



## THE WEEKEND READER

"Your Weekly Read on Debt, Development & Socio-Economic Justice"

### **THE POMONA DEAL: A CASE OF IMPUNITY AND ILLEGITIMATE DEBT ASSUMPTION**

The Zimbabwe Coalition on Debt and Development (ZIMCODD) is concerned by developments under the Pomona deal especially in light of the current concession by the Minister of Local Government, Public Works and National Housing, July Moyo that government will assume responsibility to pay for the Pomona- GeoGenix BV Waste to Energy project. This assumption of commitment is particularly problematic because the minister has gone beyond his legal obligation and assumed a debt on behalf of citizens in a poorly evaluated deal that has a clearly unsustainable cost to citizens. There are set procedures and systems for assumption of debt that include Parliamentary oversight and the involvement of the Zimbabwe Public Debt Management Office which should be followed.

Recently, Minister July Moyo advised City of Harare Mayor, Jacob Mafume, that the Government will pay for the Pomona dumpsite deal and not Harare City Council. This comes as council refuses to pay the "issued invoices" after suspending the 30-year agreement between the local authority and GeoGenix BV which will cost up to US\$320 million, an amount that has drawn wide outrage from the public. The Local Government Minister had previously instructed the Council to pay GeoGenix BV for services rendered at the Pomona waste management energy plant irrespective of delivery.

#### **Debt Assumption**

Geo-Genix BV was set to start receiving payment in May 2022 and to date, the bill owed has amassed to about US\$1.5 million. The decision by the Minister of local government is to move the debt from Harare rate-payers to the wider population who are already over-taxed. This move is contrary to legal provisions on assumption of debt which are guided by the Public Debt Management Act (22:21) and the Public Debt Management Office whose key responsibility is "to be the principal agent in charge of undertaking debt management activities in Zimbabwe." As a result, if any assumption of such a debt is to be done, it has to go through the proper route which allows for assessment of whether the debt is justified and should be taken up by citizens.

#### **Extra- budgetary expenditure**

Each year, government consults citizens on expenditure for the coming year during Budget Consultations and as such, the present budget is a reflection of the desires and needs of citizens. Furthermore, suggestions have been made to reallocate devolution funds towards this cause.

Devolution is in itself a key priority that is already overdue and under resourced. The decision to then assume council's debt and draw down any funds from the national purse disregards the will of the people and presents a case of disrespecting the social contract.

### **Separation of power**

Through this whole fiasco, there is a clear disregard of the separation of power between the arms of the government as the Ministry of Local Government (the executive) has been conducting itself beyond its constitutionally provided mandate. Firstly, in hand-picking Geo-Genix as the contractor for the Waste to Energy deal, the minister disregarded proper procurement procedure, sidelining the role of the Procurement Regulatory Authority of Zimbabwe (PRAZ) which is supposed to "supervise public procurement proceedings to ensure transparency, fairness, honesty, cost-effectiveness and competition" as required by Section 315 of the Zimbabwean Constitution. In the same vein, Parliament (by virtue of being chosen representatives of citizens) has a duty to be informed before any debts are assumed on behalf of the tax-payer.

### **The Corruption Factor**

This assumption of burden is a serious breach of accountability principles and statutes as it exposes citizens to losses through cronyism and 'tenderpreneurship'. It also didn't help that the representation of GeoGenix BV locally (Dilesh Nguwaya) and abroad (Albanian Mirel Mërtiri) has a history of alleged corruption. The Mayor of Harare has repeatedly expressed that Council is not financially capacitated to fund the deal and it was not in the best interests of Council considering the challenges that it is currently facing such as inability to pay its workers on time. The waste management deal is also considered unacceptable and facing a lot of resistance from various stakeholders such as Combined Harare Residents Association who have acted by engaging their lawyers to have the deal reversed, whilst the Harare Residents Trust has criticized the waste management deal and labelled it 'an expensive deal'.<sup>1</sup>

### **Recommendations**

The Pomona deal shows a lack of due diligence and significant cost to citizens especially at a time when taxes are high and the council is cash strapped and struggling to deliver services. The contract itself shows grave gaps as residents are expected to pay daily regardless of delivery of trash at the dumpsite. The debt question is also a major point of contention leading to the below recommendations.

- **Respect for rule of law & Accountability Institutions-** This deal has shown gross disrespect of law and statute from the initial stage as the hand-picking of GeoGenix BV contrary to procurement law is a clear show of impunity. In this whole process up to assuming this debt, the Ministry has stepped over PRAZ, Parliament and The Zimbabwe Debt Management Office. Respect for rule of law and these institutions by the executive should be enforced.

1. <https://bulawayo24.com/index-id-opinion-sc-columnist-byo-221552.html>

- **Transparency in public procurement-** Open contracting for such big public tenders would have ensured that the project was restructured in the early stages before commitments were made.
- **Litigation-** Parliament and Council should take the required litigation (or other) route to resolve this case and ensure that they are out of this deal and repossess the resident's dumpsite.
- **Increased Transparency and Consultation-** Public consultations on prioritization of projects is enshrined in the Constitution of Zimbabwe on Chapter 14 section 264 (2) (a) and (b). These statutes are not decorative and should be followed!