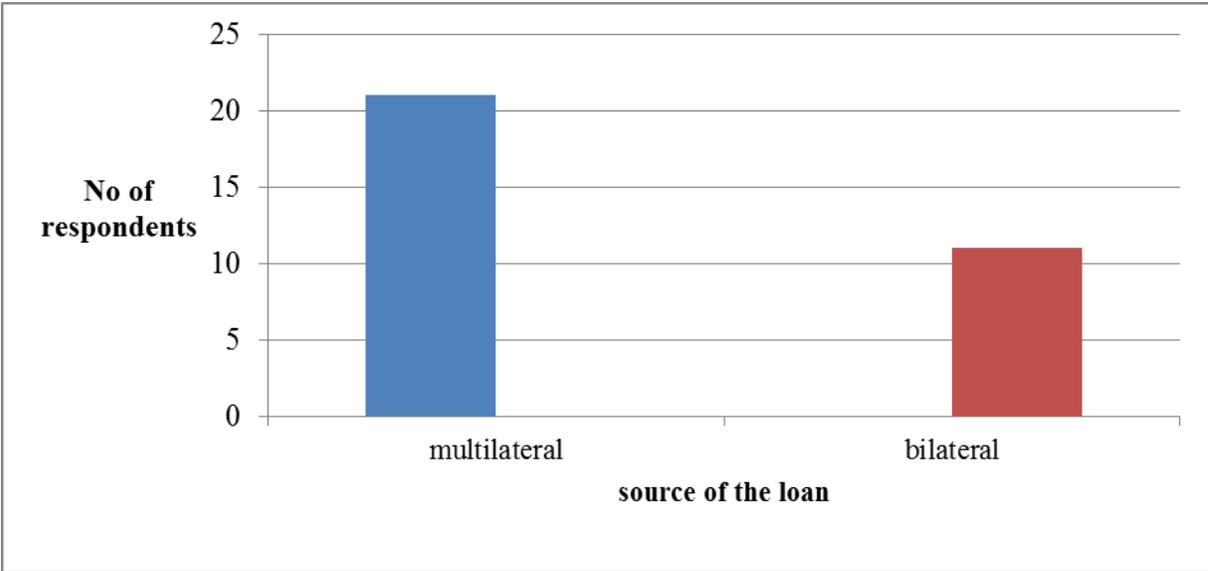
composition. The nature and extent of the debt shows how adequate the Constitutional legal frameworks are in ensuring sustainable debt levels.

4.3.1 Sources of Zimbabwe’s Loans

As mentioned in Chapter Two, the two broad sources of external loans are multilateral and bilateral. The government can choose any of the two sources depending on the capability to pay and conditions of the loans. It is ideal for developing nations such as Zimbabwe to bilateral loans as they are concessional.

Figure 1 below illustrates that 21 (67%) of the respondents from 32 returned questionnaires are of the view that most of loans contracted by the Zimbabwean government as multilateral loans and the remaining 33% are of the view that they are bilateral.

Figure 1 Responses to Sources of Zimbabwe’s Loans



Source: Survey.

Question: What is the major source of Zimbabwe’s external loans?

Data from interviews pointed out that multilateral loans were readily available to Zimbabwe as the donor community failed to provide sufficient funds they had pledged for the country’s development. In support of this, Jones (2011:12) notes that the Zimbabwe Conference on Reconstruction and Development (ZIMCORD) held in 1981 held for the mobilization of funds

for development \$2.2 billion was pledged. However, only a fifth of this amount was disbursed and the shortages were financed by borrowings from foreign private banks. The respondents also argued that as a result of budget deficits experienced in the late 1980s Zimbabwe was compelled to accept loans for structural adjustment from the IMF and AfDB.

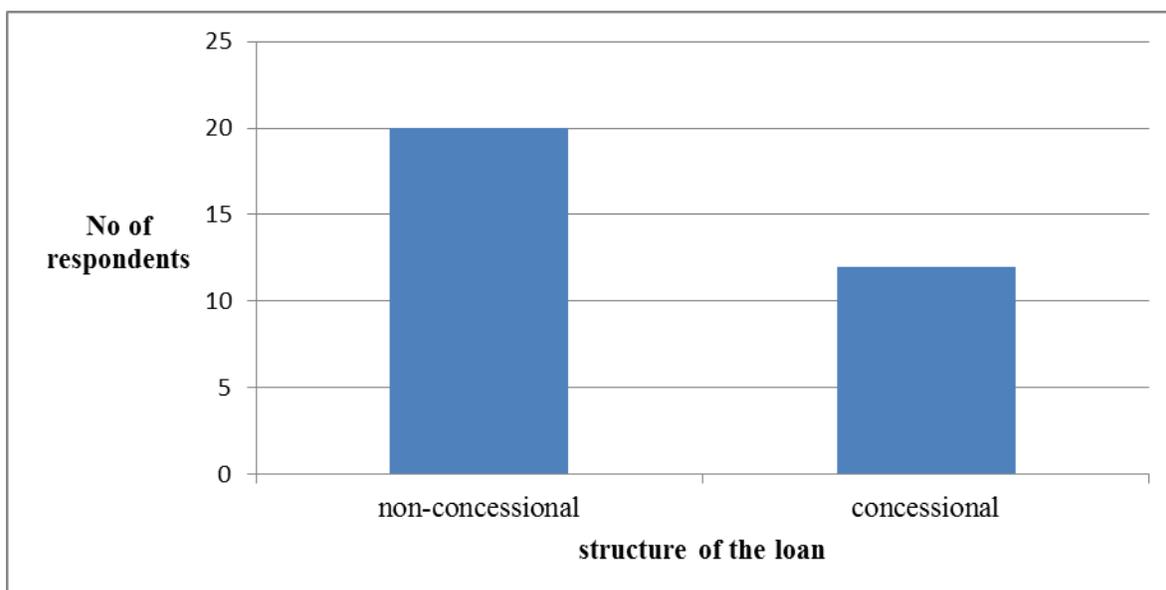
Bilateral loans were also obtained from donor countries mostly Scandinavian countries. These loans were mainly used in developmental projects for example in drilling of boreholes and irrigation schemes. The third decade has also seen an increase in the stock of bilateral debts as Zimbabwe has been suspended from loan programmes by the IMF and AfDB. The major source of loans has been China. In 2011 China has provided \$100 million for the construction of the defence college along Harare-Mazowe highway (Ibid. 35). Zimbabwe has also received US\$25 million for agricultural equipment and tools which was tied to no less than 50% being supplied by Chinese companies. Other loans from China include the US\$20 million for steel production and US\$8 million for the ministry of water (Ibid. 36).

4.3.2 Structure of Multilateral Loans

As noted in the preamble, multilateral loans from international financial institutions can be concessional or non-concessional depending on how a country is rated. Zimbabwe is still developing, it need to access concessional loans as they are easy to repay.

Figure 2 shows that 20 (62%) of the respondents view the structure of multilateral loans as non-concessional and 12 (38%) are of the view that the loans as concessional.

Figure 2 Responses to the Structure of Multilateral Loans



Source: Survey.

Question: What is the structure of Zimbabwe’s Multilateral Loans?

Data from the survey pointed out that multilateral loans were non-concessional. In an interview with economists from the Ministry of Finance it was discovered that the loans from multilateral sources had high interest rates that had to be repaid within short periods of time. A lecturer in the POLAD and staff from ZIMCODD also unanimously supported the claim that loans from IFI were non-concessional. Loans from the World Bank were non-concessional as Zimbabwe was classified as a middle income earner with the potential to repay. As a middle income earner, loans to Zimbabwe were provided by the International Bank for Reconstruction Development, a branch of the World Bank which provided non-concessional loans. However, as there was negative economic development, Zimbabwe was supposed to be classified as low income earner so as to qualify for more concessional loans from International Development Association, a part of the World Bank that provides concessional loan facilities.

The 38% response rate viewing loans as concessional can be attributed to the fact that developmental loans given to Zimbabwe were concessional. According to Leo and Moss (2009: 4) out of the US\$1.6 billion loans to Zimbabwe, 42% of these loans were non-concessional as they were provided under the non-concessional facility by IDA.

4.3.3 Structure of Bilateral Loans

Most of bilateral loans are mainly composed of concessional loans. As highlighted earlier, bilateral loans are provided by individual governments. They are concessional in that they have longer grace periods and lower interest rates. According to ZAADDs (2012: 6) the major source of bilateral loans is the Paris Club. Data from the interview with the Head of Domestic and International Finance (Ministry of Finance) brought to light that bilateral loans were given as different countries sympathized with Zimbabwe as it was distracted by the liberation war. Bilateral loans contained grants and free gifts. According to an official in the Ministry of Finance, Scandinavian countries (Sweden, Finland and Norway) provided for concessional loans that were meant for the countries development. Officials from the ZAADMO also revealed that the US\$100 million from China is concessional as the interest rate ranges between 2-5% and payment will begin from 2017 and ends in 2029.

4.4 Extent of Zimbabwe's External Debt

According to an official in the ZAADMO and the Minister of Finance in the 2013 National Budget Statement Section XIII paragraph 761 the extent of Zimbabwe's debt is approximately US \$10 billion which is unsustainable. This figure is an approximation as the reconciliation process is still work in progress. In addition to that, the Debt Management and Financial Analysis System being used to produce figures on the amount of loans and the principal interest does not take into account the capitalization component. The capitalization component entails the penalty charges that accrue after failure to meet deadlines for payments. Also in an interview, a member from ZAADMO added that there are some countries and institutions sprouting out claiming they are owed by Zimbabwe. Included in this amount are the estimations of arrears and the penalties which are projected to escalate to more than US \$8 billion (ZAADDs 2012: 7). The table below shows the estimations of public and publicly guaranteed debt and the creditors.

Table 3 Zimbabwe's External Debt Structure in US\$ Millions

	Debt outstanding disbursed	Total arrears stock	Principal arrears stock	Interest arrears
Government loans	4043	2443	1864	574
Bilateral creditors	1866	1257	1007	574
Paris club	1597	1190	946	242
Non Paris club	269	67	61	6
Multilateral creditors	2177	1186	857	326
AfDB	476	409	257	152
BADEA	19	19	13	5
WB	952	507	380	125
IFAD	33	22	16	6
IMF	550	140	118	22
E.I.B	121	81	67	14
N.D.F	23	5	3	2
PTA	3	3	3	0
Parastatal loans	1070	987	802	150
Bilateral creditors	497	458	369	74
Paris Club	405	386	306	65
Non Paris Club	92	72	63	9
Multilateral creditors	327	283	187	76
WB	174	148	86	43
AfDB	53	42	23	18
E.I.B	121	81	67	14
N.D.F	23	5	3	2
Suppliers credits	246	246	246	0
Air Zimbabwe	70	70	70	0
National Oil Company of Zimbabwe	75	75	75	0
Zimbabwe Electrical Supply Authority	101	101	101	0

Source: ZAADDs 2012: 6

From Table 3 it can be concluded that the total estimate of multilateral loans is US \$ 5, 753 billion and the total estimate of bilateral loans amounts to US \$ 5,780 billion. These figures include the estimates of arrears and interests on arrears. This study concludes that the extent of Zimbabwe's external debt stock is approximately US \$12 billion.

4.5 Adequacy of the Constitutional Legal Framework Regarding External Debt Management

This section presents and analyses data on the adequacy of the Constitutional legal frameworks regarding external debt. The idea is to determine the adequacy of the Lancaster House Constitution and the Public Finance Management Act.

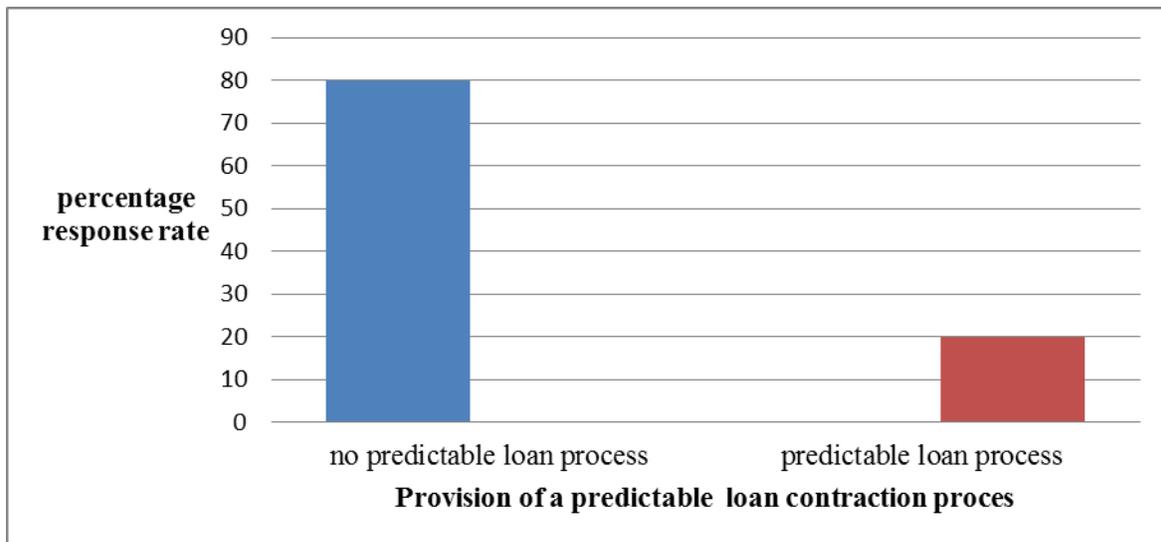
4.5.1 Adequacy of the Lancaster House Constitution

The study sought to rate the adequacy of the Constitution in terms of providing for predictable loan contraction process, providing for the definition of institutional set up to undertake debt management and promotion of transparency and accountability in debt management issues.

4.5.1.1 Provision for a Predictable Loan Contraction Process

The Constitution, as the supreme law must provide for the process to be adhered to in loan contraction. The loan contraction process must be used in the identification and establishment of structures that will be responsible for debt management. A predictable loan contraction process makes it easy to monitor and evaluate how loans are contracted and the effectiveness of institutions regarding debt management. A parliamentary approval process must also be provided for when it comes to debt payment. Section 104 of the Lancaster House Constitution only relates to how debt charges costs and expenses incidental are charged upon the Consolidated Revenue Fund.

Figure 3 Responses to the provision for a clear loan contraction process



Source: Survey

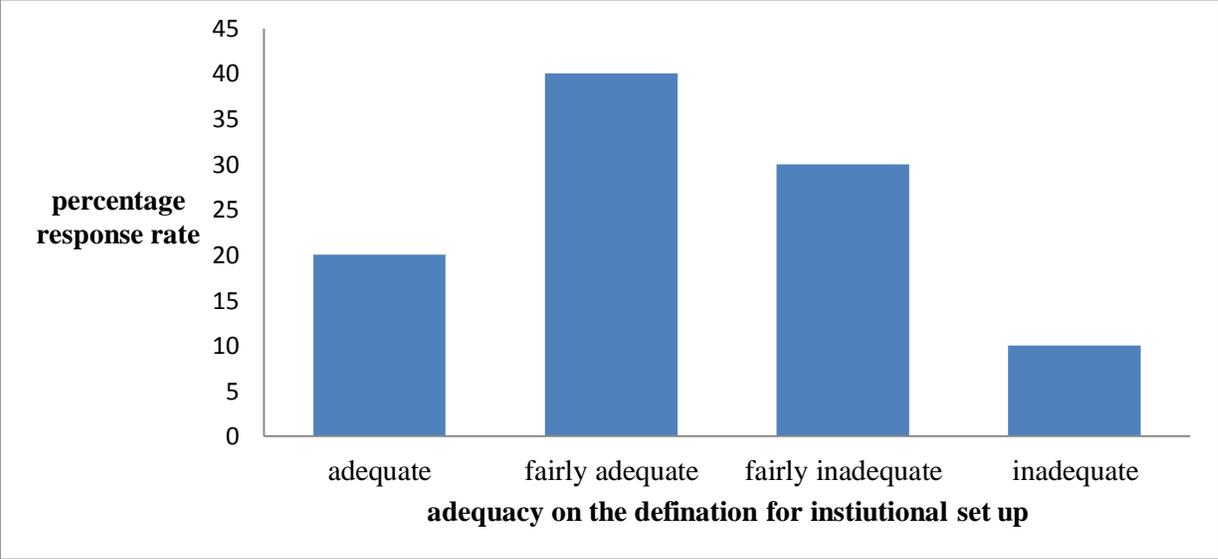
Question: Does the constitution provide for a predictable loan contraction process?

Data gathered from the survey suggested that 80% of the respondents are of the notion that the Constitution does not provide for a process that can be adhered to when contracting loans. To complement this view, an official from the Ministry of Finance pointed out that debt management is haphazard and fragmented in different government institutions so there is little coordination in debt management. Different ministries and parastals take advantage of the absence of a clear process and contract loans without the knowledge of the Ministry of Finance. Absence of a loan contraction process has made it difficult to monitor and evaluate the number of loans contracted. In terms of a loan payment approval process, there is no a clear loan approval process as Section 102 (1) (a) and Section 103(2) states that if expenditure is charged upon by the Constitution or an Act of parliament, it need not be authorized in the budget. As such debts can be paid without any need for a parliamentary approval process.

4.5.1.2 Provision for Institutional Set Up to Undertake Debt and Aid Management Functions

The Constitution as the supreme law stipulates debt and aid management functions though they rarely provide for institutional set ups. Clear definition of institutions to undertake debt management minimises conflict of roles and facilitates easy coordination in debt management.

Figure 4 Responses to the provision of institutional set up to undertake aid and debt management



Source: Survey

Question: Does the Lancaster House Constitution adequately provide for a clear definition of the institutional set up to undertake debt and aid management functions?

When asked about a clear definition of the institutional set up to undertake debt and aid management functions, there were six responses in the adequate category, 13 in the fairly adequate category. The fairly inadequate category had 10 respondents and in the inadequate category there were three responses.

From Figure 4, a cumulative total of 60% from returned questionnaires in the ‘adequate’ and ‘fairly adequate’ categories denotes that the Constitution is adequate in providing for a definition of institutional set up to undertake debt management. Chapter XI of the

Constitution focuses on Public Finance. Section 103 states that the Ministry in charge of finance is the premier institution pertaining public finance. In terms of debt management Section 104 covers public debt and it states that all the debts and charges incidental to it are charged upon the Consolidated Revenue Fund. It is the Ministry of Finance that is in charge of the CRF. The Executive is also part of debt management as Part 3 Section 31H (4) (b) gives authority the Executive to enter into international conventions, treaties and agreements. Parliament is also involved as it approves all international agreements (Section 111B). Loan agreements also constitute agreements. Parliamentary Portfolio Committees are also involved as they proffer recommendations. The Office of the Attorney is also involved as it is the principal legal advisor to the Government. The Office of the Auditor General is also involved as it evaluates reports and audits the accounts of government (Section 106).

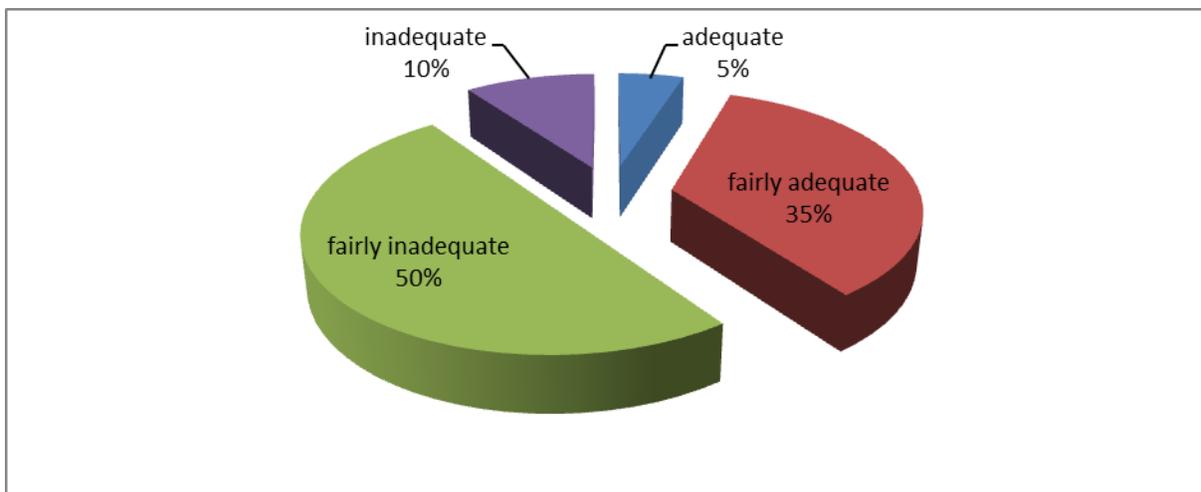
The Public Finance Management Act Chapter 22:19 Part II Section 7 also compliments the Constitution by authorizing the Minister of Finance to be responsible for all financial matters relating to Zimbabwe. Chapter VIII Section 81 authorises the Auditor General to audit all government transactions including transactions on external debt.

4.5.1.3 Promotion of Transparency and Accountability

Measures to promote transparency and accountability need also to be provided for in the constitution. Transparency and accountability ensure that debt management activities - for example how much loans being contracted, terms and conditions of the loans and how the loans are going to be repaid - are exposed to the public. Transparency and accountability in debt management are ensured through the involvement of the parliament and publishing of reports on debt management.

Statistics in Figure 5 reveal that 5% of the respondents viewed the constitution as adequate in promoting transparency and accountability. In the fairly adequate category there was 35% response rate. The fairly inadequate category constituted 50% and finally the inadequate category had 10%.

Figure 5 Responses to the adequacy of the Constitution in terms of promoting transparency and accountability



Source: Survey

Question: How adequate is the constitution in terms of promoting transparency and accountability in debt management?

From Figure 5, the cumulative 40% of the ‘adequate’ and ‘fairly adequate’ categories can be attributed to the fact that the Parliament is involved in loans contraction when it ratifies loan agreements brought to it. In interviews with staff from the Attorney General’s office, transparency and accountability are ensured when Parliament ratifies all the loan agreements. Their argument was anchored on Section 111B of the constitution which states that Parliament has the mandate to approve all international agreements of which loan agreements constitute international agreements. Transparency and accountability are also ensured as Section 106 (1) authorises the Auditor General has the mandate to audit any government ministry or agency.

However the vast of the responses fell in the fairly inadequate and inadequate categories thus the cumulative response rate is 60%. The respondents argued that Parliament is only involved in the approval process only. When the loans are negotiated Parliament is completely left out. When the loans are brought to Parliament for ratification, Parliament tends to rubberstamp the agreements without carefully scrutinizing the loan conditions. For transparency and

accountability to be enhanced, Parliament must be involved in the loan negotiation process. The Lancaster House Constitution makes debt management secretive as little information on loan contraction is divulged to the public. Chapter XI of the constitution focuses on debt management but it rarely touches on core issues to do with debt management. In an interview with a member of ZIMCODD, it was revealed that the Auditor General does not audit and publish reports of the accounts of some ministries and government agencies because the reports raise national security issues.

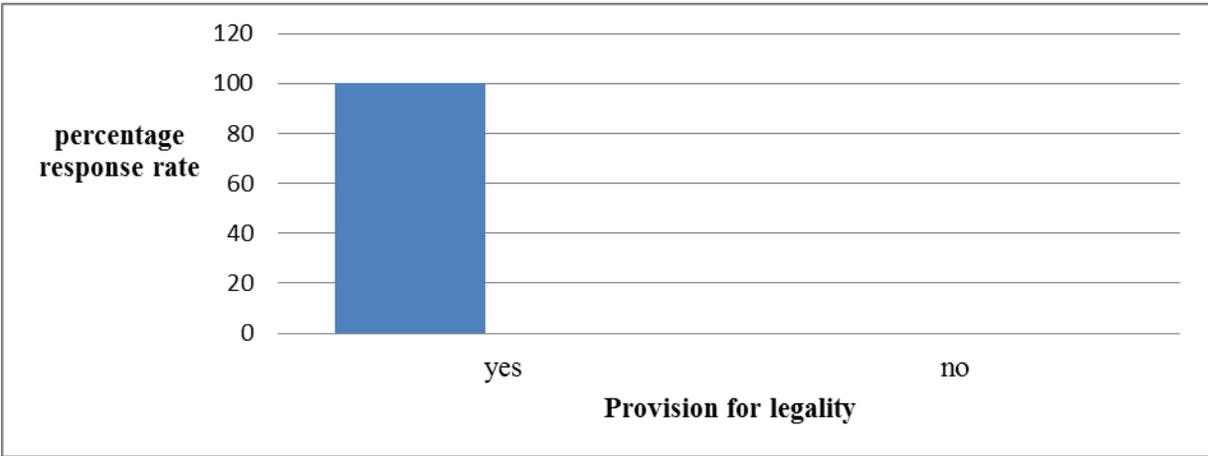
4.5.2 Adequacy of the Public Finance Management Act Chapter 22:19 regarding External Debt Management

The focus of this section is to present and analyse data on the adequacy of the Public Finance Management Act. The Public Finance Management Act is the premier legislation regarding debt management. The appropriateness of this legislation is weighed against its provision for the legality for loan contraction, circumstances for borrowing, the extent to which it set a ceiling on external borrowing and the extent to which the legislation provide for the inclusion of other parties in the loan contraction process.

4.5.2.1 Legality of Loan Contraction

The main issues considered under legality are to ensure that loan contraction is legal. The premier legislations regarding debt management must provide for the authority to borrow and the actors to be involved in the loan negotiations. A clear definition of the authority to borrow ensures that there is only one source that has the mandate to authorise all government loans and guarantees.

Figure 6 Responses on the legality of loan contraction



Source: Survey

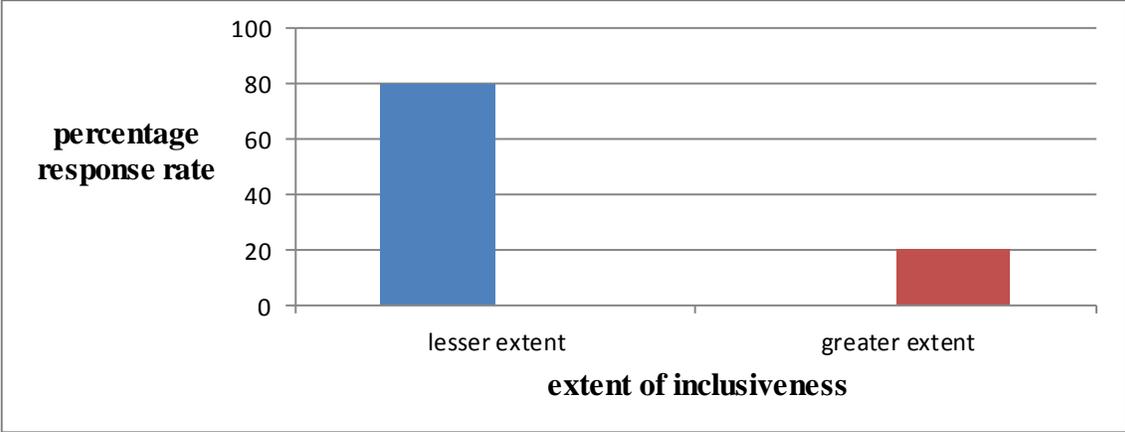
Question: Does the Public Finance Management Act provide for the legality for loan contraction?

Data from the survey shows that all the respondents unanimously agreed that the Public Finance Management Act provides for the authority for loan contraction. Information from documentary study revealed that Part VI Section 52 of the Public Finance Management Act clearly specifies that the borrowing powers rests in the hands of the President and the Minister of Finance. There is no confusion on who authorizes borrowing. In cases of publicly guaranteed loans Section 61 states that the Minister may guarantee the loans with the consent of the President and after if it fits to him to guarantee the loans. When it comes to debt repayment, Section 37 of the Public Finance Management Act authorises the Minister of Finance to charge all loans and their interests upon the CRF.

4.5.2.2 Extent to Which Other Parties are Included in The Loan Contraction Process

The loan contraction process must include a number of participants so as promote checks and balances to minimise abuse of power. Inclusion of many participants ensures that diverse viewpoints or considerations are taken into account.

Figure 7 Responses to the extent to which other parties are included in the loan contraction process



Source: Survey

Question: To what extent are parties included in the loan contraction process?

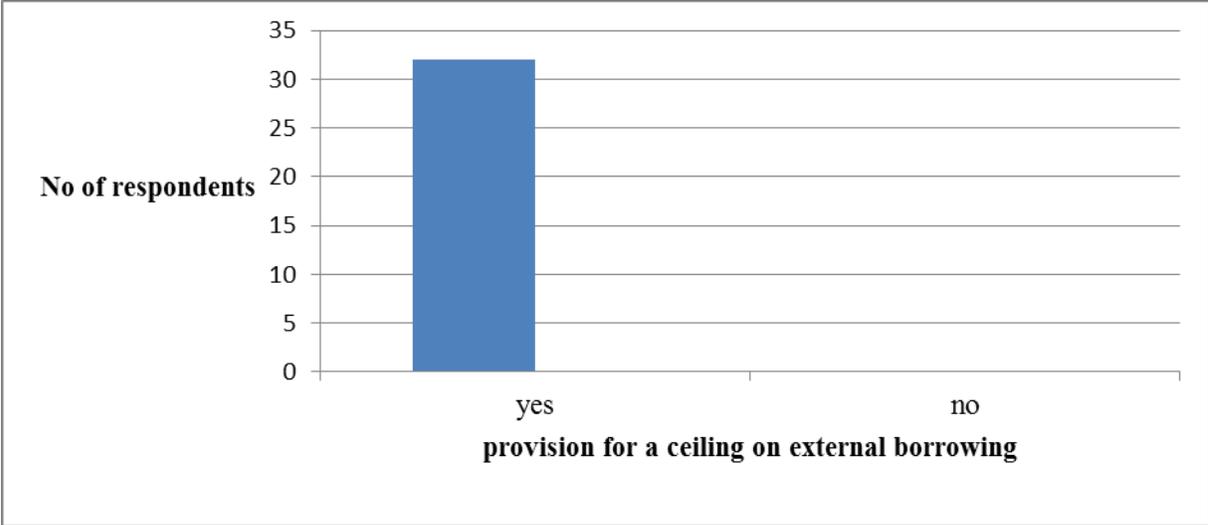
On the extent to which parties are included in the loan contraction process, the study noted that the loan contraction process is exclusive as 80% of the respondents were in the lesser extent category. The Public Finance Management Act makes loan contraction exclusive to the President and the Minister of Finance. Data from interviews pointed out that the loan contraction process is exclusive and gives vast powers to the President and the Minister of Finance. Ultimate power in the hands of two people is problematic. Ultimate power in the hands of only two people compromise on transparency and accountability and it may be difficult to limit the abuse of power in contracting unnecessary loans. Exclusiveness of loan contraction makes it difficult to provide for checks and balances on the number of loans contracted and their purposes.

4.5.2.3 Provision for Ceilings on Borrowing

Regulation regarding debt management must provide for a ceiling on public and publicly guaranteed debt to be borrowed externally. Provision for a ceiling ensures that the government will borrow sustainable amounts that are not difficult to repay. The amounts to be borrowed and guaranteed must be a certain percentage of the gross domestic product of the previous year. A ceiling on external borrowing curtails over borrowing and enables a country to borrow

amounts that are within its capabilities. Ideally, legislation on debt management must provide for a limit on public and publicly guaranteed loans and also set a minimum threshold of the grant element on loans to be contracted.

Figure 8 Responses to the provision of a ceiling on external borrowing



Source: Survey

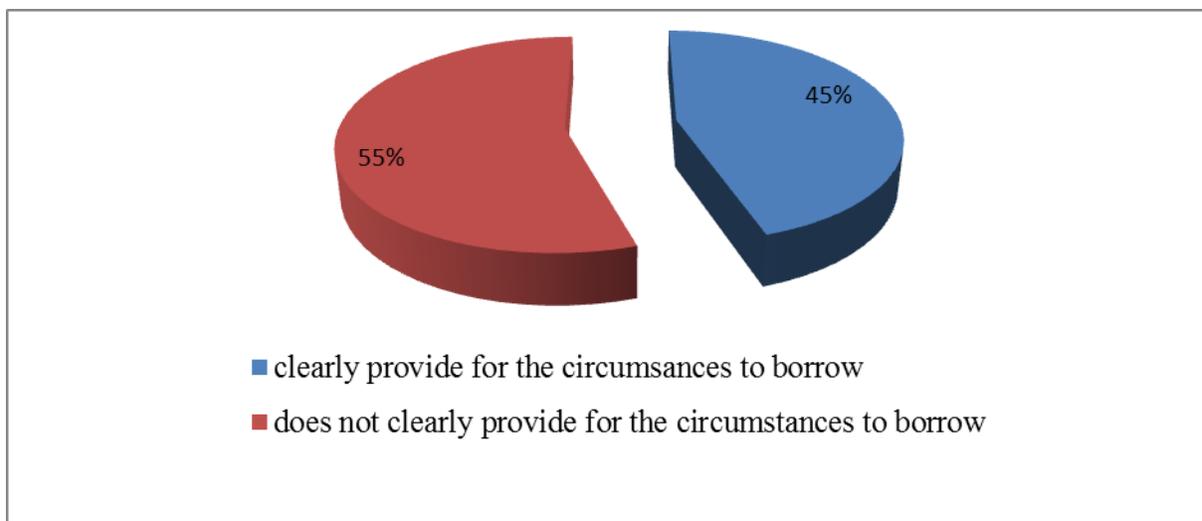
Question: Does the Public Finance Management Act provide for a ceiling on external borrowing?

From Figure 8 it can be noted that all the respondents are of the view that the Public Finance Management Act does not provide for a ceiling on external borrowing. The Act is totally silent on the amount that can be borrowed externally. It only provides for a ceiling on domestic borrowing where by Section 52 (2) states that the Minister of Finance can borrow an amount not more than 30% of the previous year’s GDP. However, an economist from the Ministry of Finance pointed out that there is no need for the Public Finance Management Act to provide for a ceiling on external borrowing as the amounts to be borrowed are determined by the loan conditions and what the creditors are willing to offer. Ideally, the legislation must set a ceiling for external borrowings and on the number of external loans that are guaranteed by the government.

4.5.2.4 Provision for the Circumstances under which Borrowing is Permissible

Legal frameworks regarding debt management need to clearly state the conditions that make external borrowing allowable. Provision for these circumstances makes the government to avoid unnecessary and unwise borrowings. These circumstances will justify the rationale for external borrowing and they will aid in promoting transparency and accountability.

Figure 9 Responses to the provision for circumstances for external borrowing



Source: Survey

Question: Does the Public Finance Management Act provide for clear circumstances to borrow?

Data from Figure 9 reveals that 45% of the respondents are of the notion that the Public Finance Management Act provide for clear circumstances for external borrowing. Their argument is rooted on the fact that Section 52 (1) states that the President may authorises the Minister of Finance to borrow for any purpose considered expedient. Also Section 54 (1) states that the Minister of Finance may borrow upon such conditions he may fix.

However, 55% of the respondents opposed the fact that the legislation is clear on the circumstances for borrowing. In their argument in the interviews, the respondents said the conditions for external borrowing are not clear as Section 52 (1) and 54 (1) states that borrowing is permissible to the conditions considered expedient to the President and the

Minister of Finance. These conditions expedient to the President and the Minister of Finance may not be in the interest of the public. According to Chadambuka (2009: 6) failure to establish conditions for loan contraction weakens the negotiation position of the state. Loan contraction tends to follow principles and rules decided by the lenders who already have an upper hand by virtue of their financial strength.

4.6 Discussion of Findings

The extent to which a country can effectively manage and sustain its debt stock hinges on the adequacy of the Constitutional legal frameworks. The adequacy of the Constitutional legal framework regarding external debt management is judged against the extent to which it provides for best practise and principles that can be adhered. Constitutional legal frameworks have a bearing on the effectiveness of institutional frameworks that undertake debt management. As highlighted in Chapter Two, Zimbabwe has a Constitutional legal framework regarding debt management; the issue at hand is the question why it is struggling with indebtedness.

Data from the research revealed that the Lancaster House Constitution is silent on a definite process to be adhered to when contracting loans. The Constitution only states how withdrawals are made from the CRF when paying debts (Section 104). The absence of a clear loan contraction process has led to a situation where some key institutions are left out in the loan negotiations and at the end are forced to ratify or approve the loans. Information from the Office of the Attorney revealed that the Attorney is left out during loan negotiations but at the end the Office is compelled to approve loans that violate Zimbabwean laws. In an interview with a committee member of the Parliamentary Portfolio Committee on Budget, Finance and Investment Promotion it was revealed Parliament is also ignored in loan contraction but only involved in the ratification process where it simply rubberstamps the decision without exercising due diligence. Absence of a clear loan contraction process has also resulted in a situation where debt issues are fragmented in different departments of government ministries there by making it difficult to trace liabilities across levels of government. Loan contraction is done haphazardly therefore corrupt ministers take advantage of this and contract loans unknown to the Ministry of Finance. Absence of a clear process also makes it difficult to measure the effectiveness of institutions that undertake debt management.

In contrast, Liberia Public Finance Management Act of 2009 Section 28 clearly provides for the role and authority of various loans contracting actors and the process to be adhered when loans guarantees are procured and the debt managed. In the case of Nigeria, as noted in Chapter 2, debt management is consolidated in the Debt Management Office the Debt Management Office Establishment Act (2003) provides for the Debt Management Office as the sole institution to undertake debt management.

Transparency and accountability must be enshrined in the constitution. These are ensured through regular and timely reporting and providing for an inclusive loan contraction process. This study has exposed that the Constitution and the Public Finance Management Act do not adequately promote transparency and accountability as the loan negotiations are done behind closed doors. The conditions of the loans are not exposed to the public. There are no formal mechanisms for performance measurement by the public and no ex-post evaluation of government's debt portfolio. As noted above, exclusion of Parliament loan contraction hinders public participation in matters regarding debt management. In the Liberian case Article 34 states that no loans are contracted without the approval of the House of Representatives and the Senate. Article 34 Section d (iii) reads,

“No loans shall be raised by the Government no behalf of the Republic or guarantee given for any public institution or authority otherwise than, by or under the authority of a legislative enactment”.

Implied here is the notion that the Legislature has to to enquire the purpose of the loans before it is negotiated and signed and that no loans are contracted without the approval of both the House of Representatives and the Senate (AFRODAD 2011b :23). The effectiveness of civic organisations to perform their watchdog role the quality of recommendations they give has also been compromised as they are treated with suspicion and not given access to information. As revealed from interviews, failure by the Auditor General to audit and publish audit reports for some government departments has compromised on transparency and accountability.

Though the Constitution is silent on the loan contraction process and not adequate in promoting transparency and accountability, it does establish the Ministry of Finance as the institution with the mandate to deal with all finance issues and debt management is also

classified under finance. The research revealed that there are other institutions engaged in debt management but are not directly mentioned in the Constitution. These institutions include the Office of the Attorney General the External Loans Committee (ELC) and the RBZ. Absence of clear institutional set up in the Lancaster Constitution created room for manipulation and abuse of public loans.

On the legality of loan contraction, the Constitutional legal frameworks are clear as they specify that is only the President and the Minister of Finance who authorises loans to be contracted. However, the study has revealed that the legislation gives vast powers to only two offices regarding the authorisation of loans making loan contraction exclusive. Exclusiveness in loan contraction imposes the risk of abuse of power by the President and the Minister of Finance and also makes them unaccountable to anyone. Ultimate power in the hands of a few is detrimental on transparency and accountability. In addition to this, viewpoints from other parties are not taken into consideration.

In the Liberian legislation the role of the President in relation to financial matters is not very clear. It is indirectly reflected in the Revenue Code which empowers the President to guarantee loans. The Public Finance Management Act also authorises the President to delegate responsibility to the Minister of Finance to borrow and restrict government guarantees (Ibid).

Closely related to the above is the notion that it is the President or the Minister who determines circumstances for which borrowing is permissible. The conditions deemed expedient to the two may not be in public interest as Parliament is not given the chance to scrutinize the rationale for the loans. The study has discovered that loans contracted by the Zimbabwean government are driven by political and individual interest. The Constitutional legal frameworks lack mechanisms to enquire and verify the purposes for the loans before they are signed. Some of the loans were contracted in the name of development but they were diverted for personal use by corrupt ministers. Documentary research has also revealed that absence of clear circumstances where borrowing is permissible weakens the state's negotiation position as the Minister may follow the dictates of the lenders and bound by them (ZIMCODD 2009: 6).

The study has also shown beyond reasonable doubt that the legislation does not set a limit on external public and publicly guaranteed debts. The legislation only set a limit on domestic borrowing. This is different from Liberia where the Debt Management Strategy of 2009 limits external borrowing to not more than 3% of the previous year's GDP and that loans must have a minimum threshold of 50% grant element. Absence of a limit on external borrowing makes the government to carelessly borrow. Unlimited borrowing led to failure to contain debts. Bilateral creditors also carelessly gave loans to Zimbabwe knowing very well it will struggle to pay. They use that as a milestone to further their economic interests. Absence of a ceiling on external borrowing has led to over borrowing. From the case of Liberia it can be learnt that all legislation in respect of debt management must be consistent, reinforcing and complementing each other.

All the above loop holes in the Constitutional legal frameworks have led to failure to contain Zimbabwe's external debt stock. In this study, the extent of the debt is approximately US \$12 billion, an amount that is unsustainable. Poor debt policy has resulted in the contraction of more multilateral loans that are non-concessional. Zimbabwe's ability to sustain its external debt stock is also inhibited by the 'pari passu' principle which implies that a debtor country has to equally treat all their creditors. For Zimbabwe to settle its debts with the Paris Club, it has to equally treat each member of the club. With the current economic situation in Zimbabwe it is difficult to apply this principle hence the continuing rise in arrears. It is difficult to charm all the members of the Paris Club.

4.7 Conclusion

This chapter presented and analysed the findings of the study relating to the adequacy of the constitutional legal frameworks in debt management. Data from the study confirmed the operating hypothesis that, "*inadequate constitutional legal frameworks have resulted in Zimbabwe's unsustainable debt levels*". Zimbabwe has the legislation on debt management but the legislation is weak as it has failed to contain the debt. The study has achieved its objectives as the Constitutional legal frameworks are ineffective on managing Zimbabwe's external debt. Data from the surveys and interviews revealed that the constitutional legal frameworks are not adequate as there is the dearth of a clear loan contraction process, no effective promotion of transparency and accountability. The constitution barely touches on

debt management. The Public Finance Management Act is also inadequate as it does not set a ceiling on external borrowing; it is exclusive and provides no clear circumstances which make borrowing acceptable.

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter presents conclusions and recommendations pertaining to the findings presented in the entire document. In this regard, there is need to bring together the generalizations that can be made about effective external debt management in Zimbabwe. The generalizations made are on the gaps in the constitutional and legal frameworks. The identified gaps in the Constitutional legal frameworks are the basis upon which recommendations are centred on. The recommendations seek to realize the improvement of the Constitutional legal frameworks for effectiveness external debt management. Recommendations thus focus on areas that warrant rectification and revisiting.

5.1 Conclusions

From the information gathered through interviews, questionnaires and the literature reviewed it can be concluded that the inadequacy of the constitutional legal framework has resulted in an unsustainable debt levels. The principal aim of this research was to ascertain the nature and extent of Zimbabwe's external debt stock, determine the adequacy of the constitutional and legal frameworks. From the data gathered it can be concluded that the extent of Zimbabwe's external debt is unsustainable (118% of the GDP). Zimbabwe's debt stock is mainly composed of multilateral loans which are non-concessional. There is a little margin between multilateral loans and bilateral loans implying that Zimbabwe has a poor debt policy. An ideal debt policy must ensure that a country's debt stock must be mainly composed of bilateral loans that are concessional.

According to literature, for debt management to be effective, the constitution must be adequate in matters regarding external debt management. Basing from research findings, it can be concluded that the Constitution is not adequate in matters regarding external debt management. The Constitution does not specify the loan contraction process hence there is no a clear procedure to be adhered to when contracting loans. The constitution is also not adequate as it is silent on the mechanisms to check whether parliament has been actively involved in loan contraction debates. The Constitution does not adequately provide for promotion of transparency and accountability. There are no mechanism for checks and balances in debt management issues. There is also little disclosure of information regarding

external debt management. Lastly, the Constitution adequately provides for the definition of institutional set up to undertake debt management activities as it exclusively state that the Ministry of Finance is the premier institution regarding all finances.

The study has also come to the conclusion that the Public Finance Management Act is not water tight in matters pertaining to external debt. Though the Act specifies borrowing powers, the study has concluded that the Act gives vast powers to only two people thereby providing an environment for abuse of power. The Act also makes loan contraction exclusive, which is detrimental to the enhancement of transparency and accountability. The Public Finance Management Act is also weak as it does not set a ceiling on external borrowing.

5.2 Recommendations

5.2.1 Nature and extent of Zimbabwe's external debt stock

On the nature of loans, there is the need to have a debt strategy that calls for the contraction of more bilateral loans which are usually concessional than multilateral loans which are non-concessional. There is need to contract loans with a greater grant element. In order to access cheaper loans from World Bank and IMF Zimbabwe has to be classified as a low income earner and must be willing to adopt the HIPC initiative. In terms of the extent of the debt, a debt audit must be conducted so as to come up with an accurate figure of the debt and to determine what the loans were used for. In any loan to be contracted, there is need to consider repayment capabilities and to ensure that the loan is invested in productive sectors.

5.2.2 Constitutional framework

5.2.2.1 Need for a clear loan contraction process.

The Constitution, as the supreme law upon which all debt management activities much be anchored, must clearly outline a detailed debt management framework which set out the loan contraction process and the actors in that process. The loan contraction process must state the different steps to be adhered to when contracting loans. From this process different actors and their functions and roles regarding debt management can be established. A clear loan contraction process makes monitoring and evaluation of loan contraction easy and effective. A clear loan contraction process also consolidates all the debt management activities in a holistic and comprehensive manner.

5.2.2.2 Need for clear definition of all institutions to undertake debt management

All the institutions that undertake debt management must be provided for in the Constitution. Roles and functions of each institution must be broadly spelt out. The roles and duties of key institutions like RBZ, Office of the Attorney General and ELC must be clearly provided for. This aids in minimizing conflict of roles and duties among these institutions. Clear definition of institutions also aids in enhancing transparency and accountability as each institution will justify its own actions. This has also the advantage that it will be easy to monitor and evaluate the loan contraction process and cases of manipulation by corrupt politicians are minimized.

5.2.2.3 Improvement on measures to ensure transparency and accountability

The Constitution must also ensure transparency and accountability by improving the relationship between the Executive and the legislature. Parliament must not only be involved in the ratification process, but must also be consulted before loans are contracted and scrutinize the purpose and a condition of the loans before they are contracted. It must be given the chance to consider how the loans are going to be repaid. Reports on utilization of loan resources, currency, maturity, interest rates and progress on debt payment must also be laid before the public for scrutiny. Delays must also be minimized. There must also be formal mechanisms for performance measurement by the public and ensuring ex post evaluations of government's debt portfolio are done against the set targets.

The Constitutional Parliamentary Committee (COPAC) Draft Constitution tries to ensure transparency by increasing parliamentary control in public finance issues. According to the draft constitution Section 16.3 Parliament can establish a standing committee to consider loans negotiated on behalf of government. The greater involvement of Parliament and the establishment of a standing committee make the loan contraction process more inclusive. Section 16.2 (2) of the draft state that there must be mechanisms for the National Assembly to monitor, control expenditure and the submission of regular reports by public officers and by the institutions. Transparency is also enhanced through regular reports on loans raised and loans guaranteed by the State from the Minister of Finance (Section 16.3 (7)). Lack of compliancy may result in no monitoring and expenditure control.

5.2.3 Legal frameworks

5.2.3.1 Inclusiveness in loan contraction

The legal framework must make loan contraction inclusive and reduce the vast powers given to the President and the Minister. More parties must be included in the loan negotiations there by creating checks and balances that ensure accountability and transparency. All loans to be contracted need to be scrutinized by an independent committee or Parliament before they are authorized by the President or the Minister of Finance. Parliament's rubber stamping role can be eliminated if it is involved in all stages of the loan contraction process.

5.2.3.2 Limit on external borrowing

The legislation on debt management must specify the limits on external borrowing. The limits must be on the number of public and publicly guaranteed loans. Just like on domestic borrowing, there is the need to establish a ceiling on external borrowing depending with the GDP of the previous year. The act must also specify the amounts that can be acquired externally. There is also the need to set and maintain a certain level of concessionality and grant element of the loans to be acquired. For example we can make it a point to contract more concessional loans with a grant element of at least 60%.

5.2.3.3 Clear circumstances where borrowing is permissible

In managing national debt there is the need to clearly specify the conditions under which external borrowing is permissible. These conditions act as the basis for justifying external borrowing. Before the country engages into external borrowing, the purposes of the loans must be weighed against the defined conditions. If they fail to meet these conditions, then no the loan can be dropped. The circumstances under which loan contraction is permissible must also be determined solely by the President or the Minister. Parliament and other oversight bodies such as the Public Accounts Committee and the Parliamentary Portfolio Committee on Finance, Budgeting and Investment Promotion must also be consulted in determining the need for borrowing.

There is the need for the enactment of a Debt Management Act that specifically focuses on debt management. The act must provide for the establishment of an independent office that will undertake all the debt management activities. This piece of legislation must also define

the institutional framework for debt management. It must clearly state all the actors to undertake debt management and their roles in debt management. The act must also specify in detail the principles to be adhered to when managing external debt.

5.3 Areas for further research

There is need for further research on the applicability of the IMF debt management principles to Zimbabwe as a case. Since the Constitutional legal frameworks have a bearing on the institutional frameworks, there is also the need to investigate on the effectiveness of the institutions that undertake debt management activities.

5.4 Conclusion

Adopting the above mentioned recommendations will strengthen the legal frameworks for debt management. Cheaper loans can be contracted and over borrowing can be minimized. A clear process on loan contraction can be established and institutional set up can also be established thereby minimizing confusion and conflicts of roles. Strengthening of the constitutional legal frameworks also ensure inclusiveness in loan contraction and a clear definition for the circumstances under which borrowing is allowable.

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APPENDIX A

TOPIC: The External Debt Management Question: The Case of Zimbabwe from 2000 to Present Date.

My name is Rangarirai Chikova a Master of Public Administration student at the University of Zimbabwe and I am researching on the external debt management question in Zimbabwe. The questionnaire is therefore designed to collect data pertaining to the causes, nature and extent of external debt, why Zimbabwe has failed to contain sky rocketing arrears. This information will also be a basis for recommendations and suggestions for improvement. All information is for academic purposes only and will be treated in the strictest confidence possible.

N.B. No reference will be made to individuals' names.

Instruction(s):

Do not write your name.

Respond to the following questions by ticking the appropriate box(s) as well as filling in the spaces provided at the end of each question.

Organisation:.....

Department:.....

Date:.....

1. What is the major source of Zimbabwe's external loans?

Multilateral sources Bilateral sources

2. What is the structure of multilateral loans?

Concessional Non concessional

3. What is the structure of bilateral loans?

Concessional Non concessional

4. What is the extent of Zimbabwe's external debt stock?

.....

5. Does the Lancaster House Constitution provide for a predictable loan contraction process?

Yes No

6. How adequate does the Lancaster House Constitution provide for a clear definition for institutional set up to undertake debt and aid management functions?

- Adequate
- Fairly adequate
- Fairly inadequate
- Inadequate

7. How adequate is the Lancaster House Constitution in promoting transparency and accountability in relation to external debt management?

- Adequate
- Fairly adequate
- Fairly inadequate
- Inadequate

8. Does the Public Finance Management Act provide for the legality for loan contraction?

- Yes
- No

9. To what extent are parties included in the loan contraction process?

- Greater extent
- Lesser extent

10. Does the Public Finance Management Act provide for a ceiling on external borrowing?

- Yes
- No

11. Does the Public Finance Management Act provide for clear circumstances to borrow?

- Clear provision
- No clear provision

12. How does Liberian Constitutional legal framework regarding external debt management does compares to those of Zimbabwe?

.....
.....
.....
.....
.....

End of Questionnaire

Thank you for your time and effort

APPENDIX B

Organisation.....

Department.....

Date.....

1. From independence, Zimbabwe has contracted many loans from different sources. What are the major sources of Zimbabwe's external loans?
2. Each loan has a different structure, what is the structure of multilateral loans?
3. What is the structure of bilateral loans?
4. As a result of heavy borrowing by Zimbabwe, the debt stock has ballooned. Also the debt levels have been exacerbated by arrears and penalties. What is the extent of Zimbabwe's external debt stock?
5. In managing any country's external debt, the Constitution is the supreme law that sets and adequately provide for the general environment for effective debt management. In contracting loans there need to exist a process that can be adhered to. How are the loans contracted in Zimbabwe?
6. For debt management to be effective there must be institution(s) that have the mandate to undertake debt management activities. The existence of these institutions must be provided for in the Constitution. What institutions, whose existence is provided for by the constitution to undertake debt management?
7. How adequate is the Constitution in promoting transparency and accountability in relation to external debt management?
8. The Public Finance Management Act is the premier legislation regarding debt management. To what extent does it provide for the authority for loan contraction?
9. The legislation on debt management must provide for the circumstances under which loan contraction is permissible. These circumstances act as the justification for engaging in borrowing. What is the effect of the absence of these circumstances in the Public Finance Management Act?
10. Limits on external borrowing curtail over borrowing. Since the Public Finance Management Act is silent borrowing limits, to what extent has this led to over borrowing?
11. To what extent does the Public Finance Management Act allows for the involvement of other parties in the loan contraction?

