Section 1

The advisability of international assistance and Government ownership of the reform programme

Introduction

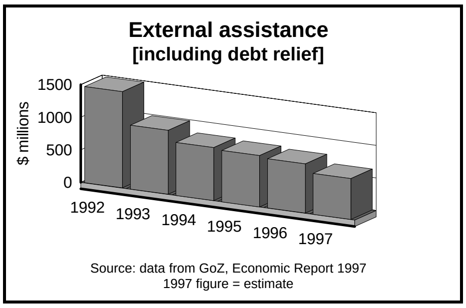
The obligation to realise human rights is often perceived as falling upon the State. However, the Covenant provides an irrefutable basis for bringing the actions of the donors and multilateral agencies within the framework of human rights. Article 22 enables the Committee to bring to the attention of other organs of the United Nations and specialised agencies matters which may assist them in deciding on the advisability of international measures likely to contribute to the effective implementation of the Covenant. The appropriateness of addressing recommendations in accordance with article 22 to, *inter alia*, the World Bank and IMF is confirmed.[1] Such recommendations can be of either a general policy nature or else relate to a specific situation. The policies pursued by the World Bank and other donor institutions, as these impinge upon economic and social rights, are therefore a central concern of the Committee.[2] Recommendations of the second type appear to open the way for the Committee to address specific violations; for example, those relating to individual projects or programmes.

This section assesses whether the international measures adopted by bilateral and multilateral donors in Zambia have contributed to the effective implementation of the Covenant or whether, in fact, they have diminished the realisation of economic and social rights. It begins (A) with a general consideration of donor assistance to Zambia. The initial focus is upon the overall level of resources which the international community has committed to Zambia during the 1990s and the degree to which this assistance has been suited to fighting poverty and improving access to basic services. The assumption that all assistance contributes towards the realisation of economic and social rights must be rejected. (B) The World Bank, alongside the IMF, has played a central role in influencing and coordinating the actions of other donors in Zambia. The principal way in which it has given assistance has been through adjustment loans: money is lent at concessional rates of interest to the Zambian Government which has agreed to implement a program of economic reform. The loan agreements which have been concluded under a succession of Bank adjustment credits impinge upon areas of law and policy of crucial importance to the enjoyment or denial of a range of fundamental human rights. (C) Before proceeding to a detailed analysis in the main sections of this submission of how the steps taken by the MMD Government during the reform program have diminished or enhanced the enjoyment of rights in Zambia, it is necessary to broach an underlying question: is the influence of the Bank/IMF on domestic laws and policy so great as to shift culpability for the denial of economic and social rights away from the Government towards the multilateral agencies?

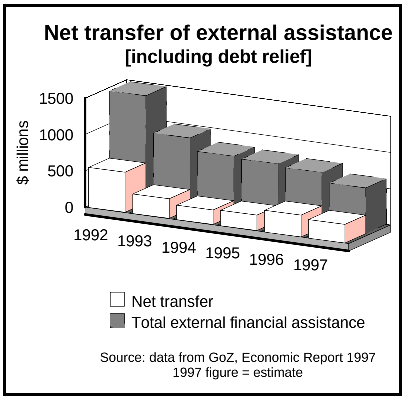
A. External assistance to Zambia in the 1990s

1. Absolute levels of assistance

Aid or external assistance is often perceived as money or resources which are donated to a country in order that it can promote its own development. However, it is necessary to guard against two assumptions. The first of these is that development - in essence, economic development - is of itself *directly* linked to poverty reduction and equitable growth. Economic reform in Zambia has been shown to have made the problem of poverty more acutely felt. The second assumption to be guarded against is that most external assistance goes towards poverty alleviation and is spent on the improvement of living conditions. In reality, most recent external assistance to Zambia has been spent on supporting the economy to enable the country to repay its debts.



The total level of external assistance to Zambia rose significantly with the election to power of the MMD Government. Total external financial assistance in 1992 came to $1479 million, although this was an exceptional year for aid to Zambia, not least because of the drought which prompted donors to provide extra emergency assistance.[3] Nevertheless, in 1993, total external financial assistance remained high at $982 million. In



comparison, over the period 1987-89, it had averaged $460 million. In recent years, external assistance has fallen-off sharply. The Government of Zambia's estimate for 1997 puts the figure at $630 million.[4]

The total level of assistance is not a reliable indicator of committed support for development. Of greater relevance are net transfers which take into consideration that while assistance comes in, debt repayments flow out. In Zambia's case, excluding the exceptional year of 1992, the average amount of additional money received each year from donors up to 1997 was worth $250 million Hence most assistance returns to the donors and little, in comparison, represents a real transfer of resources to Zambia.

That there is an obligation upon State parties and UN multilateral agencies to provide assistance in order to achieve progressively the full realisation of rights in the Covenant is apparent:

> 'Each State Party to the present Covenant undertakes to take steps, individually **and through international assistance and cooperation**, **especially economic and technical, to the maximum of its available resources**, with a view to achieving progressively the full realization of the rights recognized in the present Covenant...' [Article 2 (1) - emphasis added]

The degree to which there is a strict obligation upon rich States to transfer resources to their poorer counterparts is more problematic. However, it is most certainly legitimate for the Committee to ask questions of donor states about the extent of their international cooperation.[5] In rare instances, the Committee has drawn attention to the need for international assistance in specific countries and has addressed a recommendation to the international community.[6] Furthermore, attention is drawn 'to the important opportunity provided to State parties, in accordance with article 22 of the Covenant, to identify in their reports any particular needs they might have for technical assistance or development cooperation.'[7]

The Government of Zambia has made its views known on the inequity of a situation in which debt servicing drastically reduces the net assistance which Zambia receives. The stated need is for debt relief and debt write-off in the context of otherwise sustained levels of assistance. This accords with the Committee's own interpretation of article 22 that international measures should deal with the debt crisis and should 'take full account of the need to protect economic, social and cultural rights through, inter alia, international cooperation.'[8] Furthermore, it is recognised within the Charter of Economic Rights and Duties of States that '[a]ll States should respond to the generally recognized or mutually agreed development needs and objectives of developing countries by promoting increased net flows of real resources to the developing countries from all sources.....'[9] The degree to which low net transfers to Zambia contribute an acceptable flow of resources must be questionable.

It is not, however, only the overall amount of external assistance which is important, but also the form this assistance takes and the conditions which are attached to it. Focusing on the level of external assistance to Zambia must not deflect attention away from the very nature of such assistance and its suitability for poverty alleviation.

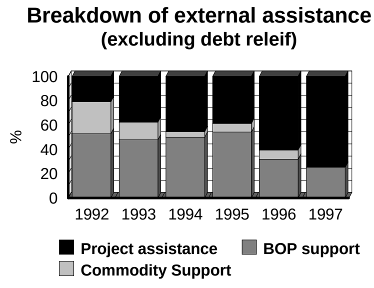
2. *The suitability of the type of assistance for poverty alleviation*

> '...development cooperation activities do not automatically contribute to the promotion of respect for economic, social and cultural rights.'[10]

External financial assistance is made up of two main components: balance of payments support and project assistance. The former constitutes foreign exchange which is donated or lent to the Zambian Government to enable the country to pay for essential imports or to repay foreign loans. The purpose of balance of payments support is therefore to provide the hard currency needed to plug the gap in Zambia's external finances. It does not, of itself, constitute direct investment in the country although a message is sent to potential investors that the Government is regarded as stable and creditworthy by the international community.

Project assistance, from the outset, is provided to fund a specific initiative, for example, the building of a road or the setting up of a micro-credit scheme. There is a current trend, especially evident in Zambia, towards sector investment programs (SIPs) which aim to coordinate donor and Government action across a whole sector such as health or agriculture.[11] Whether spent on individual projects or through sector programs, project assistance is characterised by direct investment. For every $2.00 of external assistance which actually came into Zambia in 1997, 92 cents or almost half went straight back out again to service foreign debt. For each dollar remaining, about 40 cents was spent on social sector projects and sector investment programs.

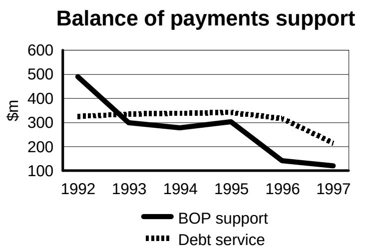
a. Balance of payments support



Source: data from GoZ, Economic Report 1997
1997 = estimate & no figure for commodity support

In determining the likely impact of both components of assistance on poverty alleviation and the realisation of economic and social rights, a number of implications follow from the very nature of each type of aid. Balance of payments support serves a dual purpose. First, by providing assistance in this form, donors ensure, first and foremost, that Zambia pays them back the money it owes. In a discussion by the Commission on Human Rights on structural adjustment and economic, social and cultural rights, clarification was sought from IMF and Bank representatives as to 'whether the restructuring of developing country economies was, in fact, intended to extract as much debt repayment as possible so as to avoid the equitable sharing of loan losses between the creditors and borrowers.'[12]

Second, assistance in the form of balance of payments support is the principal way through which economic reform has been pushed through in Zambia. Foreign exchange is donated on condition that an agreed set of economic policies of structural adjustment and stabilisation are implemented, even though this creates considerable hardship for the poor.



Source: data from GoZ, Economic Report 1997
1997 figure = estimate

Balance of payment support to Zambia has plummeted in both absolute as well as relative terms in recent years. From 1992 until 1995, balance of payments support accounted for between 48 per cent and 54 per cent of external assistance to Zambia (excluding debt relief). In recent years, this has fallen back to less than 30 per cent and accounts for the overall fall in external assistance noted earlier. The decline in balance of payments support reflects a fall in Zambia's required level of debt servicing. There are, however, two further points of significance. First, in every year out of the last six - with the exception of 1992 - the amount of assistance which Zambia has received in balance of payment support has been less than the amount needed for debt repayment, substantially so in recent years. This is on account of donors withholding support, ostensibly because of the MMD's poor governance record. This creates significant difficulty for the Government which is forced to take money out of its own foreign reserves to meet debt servicing. Second, the argument that balance of payments support frees up the Government's own resources to be spent as part of the domestic budget, for example on improving social provision, is not valid in Zambia's case.

i. Conditionality and the withholding of balance of payments support

Despite the decidedly mixed performance of the Zambian economy, many commentators, at least up until the middle of 1997, believed that the financial mainstays and conditions for growth were in place. Growth, even if it was not orientated towards the poor, was on the horizon. By mid-1998, many pointed to a startling reversal in Zambia's economic position and the need for drastic action to avoid virtual collapse of the economy.[13] Commentators have identified two principle factors which precipitated this crisis. The first of these surrounds the issue of governance: an absence of due democratic process within Zambia and the failure to uphold civil and political rights. Bilateral donors would argue that the way in which the MMD Government has violated civil and political freedoms has precluded them from maintaining a high level of assistance. Even so, the withholding of balance of payments support undoubtedly has as much to do with economic conditionality. The second factor is the failure of the MMD Government to complete the privatisation of ZCCM. Donor support has always been implicitly linked to the sale of the mines.

Both pledges and the actual delivery of donor funds have fallen sharply throughout the period since the MMD Government came to power because of concerns over human rights and political freedoms within Zambia. Bilateral donors initially suspended balance of payments support in June 1996 and again in 1997 and 1998 because of concern over governance. Balance of payments support of $141 million in 1996 was less than half the amount originally pledged. In 1997, the support received amounted to $120 million. In 1998, the Bank describes balance of payments support to Zambia as negligible.[14] After an initial honeymoon period, the major donors, at their Consultative Group meeting in December 1995, expressed their disquiet over clauses in the redrafted Constitution. In 1996, the national elections were criticised for irregularities in monitoring and voter registration. During 1997, police roundups of alleged agitators, including UNIP officials, were condemned as political persecution.[15] Then, in October 1997, the abortive coup attempt prompted the MMD Government to impose a state of emergency. In November 1997, Kenneth Kaunda, Zambia's former president, was arrested. The manner of Kaunda's arrest; his initial detention without charge; the subsequent trial on the basis of flimsy evidence; the torture of the perpetrators of the coup; and wider concern over the MMD's involvement in attempts to use the police to intimidate and smear its political opponents, all of these matters prompted the donor community to stop assistance to the Zambian Government.[16] The Consultative Group meeting of donors scheduled for December 1997 was postponed and only took place in May 1998 after the state of emergency was lifted.[17]

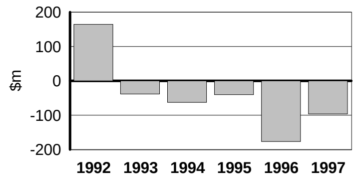
In the sphere of the economy, donors have become increasingly reticent to provide funds while the bulk of ZCCM remains under Government ownership. In April 1998, the collapse of negotiations to sell the core Nkana/Nchanga mines to an international consortium caused considerable disquiet.[18] The multilaterals withheld balance of payments support in 1998 due to the failure to progress on the privatisation of ZCCM. In the past, the donor community has been reluctant to tie assistance to the final sale of ZCCM on the grounds that potential buyers could exploit such conditionality for their own ends in negotiations.[19] However, it is now a condition of new IMF ESAC lending approved in March 1999 that 'substantial progress' must be made in the privatisation of ZCCM.[20] Ratification of a memorandum of understanding between the Government and Anglo American, originally signed in November 1998 and reconfirmed in January 1999, to purchase or manage the core assets of ZCCM is viewed as an important step to fulfil this requirement. Release of the second tranche of the Bank's latest adjustment credit is similarly tied to the transfer of ownership and control of ZCCM's remaining core assets.[21] It is also understood that the same condition applies to the release of bilateral funds from certain donors.[22] However, in October 1999, Anglo American once again renegotiated the terms of its agreement with the Government/ZCCM, dropping the high-cost Nkana mine from its purchase, while proceeding to buy Nchanga, Konkola and Nampundwe mines and to run Nkana smelter on a management contract. Once again, the deal will not be finalised until certain preconditions are met, although Heads of Agreement were signed in December 1999: please refer to Section 2(IV) for more details.

The consequences of both the Government's poor record on governance and the failure to conclude the sell-off of ZCCM have been painfully apparent. As a result of the May 1998 Consultative Group meeting, Zambia received conditional donor pledges totalling $530 million, $80 million less than it has asked for.[23] As of November 1998, the Bank of Zambia estimated that just $1.9 million had been disbursed in balance of payment support and only $1.8 million in project assistance.[24] Combined, this amount represents less than one per cent of the total pledged; yet the MMD Government's 1998 budget was heavily dependent for over one third of its revenue on donor funding. In early 1998, when compared with the same period in the previous year, manufacturing sector output fell by 15 per cent, non-traditional exports remained static, the export of agricultural commodities dropped by almost a quarter, and overseas sales of both fresh flowers and horticultural products declined by 10 per cent and 19 per cent respectively.[25] In conjunction with this marked reduction in foreign earnings from exports, the donor aid freeze and the suspension of balance of payments support caused an almost complete lack of foreign exchange. By May 1998, the Government had been forced to release $80 million of its reserve in a futile attempt to make up for the shortage of foreign exchange in the economy.[26] In the first quarter of 1998, half of the money the Government was obliged to take out of its foreign reserves went to meet debt servicing.[27] Lack of foreign exchange meant that each dollar was worth almost twenty per cent more at the end of the first quarter of 1998 than it had been at the beginning of the year.[28] By the end of the year, the Kwacha has depreciated by fifty per cent. As a result, there has been an upward trend in inflation, although interest rates have remained low for Zambia.

ii. The use of domestic resources to compensate for a shortfall in balance of payments support

The World Bank concedes in a report on the prospects for sustainable growth in Zambia that balance of payments support 'has not permitted an excess of domestic spending over domestic revenue as it has in many countries, however, because of the heavy debt burden.'[29] In a stark reversal, because the amount given by donors in balance of payment support fell short even of the amount needed to service debt repayments by some $176 million in 1996 and by $96 million in 1997, the Zambian Government has had to release foreign exchange reserves and transfer resources from a domestic budget already under considerable strain given the Bank and IMF insistence on stabilisation and austerity.

Shortfall between BOP support and debt service



Source: data from GoZ, Economic Report 1997
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In 1996, for example, K200 billion was transferred from the domestic budget to help pay the interest on foreign debt. Even when this is offset against domestic revenue in the form of assistance grants worth K128 billion, then it is apparent that K72 billion was transferred to multilateral banks and donor Governments. This represents eight per cent more than the total amount of K66.4 billion which the Government spent on the entire health sector during the same year.[30]

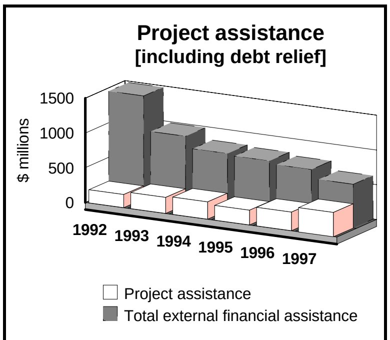
Overall, the Government still spends almost twice as much servicing overseas debt than it does on all the social sectors combined, despite welcome initiatives by the World Bank, IMF and foreign countries to reduce this burden of debt.[31] Zambia is still to qualify for full debt relief under the HIPC debt relief initiative: please see the supplement on debt which reviews the issue of debt sustainability in greater detail. At this juncture, it is hard to escape the conclusion that cutting public expenditure - even expenditure on social provision - ensures that bilateral and multilateral creditors are paid their dues.

By not providing sufficient balance of payment support to eliminate the need for domestic transfers, but by insisting that debt service payments are made, multilateral and bilateral donors reduce the resources available to a domestic Government to meet its obligation to fulfil rights under the Covenant. The Commission on Human Rights has determined that debt payments should not take precedence over the basic rights of the people of debtor countries to food, shelter, clothing, employment, health services and a healthy environment.[32]

b. Project assistance

i. Levels of project assistance

Throughout this crisis in the Zambian economy and interruptions to the flow of foreign exchange, one test of the donors commitment to the majority of poor Zambians is whether money originally earmarked for balance of payments support is instead being redirected towards targeted project assistance.

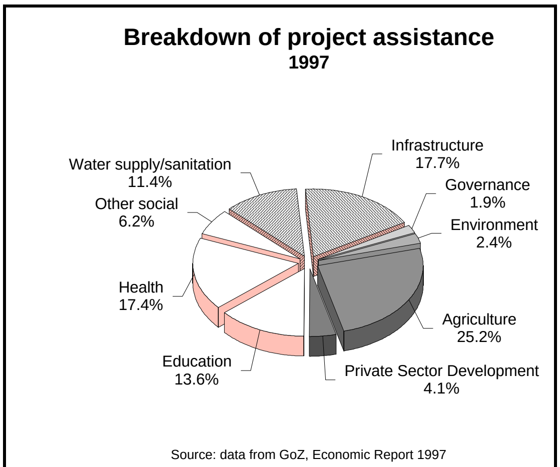


Source: data from GoZ, Economic Report 1997
1997 figure = estimate

The average amount spent each year on project assistance over the period 1992-1997 was $252 million. In 1996 and 1997, both the level and proportion of aid money which was directed to project assistance has increased, but this is in the context of overall falls in total assistance levels. Put another way, project assistance increased by $136 million between 1995 and 1997; yet, at the same time, balance of payments support has fallen by $184 million. While the donors may have withheld money from balance of payments support on grounds of poor governance, a corresponding amount has not been channelled into project assistance. Of course, assistance cannot be reallocated without ensuring that the capacity exists to ensure that it is well spent and it would not, in any case, necessarily be desirable to effect a major switch.[33] However, neither can it be assumed that project assistance is of automatic benefit to the poor. It all depends upon how it is targeted.

ii. The degree to which project assistance is targeted at poverty alleviation and social provision

Donor money which is spent directly on projects and programmes aimed at improving social provision or addressing poverty comes out of the overall total of funds earmarked for project assistance each year. In 1997, project and programme assistance was worth $351 million. Of this amount, forty per cent or $143 million was spent on the social sectors, to include education and health.



Source: data from GoZ, Economic Report 1997

Ultimately, the only way of determining the degree to which project assistance, even within the social sectors, is targeted at the poor is to look more closely at how the money is actually used. It is beyond the scope of this submission to consider the full range of bilateral and multilateral project assistance in this way. However, in the substantive sections which follow, further attention is focused throughout upon the impact of World Bank funded projects and sector programs on the realisation of economic and social rights. Towards the end of this section, an assessment is made as to whether Bank interventions targeted at poverty alleviation offer mitigation commensurate with the sheer scale of hardship caused by the adjustment and stabilisation programme.

B. The role of the World Bank in Zambia

Introduction

The initial critique of the level and nature of external assistance to Zambia establishes only so much as to the advisability of international measures likely to contribute to the effective implementation of the Covenant: a preoccupation with balance of payments support tied to debt repayment; the withdrawal of bilateral assistance based upon a subset of human rights concerned with civil and political freedoms and economic conditionality; the relative neglect of targeted project assistance aimed at poverty alleviation; and, in Zambia's case, the total failure of external assistance to free up domestic resources which the Government could use, if so minded, to improve social provision and social safety nets. Yet progress towards the achievement of economic and social rights in Zambia has not been merely curtailed by insufficient or inappropriate international assistance; rather, it has been actively eroded - even reversed - by aspects of the economic reform agenda which are integral to the concept of adjustment lending. A concern over the detrimental impact of all manner of reforms on the realisation of economic and social rights lies at the heart of the next main sections of this report.

However, before proceeding with this substantive analysis, it is essential to seek to understand the nature of the relationships between those actors - principally the World Bank, the IMF, bilateral donors and the Government of Zambia itself - who are simultaneously responsible for the economic reform program. This is necessary in order to reach meaningful conclusions about the culpability of each of them in respect of the erosion of economic and social rights.

Two relationships are of particular interest. First, the interaction of the World Bank with the IMF and bilateral donors. In the Zambian context, throughout the 1990s, the Bank has taken on a leadership role. Subsections will explore the influence of the Bank, its preoccupation with adjustment lending, recent shifts in its priorities in Zambia, and end with a summary of the threefold nature of Bank action in relation to the realisation or denial of economic and social rights. Second, the relationship of the Bank to the Government of Zambia in the design of, and influence over, the economic reform program is of paramount importance and will be examined in its own right in a final subsection. Yet, ultimately, the role of each actor is are not judged relative to the actions of others, but in respect of the Covenant.

1. The interaction of the World Bank, the IMF and bilateral donors

a. The influence of the World Bank on bilateral support

The Bank's assistance to Zambia has increased in relative terms as bilateral donor support has declined. Over the three years from 1995-1997, the Bank has been providing, on average, 37 per cent of all external assistance (excluding debt relief).

Of greater significance when it comes to considering donor influence on the economic reform program is the increasing proportion of balance of payments support contributed by the Bank. It is assistance of this kind - the provision of foreign exchange to enable Zambia to service its existing debts and pay for imports - which is linked to adherence to an agreed economic program. Between 1993 and 1995, the Bank's share of balance of payments support to Zambia amounted to half the amount provided. In 1996 and 1997, the Bank was contributing over four-fifths of such support.

The influence of the Bank is apparent in ways which go beyond the size of the assistance it provides. In relation to shaping the policies and coordinating the assistance of bilateral donors, the World Bank has played a pivotal role.[34] It is the Bank which chairs the crucial Consultative Group meetings of donors, as well as ad hoc meetings of the key donors in the 'Paris Club' during which both the level and priorities of donor assistance are agreed. The Bank has steered donor policy in at least four key ways. First, it has played an advocacy role by convincing donors of both the perceived merits of structural adjustment in Zambia and the MMD Government's commitment to the program. Whereas, in the mid-1980s, some bilateral donors expressed reservations about reform programs of the type carried forward in Zambia and have been cited by the Bank as a 'countervailing influence', the Bank has worked hard to achieve a broad consensus.[35] Second, the Bank has provided the analysis, through its economic and sector work, which donors have then drawn upon in negotiating debt relief and designing assistance programs. Third, it has pioneered sector investment programs (SIPs) which aim to coordinate all donor assistance and Government policy across an entire sector such as agriculture, health or education. Finally, by registering bilateral aid, it has acted as the 'lender of last resort' by plugging gaps in donor funding.

b. The relationship between the World Bank and IMF in Zambia

The relationship of the Bank to the IMF in Zambia is characterised by very close integration. Both organisations remain the principal architects of economic reform in Zambia. Bank structural policy benchmarks relating to trade, taxation, spending allocations, privatisation, and public sector reform are coordinated with the IMF's fiscal targets and macroeconomic benchmarks.[36] Policy Framework Papers mapping out the overall reform program are drawn up by the Bank, IMF and Government.[37] Furthermore, balance of payments needs are agreed jointly between all three parties at each Consultative Group meeting.

The close coordination of operations in Zambia is underlined by the fact that the Bank has taken forward measures to stabilise the economy, action more usually associated with the IMF.[38] This is due to the recent history of relations between both multilateral agencies and Zambia. Throughout the 1980s, Zambia periodically defaulted on debt repayments before reaching the next short-lived understanding with the Bank and IMF.[39] The World Bank suspended payments to Zambia for a period in 1983, from 1987 to 1991, then again for a short period from September 1991 to January 1992.[40] The IMF considered Zambia to be ineligible for support for an extended period which officially began in September 1987 and which lasted until the end of 1995. The MMD Government, on election to power in 1991, was not in a position to clear Zambia's unpaid arrears to the IMF without considerable assistance from the Fund itself. This support was forthcoming in principle, but put on hold until the MMD Government had first proved its commitment to economic reform and earned the right to access new funds. In the interim, the World Bank stepped in to fulfil the role of the IMF and tied its adjustment loans to the achievement of IMF-type fiscal and monetary targets based on the Fund's own 'standby agreements' with the Zambian Government.

The IMF's 'Rights Accumulation Program' was successfully completed by Zambia in December 1995 and the block on IMF resources lifted. This enabled the IMF to provide new loans to Zambia totalling $1043 million which were then used by Zambia as the major contribution towards the clearance of its existing $1234 million arrears with the IMF. This arrangement seems to be entirely circular in nature; however, whereas the original money borrowed by Zambia came from the IMF's general funds and thereby was lent on strict and costly terms, this was replaced by new, and relatively inexpensive, concessional loans from the Fund's Enhanced Structural Adjustment Facility. This switch reduced Zambia's repayments to the IMF by $45 million in 1996 and this is reflected in the overall drop in Zambia's debt service.[41] Between 1995 and 1996, debt servicing fell to the equivalent of 21.5 per cent of Zambia's exports.[42] In the previous year, this ratio had stood at 27 per cent. In return, the MMD Government agreed to adhere to economic benchmarks and targets set in conjunction with the IMF. A release of further IMF funds - known as ESAF II - will be linked to the continuation of a similar economic reform program. Ultimately, Zambia's qualification for an IMF and World Bank backed package of measures to reduce the amount owed by Highly Indebted Poor Countries (HPIC) will be dependent on the successful completion of this program. For more details on the HPIC initiative, please refer to the *Supplement* on debt.

2. The three elements of World Bank support: adjustment credits, project assistance and technical assistance

a. An overall breakdown of Bank lending

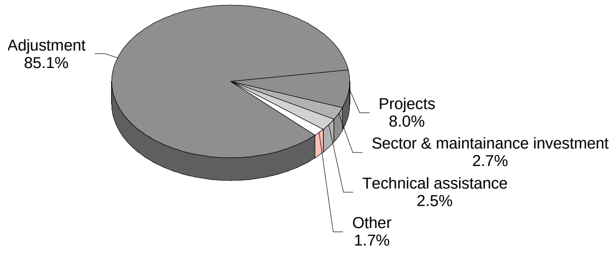
Overall, given the dynamics of the internal relationships between the donor agencies, it is most instructive to pay the closest attention to the structural adjustment and stabilisation program brokered between the IMF/World Bank and the MMD Government.

i. Bank lending 1983 - 1995

A massive eighty six per cent of the Bank's disbursed lending over the period 1983-1995 has been geared towards achieving economic adjustment in Zambia.[43] This preoccupation with adjustment lending is reflected in the distribution of disbursements among different sectors in Zambia. Just over one third of disbursements went in support of broad, 'multi-sector' economic reform. Another third underpinned reform in industry, mining and energy. While the amount of

Break-down of Bank lending by type

Disbursements 1983-1995



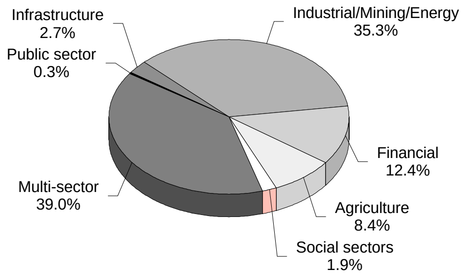
Source: data from Bank, Country Assistance Review, 3 June 1996 money spent on technical assistance - for example, financing the recruitment of key staff and commissioning expert studies - may be relatively small, in the Zambian context it has been a significant influence in shaping the legislative and policy framework for privatisation and reform of the mining sector.

In stark contrast to adjustment lending, actual investment in projects or in sector and maintenance programs has totalled little more than ten per cent of total disbursements over the period 1983 - 1995. Furthermore, only three per cent of total disbursements were linked to improving transport and water provision combined, and less than two per cent of funds went to support the social sectors of education and health.[44]

This longer-term breakdown of Bank lending is revealing, especially in highlighting the very high priority given to economic adjustment in comparison to the extremely low level of funds earmarked for social provision or investment in infrastructure. By the Bank's own reckoning, over the period 1980 to 1995, only eight per cent of its disbursed loans and credits to Zambia were going towards poverty alleviation and human resource development as opposed to eighty per cent towards management of the economy and private sector development.[45] It is no wonder, in the absence of consistent growth in the Zambian economy, that the harshness of reform has been so keenly felt by the majority of poor Zambians. However, the figures span a decade and a half and do not shed much light on the changes in Bank policy. It is therefore necessary to examine the Bank's recent lending strategy in more detail to assess whether enough is being done to promote pro-poor growth or to establish an adequate safety net in order to mitigate the harsh consequences of the economic reform program.

Break-down of Bank lending by sector

Disbursements 1983-1995



Source: data from Bank Country Assistance Review, 3 June 1996

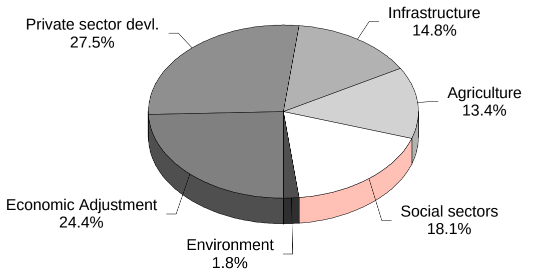
ii. The Bank's ongoing portfolio

The World Bank calculates that its ongoing portfolio of support to Zambia to fiscal year 1998 was worth $495.8 million.[46] This is not the amount of money lent by the Bank in a single year. Rather, it represents the Bank's commitments over several years - some of the active loans in the portfolio date back to the early 1990s - as money is paid out in instalments until it is either used up or the loan facility reaches its pre-set closure date. The picture of Bank lending has been updated to April 1999 by adding in the latest adjustment credit and an education sector project, both approved in 1999.[47]

While adjustment commitments account for $170 million or just under a twenty-five per cent of the total, and a further $191 million or twenty-eight per cent is earmarked for private sector development, funds committed towards social sector investment in education, health and social projects amount to $126 million or eighteen per cent of the total.

Bank commitmed lending by sector/type

Ongoing portfolio to 04/1999



Source: based on Status of Ban Group Operations Portfolio in Zambia, PSREPC R&R Annex D updated for portfolio to end April 1999

Sector investment programs (SIPs) figure strongly in the Bank's recent operations portfolio. These have centred upon agriculture, health, education and transport.[48] Each SIP works as a framework in order to coordinate both Government and donor action in the same sector.[49] A key feature is that SIPs are derived, then implemented, and therefore 'owned' by the recipient Government. The Bank has tended to finance the drawing-up of SIPs and consequent institutional reform. It then acts as the lender of last resort to plug gaps when funds are not available from other donors or the Government itself.

Ostensibly, Bank allocations to the social sectors appear to have increased; however, two qualifiers apply. First, the figures cited are for ongoing commitments rather than actual disbursements. At the beginning of January 1999, the Bank's ongoing operations portfolio stood at $496 million of which $346 million remained undisbursed.[50] If disbursements had occurred to schedule, $270 million would have been paid out by that point in time.[51] The actual figure was $149 million or fifty-five per cent of expected disbursements. Two-thirds of intended disbursements went to the social sectors of health and education.[52] Second, and conversely, the proportion of bank social sector commitments rises when overall Bank support is withheld. In its 1996 *Country Assistance Strategy*, the Bank outlines a low and a high case lending scenario for financial years 1997 - 1999, depending on the Zambian Government's commitment to reform.[53] In the low case scenario, the Bank's entire new adjustment lending of $270 million is to be withheld should the Government fail to meet loan conditions while the allocation of $30 million to the social sectors is to be paid regardless. In such a circumstance, Bank social sector commitments would represent forty-two per cent of new lending. However, should the Government adhere to the agreed reform program, thereby ensuring the release of all planned adjustment loans in the high case scenario, then the relative allocation to the social sectors falls to just six per cent of new lending. In reality, the Bank suspended balance of payments support in 1998 and no new adjustment credits were approved between the end of 1996 and the beginning of 1999.[54]

b. The twofold nature of Bank action in the realisation or denial of economic and social rights

A first general principle in General Comment 2 concerning article 22 on the advisability of international assistance measures determines that the two sets of human rights are indivisible and interdependent.[55] Hence the World Bank and IMF must promote not only all economic and social rights, but do so through actions which are fully consistent with civil and political rights. The reverse must also apply. In positive terms, 'the agencies should act as advocates of projects and approaches which contribute not only to economic growth or other broadly defines objectives, but also to enhanced enjoyment of the full range of human rights.'[56] In negative terms, the implication is that such agencies must avoid actions which are contrary to either Covenant. A second general principle therefore recognises that 'many activities undertaken in the name of "development" have subsequently been recognized as ill-conceived and even counter-productive in human rights terms. In order to reduce the incidence of such problems, the whole range of issues dealt with in the Covenant should, wherever possible and appropriate, be given specific and careful consideration.'[57]

Particular concern is expressed by the Committee over 'the adverse impact of debt burden and the relevant adjustment measures on the enjoyment of economic, social and cultural rights.'[58] While there is a recognition that 'adjustment programmes will often be unavoidable and that these will frequently involve a major element of austerity' the Committee has determined that 'under such circumstances, however, endeavours to protect the most basic economic, social and cultural rights become more, rather than less, urgent.'[59] Both State parties to the Covenant and the World Bank and IMF have an obligation 'to make a particular effort to ensure that such protection is, to the maximum extent possible, built-in to such programmes and policies designed to promote adjustment.' This requires 'that the goal of protecting the rights of the poor and vulnerable should become a basic objective of economic adjustment.'[60]

The UN's Special Rapporteur on Economic, Social and Cultural Rights has recognised the need for the World Bank to consider human rights in its pursuit of structural adjustment:

> 'The World Bank should be encouraged to strengthen and further develop its policies relating to poverty reduction and policies intended to address the social aspects of adjustment. In this context, the World Bank should be sensitive to the pronouncements of the human rights bodies of the United Nations and should gradually incorporate human rights criteria in its work at all stages, including in project and policy lending, preparation of policy guidelines, as well as in project and policy appraisal, monitoring and assessment.'[61]

The Committee itself recommends that, *inter alia,* 'every effort should be made, at each phase of a development project to ensure that the rights contained in the Covenants are duly taken into account.'[62] This consideration should therefore apply in the assessment of priority needs, project identification, design, implementation and evaluation.

The Bank itself has made this high-profile claim:

> 'The World Bank believes that creating the conditions for the attainment of human rights is a central and irreducible goal of development. By placing the dignity of every human being - especially the poorest - at the very foundation of its approach to development, the Bank helps people in every part of the world build lives of purpose and hope. And while the Bank has always taken measures to ensure that human rights are fully respected in connection with the projects it supports, it has been less forthcoming about articulating its role in promoting human rights within the countries in which it operates.'[63]

This claim amounts to hyperbole. In respect of Bank action in Zambia, it soon becomes apparent why the Committee is at pains to spell out the need to take explicit and specific measures to truly integrate human rights concerns into development activities.[64] In particular, its concern that all human rights should be given consideration in the initial assessment of the priority needs of a particular country is borne out by the Bank's blind pursuit of stabilisation measures antithetical to the rights of the poor. No explicit attempt has ever been made by the Bank's at the strategic level to build protection for economic and social rights into planned adjustment operations in Zambia. The Bank has singularly failed to apply a rights framework in subsequent project and program design, implementation and evaluation. The result has been many programmes and projects which are ill-conceived and counter-productive in relation to the realisation of economic and social rights.

There are two aspects to an assessment of the Bank's action in Zambia which correspond to the Committee's two general principles on the advisability of international assistance. First, and guided by the principle that many development activities are counter-productive in human rights terms, the question of the negative repercussions of adjustment lending upon economic and social rights must be addressed. Second, and in relation to the determination that agencies should make a positive contribution to the enjoyment of the full range of human rights, it is necessary to examine the use of adjustment conditionality to improve social provision. In the same arena of positive action, consideration must also be given to the Bank's use of project assistance to alleviate poverty.

C. The negative impact of adjustment conditionality upon the enjoyment of economic and social rights

The Bank's indirect cultivation of laws and policies designed to achieve economic stabilisation or adjustment often has negative repercussions for the realisation of economic and social rights. Reform is based upon adjustment lending, backed up by technical assistance, wherein the Government agrees to a program of specified actions. The degree of latitude which the Government has in the final decisions over the nature or implementation of these actions depends, to a degree, upon the importance attached to each by the Bank. Certain actions are the subject of legal covenants which tie the tranched release of funds to their fulfilment.

Technical assistance, although accounting for only a small proportion of expenditure, has been instrumental in supporting adjustment operations by providing the necessary expertise needed to develop laws, detailed policies and institutional capacity on matters such as the regulation of privatisation, the privatisation of the mining sector, protection of the environment and land reform. The Bank also exerts an influence through 'economic and sector work'. This constitutes a variety of research and analysis which helps to inform Bank and Government policy. In the case of Zambia it has included regular economic reviews, sector studies and a comprehensive Poverty Assessment. It is Bank-backed public expenditure reviews which underpin the Economic and Financial Policy Framework Papers and Public Investment Programs which the Zambian Government puts forward.

By turning to the Bank's own analysis of its loan conditionality, it is apparent that agreements in the areas of macro-economic, fiscal, parastatal, public sector and private sector reform are all implicated in a denial of economic and social rights.[65] A full summary of the Bank's loan/credit portfolio, including details of commitments and disbursements, is given in a supplement to this section.

1. Macro-economic and fiscal reform

The UN's Special Rapporteur on Economic, Social and Cultural Rights, stated in his second progress report in 1991:[66]

> Many countries that have undergone Bank and IMF funded structural adjustment programmes have experienced, in addition to macro-economic stability and increased growth rates, declining standards of human welfare, and deteriorating environments.

By citing statements from the IMF and Bank in support of social development, the Special Rapporteur highlighted a key contradiction: the modalities of structural adjustment, particularly evident in Africa, required a drastic reduction in domestic investment and Government consumption which resulted in the neglect of infrastructure, health services, schools and welfare schemes.[67]

Notwithstanding the recent poor performance of the economy, this pattern of welfare decline is apparent in Zambia. After an initial preoccupation with debt management during the first two years of its program with the MMD Government, Bank documents note a shift in priority during 1993 towards the use of adjustment lending to encourage macro-economic stabilisation and the control of inflation[68]. Lending was made conditional on the achievement of

IMF-type fiscal and monetary targets. The short-term goals of lower inflation and stable prices were achieved, but action taken to balance the Government's domestic budget hit the poor hard. Stabilisation measures resulted in massive cuts in public expenditure on health and education, the introduction of user-fees, and an increase in taxation on the poor through an extension of value-added tax. This regime was underpinned by adjustment lending and balance of payments support.

The second report of the Special Rapporteur on Economic, Social and Cultural Rights prompted key UN human rights bodies to adopt resolutions in which the adjustment lending activities of the multilateral lending institutions were censured. The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, in expressing its concern over the issue, urges '...the international and financial institutions, in particular the World Bank and International Monetary Fund, to take greater account of the adverse impacts of their policies and programmes of structural adjustment on the realization of economic, social and cultural rights.'[69] A similar resolution was adopted by the Commission on Human Rights.[70]

It must be emphasised that while the reformers argue that there remains no viable alternative to stabilisation, and while they point out that such reform in Zambia is in accordance with the MMD Government's own free-market agenda, very little was done on the part of the World Bank during this first phase to redress the harm done by targeting project and sector program assistance at poverty alleviation. Furthermore, the Special Rapporteur firmly rejects the argument that there is no alternative to the 'bitter medicine' of adjustment which results in the denial of economic and social rights. On the issue of conditionality, the position of the Rapporteur is unequivocal:[71]

> As a general principle, conditionalities should never result in the outright infringement of economic, social and cultural rights, nor threaten the satisfaction of the basic needs of subsistence.

a. The decimation of public expenditure

Policy reform agreements centred on general fiscal and monetary performance span all six of the Bank's adjustment credits between 1991 and 1997.[72] A key objective of the Second Economic Recovery Credit (ERC) was to support economic reforms aimed as 'macroeconomic stabilisation implemented with IMF monitoring'.[73] A reduction in the budget deficit was sought, requiring the Government to desist from borrowing money from the banks to pay for public services.[74] Under PIRC I, the Zambian Government was required to reduce the budget deficit to not more than 2 per cent of GDP and to decrease inflation to 45 per cent by the end of 1992.[75] Evidence was required under PIRC II that the Government was adhering to fiscal and monetary targets agreed with the IMF.[76] Measures were agreed under ERIP and ESAC to improve budget management and restrict public sector wage increases in order to avoid arrears and unplanned spending.[77]

An initial move to cash budgeting was made in mid 1993.[78] Under this system, the Government must have the cash in its coffers in order to pay out funds rather than being able to borrow to finance public expenditure. Hence, with the exception of salaries, money is allocated on a monthly basis. This has made it extremely difficult to plan services such as health or education as it is not known from one month to the next how much money will be released.[79] Furthermore, it is inevitable that those Ministries with greater clout will corner funds. It was noted in the Bank's own Poverty Assessment that the 'cash budgeting system has caused a further decline in social spending, as it was difficult for the Government to protect core social expenditures that benefit the poor.'[80] Yet ESAC II imposed conditionality to reiterate the requirement of strict cash budgeting to eliminate domestic spending in excess of actual revenue.[81]

The main achievements of these agreements are cited as the elimination of a fiscal deficit in the Government's domestic accounts and a reduction in annual inflation from an average of over 100 per cent during 1991-1994 to 26 per cent in November 1998.[82] Even at this reduced level, the cost of living is outstripping any increase in household income for the poor. At the same time, bringing the Governments domestic account into balance has been achieved at considerable cost. Government domestic expenditure has been decimated, falling by almost a half in real terms from K1019 billion to K586 billion over the period 1991 - 1997.[83] Social spending has plummeted. Between 1981 - 1985 almost two and a half times as much was spent on the social sectors in real terms than during the period 1991 to 1993.[84] Belated Bank conditionality to protect the relative allocation to the social sectors introduced in 1994 must be viewed in the context of this massive reduction in public expenditure, itself a requirement of Bank lending predicated on stabilisation. The realisation for the majority of poor Zambians of their rights to health, education, housing and social security has been diminished at precisely the time when their capacity for self-help centred around productive employment has been undercut by economic reform.

b. Shifting taxation away from investment and towards the poor

On the revenue side, ESAC required the drawing up of an action plan for VAT, the introduction of which was made a condition for the release of funds under ERIP.[85] The collection of VAT in Zambia began in July 1995. VAT is a tax on poverty as it is paid at the same rate by rich and poor alike. Two years after its introduction, VAT accounted for 19 per cent of tax revenue whereas the system has been engineered to reduce the contribution from company tax.[86] Under PIRC I, measures were pursued to reduce corporate and income tax and improve tax harmonisation.[87] In 1996, company tax contributed just 7 per cent of tax revenue in comparison to 32 per cent in 1990.[88] Whereas in 1991 taxes on international trade contributed 36 per cent of domestic revenue, by 1997 this had been reduced to 28 per cent.[89] In the 1998 budget, tax concessions to mining companies worth K18 billion in their first year, the scrapping of the import declaration fee, an increase in the personal allowance, and a tax amnesty called for by the business community were all announced.[90] All of these measures are of little or no direct benefit to the poor.

c. Inflation and the move to a market-based exchange mechanism

As part of fiscal reform under PIRC I, the Government was required to complete the move to a fully market-based foreign exchange mechanism begun under the earlier Economic Recovery Program credit.[91] PIRC I also stipulated that the setting of interest rates was to be taken out of Government control to be determined by commercial banks. In the absence of macro-economic stability, and because of already high inflation, the move to a market-determined exchange rate in 1992 has been criticised.[92] It caused inevitable inflation as the Kwacha fell to its real value against other hard currencies. Similarly, the decontrol of interest rates, while protecting the value of the Kwacha and reducing inflation, made it prohibitively expensive for those in business to borrow money. This has suppressed growth - and hence job creation as a way out of poverty - in medium and small sized enterprises in both the formal and informal sectors.

d. The elimination of maize subsidies

The Bank refused in July 1991 to waive the condition under its Economic Recovery Credit requiring the Kaunda Government to reduce of maize meal subsidies and increase prices.[93] Bank lending was suspended as a result in September 1991, but the second tranche of the credit was released in January 1992 when the new MMD Government moved to implement the required measures.[94] The phasing out of maize and fertiliser subsidies, which had commenced under the ERC, was completed as a condition of PIRC I.[95]

The objective was to shift agricultural production in Zambia away from maize towards more lucrative cash crops.[96] However, the elimination of maize subsidies and the abolition of fixed pricing has had an adverse impact upon both the urban and rural poor. The World Bank and Government of Zambia initially failed to take into account that the 'elite' of employees in the urban formal sector was being replaced by an urban poor of retrenchees and informal sector employees. It is acknowledged in the Bank's own *Poverty Assessment* that the real consumer price of maize meal more than doubled following the liberalisation of the market in 1992 and the elimination of consumer subsidies in 1993, at the same time as the purchasing power of the population fell.[97] The decline in demand for maize reflected the inability of the urban poor to buy food. The decline in demand has prompted some diversification away from maize but has simultaneously increased food insecurity. For example, by December 1997, Zambia had an overall food deficit of maize, rice, and wheat when measured against food requirements.[98] Hence the importation of these staples was inevitable.

The rural poor were adversely affected for two reasons.[99] First, the poorest farmers in isolated areas used to benefit from an effective transport subsidy and were able to sell their maize at a profit to the Government marketing boards. ESAC pursued the curtailment of State involvement in crop marketing.[100] With the abolition of this marketing system, private marketers either failed to serve these outlying areas or else offered only a low price for the crop due to the real cost of transporting it to market. Second, the removal of subsidies on fertiliser, in order to create a level playing field for imports, meant that the cost of farm inputs increased. The Bank concedes that 'the removal of transport and other subsidies and services has adversely affected the poor in remote rural areas, at least during the transition period.'[101] At the same time, the end of favourable Government loans to buy seed coincided with a sharp decline in access to commercial credit as interest rates soared in the 1990s. Hence farmers, already suffering from the impact of successive droughts, were unable to purchase seed, fertiliser and other inputs necessary to plant out new crops.

2. Parastatal and Public Sector Reform

a. Rationalisation of the public sector and redundancies

Rationalisation of the parastatal sector preceded privatisation. Release of funds under the initial Economic Recovery Program credit was made conditional on parastatal restructuring and the elimination of subsidies to the parastatal sector.[102] The ERC advanced this agenda.[103] Under PIRC I, loan agreements required the granting of managerial autonomy to all parastatals and the abolition of ZIMCO, the State holding company.[104] Under its PIRC loans, the Bank has required the liquidation of nonviable businesses. It cites as an achievement the closure of the United Bus Company of Zambia in 1995.[105] ESAC sought the introduction of measures to limit price setting by parastatals and to control indirect subsidies to parastatals, including the ailing Zambia Airways.[106] In the absence of an acceptable financial plan, Zambia Airways was liquidated amid much controversy in 1994. Such conditionality has contributed, by the Bank's own admission, towards the loss of 30,000 jobs from the parastatal sector between the last quarter of 1993 and mid-1995.[107]

PIRC II sought to introduce a mechanism to adjust prices and tariffs in the utilities - that is, to increase the cost borne by already impoverished Zambians - to move them towards financial viability and avoid the need for indirect Government subsidies which jeopardised the stabilisation program.[108] In the public sphere, loan agreements under ERC and PIRC I have required the rationalisation of the civil service with the planned abolition of some 80,000 posts through a mixture of redundancies, natural attrition and a hiring freeze.[109] A principal aim of the PSREPC is to address the continuing issue of public service reform, to include drastic cuts in staff levels. Release of part of the credit is conditional on the agreement of an action plan to implement the Government's revamped Public Sector Reform Program.[110]

Section 2(II) examines the current wave of formal sector redundancies, the insecurity of the informal sector, and the lack of assistance for the unemployed. This analysis will not be repeated here. It is sufficient to note that economic reform, liberalisation and privatisation have precipitated a massive increase in redundancies and therefore an increase in urban poverty. In contrast, Bank support for measures to mitigate the negative impact of widespread retrenchments has been inadequate or even counter-productive. As a consequence, the National Social Safety Net for retrenchees has proved to be totally ineffective, thereby failing to realise the right to social security: please refer to Section 3. ESAC sought a reduction in the cash consideration of redundancy packages through the introduction of in-kind payments - such as land, cars, houses.[111] This has resulted in widespread discrimination and inequity in the payment of terminal benefits and has violated the right to equal remuneration: please see Section 2(II).

b. Privatisation

Building on requirements for a privatisation policy under its earlier Economic Recovery Program credit, PIRC I made the adoption of a privatisation plan and legislation the subject of loan agreements.[112] The Privatisation Act has failed to prevent asset-stripping and corruption; the role of the Zambian Privatisation Agency has been usurped; there has been an absence of transparency and accountability in respect of the sales; privatisation proceeds have either been diverted from the authorised account or else have not been used for the purposes intended, to include the funding of social projects; and the public flotation of retained shares has further concentrated wealth in the hands of an elite. Section 2(I) gives full consideration to the inadequacy of this regulatory framework.

Under its ERIP loan facility, the Bank required the Government to adopt and begin implementation of a plan to privatise ZCCM.[113] Bank technical assistance paid for the necessary international legal and business expertise. The result has been a calculated decision to concentrate on the sale of the core mining business and to effectively suspend consideration of the future of the social assets and services provided by ZCCM. A principal aim of the PSREPC is to accomplish the completion of the privatisation of ZCCM.[114] Second tranche release of the credit is conditional on the transfer of ownership of key remaining ZCCM mines to the new proprietors, principally Anglo American of South Africa. The Bank has agreed for funds it provides to be on-lent to pay for the latest wave of redundancies in ZCCM: prior rationalisation is a crucial element of the sale. However, no explicit conditionality relates to the take-over of social assets associated with the mines. The social fabric of many Copperbelt towns lies in commercially orientated development agreements modelled on those drawn up by the consultants. The new owners are expected to run 'social assets' for no more than two years. As these commitments come to an end, the future management of shared mine and municipal services is uncertain. Anglo American, negotiating from a position of strength, has refused to run social services, even in the interim.

The Bank has a responsibility for the threatened diminution of social rights because of its role in setting the parameters for the original consultancy study and because of its drive for rapid privatisation of the mining sector while never earmarking adequate resources to assess and plan for the take-over of social provision. Once more, this issue is examined in greater depth: please see Section 2(IV).

3. Reforms to encourage the private sector

a. Investment and deregulation

Both PIRC I and PIRC II required the development of a policy and institutional framework to encourage the private sector.[115] The Investment Act offers tax breaks as general incentives to all investors and special, additional incentives for exporters of non-traditional products, those producing products for use in agriculture at home or for export, the tourism industry, the import substitution industry, and investors in rural areas.[116] In contrast to the bureaucratic barriers faced by most Zambians in seeking title, expert assistance is accorded to investors wishing to purchase land.[117] PSREPC seeks to streamline the operation of the Investment Centre, established under the Investment Act, to make it easier for investors to be granted Investment Certificates.[118]

Investors are protected from the compulsory acquisition of property by the State and are accorded the right to transfer out of Zambia foreign currency in respect of, *inter alia*, dividends or after-tax income, management fees, royalties, and the net proceeds from the sale or liquidation of a business.[119] The subsequent incorporation, when a business is privatised, of guarantees into development agreements that the Government will not increase or adversely change the tax, royalty or duty rates paid for periods of up to fifteen years raises the question as to whether investment will generate revenue for public expenditure in the social sectors of benefit to the poor. The fact that Bank technical assistance has underpinned the drafting of such development agreements must intensify debate over the advisability of its support. Please see Section 2(IV) for further details.

b. Labour market deregulation

i. The formal sector

Agreements were reached under ESAC II to amend the Employment Act and reform the Industrial and Labour Relations Act (ILRA).[120] In respect of the former, employers are no longer required by law to provide worker housing or medical services. Under the latter ILRA, the undue regulation of aspects of a union's constitution, financial reporting, external affiliation, and the selection of representatives appears to contravene the right of trade unions to function freely. Ministerial prescription of the form which a union's application to register must take, the Commissioner of Labour's assessment of a union's constitution, and the required membership threshold prior to union recognition may all impinge upon the right to form trade unions.

Provision within the ILRA for enterprise-level union recognition and collective agreements may undermine the effectiveness of industry-wide negotiations over pay and working conditions. The ending of single union agreements and compulsory union membership under the ILRA accords with the principle that an employee must be free both to join a union of their choosing and to reject union representation. However, in the absence of strong unions, the protection of working conditions becomes increasingly dependent upon legally enforceable standards. In this context, the development agreements concluded with mining companies - agreements which derive from Bank funded technical assistance - are a cause for concern due to their failure to guarantee minimum standards in working conditions, their framing of windows to delay compliance with environmental legislation, and the lack of supervisory machinery to ensure that private companies honour their undertakings.

The legal requirements under the ILRA for negotiation and conciliation between employees and employers are so exhaustive and open to Ministerial intervention as to impinge upon the right to strike. Of great concern is the power of the Minister to apply to the Industrial Relations Court to declare a strike or lockout not in the public interest. All strikes in Zambia in 1998 were, in fact, declared illegal by the Government.[121] There is a prohibition on sympathy strikes and industrial action in essential services is so widely defined and closely policed as to deny many workers the right to strike.
The Employment Act and the Industrial and Labour Relations Act are given further consideration *vis-à-vis* the right to just and favourable conditions of work and the rights of trade unions in Section 2(II).

ii. The informal sector

The informal sector has been promoted as one road out of poverty. In other terms, this is no more than a tacit recognition that this is where eighty-five per cent of the economically active workforce in Zambia already strives to earn a living. In a typical contradiction, the World Bank concludes on the basis of its own *Poverty Assessment* that informal sector employment is insecure, amounts to little more than petty trading for the majority, and is most often a means to survival rather than self-improvement;[122] yet the licensing and operation of small-scale businesses have been deregulated as a requirement of both ERC and PIRC II.[123] This coincides with increased concern expressed by the ILO over deregulation.

In 1997, the ILO Governing Body's Committee on Employment and Social Policy considered a report of the UN ACC Task Force on Full Employment and Sustainable Livelihoods which examined the labour situation in Zambia and six other countries.[124] It was noted that the vast majority of the labour force worked in the informal sector and fell outside of any regulatory framework. The Committee recognized the poor quality of employment and working conditions:[125] job insecurity, inadequate worker protection, and health and safety were all issues of concern following labour market deregulation.[126] In comparison, Commitment 3 of the Copenhagen Declaration and Programme of Action requires the pursuit of the goal of creating quality jobs that safeguard the basic rights and interests of workers.[127] There is recognition that any employment generated should be of high quality, be adequately remunerated and carry a minimum of social protection.[128] In order to overcome these constraints in Zambia and the other review countries, the Committee has recommended increased support and cooperation from organisations within the UN system, to include the Bretton Woods Institutions. In this respect, it must be emphasised that the Bank has fully endorsed the Copenhagen Declaration and therefore must seek its implementation. For further analysis of work in the informal sector, please see Section 2(II).

c. Land deregulation

PIRC II, ESAC and ESAC II have all contained loan conditions pertaining to the creation of a free market for commercial land in Zambia. The resulting Lands Act has undermined many aspects of the right to adequate housing for the poor. Access to land and housing is now determined solely by market position and the poor are discriminated against in the allocation of plots with secure tenure. At the same time, the insecurity of squatters has been increased by a clause in the Act which reinforces their illegality.

ESAC II also sought the adoption of the National Housing Policy.[129] This has proved highly detrimental to the enjoyment of a corpus of economic and social rights. All State-owned housing stock is being sold to tenants against a backdrop of rising formal sector unemployment, massive job insecurity in the wake of economic reform, and increasing poverty. Those wishing to buy have no access to home loans because of the utter failure to foster housing finance. Renting in the public sector is no longer an option, rentals in the private sector remain prohibitively high, and sitting tenants are faced with a situation in which they must either buy or lose their home.

Most former council tenants cannot afford market prices. They have made initial downpayments and committed themselves to paying the full purchase price when there is no prospect of them finding the balance required. Local councils, in an effort to recover debts, have cut essential services, sent in bailiffs and even evicted people from their homes. Parastatal employees and civil servants have traded their pensions and entitlements - in short, their future livelihood - for properties they once rented at subsidised prices. The capacity of local councils to provide services has been seriously diminished. They are unable to fund the existing low level of provision, let alone expand site and service areas. This situation has been exacerbated both by the erosion of local authority income due to a new stipulation within the Lands Act which has diverted money to central Government and because of the very sale of council housing which has deprived local authorities of rental income. Furthermore, the municipal services which the former parastatals used to provide in council areas as well as in company compounds can no longer be taken for granted as the new private sector owners seek to reduce any such responsibilities.

The degree to which rights to housing and land is realised or denied in Zambia against this backdrop of market reform and the withdrawal of the State is reviewed in Section 2(III).

D. The extent of Bank action contributing to the enjoyment of economic and social rights

The Bank acknowledges that economic reform and structural adjustment programmes have raised concerns about human rights, while emphasising that the difficulty of such policies should not be mistaken for their necessity:

> It is not, therefore, economic reform lending that should raise concerns about human rights, but rather, how those programs are implemented, and what measures are taken to ensure that the needs of the poor are not neglected. The Bank has learned a great deal during the past 15 years about how to design social safety nets and other programs to ease the transition into reforms. Those who design sound economic policies must pay particularly close attention to social spending in countries dealing with high external debt obligations.[130]

Each contention of the Bank is contradicted by the experience of the poor in Zambia. First, concern is precisely centred on the way in which the economic reform program has been implemented: the extensive use of adjustment conditionality to sponsor structural reform and stabilisation, even at the expense of fundamental economic and social rights, has already been documented. Second, turning to the issue of mitigation, the argument is made in this subsection that neither the use of loan agreements to foster a program of social reform nor the targeting of the poor through project assistance has been effectively pursued by the Bank in Zambia.

1. Structural adjustment and Commitment 8 of the Copenhagen Declaration

Commitment 8 of the Copenhagen Declaration and Programme of Action commits governments, and enlists the cooperation of international organisations and the UN system, in particular the Bretton Woods Institutions, to ensure ‘that when structural adjustment programs are agreed to they include social development goals, in particular eradicating poverty, promoting full productive employment, and enhancing social integration.’[131] The Bank states that it is ‘committed to act on the principles embodied in the Copenhagen Declaration and to join with the full development community to ensure that all programs, including those designed to address macroeconomic concerns, meet these agreed goals.’[132] The Declaration is seen as ‘increasingly central to the way in which the World Bank establishes its mandate and priorities’ and has been described by the Bank’s President as reading ‘like a manifesto of the organization I lead.’[133]

The Bank has set out its agenda for action on Commitment 8 based around five policy objectives, three of which have a particular resonance in the context of adjustment in Zambia.[134] First and foremost, policy must foster public expenditures and services which reach the poor, to include the protection of spending upon health, education and other public investments, such as rural infrastructure and micro-finance. Second, programs for safety nets capable of providing effective insurance must be set up before a crisis hits and scaled up during crisis. Third, an emphasis must be placed upon stabilisation policies which are least cost to the most vulnerable.

Any defence of the Bank’s conduct premised on the recent nature of these policy objectives would be misconceived. Instruments such as the Covenant, recognised within the Copenhagen Declaration, were fully in force throughout the renewed program of economic reform in Zambia beginning in 1991.[135] The Committee’s interpretation of article 22 on the advisability of international assistance measures, to include structural adjustment, was adopted as General Comment 2 in 1990. The Copenhagen Declaration itself was adopted in March 1995, prior to the Bank’s 1996 Zambia *Country Assistance Strategy*. Furthermore, it is within this strategy that the Bank articulates a renewed emphasis upon poverty alleviation in terms of striking equivalence to its Commitment 8 policy principles. In other words, it is legitimate to judge the Bank’s action to mitigate the adverse impact of economic reform on its own terms as stipulated in the *Country Assistance Strategy* and in respect of Commitment 8.

2. A shift in Bank policy towards the development of ‘human capital’

While the Bank, in a first phase of reform, remained preoccupied with short-term stabilisation of the Zambian economy, deep-rooted structural adjustment, viewed as essential for the long-term development of Zambia, was delayed. In particular, as is noted in the Bank’s own *Country Assistance Review* of its policy in Zambia, it lacked a program of core investment: insufficient resources were committed to the improvement of infrastructure and the creation of the conditions necessary for private sector-led economic growth.[136] Investment in the social sectors was neglected too with the result that levels of skills and education, even the health of the people, continued to be eroded. The Bank belatedly recognised that investment in this ‘human capital’ is essential for sustained economic growth.

In order to tackle the problems which occurred after the first phase of economic reform, and in order to push for the growth which has eluded the economy, a second and continuing phase in Bank policy after 1994 is therefore characterised by a shift in focus to investment to promote pro-poor growth and support poverty alleviation.[137] On the one hand, the Bank and MMD Government agreed that there should be policy continuity. Structural adjustment and macroeconomic stabilisation was to be deepened rather than moderated.[138] On the other hand, and because of the hardship caused by economic reform itself, there was recognition that direct measures were required to tackle poverty. This changed emphasis in Zambia is itself a reflection of a Bank-wide shift in policy towards poverty reduction.[139]

When the World Bank held discussions with the Zambian Government in 1996 over its Country Assistance Strategy (CAS) for Zambia, it recognised that continued support for economic reform had to be supplemented by direct measures to tackle the issue of poverty and to deliver social support: 'The Bank's 1994 Poverty Assessment (PA), prepared with significant donor and Government involvement, provides the focus for Zambia's development objectives and frames the CAS's priorities.'[140]

A key purpose of the *Poverty Assessment* was to highlight areas where social provision was failing the poor in order that the World Bank and donors could better target aid and assistance. In order to accelerate poverty reduction in Zambia, consistent action was recommended in three main areas.[141] First, 'human capital' development in Zambia must be improved. This means enabling all Zambians to be productive by helping to make sure they have greater access to better education and training, to improved health care and family planning, and are not worn down by malnutrition as a result of food insecurity. Second, the promotion of pro-poor economic development to ensure the conditions are right for fostering growth among small-scale farmers and urban entrepreneurs, particularly those in the informal sector. Finally, social safety net support should be stepped up for those who need it. Where people are incapacitated - perhaps through illness or disability - or else are especially vulnerable to the effects of poverty and are not in a position to help themselves, then community-based help should be forthcoming.

The degree to which the Bank has taken positive action which contributes to the enjoyment of economic and social rights is analysed using this agenda.[142] A first subsection considers 'human capital development' or measures designed to improve education, health and social services. This encompasses, in line with the Bank's policy to implement Commitment 8, both project assistance aimed at extending services to the poor and the use of adjustment conditionality to further social reform and protect social spending. A second subsection examines the use of project assistance and sector investment programs to promote pro-poor economic growth. A final subsection assesses the extent of Bank action aimed at the provision of social safety nets, as outlined in Bank policy documents and in accordance with the policy objective under Commitment 8 to provide effective social insurance. The Bank's own pro-poor policy shift is not articulated in rights terms. Nevertheless, its threefold objectives appear to coincide, respectively, with the rights to education and health, the right to development, the right to work, and the right to social assistance. Once more, it becomes apparent why the Committee, in its desire to discourage generality via-a-vis human rights in development activities, is of the view that agencies ought to move to an explicit consideration of rights.[143]

a. Investing in 'human capital': Bank action on social infrastructure, health and education

In the first phase of reform to 1994, dominated by a preoccupation with stabilisation and adjustment, the Bank's corresponding adjustment credits do not include conditionality on social expenditure. Those credits approved after 1994, and which correspond with the second phase of reform and the Bank's emphasis on growth and poverty alleviation alongside stabilisation and adjustment, do include agreements on the protection of budget allocations to the social sectors. Loan conditions in both ESAC I (FY 1994) and ERIP (FY 1995) stipulated minimum budget and spending targets for key social services in 1994 and 1995 respectively.[144] Furthermore, a stated requirement of ESAC I was the strengthening and decentralisation of social service delivery, and health and education provision.[145] Likewise, ESAC II (FY 1996) sought the maintenance of social spending in 1996 at thirty-five per cent of noninterest domestic expenditure and the preparation of a strategy for education and a policy on drug procurement.[146] Under the PSREPC (FY 1999), the Government has agreed to put into practice its national policy on nutrition and to begin implementation of its revamped public welfare scheme.[147] Non-personnel spending in priority social areas is to be maintained.[148] However, protection appears to apply to relative rather than absolute allocations and fewer priority areas are monitored than previously.[149]

Overall, the limited nature of these social agreements, and their secondary importance in relation to macro-economic stabilisation, is readily apparent. As a result of Bank and IMF agreements designed to reduce public expenditure, on average over the period 1992 - 1998 social expenditure in real terms has been K26 billion less each year than the K138 billion spent in 1991.[150] Yet real per capita social spending in Zambia in 1991 was already at a third of 1980 levels.[151]

Beyond the sphere of adjustment lending, the Bank has launched six projects and sector investment programs in the three areas of social infrastructure, health and education since 1991.

i. Social infrastructure

Social infrastructure has been improved under the Urban Restructuring and Water Supply Project and two Social Recovery Projects.[152]

1) The Urban Restructuring and Water Supply Project (URWSP)

The URWSP was initially funded by the Bank in response to several cholera outbreaks in Zambian towns in the early 1990s.[153] Its immediate aim was to rehabilitate water systems in Ndola and Kitwe and other affected towns. Limited finance is also provided for demonstration projects based on community-level rehabilitation of services in both formal and peri-urban areas. The project has supported the reform of urban policy and capacity building in both central and local government. Overall, Bank finance amounts to $33 million of which $24 million had been disbursed by mid 1998. This represents annual expenditure of about $2.00 for each person living in urban areas since the project was approved.[154]

Given the level of funding in relation to the magnitude of the problem faced, the actions proposed under the URWSP are inadequate. Over a third of urban residents do not have access to safe water; sanitation for fifty per cent of city dwellers is a pit latrine or 'the bush'; in poor areas the situation is far worse, with four-fifths of residents in some compounds dependent on public taps and nine out of ten using pit latrines or buckets. It should be recalled that the incidence of water borne diseases in Zambia has been described as one of the 'most glaring outcomes of the decay in urban infrastructure.'[155] There have been repeated, serious outbreaks of cholera in Zambian cities in 1991, 1992, 1993, 1996 and 1999.

People are not only unwilling to pay rates for contaminated, inconsistent water supplies: many are unable to do so because of their poverty. Councils are grossly under-funded and dependent upon local rates and charges to fund water provision, yet it is proving increasingly difficult to collect arrears in low cost urban areas. Desperate for revenue, councils have even resorted to disconnections in violation of the right to health and even the right to life given the essential nature of safe drinking water.

If the level of assistance from the URWSP was in any way commensurate with the problem, then such draconian measures would never be formulated, let alone implemented. If the Bank's self-declared mandate to alleviate poverty is at all meaningful, then the issue of urban water supply surely should rank in importance alongside any single economic reform measure. Yet it is the Bank which paid for a study for the privatisation of ZCCM which recommended leaving aside the complex issue of social provision until after the mines were sold.[156] This decision to delay planning for the transition of essential services such as water and sanitation has left chaos in its wake while the formation of local utility companies to supply water has further negative implications for the poor: please refer to Section 2(IV) for further details.

2) Social recovery projects

Two Social Recovery Projects (SRPs), together worth $50 million, have funded community-level microprojects, most of which have focused on the rehabilitation of primary schools and rural health centres.[157] By mid 1998, disbursements amounted to $35 million, equivalent to expenditure of $0.5 on an annual per capita basis since approval of the first SRP in 1991.[158] At this juncture, it is sufficient to note the low level of funding of the SRPs. The rehabilitation of several hundred primary schools is put in perspective by the reality of a sharp decline in public expenditure on education in real terms and by the fact of falling school enrolment and attendance as poorer parents judge the benefits and savings of keeping their children out of school to outweigh the gains. Likewise, the refurbishment of rural health centres will not, by itself, advance realisation of the right to health. The wider requirement is an affordable package of health care available to all Zambians. In this respect, not only have key indicators of health continued to decline, but aspects of Government and donor action on health reform have discriminated against the poor. Overall, the objective of these Social Recovery Projects - 'to help mitigate the negative effects on the poor of the economic crisis' - is vastly overstated by the Bank.[159]

ii. Health

The Health Sector Support Project (HSSP) aims to improve access to, and the quality of, a national package of essential health care services.[160] As such, it should be of direct benefit to the poor who suffer disproportionately from ill-health.

Support from the Bank and other donors is carried forward as an integral part of the Government's health program. Bank funding initially backed work by the Zambian Government to produce a National Strategic Health Plan in late 1993 as the basis for coordinating Government and donor action on health.[161] Under the HSSP itself, approved by the Bank board in late 1994, this plan is updated annually and support for the development of workable health care strategies continues.[162] In addition, the Bank acts as a lender of last resort in order to plug gaps in the financing of the district level health reforms not covered by the Government or other donors. Bank finance for the HSSP amounts to $56 million, of which $35 million had been disbursed by mid 1998. This represents Bank expenditure of approximately $1 on an annual per capita basis. Most Bank money has been used to rehabilitate basic infrastructure and to fund drugs and medical supplies.[163]

Unfortunately, within the life of the project to date, there are indicators which suggest a deterioration in primary health care, one of the areas which the HSSP is designed to promote. The under five mortality rate remains shockingly high; major setbacks in immunisation programmes were recorded in 1997; and the number of nurses has fallen sharply. Counter to the stark condemnation of inappropriate or unaffordable user fees in the *Poverty Assessment*, the Bank justifies its support for a plan which has introduced 'nominal fees' on the grounds that such costs 'foster ownership at the community level' and discourage people from by-passing primary care facilities.[164] Evidence for the counter-view - that user fees deny health care to the poor - is presented in Section 3.

iii. Education

The Bank has financed two recent education initiatives. The first was the $32 million Education Rehabilitation Project, the funds for which have been entirely disbursed.[165] This has sought mainly to assist in halting the decline in the primary school system by financing the repair and expansion of primary schools, the provision of basic learning materials, and the strengthening of administrative and managerial support. Average disbursements each year have been equivalent to $3 for each child of primary school age for the duration of the project.[166] This money is in addition to the amount provided by the Bank under its two Social Recovery Projects for the rehabilitation of schools.

The second initiative is an ambitious $40 million Basic Education Sub-Sector Integrated Program (BESSIP) recently approved by the Bank's board.[167] Once more, support from the Bank and other donors will dovetail with the Government's own sector-wide basic education program of the same name. The initial objectives of the joint program are to increase enrolment at the primary and lower secondary levels and improve the quality of education as measured by learning achievements. Planned action includes increasing the number of trained teachers, improving learning by providing books and revising the curriculum, the refurbishment of classrooms, targeting disadvantaged groups and addressing the problem of pupil malnutrition and ill-health.[168]

The extent to which the right to education is realised or denied in Zambia is given full consideration in Section 3. While Bank and donor support is essential and, to a large extent, underpins the provision of primary education, there are two issues which that cause considerable disquiet. First, the way in which assistance is delivered engenders a dependency relationship. Donor support for BESSIP is based upon joint reviews and the future of the program is jeopardised if pledges do not materialise because Zambia fails to deliver on wider economic conditionality. Second, the Bank has been instrumental in developing, and now endorses, an education policy which has failed to plan for the progressive implementation of primary education *free to all* as required under the Covenant. Instead, BESSIP is predicated upon cost-sharing and school fees which the poor simply cannot afford.

b. The adequacy of action by the Bank to promote pro-poor economic growth

The Bank has renewed the emphasis within its structural adjustment lending upon the promotion of private-sector-led economic growth and maintains, often in the face of contrary evidence, that such growth is pro-poor in nature. At the same time, there is a discernible shift in Bank policy in Zambia towards the use of sector investment programmes to encourage economic expansion. Two initiatives to rehabilitate the petroleum and energy industries in Zambia, have helped make these sectors more attractive for foreign firms but must be viewed as irrelevant to poverty reduction:[169] indeed, the affect on the poor of this shift to private sector provision in terms of energy/fuel pricing, as well as the impact on local communities, needs to be examined, but is beyond the scope of this submission. Non-industry-specifc investments in transport infrastructure are potentially of greater relevance, but cannot be characterised as specifically geared towards pro-poor growth. The final two growth-orientated Bank projects, reviewed here in brief, are focused on the agricultural sector and upon promoting small and medium enterprises in all areas of business. Neither is proving to be relevant to promoting pro-poor economic growth.

i. The Agricultural Sector Investment Program

The Agricultural Sector Investment Program (ASIP) was one of the first sector program of this type attempted by the Bank anywhere in the world.[170] ASIP was prepared by a Zambian task force.[171] It is being implemented through the Ministry of Agriculture, Food and Fisheries. It brings together Government and donor funding for the entire agricultural sector under one program, while activity plans and budgets are the responsibility of decentralised District Agricultural Committees.

ASIP has four main components:[172] first, the promotion of policy and institutional improvements in marketing, trade and pricing, food security, land use, and land tenure; second, reform of public investment; third, the expansion of private sector development through creation of an enabling environment and incentives; and, finally, the launching of pilot investment schemes to support, for example, small-scale capital investment in rural communities on a matching grant basis or to promote the privatisation of government farms.

ASIP, now in its third and penultimate year, has delivered little. The promised level of funding, a total of $350 million over four years from both donors and the Government of Zambia, has not been forthcoming.[173] Out of the Bank's principal commitment of $60 million to ASIP, its disbursements by the end of March 1998 stood at only $15 million. Hence components of the program of potential benefit to poor farmers and consumers alike - for example, the improvement of food security - have not been significantly advanced.

In a preliminary assessment of the programme, the Bank's Operations Evaluation Department concluded that the needs of subsistence and emergent farmers were neglected in the planning process and that little attention was paid to ASIP's impact upon poverty.[174] The conclusion reached was that ASIP's concern to alleviate poverty and provide food security for vulnerable groups has not been supported with specifics. A mid-term evaluation commissioned by the Ministry of Agriculture, Food and Fisheries reveals the 'disappointing performance of ASIP and [a] loss of confidence of key stakeholders.'[175] Key performance indicators for the sector describe a picture of 'stagnation and reversing trends.'[176] Agricultural production has fluctuated, rising significantly by a third in 1995, but then declining again in 1996 and 1997. The area cultivated under maize has actually increased, contrary to the policy of diversification.[177] The number of farm households owning cattle fell by almost a third due to poor animal husbandry and animal losses through disease.[178]

Certain realised components of ASIP are antithetical to poverty alleviation. First, Bank conditionality relating to land reform has been extended under ASIP, despite the fact that the resulting Lands Act has undermined the security of tenure of many Zambians. Second, and most significantly, the elimination of subsidies required by the Bank has seen a corresponding drop in expenditure on fertiliser and hybrid seeds by 51 per cent and 22 per cent respectively in 1994/95 and again in the following year:[179] '...the withdrawal of credit subsidies by Government and the sharp rise in interest rates led to the collapse of agricultural credit as it existed before 1992. This reduced farm inputs by small and medium scale farmers and made it difficult to raise yields.'[180] The Operations Evaluations Department of the Bank concluded that the move to the provision of finance and credit to farmers through commercial lending institutions, together with the abolition of subsidies, would have a severe short-term impact upon smallholders.[181] Furthermore, the ending of subsidises to marketing parastatals has made it difficult for isolated smallholders to sell their produce.

As part of ASIP, a Rural Investment Fund (RIF) was established to provide matching grants to support small-scale capital and infrastructure projects - feeder roads, storage sheds, diptanks, bridges, small dams - as well as to support training services in rural communities. By mid-1998, 83 individual projects to the value of K1.6 billion (circa. $1.2 million) had been supported through the fund.[182] However, despite a general level of satisfaction with the operation of the fund, the Government commissioned mid-term evaluation concludes that farmers do not have the capacity to run and maintain the new infrastructure over the long-term.[183] Serious questions are also raised in relation to project selection, appraisal and supervision. However, from the perspective of the rights of the poor, the most telling criticism is a lack of participation by disadvantaged groups: '...of the 24 projects visited, most were evidently led by the better-off members of society whereas only a handful of women were represented on the farmer group executive committees.'[184] The RIF has been similarly criticised within the Bank for failing to encourage the participation of local people and supposed beneficiaries.[185]

The ultimate development goals of ASIP are, *inter alia,* to improve food security, to promote better use of natural resources, and to increase farm incomes and employment.[186] The conclusion reached in the Government commissioned evaluation is that the prevalence of malnutrition 'remains unacceptably high showing that food security remains a major problem.'[187] This issue is discussed further in Section 3 which considers the right to health. In respect of natural resource use, the amount of land cultivated by each farm household has declined by almost a fifth, probably reflecting that fewer smallholders now have oxen to provide draft power.[188] A gradual deterioration in agricultural land because of overgrazing, soil erosion and rising soil acidity is noted in Southern Province. A localised pressure on scarce land is recorded in heavily populated areas of Eastern Province.[189] Finally, farm incomes remain depressed under ASIP:

> Due to droughts, uncertainties caused by the transition to a liberalized agricultural sector, unfavourable agricultural prices relative to manufactured prices and the low labour and land productivity, net farm incomes only ranged between 35% and 40% of GDP. Although data is scanty, farm incomes appeared to have improved in the 1980s as a result of subsidies and the significant increase in maize production that received favourable price support. Inevitably, farm incomes fell once these were withdrawn.[190]

From this low level, farm income did improve by a marginal 8 per cent in 1995 and 1996, although it is not stated whether this is an increase in real terms. Inflation over the same period averaged 39 per cent.

One positive outcome has been the increased contribution of the food processing and textiles sectors to manufacturing output from 66 per cent in 1990 to 74 per cent in 1997 due to privatisation of agro-processing and the cotton industry. This has helped improve non-traditional exports.[191] However, a caveat is the extent to which small outgrowers benefit from these schemes or else face insecurity and exploitation in the relationship with large private firms.

ii. The Enterprise Development Project

The $45 million Enterprise Development Project, on one level, pays for technical assistance to assist Zambia in developing financial institutions suited to the needs of growing enterprises and to improving the way in which the Export Board of Zambia works.[192] Such reform is not, and was never intended to be, of direct relevance in the promotion of pro-poor growth.

Two other components of the Enterprise Development Project - its Matching Grant Scheme to share the development costs of business plans and its Multipurpose Credit Facility delivered through commercial banks - are of greater relevance if they enable entrepreneurs in the urban informal sector or smallholder farmers to get the cash they need to invest in their businesses.[193] In reality, because these facilities require either that a person has ready cash of their own or can show they have collateral against which to secure a loan, they are not options for people with little or no means. Most informal sector business is to do with petty trading, a world away from enterprise development grants and commercial credit. The EDP was approved by the Bank in mid 1997.[194] By the last quarter of 1998, almost $43 million remained undisbursed. For further analysis of the EDP *vis-à-vis* the right to work, please see Section 2(II).

c. The adequacy of support by the Bank for social safety nets

There are two facets to a consideration of Bank conditionality on social safety nets. Primarily, few stipulations on social action figure alongside economic requirements in each adjustment agreement. At the same time, adjustment lending, paid as balance of payments support, has failed to free up domestic resources to enable the Government to improve social support. Clearly agreements on the steps required to assist those impoverished by economic reform are only meaningful if married to international assistance which is explicitly designed to ensure such action is adequately resourced.

While the Bank's last four adjustment credits have all included the sanction that funds are not to be released unless the Government of Zambia protects core social spending - to include allocations on social safety nets - the Bank has done nothing to finance positive initiatives of lasting value in this area. This reflects an underlying view that safety nets are 'a short-term palliative' in the face of deep-seated and widespread poverty.[195] Yet, does not the fact that the Bank has insisted upon a program of harsh economic reform in Zambia warrant its immediate support to reduce the impact of this very reform on the most vulnerable? After all, if the Bank's argument that swift economic reform will yield equitable growth is to be believed, then any direct support it provides for social safety nets could only be but short-lived. The reality is that economic reform has increased inequality in Zambia; it has not delivered significant growth; and the need for social safety nets is more acute than ever as more and more Zambians find themselves in a position when they need support if they are to help themselves.

In a 1996 internal review of assistance to Zambia, the conclusion was that the Bank had 'failed to include compensation or a safety net in project design for those who would bear the brunt of the reforms.'[196] Adjustment lending has failed to foster Government action: the 1994 *Poverty Assessment*, in reviewing public spending in the period corresponding to the

ERC and the two PIRCs, concluded '[t]he one obvious item "missing" from the budget is a significant allocation for safety net activities.'[197] Indeed, the agreements under PIRC I on social support related solely to the situation of retrenchees and not to the vast majority of other Zambians simultaneously impoverished by economic reform and denied assistance because of austerity measures. ESAC focused upon the decentralisation of social services, to include shifting the responsibility for the delivery of welfare assistance to community groups and NGOs. Overall, the Bank's performance audit report concluded that social spending conditionality under ESAC was 'a stop-gap measure' and that 'a more comprehensively and clearly articulated action program is needed...to ensure an improvement in the quality of life for the most vulnerable groups in Zambia.'[198] ESAC II adopted a similarly limited social agenda. In respect of social safety net provision *per se*, conditionality on second tranche release related solely to the adoption of policy recommendations by the Government on how to work with NGOs to provide and deliver welfare assistance.[199] The Government also confirmed its intention to introduce targeting guidelines to better implement the Public Welfare Assistance Scheme (PWAS), although this was not the subject of an explicit loan agreement.[200] Indeed, the Bank's most recent PSREPC, two and a half year on, renews the requirement for implementation of the revamped PWAS.[201]

A full critique highlighting both the inadequacy of the social safety net for retrenchees and the failings of the wider social welfare system in Zambia are examined in Section 3 under the right to social security. At this juncture, however, it is pertinent to note that less than 2 per cent of all Zambians receive State welfare payments.[202] The 1998 budget for the Public Welfare Assistance Scheme was the equivalent to just 13 US cents for each of the five million Zambians living in extreme poverty.[203]

3. Résumé - Bank action in Zambia vis-à-vis Commitment 8

The discrepancy between the experience of structural adjustment in Zambia and the Bank's policy objectives around Commitment 8 can only be construed as tantamount to an acknowledgement that stabilisation in Zambia has caused unnecessary hardship for the poor. The Bank's first stated objective is to seek public expenditures and services which reach the poor. In Zambia, stabilisation has been characterised by the decimation of social expenditure in real terms despite belated conditionality on relative allocations. The second objective is to ensure an effective social safety net. Such support in mitigation of the adverse impact of economic reform has been almost entirely lacking in Zambia. The third objective requires an emphasis upon stabilisation policies which are least cost to the most vulnerable: subsequently, in the context of the recent economic crisis in SE Asia, the Bank has acknowledged how the 'relaxation of fiscal policies, with a diminished emphasis on reducing government deficit, emerged as the appropriate macroeconomic and poverty-alleviation response'. In contrast, stabilisation in Zambia has involved a relentless pursuit of fiscal policies to balance the Government's domestic accounts.

E. The ambiguity of the World Bank/Government relationship

The determination of responsibility for the success, the adverse consequences, or the failure of economic reform is frequently obscured by the differing interpretation of events presented by each party, or even by the same party in changed circumstances or before a different audience.

The Government has alternatively portrayed the reform program, in part or in its totality, as its own, as a partnership or as an imposition. On occasion, the Bank and IMF have taken credit for positive aspects of reform and played-up their influence. When it suits the Bank's purpose - for example, in refuting accusations of hegemony - it strives to emphasise ownership of the reform programme by the MMD Government. For example, in describing the Bank's structural adjustment and investment programs in Zambia, the Operations Evaluation Department notes how strategy is built 'around a participatory approach that relies on government ownership.'[204] Adjustment credits are portrayed as representing the Government's strategies and priorities within the reform program rather than as determining the shape of reform at the outset.

On other occasions, the Bank has distanced itself from controversial or failed aspects of reform. In its 1996 Country Assistance Strategy, the Bank, despite its portrayal of the reform program as a partnership, is critical of the relaxation of strict fiscal discipline, the prolonged attempt to rescue Zambia Airways, the failure to privatise ZCCM, and the slow pace of public sector reform.[205] When a package of ESAC-backed land reforms ran into difficulty in the Zambian Parliament, the Bank was quick to characterise the Government's measures as 'overly ambitious and controversial' in comparison to 'the more modest proposal that had been expected during credit appraisal and negotiation.'[206] A distinction is drawn between the design of, and support for, reform and the sovereign power of Zambia in implementation of the programme.

It is pertinent to note that, in a discussion held by the Commission on Human Rights on structural adjustment and human rights, the Bank representative is reported to have underlined the fact that 'there was complementarity of action between Governments and the World Bank: while the Bank made proposals it remained the responsibility of States and of society to implement them.'[207] The UN Special Rapporteur on Economic, Social and Cultural Rights has rejected parallel attempts by the IMF to pass off ultimate responsibility for the denial of rights to the State, noting that 'the initiative in formulating economic policies has shifted from the national authorities to international sources, often with negative effects on the people of the developing world....As foreign investors and creditors have increased their power and influence within national policy-making structures[,] the power and reach of the State have declined, particularly in countries undertaking measures of adjustment.'[208]

The Operations Evaluations Department of the Bank - a unit with some critical distance from the Bank's resident mission in Zambia or country specialists in Washington - notes the ambiguity in the Bank's relationship to Government. The particular context was the presentation of a summary development strategy by the Minister of Finance to the Bank's Board of Executive Directors:

> 'This summary's resemblance to recent statements of Bank strategy notwithstanding, Bank staff insist that Zambia's strategy is its own; and reflects the work of its few but capable technocrats and the political directorate. Yet, the Zambian strategy addresses the concerns and reflects the views of the Bank, the IMF, and bilateral donors. It is impossible to determine how much of this strategy Zambia really owns, and how much the statement reflects Zambia's deep awareness of its financial dependence on donors.'[209]

In determining the responsibility of the Bank or Government for aspects of the reform program which have proved detrimental to the realisation of economic and social rights, it is a distraction to dwell too long on the precise nature of their relationship. It is necessary only to eliminate the extremes and establish that both donor and beneficiary have taken steps antithetical to the realisation of economic and social rights. There are three scenarios, none of which are mutually exclusive. The upshot is a joint responsibility for the realisation of human rights, albeit to varying degrees in a given situation.

First, the fact that the Bank, in principle, has certain obligations to realise the rights under the Covenant has already been established. To deny its responsibilities in this regard in Zambia *per* se, it must be established, at one extreme, that the Bank's concrete influence on those aspects of the Government's reform program detrimental to economic and social rights is negligible. Any notion that the Zambian Government has total autonomy and the Bank little or no influence in the design and implementation of the reform program lacks credence and can be dismissed out of hand.

Second, at the other extreme, it cannot be argued that the reform program is imposed on the MMD Government by the Bank and IMF to the extent that it has no influence over the shape, timing or depth of reform. Resistance to the rapid privatisation of ZCCM, the delayed move to the abolition of all subsidies and an entirely free market in maize, the attempted bailout of the failing Meridian Bank, a reluctance to press ahead with civil service reform – all point to a degree of autonomy. It is the Government which adopts policies and legislation and, while it governs in the context of the conditionality placed upon it by the multilaterals, it has an obligation to ensure that all human rights are protected, respected, and fulfilled. The codicil remains that, although the influence of the Bank/IMF is considerable, this does not preclude Government control over aspects of policy nor active Government endorsement of the program.[210]

The final scenario has already been alluded to. The possibility that the policy goals of the recipient Government and the agenda of the Bank/IMF actually coincide is neither precluded by the influence of the multilaterals nor by the retained autonomy of Government. There has been, and remains, broad areas of agreement over reform in Zambia.

At one level, it is therefore apparent that when agreed policies result in the denial of economic and social rights, the Bank and Government bear a joint responsibility. At another level, much more of detail needs to be established; that is, a specific action, policy or law which leads to the violation or denial of a right under the Covenant must be mapped. More often than not, in the case of Zambia, both the Government and the Bank are implicated. On other occasions, the Government may be seen to have acted of its own accord or else the violation may be traced to explicit conditionality in the loan agreement with the Bank. The central precept is this: neither party can successfully deny that it has a responsibility for human rights protection nor, overall, can it avoid responsibility for the deterioration of economic and social rights in Zambia by suggesting that it lacks autonomy to the degree that *all* detrimental actions are those which result from the insistence of the other party. While the remainder of this submission seeks to pinpoint responsibility for violations arising from specific policies, conditions, laws or omissions, this underlying precept holds.

Notes

[1] Article 22 covers 'virtually all United Nations organs and agencies involved in any aspect of international development cooperation.' (*GC 2*, para. 9). Reference is made to bodies such as UNDP, UNICEF, and CDP and agencies including the IMF, ILO, UNESCO, FAO, WHO and the World Bank Group (IDA, IBRD, IFC).
[2] The principal role of the Committee, in making recommendations of the first type, is 'to encourage greater attention to efforts to promote economic, social and cultural rights within the framework of international development cooperation activities undertaken by, or with the assistance of, the United Nations and its agencies'. (*GC 2*, para. 3)
[3] In 1992, bilateral and multilateral donors provided $928 million in direct resources, but, to arrive at the total amount of external financial assistance to Zambia in any one year, it is necessary to add in debt relief measures. In 1992, for example, these were worth an extra $551 million to the Zambian Government.
[4] *ER 1997*, table 2.9, p.35.
[5] Craven, in his analysis of the obligation upon wealthy States to fulfil economic and social rights in other countries by providing international assistance, cites four occasions when the Committee has questioned Sweden, Norway, the Netherlands and Czechoslovakia about the extent of their co-operation. See Craven (1998), *The Committee on Economic, Social and Cultural Rights: a perspective on its development*, p.149; also, respectively, E/C.12/1988/SR.10, para. 28; E/C.12/1988/SR.13, para. 69; E/C.12/1989/SR.14, para. 62; E/C.12/1987/SR.14, para. 38.
[6] The Committee has drawn attention to the need for international assistance in supporting social welfare measures in Guatemala to secure a lasting peace. This recommendation was made in the Committee's observations on Guatemala as the recipient State: unusually, it is addressed directly at potential donor states. The basis for making such appeals must lie in the Committee's expectation that international assistance ought to be provided. See Report on the Fourteenth and Fifteenth Sessions, reproduced as E/1997/22, Guatemala, E. Suggestions and recommendations, para. 138.
[7] *GC 2*, para. 10.
[8] Ibid., para. 9.
[9] Charter of Economic Rights and Duties of States, article 22 (1). (The Charter is to be found appended to in General Assembly Resolution 3281 (XXIX)). See also 'Report of the open-ended working group on structural adjustment programmes and economic, social and cultural rights on its first session,' E/CN.4/1997/20, Annex I, C. Policy guidelines for action at the international level, para. 69.
[10] *GC 2*, para. 7.
[11] Although the ultimate aim of such programs is to move away from tying the assistance from one particular donor to one particular project, support of this sort is counted as 'project assistance'.
[12] E/CN.4/1997/20, para. 16.
[13] 'The statistics show a trend in which the economic gains experienced throughout 1997 are now in reverse gear, and they reveal a plea for something drastic to be done to avoid virtual collapse of the economy.' ('How Zambia fared in the lean first quarter,' *Times of Zambia*, 25 May 1998).
[14] *PSREPC R&R*, para. 5.
[15] In general, see Human Rights Watch (1998), 'Zambia: no model for democracy,' Report No. 2A, Vol. 10.
[16] Ibid. On 17 September 1999, 59 perpetrators of the coup, all of them soldiers, were sentenced to death. See *The Monitor*, 'Death row shocker,' 1 - 7 October, Issue 74, 1999.
[17] While the MMD Government was successful in securing donor assistance of $530 million at the May 1998 Consultative Group meeting, it is important to note that the earmarked funds constituted pledges and final payment was conditional on the Zambian Government meeting a number of stipulations. The money was only to be disbursed if Zambia abided by its commitments in respect of good governance. These included reform of the police force, swift action to redress torture, and wide participation in local elections.
[18] See *intra*, Section 2(IV).
[19] Hence, although the ultimate objective of the Bank's ERIP credit was the privatisation of ZCCM, this was not made an explicit loan condition. In retrospect, the Bank considers its failure to insist upon the early privatisation of ZCCM as misjudged. See, respectively, *ERIP ICR*, para. 12; *PIRC & ESAC PAR*, paras. 17, 2.27, 3.9, 4.7, 5.2 and 6.4.
[20] See Government of Zambia (1999a), *Letter of Intent to the IMF*, 10 March 1999, Table 2 - Zambia: Prior Actions, Structural Performance Criteria, and Benchmarks During the First Annual Arrangement Under the Enhanced Structural Adjustment Facility, January 1, 1999 - December 31, 1999. See also the main text of the *Letter of Intent* itself, para. 34.
[21] *PSREPC R&R*, para 39.
[22] For example, German support of DM20 million is understood to be conditional on the prompt and timely privatisation of ZCCM and support from the UK, worth an extra £54 million, is similarly thought to be dependent upon the Zambian Government reaching agreement over a renewed IMF/Bank adjustment program.
[23] 'Zambia wins $500m aid,' *Times of Zambia*, 14 May 1998.
[24] 'Donor pledges still on hold,' *Times of Zambia*, 13 November 1998.
[25] One positive statistic is the significant growth of non-copper mining exports such as silver, gold and cobalt slag. See Edwin Musaika, 'How Zambia fared during the lean first quarter,' *Times of Zambia*, 25 May 1998.
[26] '$30 million released to stabilise forex market,' *Times of Zambia*, 21 May 1998; see also 'Forex flow still erratic,' *The Post*, 21 April 1998.
[27] 'How Zambia fared during the lean first quarter,' *Times of Zambia*, 25 May 1998.
[28] K1403 to $1 at the beginning of the first quarter of 1998, K1,664 to $1 at the end.
[29] *ZPSG*, para. 6.23.
[30] The figure for health expenditure is from the *SCR* (1997), Selected Issues and Statistical Appendix, Section IV. Development sin Social Expenditures, table 15, p.44.
[31] Over the period 1993-1996, average social sector expenditure (to include education and health) each year was $172.5 million. In comparison, average debt servicing each year over the same period was $335 million. See Kelly (1998), table 12, p.30.
[32] Commission on Human Rights, Resolutions 1993/12, 1994/11 and 1995/13. See also E/CN.4/1997/20, Annex I, C. Policy guidelines for action at the international level, para. 73.
[33] Few would argue that it would be realistic, or even desirable, to switch assistance in its entirety from balance of payment support to project assistance. It is important that the Zambian Government continues to have access to international funds and is viewed as creditworthy by private sector investors. Equally, project assistance is undoubtedly much better suited to targeting assistance aimed at poverty alleviation. The success and suitability of both types of assistance must be viewed in terms of the achievement of their own objectives, their sustainability and whether the balance between them is appropriate. Balance of payments support, in conjunction with debt relief measures, has enabled Zambia to service its debt. However, donors do not believe that such assistance as sustainable. They view the amount of money required as simply too high, especially in the absence of the necessary growth in exports which was to have contributed increased foreign exchange and revenue for the Government. The gap in Zambia's external finances has not been closed and its burden of debt remains unsustainable. See *ZPSG*, para. 6.16 ff. and Annex B.
[34] *CAR*, para. 6.2.
[35] Ibid., para. 16.

[36] *PSREPC R&R*, 'Collaboration with the IMF,' para. 66.
[37] The Third Policy Framework Paper for 1992 - 1994 was approved by the Bank and IMF Boards in February 1992. A subsequent PFP for 1995 - 1998 was approved in December 1995. A new PFP for 1999 - 2001 was under negotiation at the beginning of 1999.
[38] *CAR*, para. 3.13.
[39] In the 1980s, structural adjustment loans were made available to the UNIP Government by the World Bank and the IMF. President Kaunda rapidly jettisoned aspects of adjustment when the extent of their unpopularity became apparent; yet the money had already been paid out by the Bank and IMF, even though the agreed reforms were not carried through. Furthermore, Zambia was unable to afford to pay back the money which it had borrowed in the first place. See *CAR*, paras. 1.12 ff.
[40] See *CAR*, paras. 22 ff.; also *ERC PCR*, paras. 17 - 19. The Bank used an innovative strategy in January 1991 to clear existing arrears to its IBRD arm (which lends at higher interest on stricter terms) by using a complex arrangement of bridging loans to pay of this debt and allow the Bank's Board to approve new concessional IDA lending through the ERC. In effect, 'hard' loans were replace with 'soft' loans. See *ERC PCR*, para. 16.
[41] *SCR* (1997), Box 1, p.14; also *ER 1996*, p. 44.
[42] Ibid.
[43] Disbursements during FY83 - 95 amounted to $977.5 million of which $845.7 million was in the form of sector and structural adjustment lending. In terms of commitments, the proportion of adjustment lending drops to 67 per cent. Calculations are based on the information in the *CAR*, table 5.2.
[44] *CAR*, table 5.3.
[45] Ibid., table 5.10.
[46] *PSREPC R&R*, Status of Bank Group Operations in Zambia: Operations Portfolio, Annex D.
[47] Respectively, the Public Sector Reform and Export Promotion Credit and the Basic Education Sub-Sector Investment Program.
[48] Respectively, the Agricultural Sector Investment Program, the Health Sector Support Project, the Roads Sector Investment Program and the Basic Education Sub-Sector Support Program.
[49] SIPs are ostensibly drawn-up by a task force in the recipient country made up of public officials as well as people with experience of the private sector. The Bank's operations are reviewed on a yearly basis and, if necessary, revised in the light of what people in the recipient country think of the program. In theory, poor people themselves might have the opportunity to influence the direction which they believe a program should go in, but only if they are among those consulted in the first place. In practice, such meaningful consultation has been weak.
[50] *PSREPC R&R*, Annex D, Status of Bank Group Operations in Zambia: Operations Portfolio.
[51] Actual disbursements amounted to $149.4 million to which must be added a further $120.53 million intended disbursements.
[52] Actual disbursements on the HSSP and SRP II amounted to $61.82 million to which must be added a further $33.02 million intended disbursements. Hence intended disbursements on the social sectors originally totalled $94.84 million.
[53] *CAS* (1996), Box 7, para. 51.
[54] The second tranche of ESAC II was approved by the Board in November 1996 with a closing date of 9 January 1998. It was not until 26 January 1999 that the Public Sector Reform and Export Promotion credit was approved.
[55] *GC 2*, para. 6.
[56] *Idem.*
[57] *GC 2*, para. 7.
[58] Ibid., para. 9.
[59] *Idem.*
[60] *Idem.*
[61] 'The realization of economic, social and cultural rights,' Final Report, E/CN.4/Sub.2/1992/16, para. 231. See also E/CN.4/1997/20, Annex I, C. Policy guidelines for action at the international level, para. 104.
[62] *GC 2*, para. 8(d).
[63] See World Bank (1998a), *Development and Human Rights: the role of the World Bank*, p. 2. This booklet was issued by the Bank to celebrate the fiftieth anniversary of the Universal Declaration of Human Rights.
[64] *GC 2*, para. 8.
[65] The analysis which follows is based upon the Bank's summary of policy reform agreements under its major adjustment credits. See *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E; also *ESAC II R&R*, Annex G.
[66] 'The realization of economic, social and cultural rights,' Second Report, E/CN.4/Sub.2/1991/17. On the negative impacts of social adjustment, see especially paras. 129 - 147.
[67] E/CN.4/Sub.2/1992/16, paras. 52 - 58.
[68] *CAR*, para. 3.21 ff.; also paras. 2.14 ff. The Bank's first priority was to ensure that the Zambian Government was able to repay its debts. The Bank took action to replace its existing loans to Zambia with much cheaper credit; it coordinated moves to pay back commercial loans on Zambia's behalf; and it encouraged bilateral donors to take debt relief measures. Even so, the management of Zambia's debt required assistance in the form of high levels of balance of payments support from the Bank (provided as new loans) and from donor Governments (mainly as wholesale grants). As a greater relative share of Zambia's debt was owed to the Bank, by providing funds as balance of payments support it ensured, first and foremost, that it was repaid the money it was owed. In Zambia's case, despite concerted action to reduce or restructure the amount owed, or to reschedule repayments, and despite high initial levels of balance of payments support, the debt is of such magnitude to remain a serious drain on Government resources. (See *CAR*, paras. 6.25 ff.).
[69] Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, Resolution 1991/27, para. 2.
[70] Commission on Human Rights, Resolution 1992/9.
[71] E/CN.4/Sub.2/1992/16, para. 50.
[72] Respectively, the Second Economic Recovery Credit (FY91), the Privatisation and Industrial Reform Credit - PIRC I (FY92), PIRC II (FY93), the Economic and Social Adjustment Credit - ESAC I (FY94), the Economic Reform Investment Promotion Credit - ERIP (FY95), and the ESAC II (FY96).
[73] *ERC PCR*, Evaluation Summary, para. 3.
[74] *CAR*, para. 5.37.
[75] To be implemented through reforms aimed at increasing interest rates, reducing corporate and income tax, tax harmonisation and the phased elimination of maize subsidies. (*PIRC & ESAC PAR*, para. 2.8).
[76] *PIRC & ESAC PAR*, para. 2.9.
[77] Ibid., para. 2.22.
[78] *PA*, para. 4.11; also *PIRC & ESAC PAR*, para. 3.3.
[79] In respect of education, see Kelly (1998), p.38. On the problems of budget management in the social sectors, see the Bank's *PA*, paras. 4.76 ff.
[80] Ibid., para. 4.16.
[81] *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table A.
[82] Ibid.
[83] At 1994 constant prices.
[84] Calculated from Ministry of Community Development and Social Services (1998), *National Poverty Reduction Strategy Framework* [draft report],

Table 3.6.1, p.31.
[85] *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table A.
[86] *ER 1997*, table 2.6.
[87] *PIRC & ESAC PAR*, para. 2.8.
[88] *SCR* (1997), Statistical Appendix, table 10.
[89] Ibid.
[90] *Budget Address*, 30 January 1998.
[91] *PIRC & ESAC PAR* , para. 2.8; also *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table D.
[92] See, for example, Nokkala (1998), 'Structural adjustment programmes and poverty alleviation in sub-Saharan Africa - a country report: the economy of Zambia,' pp. 17 - 18.
[93] *ERC PCR*, para. 18. Requirements under the Bank's original Economic Recovery Program credit (FY86) had caused riots in the Copperbelt in December 1986 due to the withdrawal of the subsidy on breakfast meal and the disappearance of cheap roller meal from the market place because of mismanagement. Ultimately, this public unrest caused the reform program to unravel in its entirety. See *ERP PCR*, para. 29.
[94] *ERC PCR*, para. 19.
[95] *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table A.
[96] Prior to reform, maize had become the predominant cash crop grown in Zambia. This was because farmers were given subsidies and guaranteed a pan-territorial purchase price for their grain through Government marketing boards. At the same time, Government control over milling and the setting of an affordable price for mealie meal allowed urban consumers to buy sufficient supplies. The arguments behind the need for reform were based on a number of intractable problems. First, fixed and guaranteed prices removed the necessity to diversify into other crops or to innovate and increase productivity. The reforms were designed to allow efficient farmers to receive good market prices for their produce; to reward those who acted on demand for other crops and moved away from growing only maize; and to encourage exports of lucrative cash crops. The growth in agricultural output averaged just above 2 per cent per year throughout the 1970s and 1980s, failing even to keep pace with the growth in Zambia's population. Second, rural farmers, reliant on the Government maize market, did not improve their standard of living, although neither did levels of rural poverty increase significantly. The IMF and World Bank were persuaded by the argument that it was a relatively well-off core of urban consumers who gained most by not paying market prices for their food. Urban consumers were to benefit from increased choice and lower prices brought about by increased competition. Third, the whole subsidy system was no longer perceived to be affordable. While proceeds from copper sales had been used to support the maize marketing system, falls in copper output and the price of copper meant that maize subsidies were increasingly met by Government borrowing. Overall, subsidies did not meet with the approval of the donors whose policies were driven by free market ideology. See *PA*, paras. 4.28 ff.
[97] *PA*.
[98] *ER 1997*, table 3.4.
[99] While conceding that agricultural reform has created hardship for the poor in the short term, the Bank argues that producers will become more efficient and realise good profits from increased productivity or by diversifying away from maize into other lucrative crops. Large-scale commercial operations in cotton, sugar, horticulture, soya beans, coffee and tobacco have been revitalised under new ownership following privatisation. While large transnationals have been behind much if this resurgence, only detailed studies will establish whether those small farmers who they are sourced as outgrowers will benefit as a result of the relationship. It is difficult to see how poor farmers away from the line of rail will be able to make the leap to growing high value export crops without massive improvements in the road and transport system or without better access to markets.
[100]*PIRC & ESAC PAR* , para. 2.22.
[101]*ZPSG*. The response of the MMD Government to these difficulties was, initially, to announce floor prices for maize and appoint 'primary buying agents'. In the World Bank's view, this delayed the move to a fully fledged free market in maize until 1994/5 and set back the emergence of private traders and diversification. In 1997, the Government continued to play a role in the marketing of inputs such as fertiliser through its Agricultural Credit Management Programme, although it admits that problems in its delivery to farmers has suppressed the output of maize.
[102]*ERP PCR*, para. 17.
[103]Ibid., paras. 6 and 26.
[104]*PIRC & ESAC PAR* , paras. 2.17 and 2.18; also paras. 3.6 and 3.7.
[105]*PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table G.
[106]*PIRC & ESAC PAR*, para. 2.22.
[107]Ibid., para. 2.19.
[108]Ibid., para. 2.18.
[109]Ibid., para. 2.10; *ERC PCR* para. 27; *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table E.
[110]*PSREPC R&R*, para. 43.
[111]*PIRC & ESAC PAR*, para. 3.19.
[112]Ibid., para. 2.14.
[113]*ERIP ICR*, para. 1 and paras. 10 ff. The actual privatisation of ZCCM was not made a loan condition; however, the adoption of a plan to move towards the privatisation of ZCCM was required.
[114]*PSREPC R&R*, paras. 38 ff.
[115]This action was taken further by PIRC II which sought to develop financing arrangements to assist local investors participate in the ownership of newly privatised companies and to improve local capital markets to encourage private sector development. (*PIRC & ESAC PAR*, para. 2.6 (a) and (b)).
[116]See, respectively, Investment Act (1993), Part IV, General Incentives; and Part V, Special Incentives.
[117]Investment Act (1993), section 32.
[118]*PSREPC R&R*, para. 48.
[119]Investment Act (1993), sections 35 and 36.
[120]*ESAC II R&R*, para. 49; also 'Matrix of Policy Agreement,' Annex E.
[121]International Confederation of Free Trade Unions (1999a), 'Trade Union Rights Violations in Southern Africa: The Current Situation,' p.9.
[122]*PA*, para. 3.85.
[123]*PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table C.
[124]Committee on Employment and Social Policy, 'Preliminary report on a synthesis of ACC Task Force country employment policy reviews,' ILO Governing Body GB.268/ESP/2, 268th Session, Geneva, March 1997. The other countries reviewed by the ACC task force were Chile, Hungary, Indonesia, Morocco, Mozambique and Nepal.
[125]Ibid., para. 30.
[126]Ibid., para. 35.
[127]Copenhagen Declaration and Programme of Action, Commitment 3(i).
[128]UN ACC Task Force on Full Employment and Sustainable Livelihoods (1997), *Synthesis Report*, para. 1.1. Also, GB.268/ESP/2, op. cit., paras. 41 ff.
[129]*ESAC II R&R*, para. 46; also *idem*, 'Matrix of Policy Agreement,' Annex E.

[130]World Bank (1998a), *Development and Human Rights*, p. 8.
[131]Copenhagen Declaration on Social Development, Commitment 8; see also paras. (f) - (h).
[132]See Edstrom (1999a), 'Macroeconomic Crises and Social Policy Responses: An Agenda for Action'. As part of the international community's follow-up and review of the Copenhagen Declaration, to take place in June 2000, the Bank is cooperating with the UN to develop principles and good practices in social policy. The Bank has interpreted its role as acting to draw up policies to implement those social principles which are drawn up in the UN forum. For an account of this work in progress, follow the link to the Draft Social Summit Page at <www.worldbank.org/socialdevelopment>. See also World Bank (1999a), 'Principles And Good Practice In Social Policy: A Note for Discussion by the Development Committee'; and Johnson (1999), 'Fulfilment of the Copenhagen Commitments: laying the ground for public action'.
[133]James D. Wolfensohn, World Bank President, April 1999 World Bank/International Monetary Fund Development Committee meeting. For a review of Bank action on social development post the Copenhagen Declaration, see Edstrom (1999b) 'Addressing Social Development by the World Bank'.
[134]See Edstrom (1999a). The fourth policy objective is outlined as interventions to help preserve the social fabric of societies in crisis and to build social capital. The Bank advocates the use of social funds and community-level partnerships. The fifth relates to mechanisms to provide information for monitoring the impact of crises and evaluating responses.
[135]Copenhagen Declaration on Social Development, Commitment 1, para. (f).
[136]*CAR*, para. 7.69.
[137]Ibid., para. 2.16 ff.
[138]This shift in emphasis has three objectives. The first objective is to actively promote certain sectors of the economy - agriculture, tourism, light manufacturing - in order to increase the supply of produce and goods to diversify away from a dependence on the copper industry. However, copper will remain of the utmost importance to Zambia. Hence, in the mining sector, by far the most important goal is to achieve the complete privatisation of ZCCM to prevent both a drain on Government resources necessary to keep the parastatal afloat and also to attract investment to increase copper production and help restore the basis for copper revenue. The second objective is to provide infrastructure - transport, energy and a managed natural environment - to help industry grow. The third objective is to deepen public sector reform to contain wages, but increase service provision. At the same time, improvements are being sought in the way in which Zambia is governed in order to increase democracy, raise accountability and further transparency. See *CAS* (1996), paras. 22 ff.
[139]In late 1991, the Bank adopted Operational Directive 4.15 on Poverty Reduction (since revised in 1993) and introduced an element of social safety net support into its adjustment operations. In his final report, the UN Special Rapporteur on Economic, Social and Cultural Rights, while cautiously welcoming the Bank's shift in focus towards poverty reduction, was of the view that the weight of evidence continued to point to the negative impact of structural adjustment in respect of the realisation of economic and social rights. (See E/CN.4/Sub.2/1992/16, paras. 139 ff.; for a detailed consideration of the impact of structural adjustment, see E/CN.4/Sub.2/1991/17, paras. 129 - 147). The Bank is currently piloting a Comprehensive Development Framework in which macro-economic and social concerns are to be integrated. Principles of Good Practice in Social Policy have also been adopted by the World Bank/IMF Development Committee. The aim is to consider universal access to social services in order to develop social capital in an integrated strategy when planning economic reform.
[140]*CAS* (1996), para. 32.
[141]*PA*, para. 10.2 ff.
[142]The Bank's pro-poor objectives were not explicitly articulated until the 1994 *Poverty Assessment*. However, a number of previous Bank projects in Zambia post-1991 already framed poverty alleviation as an objective. All such project assistance is considered here using the Bank's 1994 formulation.
[143]*GC 2*, para. 8.
[144]*PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table H.
[145]*PIRC & ESAC PAR*, para. 2.25; also *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table H.
[146]ESAC II R&R, paras. 50 ff; also *idem* 'Matrix of Policy Agreement,' Annex E; also *PSREPC R&R*, Evolution of Policy Reform Agreements, Annex E, table H.
[147]*PSREPC R&R*, para. 49.
[148]See *PSREPC R&R*, Letter of Development Policy, para. 42 and Annex A, 'Social spending in 1999,' p.56.
[149]*PSREPC R&R*, para. 51.
[150]At 1994 constant prices. See *intra*, Section 3(I), p.223.
[151]*PSHDZ*, p.95.
[152]In addition, components of the specific programs and projects in the education sector have also supported the rehabilitation of schools.
[153]URWSP PID.
[154]Board approval date was the 16 May 1995. The annual per capita figure is calculated on the basis that 44 per cent of Zambia's estimated population of 9.7 million (*World Bank Development Report 1999/2000*) live in urban areas. The purpose is to give a sense of the scale of funding. Clearly, as the project focuses on a subsection of this population, the targeted per capita spend will be higher.
[155]*PA*, para. 3.80.
[156]Under the Bank's ERIPTA credit; see also *intra* Section 2(IV).
[157]In its *Economic Report 1997*, section 4.2 on Provincial Development Programs, the Government confirms that out 321 completed SRP projects, 221 concerned the rehabilitation of primary schools , 46 the refurbishment of rural health centres and 28 the improvement of water supplies. The remaining 11 projects spanned credit schemes, infrastructure and the environment. See also *SRP II SAR*, 'First Social Recovery Project: Lessons learned,' para. 1.32.
[158] SRP I, worth $20 million, was approved on 19 June 1991; SRP II, worth $30 million, was approved on 28 June 1995.
[159]*SRP I SAR*, May 1991, p. 11, para. (a).
[160]*HSSP PID*, 11 October 1998.
[161]See Oxford Policy Management (1996), 'Zambia Health Reform Programme,' para. 9 ff.
[162]The Board approval date was 15 November 1994.
[163] *HSSP PID*, para. 5; also Oxford Policy Management (1996), para. 21.
[164]'The major problem in the implementation of health reforms in Zambia is the Government's decision to press ahead with an uncoordinated implementation of user fees and pre-payment schemes across the country, prior to assuring visible quality improvements in health care service delivery....Inappropriate or unaffordable user fees, that encourage people to turn to traditional healers or postpone use of health services, are not conducive to poverty reduction.' (*PA*, paras. 8.72 - 8.73). Cf. 'The role of nominal fees which have been initiated throughout the public health care system is explicitly not to recover costs, but to regulate use (e.g. by-passing primary care facilities) and foster ownership at the community level.' (*HSSP PID*, para. 7).
[165]The Board approval date was 27 October 1992 and the closure date for the credit line was 30 June 1998.
[166] Calculation based on 1.84 million children of primary school age (7 - 13) in Zambia in 1996.
[167]The Board approval date was 8 April 1999.
[168]*BESSIP PID*, 7 April 1999.
[169]Respectively, the $30 million Petroleum Sector Rehabilitation Project and the $75 million Power Rehabilitation Project.

[170]Approved by the Board on 30 March 1995.
[171]See Oxford Policy Management (1996), paras. 8 ff.
[172]Summarised in the *CAR*, para. 5.55.
[173]'One ambitious programme still in the doldrums because donors have inexplicably grown cold feet is the Agricultural Sector Investment Programme (ASIP).' See 'Policy: What's MMD's biggest achievement?,' *Times of Zambia*, 19 January 1998.
[174]*CAR*, paras. 5.59 and 5.61.
[175]*ASIP MTR*, Executive Summary, para. 4. The report was prepared for the Ministry of Agriculture, Food and Fisheries.
[176]Ibid., para. 2.11.
[177]70.7 per cent of land was cultivated for maize in 1993 but this rose to 72.8 per cent in 1997. Ibid., para. 2.11.
[178]19 per cent of households owned cattle in 1990/91 compared to 14 per cent in 1993/94.
[179]*ASIP MTR*, para. 2.11.
[180]Ibid., para. 2.12.
[181]*CAR*, para. 5.61.
[182]*ASIP MTR*, para. 4.71.
[183]Ibid., para. 4.73.
[184]Ibid., para. 4.64.
[185]*CAR*, para. 5.65. The original intention was to seek feedback merely by modifying a Central Statistical Office questionnaire on crop production. This has little, if anything, to do with genuine participation which must include finding out what all farmers think - and this must include poor farmers - and then involving them in initiatives to tackle the problems which are identified.
[186]*ASIP MTR*, para. 2.2. Two additional development objectives at the macro level are to contribute towards sustainable industrial development and to contribute towards improving the balance of payments deficit by reducing the need for imports and by increasing exports.
[187]Ibid., p. 9.
[188]The average area cultivated per farm household in 1990/91 was 1.42 hectares compared to 1.17 hectares in 1995/96. Ibid., para. 2.11.
[189]Ibid., para. 2.13.
[190]Ibid., para. 2.14.
[191]Ibid., paras. 2.15 - 2.16.
[192]*EDP SAR*, para. 5.5.
[193]See ibid., paras. 5.9 ff. and 5.14 ff. respectively.
[194]Approved by the Board on 27 May 1997.
[195]*CAR*, para. 7.19.
[196]Ibid., para. 5.70.
[197]*PA*, para. 4.82.
[198]*PIRC & ESAC PAR*, para. 41. See also paras. 2.25 and 3.21.
[199]*ESAC II R&R*, para. 51.
[200]See *ESAC II R&R*, Annex J, Letter of Development Policy, para. 73; also *ESAC II R&R*, para. 52.
[201]*PSREPC R&R*, para. 49.
[202]*The Economist*, 'Orphans of the Virus,' 14 August 1999, p.47.
[203]Kelly (1999), 'The impact of IMF programmes on social sector budgets in Zambia, with special reference to education,' p.6. The number of Zambian living in extreme poverty in 1996 was calculated to be 5,068,000. Cited in *idem* using the Central Statistical Office's *The Evolution of Poverty in Zambia*, 1997.
[204]World Bank Operations Evaluation Department (1996), 'Turning an economy around: the challenge in Zambia.'
[205]*CAS* (1996), para. 31.
[206]*PIRC & ESAC PAR*, para. 3.2.
[207]E/CN.4/1997/20, para. 20.
[208]E/CN.4/Sub.2/1992/16, para. 44. The position of the IMF - that adjustment ought to proceed with the support of those whose economic and social rights are infringed - is rejected on the grounds of being both unrealistic and questionable in view of the obligations recognised in the ICESCR. See *idem*, paras. 53 - 55.
[209]*CAR*, para. 1.35
[210]Indeed, there is a recognition in the human rights field that Governments have a responsibility to seek to alert international financial institutions to social goals: 'States should ensure that the World Bank, the International Monetary Fund, the regional and subregional development banks and funds, and other international finance organizations further integrate social development goals in their policies, programmes and operations, including by giving higher priority to social-sector lending, where applicable, in their lending programmes.' See E/CN.4/1997/20, Annex I, C. Policy guidelines for action at the international level, para. 96. Derived from the Copenhagen Declaration and Programme of Action, Part Two, para. 92.