

**AFRICA UNIVERSITY**  
(A United Methodist church-related Institution)

**PARLIAMENTARY OVERSIGHT OF THE POLICE IN ZIMBABWE:  
PROSPECTS AND CHALLENGES**

**BY**

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**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS FOR THE DEGREE OF MASTER IN HUMAN RIGHTS,  
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## **Abstract**

This study assessed the 8<sup>th</sup> parliament's oversight function over the police and associated prospects and challenges for human rights protection in Zimbabwe. Reviewed literature on human rights, security sector governance, policing and parliament matters revealed that parliamentary oversight of the police services played an important role in monitoring and safeguarding the basic human rights of life, liberty, property, security and peace. The literature further shows that police as the principal law enforcement institution in any society ought to be overseen, especially by parliament. This is because the mandate to enforce laws entails special legitimate authority to limit certain rights by means of necessary, reasonable and minimal force. If unchecked, this power to limit rights is susceptible to abuse and gross rights infringement under the guise of law enforcement. Oversight thus ensures a delicate balance between rights-protection and rights-limitation. Parliament is crucial in police oversight; it has versatile authority and numerous means for monitoring and superintending police institutions, policies and actions. Qualitative techniques were employed to analyse content solicited from parliamentarians, parliamentary staff, police/home affairs officials, media, human rights organisations and the academia by means of interviews and questionnaires. The research largely confirmed the researcher's presumption that parliamentary oversight of the Police had the propensity to contribute towards improved human rights monitoring and protection. It found out that the 8<sup>th</sup> parliament exercised its oversight function over the police in Zimbabwe. Parliament brought to fore issues of Police unethical conduct relating to traffic policing, management of public protests and general corruption. In the aftermath of an oversight visit to police institutions, a Parliamentary committee also recommend measures to protect and promote the respect of rights to fair labour practices, shelter and good working conditions for police officials as well. Despite noting challenges that affected parliamentary oversight such as political interference, institutional and personal capacity deficiencies; lack of information, the research however found out that in terms of prospects, oversight was normatively guaranteed by law and that it was deemed derisible by the stakeholders. The research discussed the findings in relation to the objectives of the study and ends with recommendations for buttressing the prospects for parliamentary oversight over police to ensure that parliament exercises its oversight role over the police to promote rule of law, respect for human rights and democratic policing in Zimbabwe.

**Key words:** human rights, parliamentary oversight, police

## **Declaration**

I declare that this dissertation is my original work, except where sources have been cited and acknowledged. The work has never been submitted, nor will it ever be submitted to another university for the award of a degree.

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Student's Full name

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Student's Signature (Date)

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Main Supervisor's Name

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## **Dedication**

This work is dedicated to all those that work tirelessly to promote human rights.

## **List of Acronyms and Abbreviations**

ACHPR	African Charter on Human and Peoples' Rights
AIPPA	Access to Information and Protection of Privacy Act
APCOF	African Police Civilian Oversight Forum
AU	African Union
CSOs	Civil Society Organisations
ICCPR	International Covenant on Civil and Political Rights
MDC	Movement for Democratic Change
POSA	Public Order and Security Act
SADC	Southern African Development Community
UDHR	Universal Declaration of Human Rights
ZANU PF	Zimbabwe African National Union Patriotic Front
ZimRights	Zimbabwe Rights Association
ZLHR	Zimbabwe Lawyers for Human Rights
ZPSP	Zimbabwe Peace and Security Programme
ZRP	Zimbabwe Republic Police

## **Definition of Terms**

The following key terms shall be taken to mean the same way that they are defined below throughout the whole study, unless otherwise specified:

**Civilian oversight:** Involvement of people from outside an organisation taking a role in calling that entity to account for its actions, policies and administration.

**Parliamentary oversight:** refers to review, supervision, evaluation and monitoring of government and public institutions, by the parliament.

**Police:** An official constituted body of trained civil force empowered by government to enforce laws; protect persons and property and maintain civil order.

**Human rights perspective:** A human rights-based approach or conceptual paradigm that emphasise human rights standards to promote and protect human rights.

**8<sup>th</sup> parliament:** The parliament of Zimbabwe that began 17 September 2013 and shall dissolve just before the 2018 general elections as per constitutional requirement. It is a bicameral parliament consisting of the National Assembly and the Senate.

**Prospects and challenges:** Respectively, these are favourable conditions and opportunities that enhance parliamentary oversight. Challenges are the adverse circumstances and factors that constrain, hinder and threaten the oversight role of parliament over the police.



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## **CHAPTER 1: INTRODUCTION**

### **1.1 Introduction**

Holding police responsible for performance is important because it ensures police act within the confines of law and this is a check against rights infringement that may occur under the guise of law enforcement. Accountability helps in building favourable public perception of police and creates good rapport with society.

Police should be overseen to check against possible abuse of the authority to use necessary, proportionate and minimal force. Oversight ensures that there is a delicate balance between rights-protection and rights-limitation via informal and formal scrutiny of actions in respect of compliance to laws, finances and monitoring of performance. Parliament provides a comprehensive oversight mechanism over the police because it has wide functions crucial to police business such as law making, representation and oversight.

The study looked at the 8<sup>th</sup> parliament's oversight role over the Zimbabwe Republic Police (ZRP) and revealed that there were both prospects and challenges to instituting oversight function over the police. Identified challenges were linked to political interference, technical incapacity, weak organisational structures, lack of information and lack of financial resources. However, other positive factors representing strong prospects were also noted and these include the legislative framework in form of the constitution, the standing orders and the Police Act as normative basis for parliamentary oversight. Other prospects were the parliament's wide mandate, variety of tools topical nature and desirability of subjects of accountability.



## **1.2 Background to the Study**

Parliamentary oversight over the police is a fundamental governance issue linked to democratisation, democratic policing, rule of law, transparency, accountability, human rights and human security - all important constituents for peace and development. In Zimbabwe, dialogues relating to police accountability are becoming more pertinent considering that the police, individually and or collectively as an agency, are increasingly implicated in various forms of misconduct, corruption and crimes some of which have a grave bearing on the enjoyment of human rights (Chikwati, 2017, p. 1). Oversight fundamentally monitors and superintends government institutions and in practise, is an attempt at fostering accountability by responding to the old and problematic question “Quis Custodiet Ipsos Custodes?” literally translated "Who will guard the guards?" In this context the question was evoked to examine and highlight how police accountability was instituted by the 8<sup>th</sup> parliament.

Police accountability is no longer private nor is it optional (Attard, 2010); globally oversight over the police is now a common normative element stipulated in most modern democratic constitutional frameworks. Oversight of police is crucial after the realisation that, as the principal law enforcement agents, police has a special role in safeguarding human rights and ensuring human security (International Committee of the Red Cross, 2014). Basically policing is about serving and protecting society by fostering order that enables the enjoyment of all rights in their forms.

Of concern however, police are lawfully empowered to enforce laws and exercise coercive State power directly on persons via use of both lethal and non-lethal force,

arrest, seizures, and detention. The Miranda Principles<sup>1</sup> on policing set parameters for use of necessary, proportionate and reasonable force to apprehend, detain, containing suspects or restore public order. The exercise of such authority has a direct effect on limiting such rights as liberty, life, property, security, privacy, dignity, freedom from torture and degrading treatment. Furthermore, policing inherently and inevitably involves a large degree of autonomous and personal discretion in decision making under impromptu and sometimes risky conditions. This great responsibility by law enforcement over rights has been of interest to many human rights practitioners such as human rights lawyers, jurists, human rights defenders, scholars and others philosophers culminating in design and adoption of oversight mechanisms. The coalescence of the above obligations provides a real risk for rights infringement.

Oversight is primarily instituted to account for primarily three factors namely: the immense obligation to safeguard human rights on behalf of society, the responsibility to legitimately use ‘proportionate’, ‘minimal’, ‘reasonable’ and ‘necessary’ force to enforce law and; the exercise of such authority autonomously guided largely by personal discretion under emergency and unpredictable circumstances (Attard, 2010). Oversight over the police therefore seeks to ensure that this authority is responsibly utilised in ways that do not unnecessarily infringe fundamental freedoms and human rights provided for in both national and international human rights systems.

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<sup>1</sup> Miranda Principles are internationally acclaimed principles that guide Police in their legitimate use of coercive force in enforcing laws and maintaining public order.

Civilian oversight over state institutions such as the security services<sup>2</sup> - comprising the police - is a fairly recent phenomenon in Africa (Kagwe, 2016). While in parts of Europe; attempts emerged as early as the 1940s, in other countries such as India, South Africa, and Brazil, oversight has been recently incorporated as part of security sector reforms (Lumina, 2006).

In Zimbabwe, the Constitution of Zimbabwe Amendment (No.20) Act 2013 is widely regarded as a watershed regarding parliamentary oversight's role in fostering accountability by government and public institutions for it provides for wide citizens' rights, encourages civilian participation and engagement in accountability issues (Mudenda, 2016). Its Section 207(2) is explicit on parliamentary oversight over the security sector as a cornerstone for promoting accountability. It provides for a security service that is subservient to authority of the constitution, the executive and subject to parliamentary oversight thus ensures that the police are subservient to parliament and are accountable to civilian authority (Government of Zimbabwe, 2013).

Parliamentary oversight is a right monitoring mechanism that should guarantee that police policies and conduct are consistent with constitutional obligations and respect and protect human rights. So, this study examined the means, extent, impact and outcome of the 8<sup>th</sup> parliament's monitoring of police conduct, administration and policies. It endeavours to uncover how and to what extent legislative oversight is effective in ensuring police accountability.

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<sup>2</sup> The 2013 Zimbabwe Constitution identifies the Security Service as comprising of Police, Army, Intelligence Services and Prison and Correctional Services.

### **1.3 Statement of the Problem**

In spite of being a key rights protection institution, police is generally implicated in such violations as arbitrary arrests, torture, and illegal invasion of privacy, extra judicial killings, abduction, sexual violence and corruption among other misconducts that tend to have a grave bearing on citizen enjoyment of rights (Human Rights Watch, 2017). Similarly, the Zimbabwe Republic Police is not an exception in this regard; it has also been cited as a violator of human rights via commission and or omission (Chingozha & Mawere, 2015). The ZRP Commissioner General has conceded to the problem of pervasive police unethical conduct (Chihuri, 2015). Other oversight stakeholders like the Zimbabwe Human Rights Commission, the Auditor General, the judiciary and civil society have persistently reprimanded the ZRP for various unscrupulous demeanours. Police thus seem to be above the law.

On the other hand parliament as an embodiment of the general-will is identified as one authoritative institution that represents people, makes laws and oversees all governmental institutions and agencies to ensure accountability, democratic governance and compliance protection of human rights. Therefore oversight through the parliament should ideally manage the injurious police conduct described in the preceding section via continuous monitoring and rectifying via legislation. Yet, in Zimbabwe the 8<sup>th</sup> parliament seemed indifferent to fully exercise its oversight authority, over the police. It is against this background that this research identified the need to examine, the oversight role played by the 8<sup>th</sup> parliament over the Zimbabwe Republic Police; to uncover the challenges and prospects in protecting human rights and then proffer commensurate recommendations.

## **1.4 Research Objectives**

The research objectives are:

- 1.4.1 To assess the oversight role of the 8<sup>th</sup> parliament over the Zimbabwe Republic Police.
- 1.4.2 To examine prospects and challenges to parliamentary oversight of the police in Zimbabwe.
- 1.4.3 To recommend measures that enhance human rights monitoring via parliamentary oversight of the police in Zimbabwe.

## **1.5 Research Questions**

The main research questions that the study sought to answer are as follows:

- 1.5.1 How does the 8<sup>th</sup> parliament exercise oversight authority over the Zimbabwe Republic Police?
- 1.5.2 Which factors (Institutional, Legal, Economic or other) enabled or inhibited oversight functions of the 8<sup>th</sup> Parliament over the Zimbabwe Republic Police?

## **1.6 Assumptions**

The study is premised on the assumption that, parliamentary oversight over police has capacity to monitor and curb unethical conduct by police thereby curtailing rights infringement and enhancing accountability and transparency for good police governance and human rights protection.

## **1.7 Purpose of Study**

The purpose of the study was to explore how the 8<sup>th</sup> parliament exercised oversight authority over the Zimbabwe Republic Police.

### **1.8 Significance of study**

Understanding how, to extent and with what impact the 8<sup>th</sup> parliament of Zimbabwe exercised oversight over police, is significant in the promotion and protection of institutional accountability and protection of human rights. The study explains the link between parliamentary oversight, police accountability and the linkage to protection and promotion of human rights. For citizens, such clarity will help curb unethical police conduct that infringes on human rights. For police this helps reinforce accountability and rule of law. Legislators shall also find it pertinent since the research findings shall reveal insights and dynamics pertinent to their oversight role over police. From an academic perspective, the study seeks to be a prelude to studies on parliamentary oversight issues in Zimbabwe. This research shall also seek to inspire and enable readers and other stakeholders to appreciate the salient issues of oversight and its nexus with human rights. The study shall thus add to the body of knowledge pertinent to Zimbabwean human rights and security sector governance discourses.

### **1.9 Delimitation of the Study**

This research was conversant that oversight of the police is diverse and involves a number of institutions. It further acknowledged that the parliamentary oversight function is significantly bulky. With that in mind, the resecher set certain parameters to the study in terms of scope, methodology and respondents. The focus was narrowed to parliamentary oversight of the ZRP during the 8<sup>th</sup> parliament tenure. The

study adopted a qualitative interpretive approach to gain mostly opinions. It used a purposive approach and thus consulted with only parliamentarians, police, academia, media and stakeholders knowledgeable about parliamentary oversight. For convenience the research was conducted in Harare where access to target informants was easier considering that such institutions as parliament and police headquarters are situated. With regards to methodology, it was primarily qualitative research via questionnaires and in-depth interviews. In terms of periodisation, the study was confined to the 8<sup>th</sup> parliament whose beginning coincides with the adoption of the constitution of Zimbabwe Amendment (No.20) Act 2013, a constitution that has clear stipulations on accountability and pre-eminence of parliamentary oversight and civilian authority on police. In terms of approach or paradigm, this study had a bias towards a human rights perspective for analysis.

#### **1.10 Limitations to the study**

Resources, time and accessibility were identified as impediments during the study, nonetheless the researcher managed to mitigate their impact in the following ways. With regards to time, the study involved persons whose work-schedules were mostly busy and unpredictable, so the researcher opted for data collection tools and methods that saved on time. The questionnaires were designed in a manner that consumes less time by having the majority of the questions with predetermined responses for ticking. The questionnaires were also simultaneously distributed to collect data at the same time across various respondents. As for access, formal request were sent to the organisations and thereafter data was collected from willing respondents. With regards to financial resources the researcher had saved enough for travel to the

identified respondents' workplaces. In some instances phone calls and emails were used to schedule formal interviews and ascertain status regarding written responses.

### **1.11 Study Outline**

This study consists of five sections divided into chapters as follows:

- Chapter one - Introduction
- Chapter two - Review of related literature
- Chapter three - Methodology
- Chapter four - Data Presentation, analysis and interpretation
- Chapter five - Summary, conclusions and recommendations

### **1.12 Chapter Summary**

This section of the study looked at the connection between the parliament and the police as two crucial institutions concerned with human rights protection. It laid a foundation to the study by showing that police ought to be overseen because; if unchecked there is a high propensity for rights violations from police conduct. It also reveals that parliamentary oversight is an apt mechanism to exercise comprehensive oversight over the police since the parliamentary functions of legislation, representation and oversight impacts policing. The parliament, via its functions can monitor police conduct and policies with the aim of protecting rights such as life, liberty, property privacy and due process among others.



## **CHAPTER 2: REVIEW OF RELATED LITERATURE**

This section represents findings from the desk review about parliamentary oversight of policing. From the variety of the secondary data, the researcher was able to identify issues and themes pertinent to the study such as the philosophy around having oversight of the police, the rationale of parliamentary oversight, the definitions to oversight, types of oversight, mechanisms and tools for oversight, the factors enhancing or inhibiting implementation of oversight.

The review also analysed the international and regional human rights frameworks and national provisions that relate to parliamentary oversight of the police. This was important because the international and regional instruments provide a standard against which the local oversight process in was assessed. It then revealed the prospects and challenges associated with the 8<sup>th</sup> parliament's institution of oversight in Zimbabwe.

Furthermore the review indicated areas that were over or under-researched and helped in the identification of the theoretical framework applicable to police accountability and behaviour within the oversight process. For the above insights, the desk study reviewed numerous journal articles, books, parliamentary hansard reports; websites, blogs and popular literature. The study focused on subjects to do with parliament, parliamentary oversight, human rights, policing, police history, philosophy, classical studies, sociology, psychology, security sector transformation, politics, governance and research methods. The above subjects were pertinent to the study and provided a holistic and multi disciplinary approach to the research.

## **2.1 Theoretical Framework**

In building logical and explanatory propositions on the underlying logic of having civilian oversight of Police, the study was guided by Prenzler and Ronken's Civilian Control Model (Prenzler & Ronken, 2001) together with Ajzen's Theory of Planned Behaviour (Ajzen, 1991). The Civilian Control Model postulates that civilian control provides more effective oversight compared to internal oversight of police. As complementary, the theory of planned behaviour, seeks to analyse and give meaning to the beliefs, attitudes, intentions of the parliamentarians, police and other interlocutors in the oversight process. The simultaneous consideration of these theories was instrumental in guiding the research in understanding how the respondents perceived determining the prospects and challenges of oversight from a normative, functional and behavioural approach.

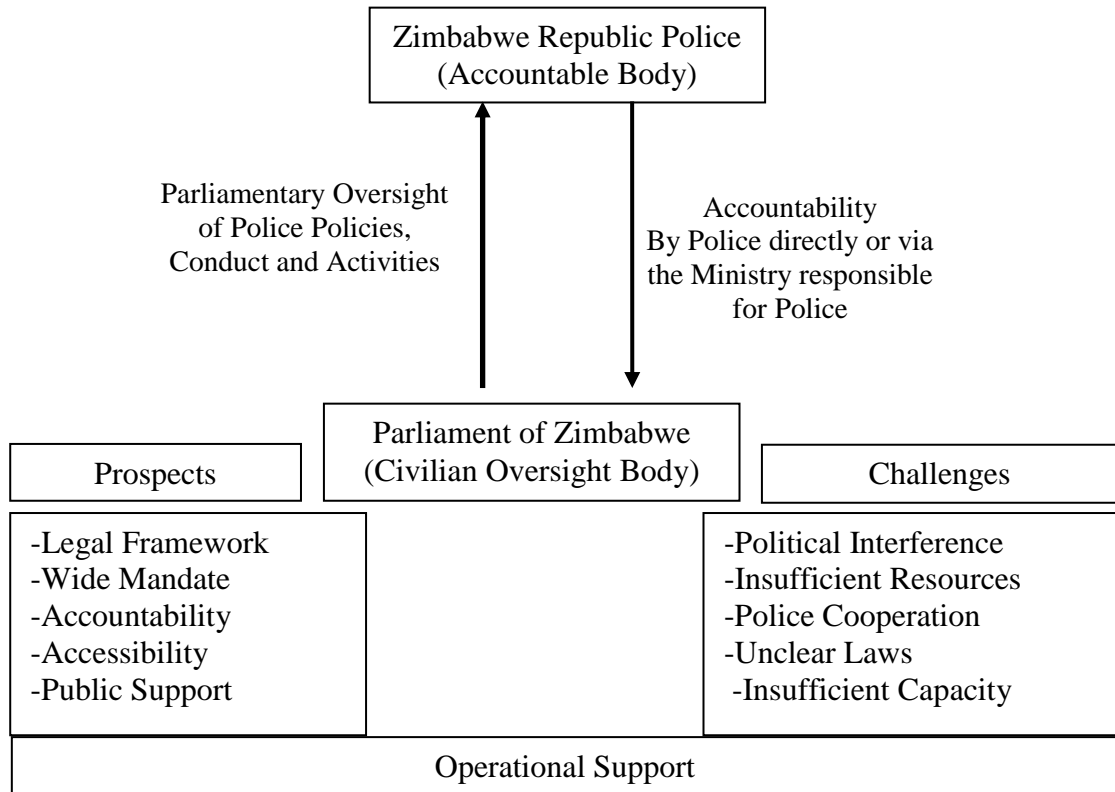
### **2.1.1 The Civilian Control Model**

The Civilian Control Model theory underscores the centrality of having civilian oversight over state and government institutions including the security service.<sup>3</sup> Civilian oversight or citizen oversight is about the involvement of persons external to an entity in the supervision of its activities. In this regard, civilian oversight refers to the 'involvement of people from outside the police taking a role in calling the police to account for their actions, policies and organisation' (Tim Prenzler, 2015, pp. 1-2).

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<sup>3</sup> Civilian control is a doctrine in political science that argues that responsibility for government strategic decision making is best done by civilian leadership or institutions, rather than security service professionals.

Figure 1 Schematic Depiction of Civilian Control Model.

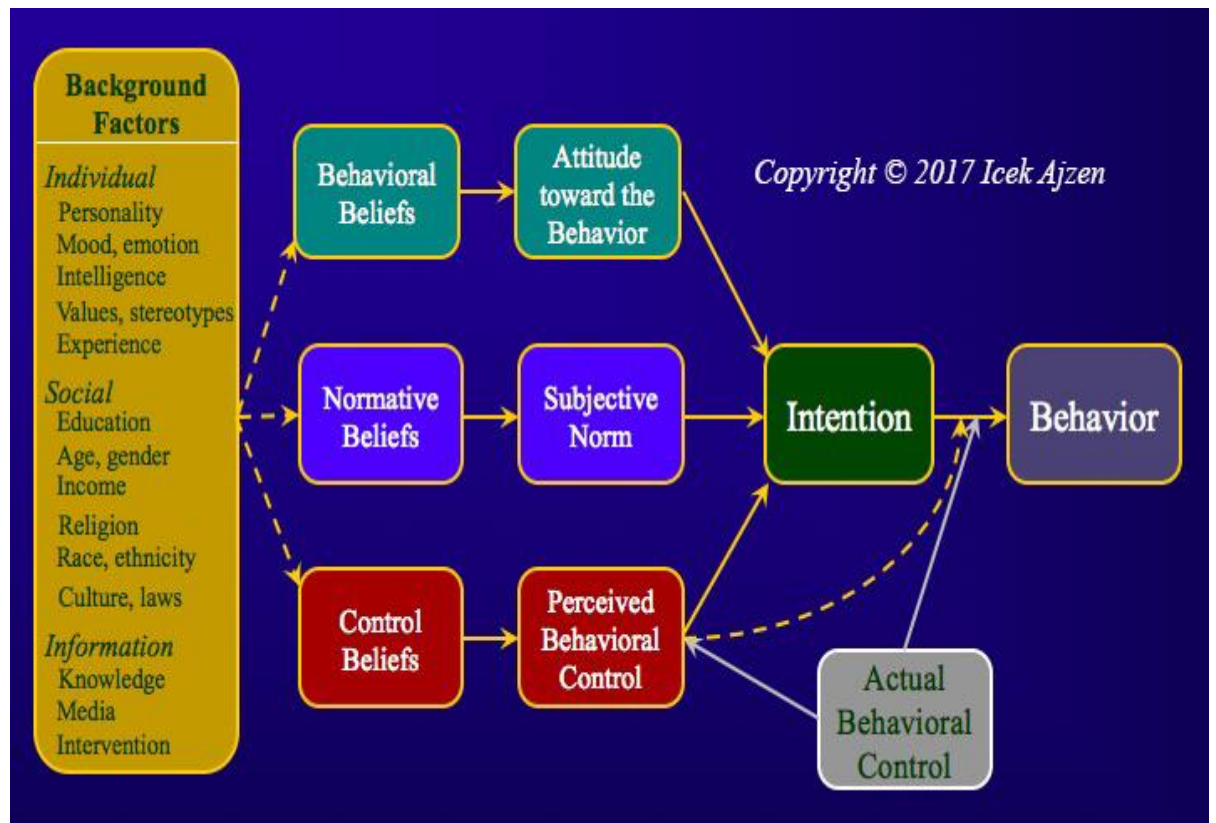


Adopted from Prenzler and Ronken's Civilian Control Model 2001

### 2.1.2 Theory of Planned Behaviour

To augment the civilian control model, the theory of planned behaviour, guided the research pertaining to the behavioural aspects of the parliamentarians, police other interlocutors in the oversight process. Postulated by Ajzen (1991), the theory is a general theory of human behaviour which explains individual intention to engage in behaviour or action at a specific time and place. In this study, the theory was employed in understanding and to some extent interpreting the behavioural qualities exhibited by the primary interlocutors regarding perceptions on authority, ability and attitude. The following diagram is a summary of the theory.

**Figure 2 Theory of Planned Behaviour.**



Adapted from <http://people.umass.edu/aizen/tpb.html>

The central tenet of the theory is that individual behaviours represent conscious, deliberate, reasoned or planned choices as determined by personal intent and or exogenous social pressures. The theory postulates that behaviour in humans is premised on intention (motive) regarding the behaviour. The theory realises that behaviour is not entirely voluntary, but is determined by perceived controls in certain circumstances. It further states that, perceptions about behavioural controls can play a role in determining actual behaviour. The behavioural intentions are influenced by attitude towards the probability that the behaviour yields the expected outcomes together with the subjective evaluation of the risks and benefits of the outcome (Ajzen, 1991).

## 2.2 Relevance of Theoretical Framework to the Study

The civilian control model proposes that for effectiveness, oversight over police is best instituted by independent civilian or non- police agents. The theory is premised on fulfilling the natural justice principle of *nemo judex in sua causa*<sup>4</sup> in negating and checking against subjectivity in instituting oversight over police. The theory entails that for accountability; there should be sincerely independent oversight, investigation and adjudication of policing (Prenzler & Ronken, 2001). It emphasises need for institutional separation of the persons being investigated from the persons doing the investigation (Prenzler & Ronken, 2001). Insistence on ‘sincere independence’ for the framework emanates from conclusions of several inquiries on police that revealed that, among other things, police tend to cover up for their own and this culture, overwhelms internal oversight mechanisms.<sup>5</sup>

In Zimbabwe, parliamentary oversight is a civilian oversight mechanism that is best suited to oversee the police considering its legitimate authority and wide range of tools and mechanisms. The parliament, as an institution, fits well within the civilian control model. The parliament is sincerely independent in that it is a body constituted via electoral systems. Furthermore parliament also embodies the general will and represents the various political views of the various voters. Mudenda (2016) stresses that according to the constitution and the standing orders, parliament has the legal mandate to summon any police serviceman to answer question before its committees.

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<sup>4</sup> A principle that one cannot be a judge in a case they have an interest in. In relation to oversight, it means that an entity cannot be responsible for overseeing itself hence parliaments are assigned with oversight authority to check other arms of government and their agents.

<sup>5</sup> The ‘blue code’ is perceived unwritten culture existing among police that an officer does not provide adverse information against a fellow officer.

Again, individual members of parliament can raise motions related to police accountability during question and answer sections. Parliament, through its committees can also conduct impromptu visits to police establishments to monitor general administration including human rights related situations. Moreover, the police together with other state agencies are obliged to table before parliament and present annual reports of their activities. So the civilian control model can be easily adopted in parliament's oversight role over the police (Mudenda, 2016).

Relying on reasoning by analogy, this study utilised the theory of planned behaviour, with certain modifications and applied it to a context relating to behaviours and actions by parliamentarians and the police, both as respective 'overseers' and the 'overseen' in the oversight process during the 8<sup>th</sup> parliament in Zimbabwe.

For this study, the theory spelled out two useful aspects in deciphering prospects and challenges of parliamentary oversight of the police in Zimbabwe. It guided the methodology. Holding that human behaviour and action are predictable; the study was able to use questionnaires and in-depth interviews in gauging the individual subjective perspectives influencing behaviour of both the parliamentarians and the police in the oversight process.

The theory identifies determinants to behaviour or action including non volitional behavioural control. Reference to these and other exogenous factors is critical in also having a holistic perspective towards oversight. It allowed the study to consider the human rights framework, as a wide analytical tool that incorporates such issues of gender and oversight, human rights and oversight and even critique the prevailing democratic context in relation to oversight. Consequently a wide approach is vital in

formulating of a holistic approach that yields wide recommendations to parliamentary oversight.

In relation to parliamentary oversight over police in Zimbabwe, this theory is apt considering that the attitudes and behaviours of the parliamentarians, the police and other stakeholders has a bearing on how oversight is conducted in practice. Mudenda (2016) remarked that some individual parliamentarians and the members of the parliamentary committees, exhibited indifference or lacklustre attitude towards oversight over the police is consistent with the theory of planned behaviour's postulation that intents and behaviours are determined by attitudes, norms and control perceptions.

## **2.3 Evolution of Oversight**

### **2.3.1 Human Rights Philosophy and Oversight**

Human rights are norms that help protect people from adverse social political or legal abuses. The ideas of oversight or accountability of persons entitled with authority developed together with philosophies about human rights, morality and ethics. The origin of principles of oversight can thus be traced back to ancient Greece, way before the formation of European parliaments (Ewbank, 2009). With regards to oversight, Aristotle highlighted the necessity of protecting public funds. Horace (30BC) noted the need restraint or control in exercise of authority in his famous poem when he noted that, force without judgement would fall on its own weight.<sup>6</sup> In

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<sup>6</sup> Horace, Poem *Vis consili expers mole ruit sua*. Book III, Ode iv, line 65.

feudal systems, the kings needed nobility authorisation to raise taxes or create laws. This was in essence the development of their oversight role (Pohlenz, 1999). From other classical philosophers, the likes of Socrates and Cicero, one can decipher their subtle admiration of principle oversight and accountability through their praise of the Athenian models of direct democracy where the ‘demos’<sup>7</sup> practically exercised oversight over government (Ewbank, 2009).

Among the enlightenment philosophers, Montesquieu (1748) proposed that one role of the legislative branch in a democracy was to scrutinise the ways in which laws were being practically implemented. John Stuart Mill (1871) favoured representative democracy for it espoused oversight via a representative assembly whose role was “to watch and control the government: to throw the light of publicity on its acts; to compel a full exposition and justification of all of them which any one considers questionable; to censure them if found condemnable” (Thompson, 1976, p. 14).

### **2.3.2 Definition of Oversight**

While there is no common consensus on how to best define oversight, the term generally refers to a process of thorough, careful and often structural scrutiny on an entity which maybe an organisation, a network or an individual. Contemporary definitions of the term rely mainly on the descriptions by Mill and Montesquieu and generally concur on most common elements of oversight such as such as its aim, forms and focus. Basically oversight is an activity through which an actor, (being an

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<sup>7</sup> In Greek society the demos was an instrumental citizens oversight council comprising of elected representatives that ensured representation of society’s interests in major state decisions via debate and vote and requesting and receiving reports on matters like war, conscription and law enforcement.



agent or institution), known as the ‘overseer’, supervises or oversees another actor (who will be an (agent or institution and be the ‘overseen’). Oversight is thus a process through which the overseer oversees the overseen (Kinyondo, Pellizo, & Umar, 2015).

The following words are also used in describing oversight: supervise, check, scrutinize, watch, control, criticize, censure, challenge, review, question, inspect, verify examine, and call for account. Ideally oversight authority should ensure that the overseer can exercise any of the authority associates with one or more descriptions.

### **2.3.3 Approaches to Oversight**

Now oversight is generally premised on the principles of democratic participation, security sector governance and democratic policing (UN Office of Internal Oversight Services (OIOS), 2017). Under the United Nations systems, Oversight by Parliament is an appendage of the human rights and governance discourses on public participation and representation for it stands to curtail right violations that may result from unaccountability by the government agents. It also concurrently fosters good governance and democracy via respect of the principle of separation of powers. The United Nations system now provides for system-wide oversight of the resources and staff. The Office of Internal Oversight Services (OIOS) assists the Secretary-General in oversight responsibilities through inspection, monitoring, evaluation and internal

audit and investigation services.<sup>8</sup> UN oversight is essential in the management of its UN peace keeping mission whose membership largely comprise of Police and security services personnel.

Reference to oversight is discernible in all major African Union (AU) and Southern Africa Development Community (SADC) human rights instruments and resolutions that relate to civil and political rights. The same can also be said for other non-binding principles governing policing with and among UN member states. These include the Code of Conduct for Law Enforcement Officials, The UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment(Mandela Rules), The UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials, The UN Basic Principles for the Treatment of Prisoners, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, The Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa, the SARPCCO Code of Conduct for Police Officials and The SADC Principles and Guidelines Governing Democratic Elections (Lumina, 2006). All these reiterate the need for law enforcement agents to act ethically and be accountable to civilians including via the parliament.

When oversight is conducted within an organisation, this is referred to as ‘internal’ oversight. Conversely, oversight done by persons or agents outside an entity is called ‘external’ (Prenzler & Ronken, 2001). With reference to security sector institutions

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<sup>8</sup>OIOS was established in 1994, under General Assembly resolution 48/218B of 29 July 1994, to enhance the oversight functions within the United Nations.

like the police, external oversight is also known as ‘civilian oversight’ to denote the involvement of individuals that are not part of the security architecture. Civilian oversight of the police is thus a procedure that involves participation by persons who are not sworn officers to deal with issues concerning police conduct, administration and governance.

Tait (2015) notes that instituting civilian oversight over police is fundamentally problematic since civilians take a democratic approach, yet security service systems are virtually run on authoritarian principles. The police is (unfortunately) used in the service of particular governments or regimes and this, combined with other unethical behaviours makes civilian oversight difficult since most police agencies have a poor standing among their citizens. Furthermore, civilian or external oversight structures are multifarious resulting in numerous hybrid models. There various combinations relate to the degree of involvement of both civilian and non civilian actors; the degrees of authority and the method of constitution of the oversight bodies themselves. The main classifications of external or civilian oversight are: the Civilian Audit, Civilian Review and Civilian Control Model (Prenzler & Ronken, 2001).

According to Pelizzo, Riccardo and Stapenhurst (2013), the term oversight is now synonymous with state and governmental accountability. Oversight is topical in relation to checking the executive arm of State and especially the security sector as their agents. In both mature and emerging democracies, accountability and oversight principles are embedded in constitutions, statutes and other policies. There are several formal and ‘independent’ bodies tasked to perform the oversight function. Civilian or external oversight of the police is done by such entities as the parliament, ombudsmen, public protector, specific oversight bodies, auditor comptroller,

government ministries, executive, judiciary, national human rights bodies, independent commissions and institutions supporting democracy and civil society. As an illustration, in South Africa and Kenya there are specific oversight bodies whose establishment and authority emanate from the constitution and these are deemed independent institutions supporting democracy.

Kinyondo, Pellizo, & Umar (2015) further reckon that oversight transcends the actors and thus considers other additional structural elements as context, culture and communication. The context is one such element, and constitutes the political and societal environment under which oversight takes place. As Pellizo (2011) notes, the degree of democratisation and nature of governance have a bearing on the appreciation and the implementation of oversight. Less democratic countries tend to trivialise oversight and underplay need for accountability.

The element of culture relates to those beliefs exhibited by the overseer and the overseen that also saliently influence oversight. Culture is about the political, ideological and moral values of the actors in the oversight process such as sharing common view of challenges and solutions. The element of communication, is about instruments and channels pertaining to how the overseer and overseen liaise manage and disseminate information generated by the oversight process. However, the ultimate goal of oversight is achieving accountability, which in essence is realised when the overseen agent or body reports or accounts for its policy decisions, choices and actions (Kinyondo, Pellizo, & Umar, 2015).

#### **a. Normative Oversight**

The normative approach to oversight considers it as a process to ensure conformity to legal norms, rules and regulations. In such a case, oversight's primary mandate will be to check and ensure strict adherence of the overseen agent to principles stipulated in normative national legal frameworks such as constitutions, acts, statutory instruments, laws, regulations, principles and other rules governing conduct and administration of public institutions (Inter-Parliamentary Union-DCAF, 2003).

This approach to oversight, especially over law enforcement, emerged with the rise of systematic inquiry into police misconduct. One critical work was the 1972 Knapp Commission of Inquiry into the New York Police Department whose findings became a *locus classicus* in disproving the long held belief that police unethical behaviour was a matter of 'a few bad apples'.<sup>9</sup> Instead it revealed that police unethical conduct was mostly systematic, and thus recommended need for strong external oversight over the police (Goldsmith, 1991).

In-like manner, in London, the 1981 Scarman Report into policing of riots culminated in the 1985 parliament establishing the Police Complaints Authority. Those inquiries bolstered the logic of 'external or civilian oversight', on the premise that if the systems were inherently corrupt, it would be futile to consider self regulated and self administered oversight. (Goldsmith, 1991) The essence of such inquiries, reports and ensuing publications was to highlight need for external supervision and police strict adherence to norms guiding policing.

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<sup>9</sup> There is a scholarly debate on explaining causes of police unethical behaviours and misconduct. One school, the 'rotten apple theory' indicates that the image of policing is tarnished by a few individuals. Police tend to prescribe to this version and even trivialise police misconduct and dismiss need for external oversight into policing. The other contrary school is of the opinion that the police context is naturally corrupting, giving rise to the need of constant external checking if the police are confining to the norms.

The normative approach is most common in early works on oversight and police accountability. Researches such as by Levy (2009), Thomas (2009) and Holmes (2005) are clearly biased towards procedural compliance and punitive mechanisms to enforce the rules. Under the normative approach, much emphasis is on the overseen as such, oversight under these circumstances performs an eminent coercive function. It is biased towards compelling the overseen to provide information and explanations and possibly change.

#### **b. Functionalist Oversight**

On the other hand, the functionalist perspective on oversight prioritises the evaluative aims of oversight. Functional approaches to oversight issues will naturally look beyond mere compliance to standard norms or laws but also seek to measure the quality or degree of impact, effect or success rules, policies and principles (Pelizzo & Staphenhurst, 2013). The important element of this approach is to reveal the degree to which oversight translates into practical influence over the decisions of the police service.

This approach is increasingly adopted by scholars who take a particular look at several of the elements of oversight. Kinyondo, Pillezzo and Umar (2015) have argued for a functionalist approach for it yields specific analysis. Their premise is that oversight mechanisms tools and contexts vary and it is important to independently consider oversight because the nature, structure, authority and effectiveness of parliamentary oversight is dependent on the nature of government and level of democracy.

In Zimbabwe, a recent research by Nhuta and Marimo titled '*The Rhetoric and Reality on the Role and Effectiveness of Parliamentary Committees in Ensuring Executive Accountability*' largely adopted this approach in its evaluation of various parliamentary committees (Nhuta & Marimo, 2017). In this instance they compare what has been said against what actually takes place and more importantly what the formal norms expect. Other scholars also use the functionalist approach and measure the effectiveness or otherwise by comparing particular aspects of interest. Thomas (2009), for example compares the Australian and Canadian parliaments in how they directly and indirectly interacted with senior public servants. The African Police Civilian Oversight Forum (APCOF) 2015 Report juxtaposes the South African and Kenyan independent oversight mechanisms and also compares their relation to their respective Parliaments.

In Namibia, Mutonga (2007) analyses how the different parliamentary committees fared in promoting parliamentary democracy and in another case Nauyoma (2015) assessed the effectiveness of the Namibian parliament over the security sector through a case study of the parliamentary standing committee on foreign affairs, defence and security. The conclusions are that oversight can be improved with training the parliamentarians and encouraging cooperation between the security service agents and the parliamentarians. Yamamoto (2007) who takes a global approach comparing oversight tools of 88 national parliaments concludes that oversight effectiveness is greatly influenced by the nature of government in terms of authority to parliament or the president.

Berg and Howell (2015) critique effectiveness of oversight based on the procedural timing. They note that if oversight is after the event (*ex post*) it will be reactive, and

its effectiveness in rights protection would be limited, rather it will serve a punitive function to violators. In relation to parliament, ex-post oversight comes in form of ad-hoc committees and examples of issues most common are include those to consider unfortunate events such as shooting by police or deaths in custody. On the other hand oversight *ex-ante* is commended for being proactive since it seeks to continually monitor and prevent commissions and omissions. This improves the quality of policies initiated since it allows for continuous assessment and correction of anomalies.

## **2.4 Parliamentary Oversight**

Oversight is a constitutionally mandated function of the parliament to scrutinise and oversee any government organ and executive action. Parliamentary oversight refers to that task whereby the parliament, exercises the oversight role through its various tools and mechanisms. Parliament is mandated to ensure that policies of government are properly implemented. Ogul (1973) aptly defines parliamentary or legislative oversight as, “behaviour by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behaviour” (Ogul, 1973, p. ii). Oversight by parliament is a unique subset of civilian oversight in that it is peculiar to the parliament or legislature and is usually established by constitution and other statutes or rules.

In Zimbabwe parliamentary rules that are called standing orders are clear on the oversight role and categorically clarifies that a committee shall-



- i. Consider and deal with all bills and statutory instruments or other matters which are referred to it by or under a resolution of the house or by the Speaker;
- ii. Consider or deal with an appropriation or money bill or any aspect of an appropriation or money bill referred to it by these standing orders or by or under resolution of the house; and
- iii. Monitor, investigate, enquire into and make recommendations relating to any aspect of the legislative programme, budget, policy or any other matter it may consider relevant to the government department falling within the category of affairs assigned to it, and may for that purpose consult and liaise with such department;
- iv. Consider or deal with all international treaties, conventions and agreements relevant to it, which are from time to time negotiated, entered into or agreed (Parliament of Zimbabwe, 2017).

Parliamentary oversight is about monitoring the activities of government and checking if policy is being implemented in conformity to the laws, and for the desired ends. It includes, where necessary, subjecting executive plans to scrutiny. In relation to policing, parliamentary oversight describes all parliamentary input into police affairs and can extend to include receiving and investigating complaints against the police, making formal recommendations for correcting conduct and administrative discrepancies. It also spans into looking at police administrative policies and ensuring the police service as a whole operates within its mandate for service and protection of society. Parliament is thus obliged to see to it that the

administration of public policy is a reflection of people will. Yamamoto (2007) stresses that, as the legislative branch of government, parliament is tasked with prescribing rules, in line with the principle of separation of powers.

While in principle democratic parliaments are conferred with oversight authority, Adissu (2013) notes that parliamentary oversight is determined largely by the forms of government other constitutional arrangements. Zimbabwe has parliamentary oversight as an enumerated task. This means oversight is prescribed by the constitution and supported by standing orders (Government of Zimbabwe, 2013). The authority also influences the extent of oversight scope. In terms of scope, parliamentary oversight can be wide to include the review of internal Police investigations or reviewing police policies and practices (Clarke, 2009).

Table 1 Parliamentary functions that play oversight role on policing

Role	1.Oversight	2.Legislative	3.Representative	4.Budgetary	5.Elective
Description	Parliament monitors and verifies if police conduct and administrative processes are according to laws	Parliament creates laws that determine police mandate, function, and organisation.  It also determines the oversight institutions authority and powers.	Parliament provides a public forum for debate on policing.	Parliament shall preside over resource allocation to policing and oversight institution	Parliament to scrutinise, debate and veto appointments to police leadership and oversight institutions

Adapted from <http://www.dcaf.ch/Publications/Parliaments-Roles-and-responsibilities-in-good-security-sector-governance>. (DCAF, 2015)

The context is crucial for enabling parliamentary oversight and encouraging police and community cooperation (Tait, 2011). The concept of context is broad and

encompasses the political, economic, social and legalistic landscape as influenced by the nature of government and degree of democracy in a country. While in advanced democracies the policing function is decentralised and accessible to the public and clearly subject to oversight, in many emerging democracies, oversight is impeded by partisanship, corruption and in some cases bad laws. A context with poor oversight systems of policing affects the respect for rights and impedes democracy. Oversight by such bodies as parliament becomes indispensable for checking police maladministration, policies and *ultra vires* conduct.

While parliament is a key institution in a democracy, Clarke (2009) reiterates Kerstetter's (1985) view that parliament is essentially a political institution where often contradictory political debates take place and that the political reality of legislative or judicial oversight is problematic because in some jurisdictions questioning police action, conduct, administration or policies is 'political suicide.' Such a situation affects the nature and effectiveness of oversight. For instance, in the Westminster parliamentary systems, where oversight has been traditionally associated with the opposition, issues raised via oversight tend to be treated with scepticism (Berg & Howell, 2015). So, the context plays a role on the appreciation and effectiveness of parliamentary oversight. However, as the preceding diagram (Table 1) revealed oversight is a key and inherent function of modern parliament (DCAF, 2015).

## **2.5 Mechanisms of Parliamentary Oversight**

Parliamentary mechanisms are the tools or means through which actual oversight is exercised. In Zimbabwe, like in most democracies, the oversight tools and

procedures are stated in the rules called standing orders that govern parliamentary proceedings and administration. Fortunately for Zimbabwe the new constitution gives wide discretion for the parliament to make appropriate rules in furtherance of oversight (Nhuta & Marimo, 2017).

Yamamoto's (2007) study of tools of parliamentary oversight from 88 national parliaments (excluding Zimbabwe) reveals that there are several ways in which parliaments can utilise its oversight prerogative in accordance with legal frameworks and other situational factors that determine parliamentary oversight in terms of its scope, authority, power, and independence. It further reveals that tools for parliamentary oversight vary in nature depending on their approach to the oversight function. Those tools whose function is to protect human rights are biased towards detecting and preventing unconstitutional conduct. The tools that seek to improve economic efficiency and effectiveness will be concerned with detecting waste of resources. Those that are about policies will focus on monitoring and evaluating government delivery (Inter-Parliamentary Union-DCAF, 2003).

Yamamoto (2007) further notes that the nature of tools is linked to the degree of authority in the four following aspects. 1) if the mechanism simply asks for information from government; 2) if parliament just asks for public clarification of government policies; 3) if the parliament can get information from sources external to government and 4) if parliament can express its views to public and government (Yamamoto, 2007, p. 13). The tools can be grouped into three categories as follows.

Table 2 Parliamentary oversight tools

No.	Tool/ Mechanism	Description of Mechanisms or Tools
i.	Parliamentary Committees	These are permanent committees, subcommittees, ad-hoc committees and committees of inquiry established based on the needs of the Parliament;
ii.	The Chamber	Also known as the plenary mechanism, it is about – questions, interpellations and motions moved in the chambers
iii.	Fiscal control	The audit and the budget tools are hinged on the finance related roles by Parliament over entities

Table adapted from general classification by Friedberg and Hazan (Friedberg & Hazan, 2012)

### **2.5.1 Parliamentary Oversight via Committees**

Parliamentary committees comprise of groups of parliamentarians appointed by the house of assembly to perform certain tasks. They deliberate via inquiry on several issues and are accessible to civilians. They are the main and common oversight tool across the world (Inter-Parliamentary Union-DCAF, 2003). Most of parliament's work is done in committees because committees provide an environment conducive for detailed analysis of draft law, oversight and interaction with public. Parliamentary committee structure is usually derived from the parliament's standing orders and function (Friedberg & Hazan, 2012). The main categories of the committees are the permanent or standing committees and the ad-hoc committees, committees constituted to address specific challenges.

Zimbabwe's 8<sup>th</sup> parliament has 25 committees comprising 19 portfolio committees in the house of assembly and 6 thematic committees of the Senate. In addition, standing orders provide for the establishment of ad-hoc committees to examine issues of interest that are worth examination. Their task is monitoring government policies and programmes to ensure efficient use of national resources as well as safeguarding rights and ensuring transparency and accountability. Committees

conduct hearings in gathering evidence for making informed findings and recommendations to parliament (Parliament of Zimbabwe, 2017).

The enquiry process allows for committee to visits field beyond the precincts of parliament upon approval by the speaker of parliament or senate president.<sup>10</sup> Any parliamentary committee also has powers ‘to summon any person to appear before it to give evidence on oath or affirmation or to produce any documents. These powers emanate from the Privileges Immunities and Powers of Parliament Act (PIPPA) [Chapter 2:08] which makes it a punishable offence for a witness before parliament to answer falsely. Zimbabwean committees can as well subpoena witnesses and oblige them to disclose any requested documents (Mudenda, 2016).

### **2.5.2 Parliamentary Oversight via Plenary (The Chamber)**

Chambers provide ample opportunity for parliamentarians to exercise oversight authority. During parliamentary plenary sessions, parliamentarians are at liberty to use inquisitorial tools to probe government actions.

#### **a) Parliamentary Questions and Interpellations**

The question time during plenary provides parliamentarians with means to present questions to the government and its agencies on issues of interest. Simply asking questions is the commonest tool available for parliamentarians to exercise oversight

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<sup>10</sup> During the 8<sup>th</sup> parliament, the committee on home affairs, defense and security visited the police general headquarters where they interacted with the police general commissioner and deliberated on concerns about police corruption among other concerns. See House of assembly hansard No. 162 February 2017

in Zimbabwe. The questions can be in response to an ongoing debate and may be questions without notice. With regards to policing, the minister of home affairs and or their representative will take note and respond to the questions raised in this fashion. Typically the questions raised hereunder will be about requesting for information; putting pressure for action to be taken and a demand for information from ministers regarding controversial policy areas.

The Interpellations or the more formal complex questions tend to demand official and valid information on government actions, seek to more influence government policy and in some instances stall government actions. Most legislatures in Parliamentary democracies use parliamentary questions extensively. For example, while discussing the budget during the 8<sup>th</sup> parliament, one member cunningly brought in a subject on police corruption by saying, “Yesterday I interacted with the police commissioner, Cde. Chihuri and I asked him whether the police officers are corrupt and he said it is not only his officers who are corrupt but even Ministers, ZIMRA and many others are also corrupt”<sup>11</sup> (Parliament of Zimbabwe , 2017). The ensuing debate later had the Minister of Home Affairs responding to the allegations and promising to investigate further.

As noted in the example above, parliamentary questions are accessible, flexible and simple tools. Nevertheless, it should be noted that the techniques and procedures for implementing this oversight tool differ from parliament to parliament. The differences are due to the composition. If there is a one party domination issues tend

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<sup>11</sup> The essence of the quote reveals that members of parliament can individually engage in oversight issues and bring them to the house. This debate later on developed into police oversight issues.

to be a reflection of the dominant party's position or interest. If there are several parties represented, the articulation tends to be diverse as well.

#### **b) Motions for the Agenda**

Another sub-class of chamber related oversight tools is through setting motions for the agenda. Members of parliament are at liberty to initiate a discussion during parliamentary plenary on any issue of public interest that requires a reaction from ministers, parties or members of parliament. A motion for the agenda is a formal motion submitted by a member of parliament (MP) during a parliament plenary discussion; it deals with the topic being discussed, and it demands action by a minister or by MPs.

Motions for the agenda are set in a variety of ways in the various legislatures, yet in most cases, the processes and objectives are generally similar. The questions are normally oral, yet longer or complex question can be presented in written form warranting a written response as well. Friedberg and Hazan (2012) for instance noted that in Israel, a member of parliament can use this tool even to raise a discussion not necessarily connected to legislation and is known as “a request to include in the parliament's agenda a certain topic.” In the case of Zimbabwe, according to standing order 68(d), privileged members of parliament also rise on a matter of privilege, and make any statement comment, remark or announcement. In many parliaments, this is an easy way of criticising the government or gaining attention through political posturing publicly.

Nevertheless, while this tool's use is popular in Zimbabwe's 8<sup>th</sup> parliament, a survey of selected national assembly and senate hansards, between January 2016 and



February 2017 shows that only three motions were raised in relation to police. In one debate, a member raised the issue in relation to government freeze of posts, the other issue related to ZRP association with the Zimbabwe Anti- Corruption Commission and another motion was about the clarity on alleged non-remission of road traffic fines to treasury. The use of the chamber tools is susceptible to prevailing politics. Gorogodo (2017) is of the view that the seeming reluctance to motion on the Police largely emanates from the ‘whipping system’, a party based system that regulates chamber deliberations by setting agendas for motions or questions (Gorogodo, 2017). Whipping system in parliament is a provision whereby political parties force their members to take certain stances on bills and motions instead of making their independent decisions. Whipping limits the motions to be moved by MPs, it is practically unconstitutional and defeats the principle of freedom of expression

### **2.5.3 Parliamentary Oversight via Fiscal Control**

Fiscal control imposes monetary and fiscal discipline, forces governments to plan, and to be transparent and accountable to independent oversight institutions. Since accountability and transparency are tenets of democracy, most parliamentary systems are involved in budgetary oversight via either a budget or finance committee or a public accounts committee. Finance related oversight is exercised in two common ways, first in terms of audit function and secondly in relation to the actual budget (Yamamoto, 2007).

#### **i. Budgetary Oversight**

The budgetary oversight function entails the duty to authorise, approve or sanction budget bills. It also entails an evaluative role whereby the parliamentarians scrutinise

the reports about implementation. In some countries like Uganda, the laws make it mandatory for this kind of oversight to be under the chairmanship of a member of the opposition (Yamamoto, 2007). However, Yamamoto (2007) further reveals that, unfortunately, 80% of parliaments are only involved in budget approval and are rarely part of the budget formulation process.

In Zimbabwe Section 299 of the constitution obligates parliamentary oversight of State revenues and expenditure. Budgetary control is realised through approval and scrutiny of government spending by highlighting possible wastage on publicly funded expenses and revenues with economy, efficiency and effectiveness in mind. Consequently, for the parliament, the budget is a key focal point for parliamentary oversight hence the existence of a post audit committee - the public accounts committee (Parliament of Zimbabwe, 2017). This committee is mandated to examine the financial affairs and accounts of government departments funded from public funds including the police. In addition, Section 58 of the Police Act 11:10 obliges the police, through the commissioner to table their annual and other finance related reports to the parliament via the public accounts committee (Government of Zimbabwe, 2006).

However, in Zimbabwe, as common in most parliamentary democracies budgetary oversight has its limitations. In the face of the whipping system, budgetary oversight takes a rubber stamping role (Gorogodo, 2017). The Zimbabwean legislature does not itself prepare the budget. This task is practically entrusted to the executive. Consequently the nature of influence on the budget is mostly relegated to approving the budget proposal. In other instances the role by parliament will be simply ex-post,

whereby parliamentarians oversee implementation and review reports of expenditures.

## **ii. Audit Oversight**

Parliaments are involved in audit of public resources in varying degrees. The Parliament of Zimbabwe, through the public accounts committee examines all reports of the Comptroller and Auditor General.<sup>12</sup> The committee fulfils the oversight function of Parliament through looking at financial accounts of all publicly funded departments. It also looks at the accounts of those institutions that collect State revenues in forms of fines, fees, taxes or prescribed charges. The office of the Auditor General is established in terms of Section 106 of the Zimbabwe Constitution and its authority derives from the same as read together with the Audit Office Act (Chapter 22:18). This office is obliged to give scheduled reports to parliament's Public Accounts committee.

In Zimbabwe, this office contributes significantly to oversight over the police though having unobstructed access to data, documents and officials. In relation to fiscal prudence, the Auditor's most recent observation with regards to police is as follows:

‘In contravention of Treasury Instruction 0454 which stipulates that public moneys should be deposited daily, I noted that there were delays in banking at Harare Central, Harare Traffic, Mabvuku Traffic, Borrowdale, Avondale, Chegutu Traffic, Sanyati, Gwanda Traffic, Karoi and Siyakobvu

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<sup>12</sup>

police Stations. I raised the same issue in the management letter dated September 2, 2014' (Chiri, 2016).

The office of the Auditor General provides parliament with reliable and objective information concerning ongoing activities, as well as government's plans and initiatives because it has free access to institutions. For instance, following this report, the Portfolio Committee on Defence, Home Affairs and Security Services Committee visited the police institutions including the to the Police headquarters to ascertain these observations together with other concerns that committees raised about police conduct and policies (Muderedzwa, 2017).

## **2.6 Need for Parliamentary Oversight of the Police in Zimbabwe**

The need for parliamentary oversight over the police in Zimbabwe is axiomatic. It serves both, the mutually dependent and reinforcing normative and functionalist purposes. Effecting oversight firstly ensures that the government is upholding rule of law and making provisions for checks and balances in line with the principle of separation of powers. Secondly, oversight serves a practical function of deterring the abuse of authority by law enforcement. The actual monitoring, reviewing and monitoring of police administration and conduct, by parliament are an attempt to 'police to the police'.

In Zimbabwe police oversight is now a requirement of national law and a generally tenet of good governance echoed in the new constitution (Kagwe, 2016). So, from a normative perspective, oversight fulfils requirements of section 119(3) of the Zimbabwe constitution which states that 'all institutions and agencies of the State and government at every level are accountable to parliament. Section 139(b)

provides for parliamentary standing orders through which oversight mechanism structures can be set. Furthermore section 207(2) states that the security services are subject to the constitution, the president and cabinet and are subject to parliamentary oversight. And to exclude any doubt, section 219 reiterates that police ‘must’ *inter alia* be subordinate to civilian authority as established by the constitution. Parliament with oversight, legislative and representative authority is an embodiment of civilian general will and authority (Government of Zimbabwe, 2013).

Exercise of parliamentary oversight over law enforcement also conforms to international human rights standards, norms and ideals. In the UN systems oversight over the police, especially by civilians including parliamentarians is a key principle and to date the UN has established the UN office for internal oversight services (UN Office of Internal Oversight Services (OIOS), 2017). Likewise the AU has a resolution on police accountability and civilian police oversight and calls member states to promote and protect citizens’ rights via the creation of independent civilian oversight entities to review, investigate and adjudicate police conduct in line with human rights norms (The African Commission on Human and Peoples Rights, 2006).

Apart from fulfilling the normative expectations found in both national and international frameworks, oversight also serve a practical function in reducing and or curbing actual misconduct by police (Attard, 2010). Since policing is universally susceptible and vulnerable<sup>13</sup> to a wide range of unethical behaviours that infringe on

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<sup>13</sup> Knapp Commission concluded there was an inherent tendency for Police agencies to degenerate into chronic state of corruption and unless strong preventative oversight measures are in place.

civilians' enjoyment of rights, it is imperative to take practical measures to mitigate the effects thereof.

In Zimbabwe, public perception on police regarding good ethics is at its lowest with 72% of a survey being of the view that police are among the most corrupt in the SADC region (Chingozha & Mawere, 2015). According to a 2016 Zimbabwe Lawyers for Human Rights survey, the Zimbabwe Republic Police was found to be notorious for violating fundamental constitutional rights and freedoms via arbitrary arrests, harassment, and undue detention, excessive use of coercive force and neglect of victims (Zimbabwe Lawyers For Human Rights, 2017).

Furthermore, the Police Commissioner General categorically conceded to the pervasive nature of unethical behaviour among the police while responding to a parliamentary committee. He referred to the numerous transfers, demotions and expulsions, and on corruption he also cited that it was the public as equally to blame for police corruption through offering bribes (Chikwati, 2017). Considering the above, it is apparent that strong oversight over the police is needed in Zimbabwe, to ensure that citizen's rights are not unduly violated when they come in contact with police. Parliamentary oversight also serves in promoting parliamentary democracy by ensuring adherence to rule of law, accountability and transparency of all governmental agencies.

## **2.7 Chapter Summary**

This study took an integrative approach to infuse elements from both the normative and functionalist approaches. Such a multidimensional approach is most appropriate for Zimbabwe because there is not much research that is precisely focused on

oversight. There is thus still need to highlight the normative framework that guides oversight to justify and elucidate its importance and usefulness of to security sector governance and human rights discourses in the country. Integrative approach stems from a concept of a ‘multidimensional’ approach that is recommended as ideal by Kinyondo, Pillezzo and Umar (2015) as they suggest on how certain shortcomings of their functionalist theory can be addressed by succeeding researches on oversight and accountability of security service (Kinyondo, Pellizo, & Umar, 2015).

While the preceding has elaborated on oversight in general and that it basically entails supervising or overseeing the effective management of (especially government) institutions in compliance to laws, rules or norms; this study focuses on scrutinising parliament’s role in overseeing the police. The 8<sup>th</sup> parliament, through its various mechanisms and tools is the ‘overseer’, and the Zimbabwean national police service (Zimbabwe Republic Police) becomes the ‘overseen’. The fundamental observation in this study is that in Zimbabwe, the police are subject to control and direction by citizens through their elected representatives – the parliamentarians.

The section has discussed the importance of the theory of civilian control in ensuring police accountability. The Civilian Control Model is a theory that puts forward that for effectiveness, oversight over police is best instituted by independent civilian non-police agents. It underscores the centrality of having civilian oversight over state and government institutions. From the review, civilian control of the police is desirable to curb risks of unethical conduct that may infringe rights. The discussion has also clarified the rationale for civilian control via the parliament. It has shown that the parliament is best poised to exercise oversight over the police because it has the normative authority and a multiplicity of tools with which to institute effective

oversight. The study thus sees an opportunity to assess the 8<sup>th</sup> parliament's oversight role, examine the associated prospects and challenges and make recommendations of how parliamentary oversight of the police in Zimbabwe can be enhanced as a right monitoring system.



## **CHAPTER 3: METHODOLOGY**

### **3.1 Introduction**

Since the study was interested in finding out stakeholder perspectives about the 8<sup>th</sup> parliament's Oversight role over the ZRP. Its main methodology was the survey research which is about gaining insight into individual perspectives and experiences. The survey was conducted by means of personal interviews and questionnaires to collect predominantly qualitative data about the respondents' perceptions on the 8<sup>th</sup> parliament's oversight role of the ZRP. This was augmented by the content analysis methodology, an approach that sampled both primary and secondary literature on subjects related to parliamentary oversight and police accountability. Content analysis was able to indicate the existing knowledge, reveal the pertinent theoretical and conceptual frameworks, identify the knowledge gaps and generally deliberate on the main themes related to the subject under study.

### **3.2 Research Design**

This research used a case study of the 8<sup>th</sup> parliament of Zimbabwe's oversight function over the police. The case study design was apt for this particular research considering that parliamentary oversight mandate is broad. So narrowing only on particular elements such as a particular parliament-the 8<sup>th</sup> parliament and its oversight role only over the police, this enabled the research to have in-depth focus. The case study approach also provided an opportunity to test the applicability of the civilian control model to examine the impact of parliamentary oversight on ZRP conduct and policies.

### 3.3 Study Population and Sampling

It was not possible to study the whole population of people knowledgeable about the subject matter, so the researcher used own discretion based on own conveniences to come up with a target population. The majority of the respondents were from the parliament and the police since they were the primary interlocutors in the oversight process.

Those considered for this study were purposively selected for their knowledge and or experience in matters relating to parliamentary oversight and policing. Both civilians and non-civilians<sup>14</sup> respondents were considered and included parliamentarians, police officials and officials from the Ministries of Home Affairs, parliamentary staff, academia, civil society and the media. The target respondents had a variety of expertise, experience and knowledge and this helped in infusing various perspectives into the study.

From the 8<sup>th</sup> Parliament, the research targeted MPs and Senators in parliamentary committees with direct oversight authority over the police. Upon authorisation, questionnaires were left with committee clerks for onward distribution to willing respondents from the following committees *viz*: the portfolio committee on Defence, Home Affairs and Security Services, the Public Accounts Committee, the thematic committee on Human Rights and Peace and Security. These 4 committees had a combined target population of 87 from which the researcher targeted an average 18% and with the assistance of the committee clerks, 15 questionnaires were distributed

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<sup>14</sup> Civilian refers to persons that are not in the security services and in this case not part of the ZRP.

while 1 in-depth interview was scheduled and held. The idea was to have at least 3 respondents from each of the 4 committees. Liaison with committee clerks was crucial in facilitating access and targeted distribution to the appropriate parliamentarians during the times they came for their committee sessions.

The same modus operandi was adopted regarding parliament staff respondents. Five (5) questionnaires were distributed with the assistance of committee clerks for ease of distribution and collection. The target respondents were at least an employee that interacted with one of the said committees. An interview was conducted with a senior external relations officer whose role included coordinating with parliamentary committees and other stakeholders external to parliament.

The 15 respondents representing police perceptions from the police and the home affairs constituted an important group as the ‘overseen’ in the processes. Upon organisational consent, the 10 questionnaires were provided for onward transmission to the relevant police departments where consenting police officials responded. The superintendent who assisted in the identification of respondents ensured that the questionnaires were well spread across police departments spanning traffic, criminal investigations, police protection unit, public order maintenance unit and internal affairs unit. Snowballing was used to identify the interviewee. Similarly, at the ministry of home affairs head office, organisational consent was firstly approved by superiors who then directed the researcher towards persons with pertinent authority and knowledge on the matter and 5 questionnaires were sent to the respondents.

For respondents from the Academia, the researcher sought the perceptions of persons that were knowledgeable about security sector governance, parliament, political

administration and policing studies and governance. Questionnaires were distributed to 2 lecturers at University of Zimbabwe's department of War and Strategic Studies, a programme that involves parliamentary oversight and policing. Other academic respondents were each from the Women's University of Africa and another lecturer from the Bindura University. One interview was held with another lecturer who is also a director Zimbabwe Peace and Security Education Trust (ZIPSET). All the above were identified for their knowledge in the subjects, in some instances the researcher followed leads and contacted some respondents via phone and email to ask for consent and to make appointments.

From the Civil Society, 5 questionnaires were filled-in with at least one of the respondents were from the Zimbabwe Peace and Security Programme (ZPSP), the Zimbabwe Lawyers for Human Rights (ZLHR), Zimbabwe Rights Association (ZimRights) and Southern African Parliamentary Support Trust (SAPT). An interview was done with one programme monitoring and evaluation monitor from ZPSP since they were into liaison with parliament on parliamentary oversight over security services including ZRP.

With regards to media respondents, the two leading daily public and private newspapers - The Herald and the Newsday were considered and consent was sought from editors or correspondents on political and or parliamentary stories. An interview was held with a senior political reporter from the Newsday.

The target population was 56 persons whose narration is as follows; 50 were earmarked to respond to the questionnaires (parliament - 15, home affairs/ police – 15, academia - 5, media - 5, civil society - 5, other experts-5). Six (6) interviews

were earmarked with the key informants; with at least each selected from the corresponding knowledge clusters. The target numbers for direct interview were kept to a minimal considering the busy schedules of the respondents. Self administered questionnaires were considered to enable respondents to answer simultaneously and at their own convenience.

From the forgoing, this study used non-probability sampling because it was a purposive study. The researcher used own discretion to target respondents based on knowledge. In some instances, the researcher directly solicited views from known academics or CSO respondents, while in some cases questionnaires were left at various institutions for later collection. However, the researcher also relied on snow-balling to solicit views of those referred to him by other respondents. This enabled quick data collection and naturally excluded those who are less knowledgeable.

### **3.4 Data Collection Instruments**

To obtain necessary data about the 8<sup>th</sup> parliament's oversight role over the Police, this study employed 3 main instruments to collect data.

#### **3.4.1 Interviews**

Interviews were scheduled held with 6 key informants, 5 were completed. The interviews were guided by a set of themes from which discussions were held with informants. No audio recording was done but some notes were jotted down when it was convenient or permissible. The interviews were priceless in exploring intimate perspectives by respondents to some seemingly sensitive questions. In some

instances the interview enabled the researcher to probe further on any idea of interest.

### **3.4.2 Self-administered Questionnaires**

This research relied heavily on a hybrid self administered questionnaires that asked the same set of questions in a predetermined order for reliable responses. These yielded standard data which was easily analysed into themes. The questionnaires checked against digression by having closed questions with predetermined responses. However, other questions incorporated the ‘please explain’ open ended section to record other views. The self administered aspect, ethical section and anonymity principles encouraged free and objective reliable responses and recording of ‘sensitive’ data from the respondents. Questionnaires were considered for their versatility and cost-effectiveness as well as the quick response rate since they were concurrently administered to a number of respondents at the same time.

### **3.4.3 Content Analysis**

Content analysis, as the name bears it, is about reviewing and analysing existing primary and secondary information that relates to the research as a whole. The researcher conducted a desk study of various literatures on the of the 8<sup>th</sup> parliament hansard booklets, presentations, speeches, statements, annual reports to parliament by of the affected institutions and other publications shall be reviewed. This was handy in situating the study in a research context through providing background information and identifying future research trajectories on the subject. Content analysis was provided a holistic appreciation of the subject. The rationale for using a combination lay in their individual and a collective capacity to decipher, describe and

present perspectives and attitudes. A combination of these instruments helped the researcher to weave plausible and or falsifiable hypotheses that explained the nature of parliamentary oversight during the 8<sup>th</sup> parliament (Bhattacharjee, 2012).

### **3.5 Analysis and Organisation of Data**

Data gathered in this research was categorised into themes emerging from the responses to questions. The questionnaires were first categorised according to the respondents as revealed by the information on organisational affiliation. This enabled the researcher to have a general perspective of what kind of responses came from a particular group of respondents. The researcher also made further classifications according to responses according to responses to certain questions; this was essential in identifying and deducing trends relating to certain aspects in the questions.

The information from the questionnaires that had bimodal or specific static values was fed into Microsoft Excel and Microsoft Access data base programmes to generate descriptive statistical data. These two programmes are easy to use, especially with small volumes of statistical data. They are compatible to Microsoft Word thereby enabling easy navigation between the programmes. Microsoft Excel is also adaptable in generating simple visual data presentation tools such as tables, graphs, charts from trend analysis of numerical data relating to sex, age and other numerical or bimodal information.

### **3.6 Ethical Consideration**

The entire research design and conduct was based on ethical standards reviewed and approved by Africa University research and ethics committee. The researcher found

out that legitimacy and confidentiality was important for most respondents in giving their opinions on a subject involving security or political players. So, before to any research, the informed consent was sought at both organisational and individual levels. The researcher highlighted the importance of voluntary participation and that the information was solely for academic research and reiterated right to withdrawal. For organisations that operate on a hierarchy of authority, the researcher conformed and ensured that respondents were authorised to participate by their superiors. The researcher also stressed the beneficence of such a study towards improving human rights monitoring after finding out that respondents were also keen to know the possible benefit.

### **3. 7 Chapter Summary**

Since the study involved understanding human behavior to act, the research was guided by the phenomenological approach that is more qualitative, but incorporated quantitative aspects. It utilised both, primary and secondary data elicited via interviews, questionnaires and literature. The selection of respondents was done in such a way that a variety of views were captured from the stakeholders in the oversight process. Data was arranged and analysed according to themes with some converted into statistical form via Microsoft Excel and Access programmes. The underlying rationale adopting the methodology described above was to enable the researcher to access intimate perceptions on oversight in ethical and convenient ways considering the limited study time and the busy schedules of the respondent.



## **CHAPTER 4: DATA PRESENTATION, ANALYSIS AND INTERPRETATION**

### **4.1 Introduction**

This chapter presents and analyses the data that was collected through questionnaires, interviews and literature readings about the 8<sup>th</sup> parliament's oversight function over the police in Zimbabwe. It presents the target respondents' views pertaining to what they determined as the oversight role of parliament over police; what was noted as the factors enabling or inhibiting parliamentary oversight over the police and what was also identified as parliament's tools for instituting oversight over the police.

The target respondents to these questions were persons of both sexes who were part of the oversight process as either the overseers or the overseen. Other persons knowledgeable with requisite knowledge on parliamentary affairs and or policing were also considered. Such being the case, the respondents for this study were selected PMs and Senators from the 8<sup>th</sup> parliament, parliament of Zimbabwe staff, police and Ministry of Home Affairs, CSOs that liaise with parliament, media and academia. A combined population of 56 respondents was targeted whereby 6 individuals were earmarked for interviews and 50 were targeted to respond to questionnaires. Nevertheless the police including home affairs personnel and parliamentarians provided the majority of the respondents since they were the primary interlocutors of the oversight process.

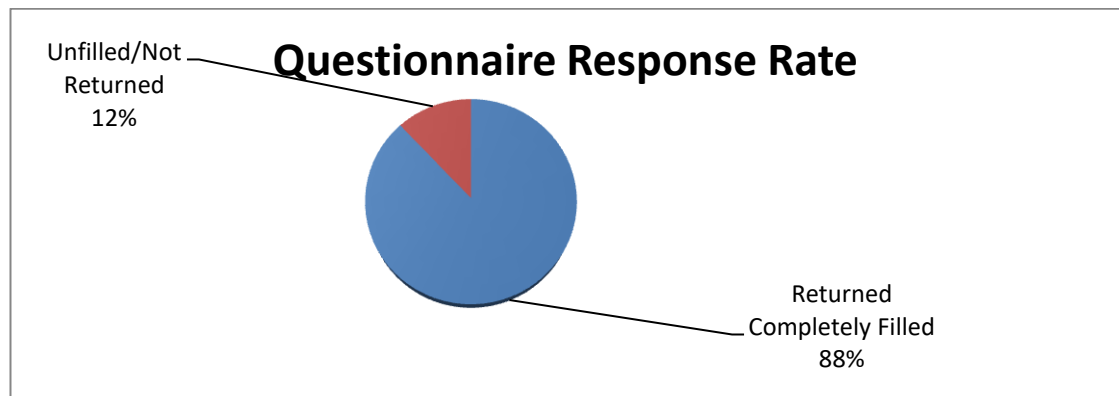
## 4.2 Data Presentation and Analysis

The following figures and charts present the data that was found in relation to the questions asked in this research. The accompanying explanations came from the analysis on the processed data.

### 4.2.1 Response Rate

Of the 56 target respondents, 49 materialised. Of the 50 questionnaires, 44 were filled and returned and 5 of the 6 scheduled interviews were completed translating combined 88% valid rate of response. Such a response rate is deemed a viable rate for a valid conclusion of a study (Biersdoff, 2009). Such a high response rate was in part facilitated by the distribution method that utilised organisational administrators to coordinate the responses.

**Figure 3 Response Rate**



### 4.2.2 Demographic Data

Demographic information collected was confined to age, sex, education level, expertise and experience. It is presented and analysed in the following subsections.

**i. Sex**

The demographic data relating to sex found in Table 4 reveals that 74% were males and 26% were female. While there was no theoretical framework for generalizing gender related responses, this study shows that more males as compared to women respondents were involved in issues to do with parliamentary oversight or policing.

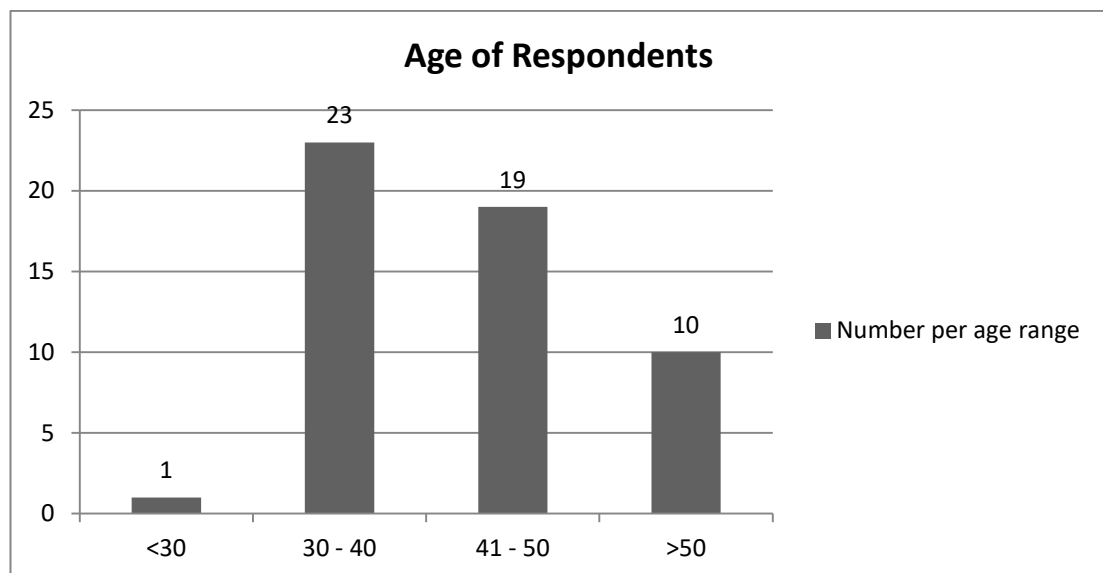
**Table 3 Respondents sexes and research tool distribution**

Research Instrument	Respondent Affiliation/ Cluster	Target Number	Tool Completed/ Fulfilled Returned		Total for Completed
			F	M	
A. Interviews	6				
	Parliamentarian	1	0	1	1
	Parliament Staff	1	0	1	1
	Police	1	1	0	1
	Home Affairs	1	1	0	1
	Academia	1	0	1	1
	Other	1	0	0	0*
Totals		6(100%)	2(40%)	3(60%)	5(83%)
Total Interviews Fulfilled					5
B. Questionnaires	50				
	Parliamentarians/ Committee Members	15	4	9	13
	Police & Ministry Home Affairs Officials	15	5	8	13
	Parliament Staff	5	1	3	4
	Academia	5	1	4	5
	CSO, NGOs	5	2	3	5
	Media	5	0	4	4
Totals		50(100%)	13(29%)	31(71%)	44(88%)
Total Questionnaire Returns					44

## ii. Age profiles

In terms of age, the majority, 43 out of the target respondents, majority of whom are from the parliament and police are aged over 41. This shows that the majority of persons involved in subjects of parliamentary oversight or policing were mature adults. The civil society respondents are the only cluster with a respondent in the less than 40 years categories. This largely helped the research to access opinions from mature persons.

Figure 4 Respondents Ages



## iii. Education, Experience and Expertise

The survey reveals that the stakeholders on parliamentary oversight or police issues are [fairly] educated and experienced. 61% indicate possession of at least a bachelor's degree. Almost all profess being aligned or having expertise relevant to oversight issues. Levels of education relate to comprehension of intricate issues like oversight. Levels of education are presented in the next table.

**Table 4 Educational Levels of Participants.**

Level of Education	Number per education level	Percentage
Diploma and below	17	39%
Bachelors Degree	13	30%
Masters degree	9	20%
Doctorate (PhD)	3	6.5%
Post Doctoral	2	4.5%

Since there is a positive co-relation between one's level of education, experience and understanding of intricate or complex subjects such as oversight, the research was able to tap into diverse and more informed perspectives from persons who play significant roles in the oversight process. The average experience for respondents was 11½ years of dealing with issues that include governance parliament or policing, therefore the research was able to access responses from persons who had practical experience regarding the matters at hand.

The findings about the demographic profiles presented by the preceding data were crucial for this study for they provided insights on the nature of the informants in relation to validity and acceptability of their responses. With a wide range of knowledge, they were able to articulate on issues involving security sector governance, governmental authority, parliamentary roles and law enforcement. The calibre of the respondents was apt for they were knowledgeable and experienced on oversight, they thus yielded intelligible and useful responses that have since been interpreted to generate valid, more reliable and functional information.

### 4.3 Discussion and Interpretation

For ease of discussion and interpretation, the data was analysed according to themes that emerged from the range of questions asked via both the questionnaire and the interview guide. The identified themes relate to four basic aspects around understanding of parliamentary oversight, oversight legal frameworks, oversight tools and mechanisms and the prospects and challenges to parliamentary oversight of the police in Zimbabwe. The general positions of the respondents' clusters were summarised and infused within the thematic discussion to give a wholesome meaning to the findings about the 8<sup>th</sup> parliament's oversight role over ZRP.

#### 4.3.1 Themes Emerging from Responses

The analyses of responses in this research revealed that the following 4 key themes emerged and are the findings. These were used to discuss and interpret the findings:

Table 5 Themes Emerging from Responses

Theme	Aspects for discussion and interpretation
1. Understanding Parliamentary Oversight role over Police	Respondents Respondents' views on public perception on subject
2. Available Legal frameworks	Constitution Standing orders Police Act
3. Tools and Mechanisms for oversight	Committees Plenary Chamber Budgetary Control
4. Factors enhancing or inhibiting oversight	Institutional Political Legal Political will

### **4.3.2 Understanding Parliamentary Oversight**

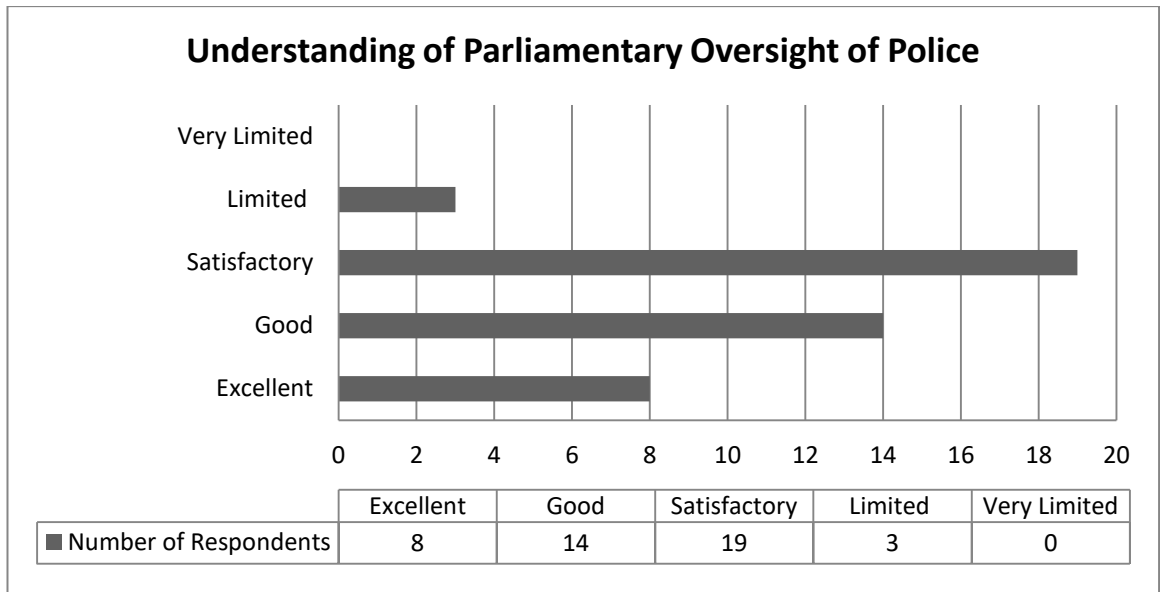
In order to determine appreciation of the notion of parliamentary oversight over Police, the study had a number of questions that directly and indirectly gauged the ‘understanding’ or appreciation of parliamentary oversight. It assessed the respondents’ perspectives and knowledge levels about Understanding the Subject of parliamentary oversight of the police; respondents’ understanding of their role in oversight processes and their appreciation of the utility of parliamentary oversight of the police in Zimbabwe. Another angle to the understanding of parliamentary oversight also considered the target respondents’ opinion on public appreciation of parliamentary oversight role over police.

The need to gauge the levels of understanding about parliamentary oversight over the police emanated from the assumption that the police were virtually unmonitored regarding their conduct and policies. It was also informed by the apparent perception that other oversight bodies seemed to have inconsequential impact on ZRP. On the other hand, parliament seemed indifferent regarding overseeing police despite possessing ubiquitous legislative and oversight authority to monitor the ZPR.

#### **a. Understanding the Subject of Parliamentary Oversight of the Police**

As a measure, the respondent’s knowledge levels of the subject were scaled between ‘Excellent’, ‘Good’, ‘Satisfactory’, ‘Limited’ and ‘Very Limited’ with ‘Excellent’ being the highest level of understanding and ‘Very Limited’ representing those with invalid knowledge. From the aggregated responses from both questionnaires and the interviews indicated that all respondents were aware that parliament has oversight authority over police.

Figure 5 Rating on the understanding of parliamentary oversight over police



According to the data collected respondents that were the primary interlocutors in the oversight process, the parliamentarians and the police including home affairs officials all knew and had ‘Satisfactory’, ‘Good’ or ‘Excellent’ levels of understanding parliament’s oversight role over the police.

All 13 respondents from the police had either good or satisfactory knowledge. They were aware that the police had to annually compile reports and send to the Ministry of Home Affairs for onward transmission to parliament. They also knew that parliamentarians could also visit with or without prior announcement to inspect policing activities. From the interview however, the effectiveness of parliamentary oversight was presented as weak and or ineffective. The police interviewee corroborated the above and indicated that the ZRP as a democratic police service was guided by principles of accountability. As such, police were accountable to several oversight agencies including the parliament.



However, police respondents generally pointed out that some of the parliamentarians were unaware of the typology of police administration such that the visits were practically cosmetic since they lacked the technical capacity to address core policy issues around policing like recruitment, gender balance, promotions, and deployment to international missions among others. She noted an instance whereby unrelated departments were questioned about traffic policies and fines.

The police also pointed out on the mistaken perception, even by parliamentarians, that portrayed oversight as adversarial or simply about fault finding police misconduct. Rather she shared that police oversight was broad to include parliament also taking the opportunity to take up some issues that the minister may not have taken up to parliament. Another element that came from the discussion was that the police had internal oversight to adjudicate and manage police misconduct.

Parliamentarians that were part of portfolio or thematic committees that exercised oversight authority directly over the police were generally aware of the subject of oversight. They indicated that oversight was part of their duties, they were aware of the authority to summon the police minister, commissioner or their proxy to answer before committees. From the interview with the committee chairpersons of the Defence, Home Affairs and Security Portfolio Committee, the logic of oversight in elaborated in relation to legislation whereby the oversight process was described essentially as a way of checking the applicability of the laws created by parliament.

From an interview with the chairperson of the Portfolio Committee on Security Defense and Home Affairs, problems of poor levels of understanding of the concept among some committee members were acknowledged. It was noted that this was

mainly due to their back grounds or novelty to parliament business. Nevertheless he indicated that all committee members were inducted on oversight to improve their understanding. The research however revealed that 9 out of 15 parliamentarians, who were part of the oversight committees, had ‘satisfactory’ understanding. While satisfactory understanding was rated as a possessing average or regular knowledge, the expectation was that, as the overseers they ought to possess specialist knowledge or deeper understating so as to effectively exercise the mandate.

Among the other respondents, the parliament staff that respondent were all astute on the subject because they were basically selected and appointed to administrative positions on their merit and competencies regarding parliament business. The interviewee indicated that parliament staff also participated in various local and international training on various parliamentary issues including oversight. The same was noted with the respondents from the media. They were understood about the subject matter because they researched and wrote on various aspects of parliament including oversight. Also, the target respondents were either political or parliamentary correspondents. For instance one respondent from the Public newspaper group indicated he was a columnist with a dedicated blog on parliament.

Respondents from the CSOs were again fairly knowledgeable about the subject. For instance, the respondents from the SAPST and ZPSP were involved in training parliamentarians about their oversight role over the security among other programmes. The respondent from the academia were also very familiar about the subject and indicated that they were regularly invited to address to discuss issues of oversight. One respondent even indicated that they were currently designing a

curriculum for training parliamentarians on security sector governance including parliamentary oversight.

Generally the study also shows that there is a positive correlation between levels of education and higher levels of understanding of parliamentary oversight of the police (Table 5). All holders of a bachelors degree and higher understood the subject. All the respondents with doctorate and post-doctoral qualifications were confident to indicate they had excellent understanding of the issues around parliamentary oversight. As an illustration, 2 respondents with doctorate qualifications indicated that in Zimbabwe oversight of the police was ‘very political’. It was essentially oversight over the Executive considering that police are appointees and agents of the executive. The table bellow presents the respondents’ perceptions on understating parliamentary oversight.

Table 6 Perceptions on understanding of parliamentary oversight of police

Questions	Option	Frequency	Percent %	Valid %
According to your observations, does the Police service understand the role of Parliamentary oversight:	Strongly Agree	15	34.0	34.0
	Agree	2	4.5	4.5
	Moderate	13	29.5	29.5
	Disagree	8	18.2	18.2
	Strongly Disagree	6	13.6	13.6
	Total	44	100%	100%
What is your evaluation of the levels of awareness among members of the public of the existence of Parliament and its Oversight over the Police?	Strongly Agree	3	6.8	6.8
	Agree	4	9.1	9.1
	Moderate	5	11.4	11.4
	Disagree	19	43.2	43.2
	Strongly Disagree	13	29.5	29.5
	Total	44	100%	100%

## **b. Respondents' understanding of their role in oversight processes**

The study also sought to understand if the respondent were aware of the roles they played in the oversight process in Zimbabwe. The following tabulated roles were identified by the study from the responses to questionnaires and the interviews.

Table 7 Respondents and their roles in parliamentary oversight over police

Respondent	Role in oversight process
<b>A. The Overseers</b>	
i. Legislators/ members of Parliament	-Part of portfolio and thematic committees -individual motions
ii. Parliamentary officials and staff	-Administrative function with committees -capacity building and training
iii. Civil Society Organisations	-Capacity building and trainings -Funding partners and other logistical support -Lobbying -Watchdogs
iv. Academia	-Capacity Building and training -Research on oversight, Police and human rights
v. Other Stakeholders, Security experts	-Consensus building -Lobbying and -Strategic dialogue
<b>B. The Overseen</b>	
i. The Police / Law Enforcement Agent ii. Ministry of Home Affairs	-Accountability to Ministry/Parliament -Reporting to Parliament -Administrative compliance -Internal oversight via self regulation -Policy implementation

As indicated in the table above, all respondents were aware of the roles they played in the oversight process. As the overseers, MPs quickly lamented the lack of resources as an impediment to their role as overseers. The police indicated that, as the overseen they were compliant in terms of their reporting to their parent ministry. Respondents from the home affairs also indicated that they also reported to the minister who was responsible for tabling the reports to parliament. They also revealed that they had their internal oversight mechanisms to manage misconduct.

Other respondents noted that they were overseers in various ways. Their various roles somehow played auxiliary function to oversight despite not being directly normatively mandated to exercise oversight over police. CSOs highlighted their watchdog and lobbying role in raising issues to public attention locally and internationally. ZLHR for example indicated it made shadow report to SADC and UN human Rights bodies on issue that include police brutality or any other issue that warrants such attention.

Respondents from the academia and some CSOs also indicated their role in research, training and capacity building to the parliamentarians, police and other stakeholders. The media respondents also indicated that they played a pivotal role in disseminating information on parliament, policing, governance and human right in general. For instance on respondent from The Herald newspaper indicated they had a regular column on parliamentary business titled, 'Mr Speaker Sir'. They also indicated that as consolidated media house their other media channels like the radio and television also has other programmes dedicated to parliament.

### **c. Understanding of Oversight Utility**

Understanding parliamentary oversight also spans to appreciation of its utility to society. The responses to questions about the need for parliamentary oversight over police, the capacity of the parliamentarians and the nature of parliament and police relations revealed the level of understanding of issues about the utility of parliamentary oversight. According to the responses to the questions on ‘necessity of oversight’, 100% of the responses were affirmative. All respondents (100%) as they unreservedly concurred that oversight over police was necessary was necessary.

An assessment of all the responses indicates that respondents believed that parliamentary oversight was important to safeguard, protect or promote human rights. According to the exploratory section to this question, respondents used the phrase ‘human rights’, ‘rights’ or ‘freedoms’ in apparent reference to the utility of oversight to the protection of human rights. Others indicated that oversight was necessary to ensure legislative compliance. The other respondents also saw it as a practical measure to curb police unethical conduct that infringed enjoyment of democratic rights.

Police and home affairs respondents had interesting perspective on how useful oversight was on their departments as the overseen. Their noted that oversight was positive in that it helped them to comply with the law. From the interview, one respondent from the Ministry of Home Affairs indicated that records of compliance to external oversight helped in buttressing the perception that the ZRP is espousing principles of democratic policing. A respondent from the police indicated that this

was important in improving ZRP's image and eligibility for and professional reputation in UN and regional peace keeping policing mission.

However, during the interviews, responses from parliamentarians, academics and most CSOs on 'necessity' quickly led to critique of the effectiveness of the oversight. Views from one senior parliamentary official and one of the committee chairpersons bemoaned the lack of enforcement authority. They indicated that while oversight was necessary, the 'necessity' was practically invalidated by lack of 'bite' through lack of enforcement authority or arresting powers, especially in circumstances where security service personnel disregarded parliament's authority.

On question 2.9 on knowledge capacity or lack thereof among parliamentarians on police oversight, 66% of the respondents had a broad consensus that parliamentarians had low to very low knowledge on how to exercise oversight function. The perceptions on the relationship, between parliament and police also showed a general perception that the relations were lukewarm. One senior police preferred to describe the nature of association rather as 'professional'. The following table depicts the aggregated responses on the questions.

Table 8 Overseers capacity and nature of relationship with overseen

Questions	Option	Frequency	Percent %	Valid %
How do you rate the capacity of Parliamentarians, in terms of knowledge around Police oversight issues? (Are they conversant to oversee the activities of the Police in Zimbabwe?)	Very High	0	0.0	0.0
	High	2	4.55	4.55
	Moderate	13	29.55	29.55
	Low	19	43.18	43.18
	Very Low	10	22.73	22.73
	Total	44	100%	100%

How can you describe the relationship between the Parliament and the Police in Zimbabwe?	Very Cordial	0	0.0	0.00
	Cordial	4	9.09	9.09
	Indifferent	19	43.18	14.18
	Unfavorable	15	34.09	34.09
	Hostile	6	13.64	13.64
	Total	44	100%	100%

On being asked about the public, the respondents in this study were of the view that the public were largely unaware of the notion of parliamentary oversight over the police. Perceptions on public understanding of parliamentary oversight of police tend to affect the way in which issues to do with oversight are deliberated in and out of parliament. One parliamentarian indicated that since the people ‘didn’t know’ about oversight, trying to talk about it at community level would often seem the MP was trying to inflate their ego by insinuating, they could ‘arrest the police’.

#### **4.3.3 Legal Frameworks for Parliamentary Oversight**

The data presentation and analysis section was able to indicate that respondents were aware that parliamentary oversight authority is provided for in terms of the Constitution of Zimbabwe and other laws. While not every respondent was precise on the actual provisions of the legal frameworks, all respondents mentioned the Constitution, in reference to Sections 119(3) which states that all institutions and agencies of the state and government at every level are accountable to parliament; Section 207(2) that emphasises on security service subjection to parliamentary oversight and Section 219(3) that emphasises the police service subordination to civilian authority. Respondents from the police and Ministry of Home Affairs were able to make reference to reports by the commissioner of police, a provision that relates to Section 13 of the Police Act which obligates the police commissioner to

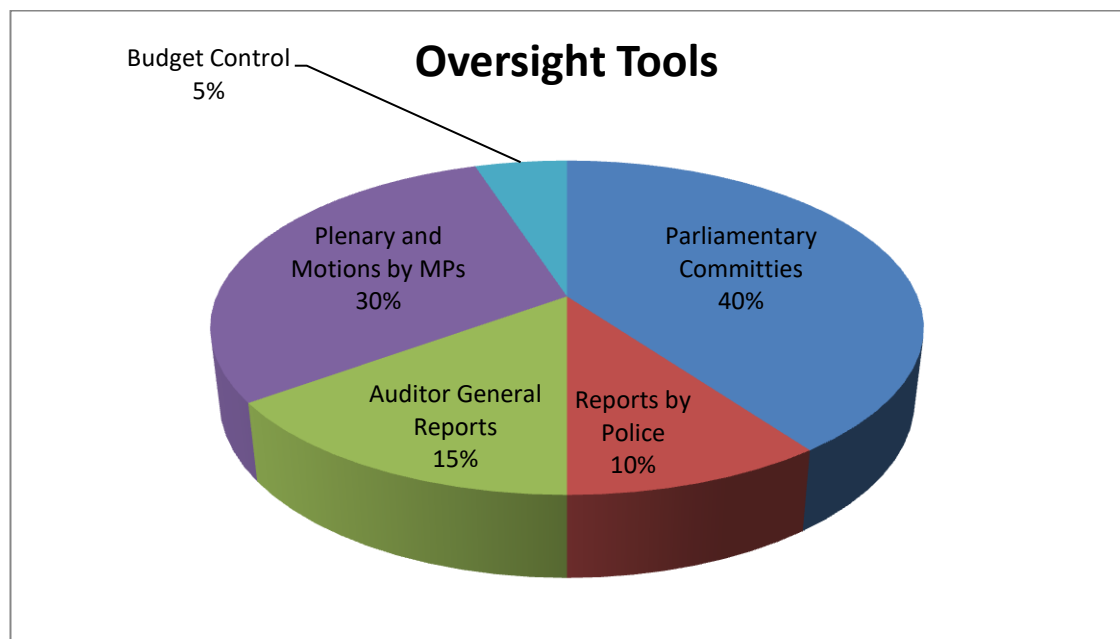


report to the minister who in turn report to parliament. MPs and parliamentary officials also identified the authority of parliamentary standing orders.

#### 4.3.4 Tools and Mechanisms for Parliamentary Oversight of the Police

The research had an open question for respondents to state all they knew to be tools for oversight over the police. The respondents identified and described in a range of means and ways for instituting oversight, however for analytical purposes, the researcher grouped and classified the identified tools as follows:

Figure 6 Oversight Tools for Parliamentary Oversight over the Police



The commonest tool identified by almost all respondents is the parliamentary committees. Respondents commended the authority to summon the minister responsible for police and or the police commissioner general or their representative as the most important aspect of this tool. The chart above depicts the tools identified;

they all conform to the general classification of the parliamentary committees, the plenary or chamber and fiscal or budgetary controls as Yamamoto (2007) identified.

Respondents from the portfolio committee on Defence, Home Affairs and Security Services, the thematic Committees on human rights and the thematic committee on peace and security were able to indicate that they were members of the committees that had the authority to summon the minister responsible for police. They indicated that the committee was a potent tool for exercising oversight over police because it enabled them to examine and determine expenditures, administration and policies relating to police. One interviewee from the human rights thematic committee revealed that her committee was examining police recruitment policy in relation to gender equality.

Periodic reporting to parliament was identified as a tool, especially by respondents from the police and home affairs. They mentioned the obligation to report to the commissioner and the minister of police as the tools they utilized to show compliance as the overseen. The police indicated that they had always religiously sent their reports to the minister every quarter. One respondent from the police even mentioned that they were open to parliamentary scrutiny and indicated that parliamentary committees had visited them in January 2017.

Another tool, the Auditor General's audit report was identified by 5% of the respondents who indicated that by way of extension parliament had oversight role over police finances through analyzing the annual reports sent by the Auditor General to parliament. It is from these reading that parliamentary committees or individual committees could seek further clarity on any matter of concern identified

via the report. Some MPs indicated that a motion was moved to obligate the police to adopt the use of plastic money for fine collection after a 2015 report had indicated an anomaly around non-remittance of fund to treasury by certain police posts and departments.

The chamber or plenary where questions, interpellations and motions for agenda are raised was identified as a popular tool. The parliamentarians indicated that the parliament plenary allowed for issues around police oversight to be discussed in a variety of ways. The parliamentarian indicated that they raised several issues pertaining to police conduct such as illegal detention, traffic fines and any other unethical conduct. Another informant also indicated that the opportunity to ask the minister question on policing contributed to the improvement of police policies.

#### **4.3.5 Factors Inhibiting or Enhancing Parliamentary Oversight of Police in Zimbabwe**

The previous questions in this section were all geared towards priming the respondents to also provide their experienced and informed perceptions on what they understood or realised to be either the catalyst or impediments to improved Police oversight by parliament. As indicated in chapter 1, this study sought to uncover those prospects and challenges and add a voice to the discourse; and proffer solutions for the improvement of parliament's oversight function over the police.

##### **a) Factors that Enhance Parliamentary Oversight of Police**

Prospects refer to positive attributes, factors and opportunities, both internal and external to the 8<sup>th</sup> parliament that enhance or promote its oversight role over the

police service. According to the study, the responses to open ended question 2.12 identified the following factors as the ‘prospects’.

### **1. Legal Framework**

All the respondents to both, the questionnaires and face to face interviews identified the new constitution and subsidiary legislation as the main factor to base parliamentary oversight. As indicated in the literature review section of this study, Constitution Amendment No.20 of 2013 is regarded as ‘progressive’ because it espouses several clauses that guarantee accountability and is clear on the overarching role of parliamentary oversight over all government institutions and agencies including the police. So in line with the democratic principles and constitutionalism, parliamentary oversight is premised on supreme constitutional authority. Other expert respondents indicated that the national legal framework was also in tandem with regional and international human rights systems and principles governing police.

### **2. Mandate of the Parliament**

Closely related to the above, respondents identified ‘parliament’s authority to summon the minister responsible for police and or the police commissioners’ as a great prospect. This authority is expressed via parliamentary committees. Even police respondents indicated awareness of the obligation to report regularly make and present reports to parliament. Parliament has the following rules of procedures that were also identified as tools:

- Parliament’s authority to ask the police for information

- Parliament's authority to seek clarification on public policies on policing
- Parliament's liberty to express its opinion on police to public and government
- Parliament's access to information from sources outside the government.
- Parliament's role in accepting or denying budgets involving police expenses

Parliament's oversight mandate is stipulated in standing orders provisions; the parliament has various committees with which it scrutinises all Police conduct, finances and policies.

### **3. Variety of Oversight Tools and Mechanisms**

In addition to the parliamentary mandate, the respondents also indicated that the availability of a variety of means and tools with which to actually institute oversight was in itself a good prospect. Under this logic, this enabled oversight to be instituted in a variety of angles. For instance, a member could decide to raise a motion in the chamber on an issue overlooked by committees. It is again possible to debate and incorporate questions and or response that pertain to police. The other tools revealed by the respondents include question time, questions, interpellations, hearings and public accounts committee's reports. All respondents were able to identify more than two tools available to parliament.

### **4. Parliament's Relationship to other Oversight Stakeholders**

Some respondents were able to interpret the possibility for symbiotic synergies between the parliament and other state and non-state entities that are concerned about human rights, security sector reform, good governance or democratic policing as a prospect for improving parliament's oversight role over the police. One interviewee

singled out the Zimbabwe Human Rights Commission's authority over police as an opportunity that could be utilized by parliament to augment its oversight role. Civil society respondents were quick to identify the importance of non-governmental organisations (NGOs) as funding and capacity building partners.

## **5. Topical Nature of the subject of Oversight and Accountability**

All respondents from the media and academia stated that the subjects related to parliamentary oversight role and police accountability were topical in Zimbabwe. One media respondent indicated that a story about police being punished for corruption received record hits on their online newspaper (Mushava, 2017). A senior police respondent also indicated that the subject of police accountability was positive in improving democratic policing and maintenance of their international reputation in UN peace keeping missions.

The academia indicated that the proliferation of subject on peace and security studies was an indicator that oversight issues are topical. One respondent also indicated that plans were underway to establish a training curriculum of security governance and transformation that included such aspects as parliamentary oversight and democratic policing. Members of parliament and staff from parliament concurred on the topical nature of the subjects around police accountability by indicating they had or were aware of persons that had gone overseas to be trained on security sector reform encompassing parliamentary oversight over police. So, the mere popularity of the subjects of oversight and accountability was identified as a prospect in that if the policy makers were amenable to oversight issues, it would be a sustainable agenda.

## b) Challenges to Parliamentary Oversight of Police in Zimbabwe

In trying to identify and rate the level of challenges or problems, the responses about the perceived challenges were solicited via means of a closed and tabulated tool that identified six specified problems categories relating to:

- i. Institution or organisational structures
- ii. Technical capacity of the overseers
- iii. Legal framework
- iv. Financial Resources
- v. Access to information
- vi. Political interference

**Table 9 Challenges/Problems affecting Parliamentary Oversight of Police.**

Challenge /Problem Category		5	4	3	2	1	Respondents Total No.	Valid %
		No. of Responses per Question						
I	Institutional / Relating to organisational structure	3	7	11	14	9	44	100
Ii	Lack of technical capacity- by committee members	10	19	13	2	0	44	100
Iii	Lack of clear legal framework	0	3	4	23	14	44	100
Iv	Lack to of access to information	1	1	12	19	11	44	100
V	Lack of financial resources	31	9	4	0	0	44	100
Vi	Political interference	32	10	1	1	0	44	100

Key 5=Strongly Agree, 4=Agree, 3=Moderately Agree, 2= Disagree, 1=Strongly Disagree

## **1. Institution or Organisational Structures**

Respondents acknowledged that the institutional structure for oversight was there with the potential for effective oversight. In spite of the above, challenges associated with institutional and organisational structures were revealed in an interview with a parliament staff respondent who identified both human and material resources for their everyday work.

Police respondents indicated that the hierarchical nature of police could hinder parliamentary oversight in practice. It was noted that naturally juniors or undesignated police personnel could never speak or yield without authorization. Furthermore all police reporting to external parties involved persons secondary to most phenomena that could be of interest to the oversight team. The protocol and authorization processes also resulted in a high propensity for certain issues to be concealed or excluded. One police interviewee even suggested that ‘real’ oversight would require persons with understanding of policing operations.

Parliamentarians also noted institutional structural challenges that impeding oversight over the police. They noted the temporary nature of the duty of being a member of parliament. It took time to accustom members to parliamentary business and conduct, and yet there was no clear criterion per se for selection or election to the committees. They noted three other factors that influenced their engagement in oversight activities viz the size of the parliamentary support staff, the amount of time they spent on oversight issues and the motivation via remuneration. It is apparent that the time parliamentarians spend on their oversight function has an impact on the effectiveness of oversight activity.



### **i. Technical Capacity of the Overseers**

The issue of lack of technical capacity was evident in the responses that came through. A scrutiny of the academic profile of the committee members of the 8<sup>th</sup> parliament confirms the same with less than 32% of the interviewed parliamentarians having a qualification beyond a diploma. One opposition parliamentarian also lamented the deadwood in the 8<sup>th</sup> parliament and indicated that this stifled parliament business including oversight over the police.

One respondent, a director from a CSO that is involved in partnering and training parliamentarians on issues of peace, security and human rights also indicated that, from their trainings, they identified wide knowledge gaps among the parliamentarians, especially the senators whose appreciation was largely limited. This is further exemplified by one incidence during the research when one senator who is part of the thematic committees on peace and security, clearly declined to take part and told the researcher she ‘did not even have form 4’. Yet she had a senior position and role within the committee.

## **2. Legal Framework**

While most respondents commended the existing legal framework that spelt out parliament’s role in oversight over all state and governmental institutions, respondents with a legal acumen were quick to point out on certain operational anomalies to the frameworks that impeded practical oversight. A respondent from the Zimbabwe Lawyers for Human Rights cited the non alignment of the Police Act, POSA and AIPPA, Protected Places Act as possible loopholes that could impede the actual oversight. She noted that for instance the police could restrict or delay access

to anyone including parliamentarians based on those issues or simply on the legal principle of *sub judice* where issues under police investigation cannot be discussed or shared or publicised prior to full investigation outcome and the investigations' tenure can simply be made to outlive the interested committees' life span! One police respondent asked out of interest how different parliamentary oversight was from activities of the Anti Corruption Commission. This came up as he explained the lack of legal authority of parliamentary committees to effect arrests or order the police to effect the same.

## **2 Limited Resources**

On resource or budgetary allocation this research, the majority of respondents were unaware of the precise figure or estimate of funds availed for oversight activities. During the interviews, the parliamentarians were apparently unwilling to respond to specifics thereon, but they reiterated that parliamentary committees were under-resourced. Both a member of the Public Accounts Committee and senior administrative personnel from the parliament pointed out that funding allocation for Committees was insignificant and inseparable from general parliament budget. They did not state any or estimate figure. They acknowledged external support from donors, especially NGOs and other international developmental organisations.

A respondent from a CSO that works with parliament corroborated who the issue of under-resourcing when he indicated that they funded trainings related to security sector transformation. One respondent from the committees who is a member of the opposition suggested that underfunding of oversight activities could be an executive ploy to avoid accountability. Her contention was that since oversight was also

designed to check the executive conduct as well, without resources, naturally the MPs could not oversee the executive. However, she also revealed that the committees were virtually reliant on external donor support for activities.

Lack of financial resources was universally acknowledged as an endemic challenge. The average response to the question on financial resources toward oversight activities was low. In his response to a question about human rights monitoring visits to police institutions, a committee's chair was not sure if they could conduct any other site visit to any police station because of lack of funds. All interview respondents indicated that oversight was affected by the poor economy or lack of financial resources.

A CSO respondent indicated the current parliament was basically donor funded. A parliament staff member even humorously indicated that even the highly interactive website was sponsored and that it could vanish with the end of funding window. One opposition respondent humorously expressed that if they could effectively effect oversight on police they, could as well have access to part of the fines collected daily through numerous fines.

In essence all the above expresses the degree to which lack of finances posed a great challenge and caused uncertainty towards oversight processes for parliament, especially activities that required actual monitoring visits.

### **3 Access to Information**

Access to information on oversight parliamentary affairs was cited as a challenge but mainly in relation to the public. Since this was a purposive study, the participants

were generally familiar to the issue at hand. It was indicated via the responses to questions about public perceptions on parliamentary oversight that overwhelmingly, that the public was unaware of the existence of human rights monitoring and reporting mechanisms in form of parliamentary oversight. Nevertheless, some respondents from the media, and CSOs indicated that parliament was trying to ensure the public was aware of its functions including oversight. Some respondents commended parliament and CSOs like SADC Parliamentary Support Trust for availing information via live TV and radio broadcasts on parliamentary issues. Parliament is open to public access and avails hansard reports free of charge and over its website. However one opposition MP indicated that the public did not take seriously parliament business because there was a perception that parliament was 'useless' or 'partisan'. So whatever information it provided was either discarded or treated with skepticism.

#### **4 Political Interference - Everything is political!**

Political interference was noted to be ubiquitous and all respondents cited to it as the greatest impediment to parliamentary oversight over police. Respondents from the academia were generally able to articulate on the problem of political interference from several logical perspectives. In a system with a dominant party and the whipping system like Zimbabwe<sup>15</sup>, the MPs are obliged to vote in accordance with

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<sup>15</sup> Whipping ensures party discipline which in turn has the ability to ensure that a parliamentary group of a political party gets its members to support policies of their party leadership.

their party agenda. Consequently, they could face penalties culminating in expulsion, demotion, removal from public office through redeployment.

It was noted that while ostensible authority ideally resided in the constitution and parliament, real authority resided in the ruling party. This where deliberations were conducted behind the closed doors of party forum and where real decision making occurred outside formal constitutional structures such as parliament. For example in Zimbabwe, ZANU PF the ruling party had a principle of 'one centre of power' so all conduct by members whether in government or not was practically sanctioned by the party's position.

Interference was also related to the legislative-executive relationship. They noted that the Zimbabwean scenario was largely compromised in capacity to effectively oversee the police as agents and appointees of the executive. This situation emanated from the dynamics that both MPs who become ministers and the police leadership served at the pleasure of the executives. As such it was seen to be a contradiction to effectively exercise oversight over other appointees. One opposition Senator was able to make reference to a speech made at a political party whereby the president of ZANU PF party indicated that, 'the police belonged to them and they should arrest all opposition trouble makers so that they could eat prison food'. The senator indicated that despite such partisan claims, the police minister or the police commissioner general never refuted the claim or assured the public of police neutrality. His conclusion was that both the Minister responsible for police and to some degree the police commissioner was appointed on political grounds.

From the research, the degree of partisanship at committee level was high such that one respondent was keen to know if the questionnaire was also accessible for ‘opposition’ MDC members. So, political interference affects the parliament’s oversight process, because in Zimbabwe parliamentarians will rather prioritise political party cohesion and party position.

#### **4.4 Summary**

This chapter identified 4 broad themes that relate to the 8<sup>th</sup> parliament’s oversight role over the police in Zimbabwe. The themes were about understanding parliamentary oversight over police; the legal frameworks that sustain the oversight; the tools and mechanisms for oversight and the factors that enhance or inhibit parliamentary oversight (prospects and challenges)

The section revealed the different opinions of the research participants on the themes. It showed that oversight was known and understood by respondents but, the respondents perceived that parliamentary oversight was still vague to the general public. The study indicated that parliamentary oversight of the police was based on the constitution and other statutes and was generally desirable in respecting the rule of law and as a human rights monitoring mechanism. Parliamentary oversight over the police was also perceived as essential for the protection of rights such as liberty, freedom from torture, privacy and bodily integrity among those rights easily susceptible to violations in cases of police over-handedness and unethical practices. The respondents noted that the 8<sup>th</sup> parliament had a number of tools or mechanism to institute oversight over the police yet, these risked being invalidated by such challenges as political interference and resource constrains. The next section

provides a summary of conclusions and provides recommendations based on the findings that were presented, analysed interpreted and described in this chapter.

## **CHAPTER 5: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS**

### **5.1 Introduction**

Based on the preceding section's analysis and interpretation of the data, this chapter now articulates on the conclusions deciphered from analysing research results about the oversight role the 8<sup>th</sup> parliament played in practical human rights monitoring via exercising its oversight authority over the ZRP. It discussed the implications, identified areas for further research and offered recommendations.

### **5.2 Discussion**

Both the parliament and the police play important roles in safeguarding human rights in society. Parliament is the embodiment of the people's voices and its generic role is to represent the people, to make laws that protect and promote human rights, and to monitor and guarantee accountability through oversight. On the other hand, police is entrusted with law enforcement authority and plays an equally important role in enforcing law for the protection of persons, property and peace.

Law enforcement duty requires a delicate balance between rights protection and rights limitation because enforcement allows for permissible right infringement in special occasions. Policing is also largely discretionary with some decisions made under dangerous and unpredictable conditions. Policing is part of security services but directly interact with civilians. The above realisations pose a real risk to rights enjoyment by those that come into contact with policing. Consequently, history is replete with situations where the police have been implicated in rights violations.



This is not unique to Zimbabwe; police is also implicated in cases of abuse of enforcement authority or unethical conduct that violate rights. So, this study was an attempt to highlight if the association and interaction between the parliament and the police could be best utilised in monitoring, promoting and protecting human rights in Zimbabwe. It started with a presentation of the philosophical thoughts around oversight and accountability and then surveyed contemporary oversight practices. In guiding the study theoretical perspective, the civilian control model was adopted. This model postulates that for effective accountability, the Police ought to be overseen by non police entities such as parliament.

A case study of the 8<sup>th</sup> parliament's exercise of oversight authority over the police was conducted to determine prospects and challenges. In this endeavour the study identified four themes that can be useful in for future if found compelling. The themes were about understanding parliamentary oversight over police; the legal frameworks that sustain the oversight; the tools and mechanisms for oversight and the factors that enhance or inhibit parliamentary oversight.

The study revealed that only stakeholders in the oversight process and others that work closely to parliament and policing were area about parliamentary oversight. These respondents also perceived that the public was largely unaware of parliament's oversight role and that it extended to policing. The Constitution, Amendment (No 20) of 2013 and the parliamentary standing orders were perceived to be the basis of the legal framework for oversight since they spell out the oversight authority of parliament and reiterate police subordination to civilian authority and supervision. Other laws were also referred to for their potential auxiliary role in fostering accountability.

The research also identified a number of tools and mechanisms at parliament's disposal such as the plenary question time, budgetary control and the committees. These made the parliament a versatile institution to oversee the police. Lastly the research also identified that the 8<sup>th</sup> parliaments exercise of oversight authority was influence by opposing factor some of which constrained its work and while others enhanced the oversight. Politics, limited capacity and constrained resources were seen as the major challenges. The constitution, the wide oversight mandate and the desirability of oversight were seen as prospect that enhanced it progression in Zimbabwe

### **5.3 Conclusions**

The research showed that generally oversight was considered necessary for both normative and functional purposes. Instituting oversight was a way of fulfilling legal requirements stated in the constitution and other legislation that promotes accountability and subordination of state and governmental institutions and agencies to civilian authority via complying with oversight requirement. From a functional perspective, oversight over the police was often hailed as an effective means to ensure that police misconduct and other unethical behaviours are curtailed with the net effect of protecting human right of citizens who come in contact with police.

The findings also brought out that the main interlocutors and major stakeholders in the oversight process understudy were fairly knowledgeable about parliamentary oversight authority over the police. Despite offering somehow dissimilar definitions and explanations, it was apparent all shared a common understanding of the concept of oversight and its functional role in human rights protection via actually monitoring

police misconduct and taking a proactive approach against police unethical conduct and also to protect police interest and rights.

With regards to the public's appreciation of parliamentary oversight, the research revealed that ordinary people were perceived as having peripheral or lacking substantial knowledge on the subject. The other important revelation was the general consensus that parliament, as a body representing all the people was ideal to institute oversight, and especially over police. This was premised on the seeming failure of other entities that have versatile oversight authority that stretches to all aspects of policing. A case in reference is about the auditor general who stated that her prior recommendations were not honoured (Chiri, 2016). The other example related to the Zimbabwe Anti Corruption Commission that failed to institute an arrest despite making conclusions for a case against alleged fraud at Zimbabwe Manpower Development Fund. Respondents believed parliament was better poised to rein the police considering parliament's constitutional mandate and the multiplicity of oversight tools and mechanisms at its disposal.

The research also managed to identify these tools which the respondents understood were handy in ensuring that parliament could exercise its oversight mandate over the police. There was identification of the committees system, and in particular reference to the portfolio committee on Defence, Home Affairs and Security Services, the thematic committee on Peace and Security and the one on Human rights. Respondents indicated that committees had authority to summon the police minister, commissioner or their proxies to respond to any agenda set by the committees.

The chamber plenary sessions were also identified as another avenue to bring motion and questions to the responsible ministers. This was particularly interesting in that topical issues could be discussed spontaneously with the possibility of overriding partisanship. On record the minister of home affairs has been asked impromptu questions about alleged police corruption. The chamber allows for individual questions without notice and written down questions. All these avenues can ensure that issues of policing business are discussed publicly.

On resources and capacity, the respondents generally concurred that parliament was under resourced and this had a dilapidating effect on the actual performance of the oversight function. As a result the majority of activities were sponsored by NGOs and generally confined to Harare due to unavailability of resources. With regards to technical capacity, the levels of some of the primary interlocutors were peripheral on close scrutiny. While the parliamentarians especially seasonal and career politicians knew about oversight, they were unaware of the substantial link or association of overseeing the police to the human rights protection logic.

Chapter 4 also brought to fore one of the central tenets to this study, it discussed and interpreted the factors that were identified as enablers and inhibitors (prospects and challenges) to parliamentary oversight over the police. Among the prospects it was noted that the legal framework was key in substantiating the oversight mandate. The other factors mentioned hereunder relate to the variety of oversight tools, the topical nature of issues of good governance and accountability and parliament's association with other interest in accountability, security sector transformation and democratic policing. On the challenges side, the lack of resources and political interference were seen as the main impediments to oversight.

## 5.4 Implications

As shown by the research findings the 8<sup>th</sup> parliament has made strides in exercising its oversight function over the police. The study highlighted two fundamental issues raised by this study that is:- 1) to approve or disprove the hypothesis ; and 2) to see if indeed the 8<sup>th</sup> parliaments' oversight activities over the police has protected or impacted certain human rights so far. With regards to the hypothesis, the study has shown an overwhelming confirmation that parliament is the ideal body to exercise police oversight from both a normative and functional approach. Parliamentary oversight is acknowledged among all respondents and while its efficacy can be questioned, views about its necessity are unanimous.

The findings confirm that parliamentary oversight over policing has the capacity to protect human rights. The 8<sup>th</sup> parliament has to some degree contributed to the protection of fundamental human rights for civilian and the police service itself. The motion for the ZRP to formalise the recruitment was in essence a contribution to the respect of right to labour and affair working conditions. The motion to avail funds to complete the police general headquarters and the staff quarters at Tomlinson depot was also a clear recognition of the right to descent shelter and working environment. Parliament emphasised on the implications of section 50(9) on individual liability for illegal arrests and detentions were a direct act to protect civilians against arbitrary and illegal arrests. The above and other exploits of the 8<sup>th</sup> parliament had a directly bearing on protect the fundamental right and freedoms such as the right to liberty, life safety, security, privacy fair trial and compensation. While the effectiveness is too early to tell, it is no doubt that there are few cases that show that indeed certain rights are being protected.

Nevertheless, the respondents offered some recommendation and ideas for the immediate and near future whereby they suggested that the laws should be realigned to ensure that oversight authority was explicit in all legislation governing the police. In relation to the capacity of stakeholders it was suggested that that training on oversight and human rights should be instituted.

## **5.5 Recommendations**

Based on this study on parliamentary oversight over police during the 8<sup>th</sup> parliament, future action suggested for this study can include:

1. Parliament should sensitise the public of their mandate including oversight role and publicise their accessibility.
2. Human rights learning should be infused in police and parliament curricula.
3. Funds should be availed for committee oversight business.
4. Police Act and other legislation be realigned and clarify the over-arching nature of parliamentary oversight.
5. Parliament to have arresting powers and or authority to order direct arrests.
6. Stiff penalties for denigrating the authority of parliament in oversight issues.
7. Parties or politicians to consider standard minimum education levels in becoming a member of parliament.
8. Membership to committees to have special minimal competency or experience requirements relating to area of oversight.
9. Committees to receive special training to sharpen oversight function
10. Ensure strict and regular reporting of ministry of home affairs to parliament.
11. Professional remuneration schedule for parliamentarians to sustain motivation

12. Encourage secret voting to mitigate partisanship when voting for important bills and motion including those pertaining to police.

### **5.6 Suggestions for Further Research**

Unsolved problems that emanated from the study identified following areas need further study:

- i. Effectiveness or efficacy of parliamentary oversight in general.
- ii. Feasibility of establishment of an independent oversight / complains mechanism to receive complaints against police as suggested by Section 210 of the Zimbabwe constitution.
- iii. Gender imbalances and disparities in parliament and police and security sector in general.

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## APPENDICES

### Appendix 1 Questionnaire Survey Instrument

#### QUESTIONNAIRE FOR PARLIAMENTARY OVERSIGHT STAKEHOLDERS

My Name is Arthur B. Musindo, a final year student for a Masters in Human Rights Peace and Development at Africa University and pursuing a study titled Parliamentary Oversight of the Police in Zimbabwe: Prospects and Challenges. The study seeks to assess the prospects and challenges of parliamentary oversight since the start of the 8<sup>th</sup> parliament.

Your participation has the potential to contribute to the success of my study and is useful in shaping progressive discourses around improving parliamentary oversight, policing and human rights. I kindly ask you to participate by responding to the following questions.

##### Section 1: Informants Information

1.1. Age: A. Less than 30 years ☐ B. 30-40 ☐ C. 41-50 ☐ D. More than 50 ☐

1.2. Sex: A. Male ☐ B. Female ☐

1.3. Level of Education A. Diploma ☐ B. Bachelor's Degree ☐ C. Masters ☐  
D. Doctorate ☐ E. Post-Doctoral ☐

1.4. Your / Area of Expertise / Experience/Research Interest

A. Human Rights ☐ B. Democracy and Governance ☐ C. Law ☐ D. Civil  
Society ☐ E. Law Enforcement ☐ F. Other ☐ \_\_\_\_\_

1.5. Type of organisational affiliation

A. Academia ☐ B. Media ☐ C. Parliament ☐ D. Police ☐ E. Security  
Sector ☐ F. Civil Society ☐ G. Other ☐ (specify) \_\_\_\_\_

1.6. Year of Service in your domain

A. Less than one year ☐ B. 1 -5 years ☐ C. 5-10 Years ☐ D. over 10 Years ☐

2.1 How do you rate your understanding of parliamentary oversight over police?

A. Excellent ☐ B. Good ☐ C. Satisfactory ☐ D. Limited ☐ E. Very Limited ☐

2.2 Do you know that parliament has oversight authority over police regarding their conduct and administrative issues? A. Yes ☐ B. No ☐

2.3 What role do you / your organisation/sector play in relation to parliamentary oversight over the Police in Zimbabwe?

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2.4 What tools of oversight are currently available for exercising parliamentary oversight over police in Zimbabwe? (Please state all you are aware of)

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2.5. According to your observations, does the police service understand the role of parliamentary oversight?

A. Strongly Agree ☐ B. Agree ☐ C. Moderately ☐ D. Disagree ☐ E. Strongly Disagree ☐

2.6. Do you think members of the public understand the notion of parliamentary oversight where police service is accountable to parliament?

A. Strongly Agree ☐ B. Agree ☐ C. Moderately ☐ D. Disagree ☐ E. Strongly Disagree ☐

2.7 What is your evaluation of the levels of awareness among members of the public of the existence of parliament and its oversight role over the Police?

A. Very High ☐ B. High ☐ C. Moderate ☐ D. Low ☐ E. Very Low ☐

2.8. How do you rate financial resources/budgetary allocation to matters related to parliamentary oversight over police? (Are resources availed liberally to enhance Police oversight in Zimbabwe?)

A. Very High ☐ B. High ☐ C. Moderate ☐ D. Low ☐ E. Very Low ☐

Please Explain \_\_\_\_\_

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2.9. How do you rate the capacity of parliamentarians, in terms of knowledge around Police oversight issues? (Are they conversant to oversee the activities of the police in Zimbabwe?)

A. Very High ☐ B. High ☐ C. Moderate ☐ D. Low ☐ E. Very Low ☐

Please Explain \_\_\_\_\_

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2.10 Is there a need to have parliamentary oversight over police in Zimbabwe, explain your answer? A. Yes ☐ B. No ☐

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2.11 How can you describe the relationship between the parliament and the police in Zimbabwe?

A. Very Cordial ☐ B. Cordial ☐ C. Indifferent ☐ D. Unfavorable ☐ E. Hostile ☐

2.12 What prospects are present in Zimbabwe for enhancing parliamentary oversight over police? (Please list as many as you can)

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2.13 What challenges (Political, Legal, Economic, institutional and/others) do you think affect parliamentary oversight over police? (Rate the level of each problem)

Factor		5	4	3	2	1
		Strongly Agree	Agree	Moderately Agree	Disagree	Strongly Disagree
i	Institutional / Relating to organisational structure					
ii	Lack of technical capacity- by committee members					
iii	Lack of clear legal framework					
iv	Lack to of access to information					
v	Lack of financial resources					
vi	Political interference					

2.14 What are your recommendations to curb the above problems and improve parliamentary oversight over policing?

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2.15 Any additional comments

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Thank you again for your response



## Appendix 2 Interview Guide

### **INTERVIEW GUIDE FOR KEY INFORMANTS**

My Name is Arthur B. Musindo, a final year student for a Masters in Human Rights Peace and Development at Africa University and pursuing a study titled Parliamentary Oversight of the Police in Zimbabwe: Prospects and Challenges. The study seeks to assess the prospects and challenges of parliamentary oversight since the start of the 8<sup>th</sup> parliament.

You have been purposefully selected considering your knowledge and expertise in the subject matter. Your participation has the potential to contribute to the success of my study and is useful in shaping progressive discourses around improving Parliamentary oversight, policing and human rights. I kindly ask you to participate by responding to questions on the following concepts.

1. The relationship between parliament and the police
2. Normative provisions on parliamentary oversight in Zimbabwe
3. Necessity of parliamentary oversight over the security services including the police.
4. Available mechanisms and tools for parliamentary oversight over the police
5. 8<sup>th</sup> parliament's achievements/effectiveness in its oversight functions over police.
6. Prospects for effective parliamentary oversight over the police in Zimbabwe.
7. Challenges and limitations associated with parliamentary oversight of the police.
8. Relationship between police, parliament and institutions for government accountability.
9. Accessibility of parliamentary oversight channels to the public.
10. Parliamentary oversight and human rights.

## Appendix 3 Informed Consent Letter

### INFORMED CONSENT LETTER

My name is ARTHUR BENJAMIN MUSINDO, a final year Masters in Human Rights, Peace and Development (MHRPD) student from Africa University based in Mutare. I am undertaking a study titled Parliamentary Oversight of the Police in Zimbabwe: Prospects and Challenges.

The purpose of this exercise is to explore and document the experiences and opinions of knowledgeable persons about the prospects and challenges associated with parliamentary oversight over police since the beginning of the 8<sup>th</sup> parliament in Zimbabwe. The research is purely academic and you /your institution are/is purposively selected among the 50 target respondents because you/it work(s) with parliament's oversight role/ police services; In addition, your/agency are/is knowledgeable about the subject and can contribute useful insights. I kindly ask you to participate in this study by answering the questions prepared for data collection.

If you decide to participate, the researcher would be grateful to make an appointment at your work place or any other convenient place during normal working hours. You shall be expected to fill-in the questionnaire or respond to an interview that is guided by a set of questions, the process is expected to take between twenty minutes (20) to 45 minutes.

The researcher does not foresee any risks or discomforts associated with participating in this purely academic research. I therefore encouraged you respond to the best of your knowledge since there is no right or wrong answer. I reiterate that your alternative to participation through withdrawal at any stage of the process is always available without consequences.

Since this is purely academic, no compensation financial or otherwise shall be paid to participants for being part of the research exercises. However, the benefits are expected to accrue remotely through better policies, so as a participant you stand to benefit from the research as well as your organisation, by gaining a better understanding of parliamentary oversight in Zimbabwe. You or your organisation shall be privy to the research results as well.

On confidentiality, be assured that information solicited from you shall be treated with utmost care and confidentiality. You shall never be required to write your name anywhere on the questionnaire, rather alphanumeric pseudonyms shall be used instead. Any information traceable to you shall be disguised and no such details may be used without your informed consent.

Before you sign this form, please ask any questions on any aspect of this study that maybe unclear to you. You may take as much time as necessary to think it over. And remember you have the right to withdraw from participation in this research, without any ramifications at any state of the process.

As alluded to earlier on, participation in this study is voluntary, if you decide not to participate in this study; your decision will not affect the future relationship with you or your organisation. However, if you chose to participate, you also are free to withdraw your consent and to discontinue participation without penalty.

If you have decided to participate in this study please sign this form in the space provide below as an indication that you have read and understood the information provided above and have agreed to participate.

-----  
Name of Research Participant (please sign) -----  
Date

-----  
Signature of Research Participant or legally authorised representative

If you have any questions concerning this study or consent form beyond those answered by the researcher including questions about the research, your rights as a research participant, or if you feel that you have been treated unfairly and would like to talk to someone other than the researcher, please feel free to contact the Africa University Research Ethics Committee on telephone (020) 60075 or 60026 extension 1156 email aurec@africau.edu

Name of Researcher: ARTHUR BENJAMIN MUSINDO

## Appendix 4 Africa University Research Ethics Committee Clearance



**AFRICA  
UNIVERSITY**  
(A United Methodist-Related Institution)

INVESTING IN AFRICA'S FUTURE

# AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE (AUREC)

P.O. BOX 1320, MUTARE, ZIMBABWE • OFF NYANGA ROAD, OLD MUTARE • TEL: (+263-20) 60075/60026/61611 • E-MAIL: aurec@africau.edu • WEBSITE: www.africau.edu

Ref: AU010/17

February 21, 2017

Arthur Benjamin Musindo  
College of Business, Peace, Leadership and Governance  
Africa University  
Mutare

**RE: Parliamentary oversight of the police in Zimbabwe: Prospects and challenges.**

Thank you for the above titled proposal that you submitted to the Africa University Research Ethics Committee for review. Please be advised that AUREC has reviewed and **approved** your application to conduct the above research.

The approval is based on the following.

- a) Research proposal
- b) Questionnaires
- c) Informed consent form

- **APPROVAL NUMBER** AU010/17  
This number should be used on all correspondences, consent forms, and appropriate documents.
- **AUREC MEETING DATE** NA
- **APPROVAL DATE** February 21, 2017
- **EXPIRATION DATE** February 20, 2018
- **TYPE OF MEETING** Expedited

After the expiration date this research may only continue upon renewal. For purposes of renewal, a progress report on a standard AUREC form should be submitted a month before expiration date.

- **SERIOUS ADVERSE EVENTS** All serious problems having to do with subject safety must be reported to AUREC within 3 working days on standard AUREC form.
- **MODIFICATIONS** Prior AUREC approval is required before implementing any changes in the proposal (including changes in the consent documents)
- **TERMINATION OF STUDY** Upon termination of the study a report has to be submitted to AUREC using standard form obtained from AUREC.

Yours Faithfully

MITI G.P. AUREC Administrator  
FOR CHAIRPERSON, AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE

