AN ANALYSIS OF INSTITUTIONALISED ACCOUNTABILITY MECHANISMS FOR THE ZIMBABWE REPUBLIC POLICE

By

ISHMAEL MUGARI

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TSHWANE UNIVERSITY OF TECHNOLOGY

Supervisor: Prof Adewale A. Olutola

NOVEMBER 2016
DECLARATION

“I hereby declare that this thesis submitted for the degree D Tech Policing, at Tshwane University of Technology, is my own original work and has not previously been submitted to any other institution of higher education. I further declare that all sources cited or quoted are indicated and acknowledged by means of a comprehensive list of references”.

I. MUGARI

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DEDICATION

To the ALMIGHTY GOD for giving me the energy, wisdom and knowledge to undertake this important study; and

To my wife (Lynette), daughter (Nicole) and son (Ishmael Junior) for their companionship and support throughout the duration of my studies.
ACKNOWLEDGEMENTS

First, I would like to thank the LORD ALMIGHTY for being so wonderful to me. You gave me hope and strength when I seemed to have reached dead ends at some points during this study. Lord, I appreciate the energy for the sleepless nights that I had to endure.

I am indebted to my supervisor, Prof Adewale A. Olutola; first for accepting to undertake supervision for this thesis; and secondly for his professional guidance. Thank you Prof, for the warm encouragement during our meetings and your encouragement made me believe that it was possible. Despite your pressing work commitment, you responded quickly and positively to all my communications and requests. May the Lord, reward you for your commitment to work and caring attitude.

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To all those who participated in this study through questionnaire completion and in-depth interviews, I say thank you. Without your invaluable input, this study could
have been a futile exercise. I would also like to thank the following individuals and institutions for recognising the importance of this study and approving my request to gather data:

The Clerk of Parliament of Zimbabwe;
The Secretary, Judicial Service Commission;
The Zimbabwe Human Rights Commission.

Last, but not least, I thank my best friend- my wife, Lynnette for her encouragement, moral support and spiritual support. You were willing to sacrifice a lot for the fruition of this study.
ABSTRACT

Police officers, who are representatives of democratic order, possess various powers which enable them to carry out their mandate. Police accountability mechanisms are therefore necessary to protect citizens against police abuse of powers and functions. However, on numerous occasions, the Zimbabwe Republic Police (ZRP) has had to contend with allegations of abuse of power.

This study explores the various internal and external accountability mechanisms that are available for the ZRP to curb abuse of power and misconduct. This study also identifies obstacles to police accountability and recommends appropriate measures for enhancing police accountability. This study adopted a mixed research paradigm and the sequential explanatory mixed method design. A total of 146 respondents selected from former police officers and institutions of police accountability were invited to participate through stratified random sampling, snowball sampling and purposive sampling techniques. Questionnaires and in depth interviews were the key methods of data gathering, whilst documentary survey was also important to this study, amongst others. Quantitative data was analysed using Statistical Package for Social Sciences (SPSS), whilst qualitative data was analysed using content analysis.

Findings from this study, amongst others, revealed that:

- The ZRP has legal and non-legal mechanisms for dealing with abuse of power and misconduct. Though some measures were viewed to be effective, majority of the respondents do not trust the police to investigate fellow police officers on incidents of misconduct.
- The Court plays an important police oversight role through scrutinising propriety of police actions and presiding over civil suits against the police, and was viewed by majority of the respondents to be effective.
- The Parliament holds the police to account through: promulgating laws which curtail police abuse of power; scrutinising police actions through a portfolio committee; and the Parliament’s question and answer sessions.
- Though the ZHRC handles complaints of human rights violations by the police, findings revealed that investigations are done by the police.
• NGOs are playing their part through legal representation for victims of police abuse of power and advocacy, whilst the media has a major role of exposing incidents of police abuse of power.

• Major obstacles to police accountability are: absence of independent investigation of police misconduct; presence of undemocratic laws; limited capacity of the courts; limited powers and lack of clear investigative roles for the ZHRC; and unfavourable operating environment for the civil society.

The main recommendations for this study were as follows;

• Establishment of an independent police complaints investigations department.

• Strengthening of internal accountability mechanisms through: training; de-politicisation of the police; and transparency.

• The Parliament should take a leading role in repealing or amending all the statutory provisions which are viewed to be unconstitutional.

• The ZHRC should decentralise to all the country’s provinces and it should be capacitated with clear investigative powers and financial resources.

• A paradigm shift on the relationship between the police and the civil society is needed. Civil society needs to view the police as human rights protectors, and the police should also allow the civil society to exercise their rights.
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<td>ACHPR</td>
<td>African Charter on Human and People’s Rights</td>
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<td>AIPPA</td>
<td>Access to Information and Protection of Privacy Act</td>
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<td>APCOF</td>
<td>African Policing Civilian Oversight Forum</td>
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<td>AU</td>
<td>African Union</td>
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<tr>
<td>CAPO</td>
<td>Complaints against Police Office</td>
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<tr>
<td>CAT</td>
<td>Convention Against Torture or and other Cruel or Degrading Treatment</td>
</tr>
<tr>
<td>CCRB</td>
<td>Civilian Complaints Review Board</td>
</tr>
<tr>
<td>CECHR</td>
<td>Council of Europe Commissioner for Human Rights</td>
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<td>CHRI</td>
<td>Commonwealth Human Rights Initiative</td>
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<td>CHI</td>
<td>Complaints Handling and Investigations Unit</td>
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<td>CMC</td>
<td>Crime and Misconduct Commission</td>
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<td>COIN</td>
<td>Counter Insurgency</td>
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<td>CPC</td>
<td>Commission for Public Complaints</td>
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<td>CSO</td>
<td>Civil Society Organisations</td>
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<td>BSAC</td>
<td>British South African Company</td>
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<td>BSAP</td>
<td>British South African Police</td>
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<td>Acronym</td>
<td>Full Name</td>
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<td>ECHR</td>
<td>European Court for Human Rights</td>
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<td>EPAC</td>
<td>European Partners Against Corruption</td>
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<td>EPR</td>
<td>Education Promotion and Research Unit</td>
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<td>GSOC</td>
<td>Garda Siochana Ombudsman Commission</td>
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<td>HAC</td>
<td>Home Affairs Committee</td>
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<td>IBAHRI</td>
<td>International Bar Association Human Rights Institute</td>
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<td>ICAC</td>
<td>Independent Commission against Corruption</td>
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<td>ICD</td>
<td>Independent Complaints Directorate</td>
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<td>ICPPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>IPCA</td>
<td>Independent Police Conduct Authority</td>
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<td>IPCC</td>
<td>Independent Police Complaints Council</td>
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<td>IPID</td>
<td>Independent Police Investigative Directorate</td>
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<td>IPOA</td>
<td>Independent Policing Oversight Authority</td>
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<td>IPRA</td>
<td>Independent Police Review Authority</td>
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<tr>
<td>LAPD</td>
<td>Los Angeles Police Department</td>
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<td>LOMA</td>
<td>Law and Order Maintenance Act</td>
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<td>MDC</td>
<td>Movement for Democratic Change</td>
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<td>Full Form</td>
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<tr>
<td>NACOLE</td>
<td>National Association of Civilian Oversight of Law Enforcement</td>
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<td>NANGO</td>
<td>National Association of Non-Governmental Organisations</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>NHRI</td>
<td>National Human Rights Institutions</td>
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<td>OIG</td>
<td>Office of the Inspector General</td>
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<td>POSA</td>
<td>Public Order and Security Act</td>
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<td>QCMC</td>
<td>Queensland Crime and Misconduct Commission</td>
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<tr>
<td>RCMP</td>
<td>Royal Canadian Mounted Police</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SARPCCO</td>
<td>Southern African Regional Police Chiefs Cooperation</td>
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<td>SAPS</td>
<td>South African Police Service</td>
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<td>SD</td>
<td>Standard Deviation</td>
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<tr>
<td>SiRT</td>
<td>Serious incident Response Team</td>
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<td>SIU</td>
<td>Special Investigations Unit</td>
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<td>SPSS</td>
<td>Statistical Package for Social Sciences</td>
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<td>TUT</td>
<td>Tshwane University of Technology</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<td>Full Form</td>
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<tr>
<td>ZANLA</td>
<td>Zimbabwe African National Liberation Army</td>
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<tr>
<td>ZANU PF</td>
<td>Zimbabwe African National Union Patriotic Front</td>
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<tr>
<td>ZHRC</td>
<td>Zimbabwe Human Rights Commission</td>
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<td>ZIPRA</td>
<td>Zimbabwe People’s Revolutionary Army</td>
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<td>ZRP</td>
<td>Zimbabwe Republic Police</td>
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**CHAPTER TWO**

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CHAPTER EIGHT

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CHAPTER ONE

GENERAL ORIENTATION

1.1 INTRODUCTION

The policing function, among other governmental functions, is arguably the most visible and the most intimately involved with the well-being of individuals in communities. Consequently, police organisations occupy an important position in the engagement between governments and their citizens (Boer & Pyo, 2011:1). The police are also invested with far reaching powers and a significant degree of discretion in order to perform their duty: to uphold the law and protect citizens (Lamboo, 2010: 613). They have the power to contravene the rights of citizens in circumstances where it is legally permitted and they also have a duty to protect innocent people and to be accountable to the public (Berg, 2005:2). The occupational environment of police officers, which includes the physical danger of police work (Klahm & Tillyer, 2010:215) thus, justifies the need for coercive authority. The police are thus legally empowered to exercise wide powers and discretion in pursuit of their legitimate functions.

One of the areas where police powers are justified is the use of force, as Payne (2012:6) highlights that citizens call police because the police use force. Police may be called in to use force when making an arrest, breaking up an altercation, dispersing an unruly crowd, or performing a myriad of other official activities during their daily routines. To this end, the most defining characteristic of police work is
therefore their ability to use force to enforce the law (Klahm & Tillyer, 2010:214). Harmon (2008:1119) also highlights that police officers use force as an authorised form of state coercion, but they do so in tense and often emotionally charged interpersonal encounters. It can thus be implied that use of force by the police is inevitable.

Exercising of police powers (which are often intrusive), not only creates tensions between the police powers and citizens in a democratic society but also endangers the rights and freedoms of the citizens if such powers are not regulated and checked (Abiri, 2011:3). There is therefore need for checks and balances in order to curtail misuse of the police powers. The general consensus, as Bruce and Neild (2005) put it, is that police in a democratic society must operate according to the basic tenets of democratic governance, which include principles of accountability and transparency. Police officers derive their legitimacy from the societies in which they serve, hence the need for them to be accountable to the same communities from where their legitimacy is derived. A lack of legitimacy inhibits the development of working partnerships that are an essential ingredient in community policing and problem-oriented policing (Walker, 2007). The rule of law is also a key tent of democratic policing (Walker, 2007; Brown, 2012) and in a rule of law, no one can be above the law; and the police are not an exception. Biswas (2012:1) succinctly highlights that if the police fail to perform their duty, they are held accountable as per the law of the country. The tendency for abuse of powers by the police officers creates the need and constant challenge to ‘guard the guardians’ or to ‘police the police’ (Abiri, 2011).
The tradition of police oversight emerged in the latter part of the 20th century in response to a number of commissions of inquiry and exposes of corruption, misconduct, and criminal activity by police officers (Smith, 2009:422). Examples of such commissions include; the Knapp Commission (1972) and Mollen Commission (1994) in the United States of America; the Scarman Report (1981) in the United Kingdom; The Fitzgerald Inquiry (1989) and Wood Royal Commission (1997) in Australia (Porter, 2013:169). All the commissions called for the creation of independent agencies to increase external accountability for police (Porter, 2013:169). Around the globe, non-police engagement in complaints procedures are to be found at the heart of police reform programmes that are carried out in the name of modernisation in established democracies (Smith, 2013:93). In Europe, since the introduction of Police Complaints Board for England and Wales in 1977, non-police oversight bodies have been set up in counties such as Belgium, Cyprus, France, Hungary and Ireland (Smith, 2013).

The challenge of police accountability in most African countries dates back to the colonial era when the settler forces, armed with draconian laws, used excessive force on Africans as a way of both exploitation and prevention of black majority rule (Masuku, 2005; Varvaloucas, 2007:5). Dissel and Tait (2011:7) also concur that policing in Africa in general has historically been defined by colonial rule and a typically military practice that is more concerned with upholding the interests of the colonial powers than in meeting the security needs of the local populations. The dismantling of colonial rule provided the best opportunity for African nations to redefine the nature and practice of policing. However, as Dissel and Tait (2011:7) note, this redefinition has been frequently impeded due, in part, to the legacy of
colonialism, and also to political, social and economic conflicts that have plagued the continent for the past twenty years. To this end, most African countries inherited repressive policing styles from their predecessors and the repression even continued well after attaining independence. In view of the foregoing colonial legacy and post-colonial preservation of police repression and impunity, there is need to develop and sustain effective police oversight or accountability mechanisms as part of the struggle for and process of democratic consolidation in Africa (Alemika & Chukwuma, 2011:9).

Lumina (2006:93) also notes that over the years, the involvement of police in systematic abuses of human rights in many African countries has underscored the need for oversight of their actions. In South Africa, for instance, Berg (2013) notes the institutionalised nature of police brutality and lack of transparency or accountability prior to South Africa’s transition to democracy. Varvaloucas (2007:5) concurs that during the apartheid era in South Africa, there were virtually no efforts at monitoring such abuses as police-related deaths and allegations of torture. In Zambia, Shezongo-Mcmillan (2013:92) highlights torture, arbitrary arrests, excessive use of force and prolonged pre-trial detention which even dates back to the pre-independence era as the major rationale behind the need for police accountability.

1.1.1 The Zimbabwe Republic Police: Constitutional mandate

The Zimbabwe Republic Police (ZRP) is a centrally controlled police organisation which is headquartered in the Harare- the country’s capital city. It is headed by a Commissioner General of Police. The ZRP was formed at independence in 1980
after the amalgamation of the colonial British South African Police (B.S.A.P) and two liberation movements namely: Zimbabwe African National Liberation Army (ZANLA) and Zimbabwe People’s Revolutionary Army (ZIPRA).

The organisation was created in terms of section 93 (1) of the then Lancaster House Constitution of 1980, which provided that: “There shall be a police force which, together with such other bodies as may be established by law for the purpose, shall have the function of preserving the internal security of and maintaining law and order in Zimbabwe.” The current Constitution of Zimbabwe which was promulgated in 2013 provides for the creation of a police service in Section 219. Section 219 of the Constitution of Zimbabwe provides that;

“There is a Police Service which is responsible for-

a) Detecting, investigating and preventing crime;
b) Preserving the internal security of Zimbabwe;
c) Protecting and securing the lives and property of the people;
d) Maintaining law and order; and
e) Upholding this constitution and enforcing the law without fear or favour”.

It is important to note that prior to the new Constitution, the Z.R.P was referred to as a force rather than a service. The term “force” had negative connotations as it could imply that all policing activities always had an element of force – legitimate or illegitimate (Mugari, 2014). The emphasis on section 219 (e) on the need for the police to uphold the constitution is important, as this supreme law also provides for some accountability measures.
1.1.2 From the British South African Police (BSAP) to the ZRP: The roadmap to police accountability

In order to understand the current accountability mechanisms for the ZRP, one must have an idea of the nature of colonial policing in the then Rhodesia. Perhaps a clearer account of the history of policing in Zimbabwe is given by Chihuri (2015) in his book entitled, “The history of policing in Zimbabwe”. During the pre-colonial era, policing in Zimbabwe was based on the shared value system of ubuntu/ hunhu by the indigenous communities. Colonisation began in 1890, spearheaded by Cecil John Rhodes and his British South African Company (BSAC). The BSAC subsequently formed a police force which was called the British South African Police (BSAP). The BSAP was thus the vehicle which Cecil John Rhodes was to use to influence the policing landscape in Zimbabwe. The BSAP was supposed to put the interests of Britain first and that literally meant that even the policing ideology was to be fashioned in a manner which accommodated British interests (Chihuri, 2015: 63). To this end, administration of justice was supposed to be done within the purview of the British laws and interests and not the value system of the indigenes.

Much of the policing in the colonial era was directed to terrorism threats from black nationalists, who had resorted to an armed struggle to deal with the apartheid system. To this end, the BSAP had a paramilitary role. Chihuri (2015: 167) notes the creation of the following units within the BSAP in order to deal with terrorism;

**Support Unit** – a police unit that was dedicated to maintaining law and order. In addition to the conventional training, the unit was also trained on Counter-Insurgency (COIN) and small arms.
Police Anti-Terrorist Unit (PATU) – which was a special wing of the Support Unit with a specific mandate of preventing and detecting terrorist activities.

Urban Emergency Unit – which was responsible for providing swift response to urban disturbances.

The Rhodesian Special Branch – which acted as the government’s intelligence and reconnaissance group.

To create the legal operating environment for the above units, draconian laws were put in place. Through the use of Emergency Powers Regulations and draconian laws such as the Law and Order Maintenance Act of 1965, the police were given unfettered powers to arbitrarily arrest and detain citizens (Feltoe cited in Mugari, 2014:3). The policing landscape was therefore marred by fear of the police, as well as separation between the police and the community.

Given the above background, it is clear that the multi-faceted role of the BSAP’s paramilitary duties, coupled with police brutality strained relations between the police and the black population. Chihuri (2015:189) succinctly points out that the blacks had completely lost respect for the BSAP and all the settler institutions which sought to keep them in perpetual oppression. Summarily, the above arguments point to the absence of accountability measures for the police during the colonial era.
The attainment of Independence in 1980 saw the creation of the Zimbabwe Republic Police. Inevitably, the Rhodesian police force was to be transformed into a new police force - the ZRP, through the integration of BSAP officers and ZANLA and ZIPRA combatants. There was therefore need for a new policing dispensation, which would promote trust between the police and the public. However, as Chihuri (2015) notes, the military-style hierarchical bureaucracy inherited from the BSAP failed to adjust sufficiently to cope with the pace of change adopted by the new State. To this end, the ideological attributes of most police officers remained fixated to the old practices of the colonial police. Also, the state of emergency remained in place well after independence, only to be scrapped in 1992. In an attempt to describe the enduring nature of repressive policing in independent Zimbabwe, Feltoe, in Mugari (2014:3), highlighted the following;

“Many police officers that had known no other form of policing than under a state of emergency, under which extreme and extraordinary powers could be used remained in the various security forces. Many of the notorious torturers of the various intelligence units of the former remained in office; some became the trainers of the new regime or the trainers of torturers of the new regime”.

The concept of accountability in the ZRP began to take centre stage in the mid 90s, starting with the launch of the Service Charter in 1995. The Service Charter sets out the minimum policing standards that the public should expect from the police and is premised on the five core areas of policing namely: Response to calls; Crime; Traffic; Public Order Reassurance; and Community Assistance. Other important
aspects of the Service Charter are the force values and individual values which are as follows:

**The force values**

- The highest quality service to the public;
- Maximum cooperation with the public;
- The efficient and effective use of all existing resources;
- The highest professional standards in managerial, operational and personal performance;
- Transparency in both individual and organisational performance; and
- Accountability.

As individual officers, we shall carry out our duties:

- Diligently;
- Courteously;
- Without fear or favour;
- With honesty and integrity;
- Within the limits of the law; and
- With due respect for human rights

(ZRP Standards Manual, 1995)

Police-public relations, which had been strained through the legacy of colonial policing, significantly improved after the launch of the Service Charter. The Service Charter also empowered the public to complain whenever the police failed to perform
up to expected standards in terms of both conduct and service quality. It is also important to highlight that the force values express key fundamentals in democratic spheres, which are: transparency, accountability, and respect for human rights. However, despite efforts to curb police abuse of power through various mechanisms, the police organisation has on several occasions had to contend with allegations of police abuse of power.

1.2 STATEMENT OF THE PROBLEM

Despite various mechanisms in place for curbing police abuse of power, the Z.R.P officers have been consistently accused of arresting thousands of human rights defenders, yet there has never been a single conviction (Anti-Corruption Trust of Southern Africa, 2013:3). The absence of convictions in all these cases point out to arbitrary arrests by the police. The Zimbabwe Human Rights NGO Forum (2006:1) asserts that law enforcement agencies are a major source of human rights violations. Similarly, the International Bar Association Human Rights Institute (IBAHRI) (2007) highlighted that police routinely disregard basic rights of detainees, such as free access for detainees to their lawyers, access to family members, medical personnel and courts. All these actions are manifestations of police abuse of power.

While some victims of police abuse of powers have successfully sued the police, the judgements have, at times, not been executed. In the case of Muskwe v Minister of Home Affairs and Others HH- 83-2013, the victim was awarded US$1500 for assault and torture at the hands of the police by the High Court in April 2013. However, the victim died on 28 February 2014, a year after he had been granted damages, but the damages had not yet been paid (Human Rights NGO Forum, 2014). In another case
of Trevor Simbanegavi v Officer Jachi HH -40 – 13, the plaintiff was awarded damages of US$21 367 after being shot by the defendant police officer. A total of six bullets were fired into the plaintiff’s legs while he was lying on the ground. The Human Rights NGO Forum (2014) reports that the plaintiff has not yet received any single cent and further alleges that the defendant is still a serving member of the Z.R.P. This shows that the public cannot rely on the courts when they suffer as a result of police abuse of powers and functions.

While the media is one of the tools that can be used to enhance police accountability, there often have been clashes between the media and the police. Mapuva & Munyengwa (2012: 138) report that media freedom and independent newspapers have been under threat as many of their staff have been arraigned before the courts of law for publishing what the state views as prejudicial to state security. Muronzi (2009:3) also highlights that police have frequently used some undemocratic laws to prosecute journalists and civil rights activists.

Civil rights activists, who are also key in championing for police accountability, sometimes face persecution at the hands of the police. The Human Rights Watch (2006) notes the arbitrary arrest and detention of activists who are targeted for their public criticism of the government’s policies. Consequently, the Zimbabwe Human Rights NGO Forum (2015: 3) notes the following;

“In Zimbabwe, the police have on several occasions arbitrarily arrested human rights defenders and prodemocracy activists, in the absence of reasonable suspicion that they had committed crimes or were linked to the
commission of crimes. Often the arrested persons were released without charges or with all charges dropped”.

Whilst human rights defenders and prodemocracy activists play an advocacy role in police accountability discourse, their continued persecution in the hands of law enforcement agents is worrisome.

Moreover, the Zimbabwe Human Rights Commission’s 2014 annual report notes that of the total complaints received by the commission during the year 2014, most of the complaints were against the Zimbabwe Republic Police. This is despite the fact that the commission receives complaints against all public institutions.

In light of the above background, it is evident that abuse of powers by police is a challenge that needs to be addressed. Some of the mechanisms for enhancing police accountability are failing on effectiveness. Sometimes the police disturb the work of those who are responsible for monitoring their actions through arbitrary arrests and detention. Court judgements against the police are not being enforced. This calls for a comprehensive study on police accountability mechanisms and to recommend improvements where necessary.

1.3 RESEARCH OBJECTIVES
The overall aim of the study was to evaluate the effectiveness of internal and external oversight mechanisms to curb incidences of police abuse of power. This research was guided by the following objectives;

1. To examine the internal accountability mechanisms in the Z.R.P.
2. To examine the external accountability mechanisms for the Z.R.P.
3. To investigate the obstacles to accountability for the Z.R.P.
4. To suggest an appropriate model for police accountability in Zimbabwe.

1.4 RESEARCH QUESTIONS
In light of the above objectives, this study attempted to answer the following research questions;

1. Which internal accountability mechanisms are available in the Z.R.P?
2. Which external accountability mechanisms are available for the Z.R.P?
3. What obstacles are hindering accountability for the Z.R.P?
4. What can be done to improve accountability for the Z.R.P?

1.5 JUSTIFICATION OF THE STUDY
The concept of accountability has been embraced in most emerging democracies and it transcends to all state institutions. The police, as an executive arm of the government and whose mandate entails constant interaction with the citizens is one institution where a high level of accountability is imperative. Accountability for the police is needed to curb incidence of police abuse of power. To this end, this study was motivated by the researcher’s desire to explore the current accountability mechanisms available for the ZRP.

Despite the importance of accountability for the police organisation, this important aspect of policing has not been adequately researched in Zimbabwe. Whist several studies have been done on police accountability (for example, Haberfield & Cerrah Shinah, 2009; Bobb, 2010; Mawby & Wright; Heyer & Beckley, 2012), most of the
studies were conducted in the developed world. In addition, several studies have also been conducted in Southern Africa (Berg, 2005, 2013; Masuku, 2005; Lumina, 2006; Varvaloucas, 2007; Bruce, 2006) but much attention was on South Africa. Though some Human Rights Based NGOs have written reports on police accountability, their objectivity has often been criticised. The researcher was thus motivated by the need to explore this under researched area.

Moreover, the concept of accountability within the security services sector in Zimbabwe has often been regarded as a sensitive area which most researchers would not dare to tread on. This study therefore sought to demystify this notion. To this end, inclusion of various institutions of police accountability as part of the respondents helped in giving a detailed analysis on police accountability in Zimbabwe. Moreover, the fact that the researcher got approval to gather data from key accountability institutions namely; the Parliament, The Judicial Service Commission and The Human Rights Commission (see appendices) is evidence of how important this study would be.

Lastly, this study is also justified by the following benefits that flow from it;

1. The research findings shed more light on the topical issue of police accountability, giving an in-depth analysis of the available mechanisms to enhance police accountability.

2. A comparative analysis of accountability mechanisms across the globe is also presented in this study and policy makers can get guidance for improving police accountability mechanisms in Zimbabwe.
3. By selecting samples from former police officers and non-police officers, this study gives a balanced and objective argument that will prove invaluable to both the police and non-police policy makers.

4. Findings and recommendations from this study could also assist the government in crafting police policy and addressing contentious issues surrounding police abuse of power. Key accountability institutions such as the Human Rights Commission and the Parliament will also benefit from the prescriptive measures that form part of the findings to this study.

5. The general public will also be enlightened on the external remedies that are available to them if they suffer as a result of police abuse of power. This study will also enlighten the public on the internal remedies that are available within the ZRP, as well as the available complaints procedure for reporting officer misconduct.

1.6 SYNOPSIS OF RESEARCH DESIGN AND METHODOLOGY

1.6.1 Research Design

This study adopted a mixed methods approach as its research paradigm. This encompassed the combination of both quantitative and qualitative methods of data collection and analysis. This approach resonates with Harwell (2010)’s view that multiple kinds of data (quantitative and qualitative) should be collected with different strategies and methods in ways that reflect complementary strengths and non-overlapping weaknesses. Subsequently, the researcher adopted an explanatory sequential mixed methods research design. To this end, quantitative data was collected before qualitative data.
1.6.2 Study population
Participants from this study were drawn from various institutions of police accountability. These institutions include: The Zimbabwe Human Rights Commission; The Judicial Service Commission (Courts); The Parliament of Zimbabwe; NGOs; and the media. These institutions are located in Harare. Former police officers were also invited to participate in this study.

1.6.3 Sampling techniques and sample size
This research adopted a combination of stratified random sampling technique, snowball sampling technique and purposive sampling techniques to gather data. For stratified sampling technique, institutions of police accountability constituted the strata from which respondents were randomly selected. Snowball sampling technique was used to select all the former police officers who took part in this study. This resonates with Adams, Khan and Raeside (2014:76) who assert that snowball sampling is a special type of non-probability sampling where respondents are difficult to identify and are best located though referral networks. All the interview respondents were selected using purposive sampling technique. The sample size was 148, with all the respondents providing quantitative data through questionnaire completion. A total of 20 respondents was selected from the 148 to provide qualitative data through in-depth interviews.

1.6.4 Methods of data collection
With the mixed methods approach in mind, the tools (instruments) used by the researcher (questionnaire and the in-depth interview) were of immense benefits, especially in quantifying the opinions of the respondents and bringing about a two-
way dialogue. Close ended questions were adopted for the questionnaire whilst semi-structured questions were adopted for the in-depth interviews. The process enhanced the extraction of relevant information, and opinions of the respondents that were useful in the presentation of research findings and discussion on the findings.

For questionnaires, the researcher identified employees who were in the managerial positions, who would in turn distribute the questionnaires to their subordinates for completion. However other questionnaires had to be personally delivered to the respondents by the researcher. In-depth interviews were conducted after collection of questionnaires and some of the interview questions were informed by the questionnaire responses.

1.6.5 Methods of data analysis
Quantitative data obtained through questionnaires were coded into variables and fed into Software Package for Social Sciences (SPSS) for analysis. In addition to visual presentation of data, descriptive statistics were also used to explain data. Content analysis was used to analyse qualitative data. All the interview manuscripts were carefully studied and subthemes which addressed the research questions were identified.

1.7 RESEARCH DEMARCATION

1.7.1 Conceptual Demarcation
The focus of this part is to generate understanding of and appreciation for the basic terms and concepts used in this research. Presentation of definitions and
explanation are important as they help to provide clarity as far as these concepts are concerned and will provide an early indication of the direction of the thesis. Three concepts namely: police misconduct; investigation; and police accountability are explained.

1.7.1.1 Police misconduct

The researcher seeks to categorically highlight that the accountability in this study relates to police misconduct. Police misconduct is defined by Dean et al (2010: 11) as violations of agreed standards enshrined in various departmental rules and policies and norms of civil behaviour in society. Notwithstanding violations to departmental rules, any violation of the law of the land by police officers will also constitute police misconduct.

Various typologies exist in the literature which classifies police misconduct (Dean et al, 2010:5). The earliest typology was provided by Roebuck and Barker (1974) as cited in Dean, Bell and Lauchs (2010:5), who asserted that police misconduct range from corruption, abuse of authority, kickbacks, opportunistic theft, protection of illegal activity, undermining criminal investigations, direct criminal activities (police crime), to planting or tampering with evidence. Punch in Dean et al (2010:5) suggests additional forms of police crime like extreme violence, manipulating evidence, sexual harassment, racism, and police involvement in drug dealing. Similarly, Shinar (2009) also identifies torture and violence, corruption, failure to observe due process and non-registration of First Information Report (FIR) as major forms of police misconduct. Mugari (2014) also highlights excessive use of force, unlawful methods of investigation, unlawful arrest and partisan policing as forms of police misconduct.
Perhaps a more comprehensive list is provided by Thomas (2011: 27), from lowest to highest form of misconduct as follows:

- Receiving gratuities such as a free cup of coffee;
- Playing favourites, including selective enforcement of the law;
- Accepting minor bribes;
- Considering oneself as being above inconvenient laws such as speeding or smoking marijuana;
- Role malfeasant protection of crooked cops or destruction of evidence;
- Major bribes;
- Property crimes;
- Criminal enterprises such as the resale of confiscated drugs;
- Denial of civil rights circumventing constitutional guarantees;
- Commission of violent crimes.

Moreover, Gottsalk (2011:76) adds other dimensions of police misconduct namely physical abuse, prisoner mistreatment and extortion. Use of excessive force, as Gottsalk (2011:76) argues, is a form of physical abuse. Prisoner mistreatment manifests itself through use of force and threats to obtain admissions and confessions from suspects, whereas extortion relates to the enforcement of road traffic regulations (or other minor infractions) where the officer negotiates informal on the-spot fines (or bribes) with the alleged offender, rather than pursuing a formal prosecution or other legal processes (Gottsalk, 2011:78).
1.7.1.2 *Investigation*

Investigation in the context of this study relates to investigation of police officers’ misconduct, either within the police establishment or by an outside agency. As Quinn (2009:1) highlights, investigating allegations of police abuse of power is a necessary duty in a democracy, which requires detailed work inside and outside of law enforcement agencies. According to Hopkins (2009:19) the purpose of an investigation is twofold: Firstly it must lead to an effective remedy; and secondly, the lessons learnt from it must be used by the police agency to reduce the likelihood of abuse of rights in the future. Without an effective investigation of police misconduct, as Hopkins (2009:20) continues, police criminality and disciplinary offences go without punishment. Consequently, failure to investigate allegations of police criminality decriminalises police behaviour.

1.7.1.3 *Accountability*

The term accountability explains the continuing concern for checks and oversight, as well as for surveillance and institutional constraints on the exercise of power and authority (Karimu & Foluke, 2012). The police, who are representatives of social order, should be accountable for their actions. To this end, there should be mechanisms to monitor police actions (Walker, 2007). Accountability thus provides a means by which the relationship between the police and the state can be kept under scrutiny. Police accountability in the context of this research relates to monitoring of police actions for misconduct and abuse of authority. Various internal and external mechanisms are available for the police.
Dimensions of police accountability

State control - The three branches of the state, namely legislature, judiciary and the executive provide the basic architecture for police accountability in a democratic society. In a thriving and active democracy, the police are likely to be regularly held to account in all three halls of the state; by Members of Parliament (MPs), the criminal and civil justice systems and by government departments such as Auditor-General and Service Commissions (Commonwealth Human Rights Initiative (CHRI), 2006). To ensure a representative sample, members of the parliament were also invited to participate in this study.

Independent external control - The complex nature of policing and the centrality of police organisations to governments require that some additional controls are put in place (CHRI, 2006). Consequently, institutions such as Human Rights Commissions and the public complaints agencies can play a valuable role in overseeing the police and limiting police abuse of power. To this end, some of the respondents for this study were selected from the Zimbabwe Human Rights Commission.

Internal control - This comprises of internal disciplinary measures that are available for the police organisation. These measures are usually provided by the enabling statute and other regulations. In the case of Zimbabwe, the Police Act and Police Standing Orders provide much of the internal control mechanisms.

Social control - In a democracy, the police are publicly held accountable by the media and the civil society. In this way, the role of holding the police accountable is
not left to the democratic institutions that represent the people, but ordinary men and women themselves play an active part in the system of accountability (CHRI, 2006). Consequently, media practitioners and representatives from the civil society also formed part of the respondents for this study.

1.7.2 Geographical demarcation

The study was confined to Harare metropolitan area. Harare is the Capital city of Zimbabwe and is the hub of all industrial and administrative activities in the nation. The Parliament of Zimbabwe, from where some of the respondents were selected is located in Harare. Though Parliamentarians represent constituencies throughout the whole country, the whole parliamentary business is conducted in Harare. The Zimbabwe Human Rights Commission has its main office in Harare, while the other office is situated in Bulawayo- the country’s second largest city. It is important to highlight that reports to the Human Rights Commission are received from all over the country.

Harare is also home to the Constitutional Court, the Supreme Court, the High Court and the Magistrate Court. The law courts are important institutions for legal accountability. Moreover, media houses (both state and independent) have their head offices in Harare. Various NGOs also operate in Harare. The media and NGOs are critical institutions for social accountability.

Importantly, the capital city is also host to various police establishments. The largest police station- Harare Central Police Station is located at the heart of the capital city. The Police General Headquarters and the largest police training institution- Morris
Depot are also located in the Harare. Also, various other police units are also located in the capital city and these include; Support Unit, Criminal Investigations Department and Traffic Department. To this end, encounters between the police and the public are frequent in Harare. Protests, some of which have received police heavy-handedness, are often witnessed in Harare.

1.8 RESEARCH ETHICS
This study complies with the research ethics with respect to issues such as: anonymity, confidentiality and transparency. Importantly, the researcher first sought for authority to gather data from three key institutions of police accountability, which was duly granted. This researcher also got clearance from TUT Faculty Research Committee.

1.9 THESIS ORGANISATION
This thesis is divided into nine chapters. Chapter one captures the general orientation of this study, the problem statement, the objectives of the study, research questions, rationale for the study, as well as the research demarcation. A brief on the research methodology also forms part of the chapter. The chapter also explains the key concepts and terms used in the study, particularly police accountability, police misconduct and investigation.

Chapter two focuses on the review of relevant literatures for this study. The aim was to bring to the fore, what has been written on the subject of police accountability. It also explores the theoretical context of police accountability, as well as models of police accountability which inform the thesis. Additionally, international and regional
perspectives on police accountability are discussed. To this end, what has not been done, what is partially known and the various gaps discovered in those literatures is clearly outlined, with a view to situating the imperative of this study in bridging those gaps.

The third chapter explores the methodology adopted in this study. The rationale for adopting the mixed method was explained, including the advantages and disadvantages of using mixed methods in research. Data collection instruments are clearly outlined and justified. Importantly, data analysis methods are also clearly outlined. The chapter ends with discussions on the limitations of this study.

Chapter four reviews the internal accountability mechanisms that are available within the ZRP. The regulatory framework, as well as various internal instruments for dealing with police misconduct is also explored. Importantly, primary data relating to respondents’ views on the internal accountability mechanisms is also presented and discussed.

Chapter five explores the national legal framework that is in place for enhancing police accountability. The relevant constitutional provisions, as well as the necessary provisions in the Criminal Procedure and Evidence Act are also explored. Moreover, the role of the court as an institution of police accountability is also explored in the chapter. The effectiveness of the court as well as challenges hindering the effectiveness of this important institution is also evaluated.
In **chapter six**, the focus is on the role of Parliament and the Human Rights Commission in enhancing police accountability. The legal framework governing the operations of the two institutions is also discussed. The chapter also discusses the effectiveness of these institutions in holding the police to account. In addition to presentation of data, obstacles to these accountability institutions are also discussed.

The **seventh chapter** focused on the role of the civic society (mainly human rights based NGOs) and the media in enhancing police accountability. The operational environment for these important social accountability institutions is also reviewed. Moreover, primary data relating to these key institutions for accountability is also presented and discussed.

**Chapter eight** first highlights the obstacles to police accountability and then addresses the last research objective namely; to recommend an appropriate model for police accountability in Zimbabwe. Therefore, recommendations that were suggested by the respondents to enhance police accountability are reviewed in this chapter.

**Chapter nine** captures the summary of findings, conclusion of this study and recommendations. It also made some recommendations for further studies on the important issue of police accountability in Zimbabwe.
1.10 CONCLUSION

This introductory chapter has been able to bring to the fore the primary subject under consideration. It captures the background to this study, objectives, rationale, and the methods that were adopted, to mention a few. It also discusses the conceptual and geographical demarcation for this study. Lastly, it presents the structure of the thesis. In view of the above, the next chapter is dedicated to exploring and reviewing literatures on police accountability with a view to situating their relevance to this study.
CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 INTRODUCTION

According to Ebeling and Gibbs (2008:64), there are three fundamental reasons for writing a literature review namely: to learn as much as one can about own research topic; to develop the searching and analytical skills in a research project; and to demonstrate this knowledge through a coherent and systematic text that helps to link what has been learned from previous research to what the researcher is researching on. A good literature review is one where there is effective analysis and synthesis of previous work, one that is written with clarity and purpose, one that discusses significant controversies and challenges from the researcher’s own perspective (Gilbert, 2008:110). Without literature review, as Silverman (2011:46) highlights, the researcher will be in a danger of trying to answer questions about the research that have already been answered. The literature review will also attempt to provide arguments which address the research questions. Good literature review, as Gilbert (2008:110) argues, should go beyond simply summarising previous research.

With the above exposition, this chapter covers review of literature collected from various sources on the subject of police accountability. The concept of accountability is clearly explained, as well as the rationale for police accountability. Moreover, policing areas which require police accountability are also outlined and these
include; the need to adhere to the dictates of democratic policing; the need to control police powers and police discretion, and the need to control use of force.

Moreover, various models and systems of police accountability, as highlighted by leading scholars in the policing field, are clearly explained. The models are: the Internal Affairs Model; the Civilian Review Model and the Civilian Control Model. Other systems for external accountability are also explained and these are: legal control, societal control and control by Parliament. In addition, the theoretical framework, which is an important aspect of literature review, gives an insight into various social theories that relate to police accountability.

Also forming part of this chapter is the review of the international and regional frameworks for police accountability, with the aim of a comparison with the national legal framework in the later stage of this thesis. A comparative analysis of police accountability systems across the globe is also an important aspect of the chapter. Finally, the chapter gives a summary of the reviewed literature and identifying research gaps in the process.

2.2 THE ENDURING NEED FOR ACCOUNTABILITY IN POLICING

Accountability as a term is commonly used to denote bureaucratic control, transparency or responsiveness to popular demands and has also been conflated with related concepts of responsibility, accessibility and answerability (Doherty, 2013:29). A simplistic definition of accountability has been put forward by Bovens (2006: 6) as, “The relationship between an actor and a forum, in which an actor has an obligation to explain and justify his or her conduct.” Accountability or, more
precisely, ‘being accountable’, is seen as a virtue, and as a positive quality of organisations or officials (Bovens, Schillemans & Hart, 2006:227). Sabel and Simon succinctly summarise the concept of accountability in the public sector as follows;

“Public officials have a duty of responsible administration that entails reflective and articulate elaboration of the policies and principles that govern their work, monitoring the activities of peers and subordinates to induce compliance with these policies and principles, and frequent reassessment of the policies and principles in the light of experience and evidence” (Sabel & Simon, 2014:3).

Police officers are public servants who represent the executive arm of the government; hence they should also be accountable to the government and the community. Questioning the legitimacy of public institutions is also more pronounced in policing than in other public institutions, mainly because of the nature of police service (Brown, 2012:329). Perhaps a clearer definition of accountability is provided by Hall et al in Waring (2011:25) when he views accountability as the real or perceived likelihood that an individual, group or organisation’s judgements, decisions and actions will be evaluated by an audience with power to exact consequences based on appraisals. Schedler, in Karimu and Foluke (2012) asserts that the term accountability explains the continuing concern for checks and oversight, as well as for surveillance and institutional constraints on the exercise of power and authority. In this way, accountability may be viewed as a process that binds the police to society, ensuring conformity to social expectations and regulating behaviour (Walker, 2007). Given the complexities of police work, the difficult conditions in which police officers have to work (Payne, 2012) and huge powers which they wield, it is
necessary to have both internal and external accountability systems (Walker, 2007). The accountability of the police to democratic processes has been and continues to be one of the central issues confronting the police throughout modern times (McMullan, as cited by Roberg, Novak & Cordner, 2009:50).

The importance of accountability in policing is also derived from both the extensive powers given to the police and their role as the gatekeepers of the criminal justice system (Doherty, 2013:32). Karimu and Foluke (2012) assert that accountability is not intended to eliminate or undermine power but rather control it from becoming an instrument of repression and exploitation and to ensure that power is exercised in a transparent manner, and according to rules. Police misconduct and lack of accountability serves to undermine the police service itself, the wider criminal justice system and the legitimacy of the state in which they operate (Seneviratne, in Doherty, 2013: 32).

The idea of police accountability should also be understood in the context of the human rights discourse. According to Matara (2010) one of the ways in which a country may be considered to be adhering to international human rights standards is through its policing sector. In many parts of the world, the police have often been associated with various human rights violations which include; arbitrary arrests, extortion, use of force, torture, extra-judicial killings and disappearances (Matara, 2010:10). The police have the responsibility to ensure that human rights are upheld, not violated, since many sections of society rely on the police to protect their rights (Berg, 2005). The police are thus representatives of democratic order (Varvaloucas,
2007:34), hence they should act in a manner that promotes the enjoyment of fundamental human rights.

It is also important to highlight the complexity of police work as one of the reasons why systems of control should be in place. Doherty (2013:34) also highlights that given the complexity of the public policing; police establishments should be accountable to multiple audiences through multiple mechanisms. Most authors also concur that accountability inheres in structures of multiple, interdependent oversight mechanisms (Stone, 2007; Berg, 2005; Walker, 2007). To this end, several systems of accountability should be in place for a single police organisation.

A summary of the rationale for police accountability is provided by Alemika and Chukwuma (2011:15), who put forward the following four reasons;

1. Police have enormous powers that have very profound impact on the rights and liberties of citizens. It is necessary to establish mechanisms to monitor the exercise of the powers in order to ensure that they are not used for repression – violation of the rights and liberties of citizens.

2. The police are subject to political, economic and social pressures from different groups including the rulers, to use their powers in ways that are inconsistent with democratic norms and governance. Without effective accountability and oversight mechanism, the police are likely to succumb to partisan interferences to the detriment of democratic governance and economic development.

3. The police draw substantial resources from the state for the purpose of carrying out their mandates. The use of the resources must be accounted for, otherwise there
will be pervasive corruption and resource misallocation that will engender overall functional inefficiency.

4. The police are established to carry out specific functions in order to promote and guarantee safety, security, peace, human rights and necessary conditions for economic development and equity in a nation-state. There must be an effective mechanism to determine the effectiveness and efficiency of the police in their functional performance.

Consequently, all the arguments for police accountability have one common idea – there should be a system of checks and balances to prevent police abuse of power. Such checks can either be through internal mechanisms or through external oversight bodies.

2.3 ACCOUNTABILITY AND DEMOCRATIC POLICING

Democratic policing is a form of policing in which police are accountable to the law and community, at the same time respecting the rights and guaranteeing the security of all citizens (Haberfield & Cerrah, 2008:13). Similarly, Haberfield and Gedion (2008:8) assert that the term democratic policing is one where the police are accountable to the rule of law and the community, respect the rights and guarantee the security of all citizens in a non-discriminatory manner. There is a general consensus that police must operate according to the basic tenets of democratic governance, which includes the principles of accountability and transparency (Abiri, 2011; Walker, 2007). Public accountability, being an essential precondition for the democratic processes to work, provides citizens and their representatives with the information needed for judging the propriety and effectiveness of government
conduct (Bovens, Schillemans & Hart, 2008:227). Accountability is an inherent feature of the police in a democratic society; one of the hallmarks of democratic policing vital for promoting the rule of law, ensuring respect for human rights and encouraging transparency (Abiri, 2011). In the same vein, the legitimacy of the police and the ability of citizens to hold the police accountable for their actions is an important factor in democratic society (Bayley, 2006:145).

Another ideal model of policing in a democracy is the involvement of the community in all the aspects of policing. Matara (2010:19) correctly points out that “the police are subordinate to the community, as the community employs them through the paying of tax, and secondly, they are subordinate to the rule of law, and should therefore uphold the rule of law in the course of their duties”. To this end, as they render their service to the community, they are required to give account of their conduct when performing their work (Eijkman, 2006:413). This will ensure that the police organisation provides a responsive, effective and respectful service to the society.

It is however important to note that most incidences of police abuse of powers and functions entail violation of the principles of democratic policing (Mugari, 2014:22). This enduring tendency for abuse of police powers, as Abiri (2011) opines, creates the need and constant challenge to ‘guard the guardian’ or ‘police the police’. Hryniewicz (2011:77) also highlights that police abuse of authority reinforces the notion that some degree of civilian control of state agencies is necessary for the legitimacy of democratic states. It can therefore be argued that, unless the police are rooted in and accountable to the communities in whose name they police, they will
not enjoy the support of these communities. In support of democratic policing, Nalla and Mamaye (2013:121) concur that the underlying premise of the police as a democratic institution is that police officers work as agents of the community to serve and protect community members. Therefore, any form of unchecked abuse of police authority will deal a negative blow to the whole essence of democratic policing. Markham and Punch (2007: 300) succinctly conclude that; “Policing is accountability, for without it there is no legitimacy: and without legitimacy the police cannot function adequately within a democratic state”.

2.4 POLICE POWERS AND POLICE DISCRETION

One of the reasons why police accountability is so critical, as Bronitt and Stenning (2011:320) highlight, is because police officers have substantial discretion about when to use a range of specific police powers. The importance of accountability in policing derives from both the extensive discretionary powers given to the police and their role as the gatekeepers of the criminal justice system (Doherty, 2013:29). The police are invested with far reaching powers and a significant degree of discretion in order to perform their duty: to uphold the law and protect citizens (Lamboo, 2010:614). Such powers (power to arrest, power to detain, power to search and seize, power to use force) involve use of discretion in most of the police-public encounters. Most scholars of policing have pointed out that police work by its very nature is discretionary in the sense that it involves the exercise of choice and judgement (Bronitt & Stenning, 2011; Calderon & Hernandez- Figueroa, 2013). This level of autonomy becomes troublesome when officers commit acts that cause the public to question the integrity of a police officer or agency (Calderon & Hernandez-Figueroa, 2013). The concept of discretion, however, does not only apply to the
police but to other players in the criminal justice system - from arrest, prosecution, trial and sentencing (Stenning, 2009; Doherty, 2013:35).

Davis, in Bronnit and Stenning (2011: 321) asserts that, “A public officer has discretion whenever the effective limits on his power leave him (or her) free to make a choice among possible courses of action or inaction”. The definition is also accurately captured in the Concise Oxford English Dictionary as the “Liberty of deciding as one thinks fit, absolutely or within limits”. Such limits, as Bronitt and Stenning (2011) put it, are typically designed to ensure that decisions are principled rather than arbitrary, and that they respect human and civil rights”. Bronitt and Stenning highlight four main reasons why discretion is both a necessary and legitimate aspect of police work;

“a) No legislature has succeeded in formulating laws which encompass all conduct intended to be made criminal and which clearly exclude other conduct;
b) Failure to eliminate poorly drafted and obsolete legislation renders the continued existence of discretion necessary for fairness;
c) Discretion is necessary because limited resources make it impossible to enforce all laws against all offenders; and
d) The strict enforcement of the law would have harsh and intolerable results (Bronitt & Stenning, 2011:424)”.

It is thus evident that police use of discretion is inevitable. Lamboo (2010:613) correctly points out that much of police work is enacted immediately and can only be scrutinised afterwards. Whilst police discretion is seen as inevitable and essential, there remains an underlying fear that its exercise may lead to arbitrary, corrupt or
unethical behaviour. Galligan, in Bronitt and Stenning (2011:320) is of the view that these risks of misuse of discretion can be addressed not by eliminating discretion entirely, but rather by structuring its exercise through administrative guidelines. However, it should be noted that police work should not be left to the whims of police officers, hence the need for police accountability.

Law enforcement agencies must therefore have rules, regulations, supervision and structured accountability to guide and control the broad discretionary powers of their officers. The Queensland Crime and Misconduct Commission (QCMC) in Bronitt and Stenning (2011: 321) concisely summarise the need for accountability to control police discretionary powers as follows;

“Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public. There can be difficulty in choosing between conflicting courses of action. It is important to remember that a timely word of advice rather than arrest- which may be correct in appropriate circumstances can be a more effective means of achieving a desired objective”.

Perhaps what is more important in QCMC’s observation is the need to avoid arbitrariness as police exercise their powers. To this end, police discretion should be carefully exercised if we are to dream of an accountable police force.

In light of the aforementioned discretionary powers, it is thus imperative that mechanisms be put in place to curb abuse of such powers. These mechanisms, which can either be internal or external, will provide checks and balances for the police in the execution of their powers and functions.
2.5 ACCOUNTABILITY AND USE OF FORCE DILEMMA

The concept of police accountability also needs to be understood in the context of dilemmas which the police have to contend with pertaining to the use of force. The most defining characteristic of police work, as Klahm and Tillyer (2010:214) highlight, is their ability to use force to enforce the law. Use of force by police is also critical to the relationship of the state to its citizens in a democracy, and in particular to the legitimacy of the state in the eyes of its citizens (Stenning, in Mugari, Gombarume & Gona, 2016:174). The occupational environment of police officers, which comprises interactions with citizens, includes the physical danger of police work and unique coercive authority that officers wield (Mugari et al, 2016:174). While police officers are granted the right to use legitimate force, which is accompanied by legal protection (Klahm & Tillyer, 2010; Harmon, 2008), use of force—be it legitimate or illegitimate, may evoke a variety of responses from the public or community (Bruce, 2006). Where members of the public are direct witnesses, or where incidences are reported in the media, community members may respond with anything from admiration to revulsion, depending not only on what is directly witnessed or reported on but also on their broader perceptions and the reputation of the police (Bruce, 2006). The undesirable consequences of police use of force call for the need for the necessary checks to prevent excessive use of force.

The unpredictability, urgency and the split of a second syndrome to police use of force also brings dilemma to the subject of police use of force (Bruce, 2006). Harmon (2008:1119) contends that police officers use coercion in tense and often emotionally charged interpersonal encounters with the public. The police are thus caught up in a
situation in which they have to address “something-that-ought-not-to-be- happening-and-about-which-someone-had-better-do-something-now” (Bittner, as cited by Klahm & Tillyer, 2010: 215). A single decision to use force may lead to multiple decisions on the continued use of force. Terril, in Mugari et al (2016) asserts that discretionary decisions regarding when, how, and how much force to use is a cumulative process; once a course of action is decided upon, additional discretionary choices follow that may lead an officer to either increase or decrease the level of force. Bruce (2006) sums it up when he opines that the options available to the police may be more limited and split second decisions may make the difference between life and death. However, despite the situations in which the police find themselves in, they should only use force which is proportionate, reasonable and legal in any given circumstances.

The nature of force also varies depending on the nature of the incident which gives rise to the use of force (Terril & Paoline, 2007:27). Deadly force is used to define force that is likely to cause death or some serious bodily injury. The most ideal force, reasonable force, is applied force which is necessary to achieve a legal goal, while excessive force is applied force which is disproportionate to what is necessary to achieve a legal goal (Terril & Paoline, 2007:28). Consequently, there has to be a system for monitoring police use of force to prevent excessive and illegal use of force on citizens. To appreciate the complexity of situations where police utilise force, one must conceptualise force not as a static concept but rather as a continuum of responses, ranging from verbal commands to deadly force (Mesloh, Henych & Wolf, 2008). These continuums propose that police officers should progressively examine and react to each situation, de-escalating once resistance
has declined or stopped (Terril & Paoline, 2007:28). To this end, some form of control is necessary to ensure adherence to the use of force continuum.

The above arguments clearly highlight the intricacies surrounding the use of force by the police. Given the inevitability of police use of force and the wider discretion that police officers wield to use force (Mugari et al, 2016:176; Klahm & Tillyer, 2010; Harmon, 2008), systems should be put in place to ensure that excessive force is not used and discretionary powers are not abused. Alpert & Smith in Mugari et al (2016:175) opine that police behaviour which, if improperly carried out, is likely to result in severe injury or death must be subject to strict control. Due to the complexity of the concept of use of force, there are no universally accepted standards among police organisations regarding the concept of use of force continuums (Garner et al, in Mugari et al, 2016:176), hence they rely on legally and publicly acceptable standards. In light of this, the police who are given the authority to use force over others, must be subject to significant restraint to its application.

2.6 COMMUNITY POLICING DISCOURSE AND THE NEED FOR COMMUNITY INVOLVEMENT IN POLICE OVERSIGHT

Community policing is one of the most significant trends in policing history. It seeks to involve the community in the fight against crime. Efforts to involve the community are occurring throughout the entire criminal justice system, as many criminal justice professionals explore and research the concept of community justice and the contention that all citizens have the right and the responsibility to participate in the justice system (Miller & Hess, 2008, 122). Community policing is;
“where police strategy and tactics are adapted to fit the needs and requirements of the different communities the department serves, where there is a diversification of the kinds of programs and services on the basis of community needs and demands for police service and where there is considerable involvement of the community with police in reaching their objectives” (Reiss, in Roberg et al, 2009:76).

Although no one has been able to define community policing in a way that satisfies everyone, most will agree that it includes two vital components: partnerships involving both the police and the community in solving problems; and a problem solving approach to crime and disorder. The need for close partnership between the police and the public imposes a duty upon the police to be open and transparent in all its encounters with the public. Similarly, the public should not only be engaged on issues pertaining to their own safety, but also on matters to do with police conduct.

The concept of community policing is also premised on the idea that police forces are not supposed to be insular, self contained or cut from the communities from which their powers are derived. On the official launch of the community policing on 13 March 1983 in Zimbabwe, the then Prime Minister Robert Mugabe had this to say,

“We must underscore the point that effective policing must derive from and flourish on the goodwill and cooperation with the whole community from whom any police force derives its legitimacy. The police must strive to educate the masses so that they identify the objectives and functions of
the police as their own, in turn, they must feel that the people’s needs and aspirations are also their own” (Chihuri, 2015:208).

The then Prime Minister emphasised the need for harmonious co-existence between the police and the communities they serve. To this end, abuse of powers and functions by the police will thus destroy the whole essence of community policing. Police officers will become enemies of the public yet both are expected to share a symbiotic relationship. Therefore, in order to win the trust of the community, the police should: (1) abide by the rule of law; (2) respect citizens’ fundamental rights; (3) refrain from abuse of power. Moreover, the community should be engaged in mapping the best course of action in terms of police conduct.

2.7 MODELS AND MECHANISMS OF POLICE OVERSIGHT

Internationally, oversight agencies have been created with differing models and powers, which are also evolving rather than static (Porter, 2013:169). Doherty (2013:34) highlights the diversity of police accountability mechanisms around the globe. The models should however be understood in the context of the nature of allegations for police misconduct. Walker (2007) highlights internal allegations which involve reports by supervisors or other department employees, and external allegations which involve formal or informal complaints by citizens.

Penzler and Ronken (2001:156) identified three models of police oversight namely the internal affairs model, the civilian review model and the civilian control model. It is important to highlight that the internal affairs model deals with internal accountability whereas the other two models are more of external accountability
mechanisms. Though the models have been modified by various authors in subsequent years, the three models still remain the bedrock for systems of police accountability. Quinn (2009) identified three models of civilian oversight which all fall under the external accountability mechanisms. The three models are; the investigative model, the monitoring model and the auditor/ombudsman model with the power to compel evidence. Whilst several models have been developed, it is however important to emphasise the evolving nature of oversight models (Porter, 2013). Another classification was provided by Attard (2010: 1550) when he highlights: the investigative model; the boards and commissions; and auditor/monitor agencies. Despite the various models that are available, this literature review explains four models namely; the Internal Affairs Model, the Civilian Review Model, the Civilian Control Model and the Hybrid Model. Legal control mechanisms and societal control mechanisms are also explained.

2.7.1 The Internal Affairs Model
Under this model, the police department is responsible for receiving complaints alleging misconduct by police officers or complaints about police policies, practices and procedures (Lumina, 2006; Brown, 2012). In response to corruption scandals and the inflow of complaints against police officers, larger police departments have established dedicated internal affairs units to conduct investigations into police misconduct and in some cases, initiate prevention programmes (Prenzler & Ronken, 2001; Brown, 2012). The move on the part of political leaders and the general public to hold the police accountable for their actions has prompted police leaders to focus on the issue of how they should be held accountable (Brown, 2012). There is thus need for self introspection on the part of police leaders to put their house in order;
otherwise someone from outside the organisation will do so. Thus, if police leaders do not respond to the rapid changing dynamics of society, they can expect to see external forces exert influence in their organisation (Brown, 2012: 331). In support of the internal affairs model, Roberts and Herrington (2013:120) argue that organisations must first address their internal issues and get organisational justice appropriately aligned before they can address wider issues of procedural justice, their accountability and legitimacy in the eyes of their communities. It is thus necessary to formulate a plan to improve and enhance organisational justice which should address internal issues - the need to put one’s own house in order (Herrington & Roberts, 2013:113). The mechanisms for internal oversight are generally provided for in terms of regulations governing the police (Lumima, 2006: 98) and disciplinary procedure is one of the key aspects of the internal affairs model. In support of the internal affairs model, Porter (2013:173) highlights that codes of ethics, ethics training, support of employees who report misconduct, and integrity – based promotions criteria are increasingly in use within police agencies.

The internal affairs model has received its fare share of criticism. Several authors who advocate for civilian oversight stress the pathological inability of police to objectively investigate their peers (Stone, 2007; Smith, 2013; Beckley, 2014). As a result of inherent bias, police departments have often been accused of not pursuing allegations on fellow officers with the same rigour seen in ordinary criminal inquiries (Prenzler & Ronken, 2001). Policing scholars argue that the system whereby only the police are competent and capable of investigating the police is patently flawed, unsatisfactory and contrary to public expectations (Jones, 2008: 711). It is thus argued that internal investigative mechanisms that are operated solely by the police
will have little credibility with either complainants or the public (De Angelis, 2009). What is required is a system that can assure the public that complaints about police misconduct will be dealt with in a fair and objective manner, to the satisfaction of the complainant (European Partners Against Corruption (EPAC), 2011: 3).

Longstanding empirical research has also demonstrated that police officers display a high level of loyalty to their colleagues (Skogan, 2009; Dempsey & Forst, 2010). This means that police officers are increasingly expected to tolerate, although not necessarily condone, misbehaviour by other officers (Skogan, 2009: 18). The insularity of police institutions and the solidarity of rank- and - file police officers create an impervious shield around these institutions, which, by their nature, are most deserving of transparency and public accountability (Simmons, 2010:374). The issue of loyalty is summed up by the term ‘blue wall of silence’, which is a protective barrier erected by the police in which officers protect one another from outsiders, often refusing to aid police superiors or other law enforcement officials in investigating wrongdoing of police officers (Dempsey & Forst, 2010:152). Another argument for the internal affairs model is that if the monitoring comes from outside the police, it tends to rouse opposition of police managers as well as the rank and file (Quinn, 2009). There is also an argument that disciplinary actions are sometimes seen as internal to police, and an instrument of police management rather than a true form of accountability (Smith, 2003:414).

2.7.2 The Civilian Review Model

Proponents of the civilian control model argue that the police must understand themselves as subservient to the community, and should allow citizens to evaluate
their performance (Herbert, 2006; Loader, 2006). The main institutional response to the problem of police bias in internal investigations has been to establish civilian review agencies (Prenzler & Ronken, 2001; Bobb, 2010). The civilian review model arose in response to concerns about such matters as police bias and lack of robustness associated with the internal affairs model, and covers a number of forms of external, non-police engagements with processes of dealing with complaints and misconduct (Savage, 2013b: 888). The model involves police conducting investigations and determining disciplinary actions, with the external agency playing a monitoring role (Savage, 2013b; Quinn, 2009). This may involve ex post facto reviews of complaints investigations undertaken by the police by a panel made up of some or all lay or civilian representatives; the ongoing monitoring of misconduct investigations undertaken by the police; and the active supervision of complaints and misconduct investigations undertaken by the police (Savage, 2013b:889).

The civilian review model can be equated to the monitoring model (Quinn, 2009) in which an individual or a board is authorised to review internal affairs investigations of complaints. The role of the board/ commission will thus be to check the adequacy of the internal investigations, as well as to make policy recommendations. The civilian review model can also be equated to Attard (2010)’s auditor/ monitor model. Auditor/monitor oversight agencies review and analyse internal affairs investigations of police misconduct and have broad authority to evaluate policies and procedures of law enforcement organisations with an eye toward preventing future misconduct (Attard, 2010: 1552). Quinn (2009) highlights that the board will provide a firm, fair, consistent internal review of internal affairs investigations in order to provide consistent law enforcement services and better management. To this end civilian
oversight bodies generate a climate of accountability, openness and transparency in the communities they serve (Hryniewicz, 2011: 77). Civilian review boards thus have the strengths of opening internal police investigations to scrutiny by outsiders and often providing for participation by multiple community members on board, thereby allowing various groups in the community to perceive that their perspectives are represented (Bobb, 2010).

The most notable system under the Civilian Review Model is the creation of the civilian review boards (Nalla & Mamaye, 2013:118). Civilian review boards do not only represent citizen participation in processes to check for police accountability and misconduct, but they can also improve general public satisfaction with police (De Angelis, 2009:215). An ideal civilian review board, as Nalla & Mamaye (2013: 123) highlights, should include academics, non-academics and legal professionals as members. Lumina (2006:93) also highlights Parliamentary Committees, whose review role entails scrutinising government activity including legislation, the conduct of public officials and policy issues. In this vein, the Parliament Committees can review police actions and police policy and provide recommendations where police policy and actions are not in line with democratic principles.

The major drawback of the civilian review model is that civilian review boards are quite limited in the scope of their powers. Bobb (2010) points out that they are authorised to do no more than find that a specific case was not competently or fairly handled and to request that the identified problem be corrected. As they perform their review tasks, they do not receive the same level of cooperation from police officers as do the police internal affairs unit investigators (Brown, 2012: 338). Though
the review boards in some jurisdictions may also conduct public hearings, such hearings are informal and the rules of evidence are not strictly applied (Brown, 2012:339). Another argument by Quinn (2009) is that if the board is inadequately skilled and/or trained to examine, then the board may not recognise problems in investigations. Due to the need for cooperation between the internal affairs investigations and the civilian review board, this model is also vulnerable to being co-opted (Quinn, 2009). This cooptation was noted by Burger and Adonis (2008) when they highlight that the then Independent Complaints Directorate (ICD) in South Africa had to remain dependent on South African Police Service (SAPS) during the course of an investigation. In most jurisdictions, though most independent police complaints boards investigate cases, they can only make recommendations of action to be taken following their findings (Shezongo-McMillan, 2013:25). In this respect, the review board will be a toothless institution.

2.7.3 The Civilian Control Model

This model is established on the principle that police should not investigate the police (Savage, 2013b), and is premised on the concern on whether police can impartially investigate allegations of abuse of power involving one of their own (Lumina, 2006). The question of who investigates the police is not one that has been easily answered and instead different structures and mechanisms have evolved through history of policing to address the issue (Doherty, 2013:32). The model involves independent investigations of complaints by an independent board or commission (Porter, 2013:175). The purpose of giving investigative powers to the board or commission is to increase public confidence that investigations of police officers would be conducted with greater scrutiny and fairness (Porter, 2013; Lumina,
2006). Another reason, as suggested by Porter (2013:176), is that police internal investigations were biased towards implicated officers, being at best too lenient and, at worst engaging in intimidation of complainants and witnesses. Lumina (2006:93) highlights that civilian oversight is premised on, inter alia, the inability or unwillingness of the police to police themselves in a manner acceptable to the public, and the public’s belief that independent investigation of police misconduct is fairer and more objective.

Several systems are in place for the civilian control model. The most notable is the ombudsman (Lumina, 2006; Quinn 2009; Fowlie 2011; Doherty, 2013; Nalla & Mamaye, 2013). The word ombudsman refers to an office occupied by a single individual who is empowered and resourced to investigate citizen complaints about the manner in which they have been treated by government officials (Doherty, 2013:25). The independent police complaints commission (Smith, 2009; Brown 2012; Berg, 2013) is also another important system for the civilian control model, in which members of the public can directly file their complaints against the police. Whilst the ombudsman deals with complaints against all other government departments, the independent police complaints commission only deals with complaints against the police. The Human Rights Commission is another means of holding police accountable in cases of misconduct, abuse of power or police excesses (Biswas, 2012:4). This is usually a constitutional board which is authorised to inquire into complaints of violation of human rights by a person, government agency or institution (Biswas 2012:4).
Despite widespread calls for civilian control of police misconduct, concerns have been raised over the competency of investigators and their capacity to penetrate the police world (Prenzler & Ronken, 2001; Simmons, 2010). The investigation of police complaints involves dynamics different to those in normal criminal investigations (Prenzler & Ronken, 2001), hence the need for specialised skills which external agents may not possess. The lack of expertise in police tactics, strategy, and policy, as Bobb (2010) notes, has prevented many boards from effectively handling cases of police misconduct. It is also difficult to penetrate the police organisation (Lamboo, 2010) due to the strength of the police culture (Miller & Hess, 2008) and police knowledge of how to evade prosecution. The issue of the ‘Code of Silence’ (Lamboo, 2010; Miller & Hess, 2008) also presents a challenge for obtaining evidence from police officers when investigating fellow officers. In South Africa, Bruce (2007:35) notes the absence of cooperation between the police and the independent investigators during the ICD era. The absence of cooperation was created by the desire to protect police officers who were under investigation (Berg, 2013). Skogan (2009:310) argues that outside discipline can be counterproductive because it undermines the willingness of the police to discipline itself. Another important argument presented by Skogan (2009:310) is that the ability of an outside group to affect the behaviour of police officers is more limited than that of the police organisation itself.

### 2.7.4 The Hybrid Model

A current trend is to incorporate aspects of both internal and external models into a hybrid model (Calderon & Hernandez-Figueroa, 2013). Although there are a variety of hybrid models, the most common is a combination of civilian and police personnel
(Brown, 2012:338). This combination of police and civilian staff, as Brown (2012) puts it, can take place during the investigative stage and at review stage. Punch (2009) opines that shared responsibility for investigation between police and external oversight agencies represents best practice as well as good value for money. Smith (2010:62) highlights that two-tier complaints systems, with the majority of complaints investigated by the police and serious incidence investigated by a separate body, have increasingly become norm in European jurisdictions. It can thus be argued that the hybrid model is inevitable due to the fact that it is difficult to completely exclude the police when dealing officers’ misconduct.

2.7.5 Legal control mechanisms

Much of the parameters of what should be done and not done by the police are determined by the law (Harris, 2013: 37) and this makes legal control a key mechanism for police accountability. The Court, as an institution for legal control, constitutes one of the most important external mechanisms of ensuring police accountability (Biswas, 2012:2). Citizens can directly sue police officers for harms caused to them by police officers (Haberfield & Cerrah, 2008; Shinar, 2009; Feltoe, 2012), resulting in monetary damages and injunctive relief (Bobb, 2010). In the English-Speaking democracies, legal control through statutory regulation of police powers, as well as case law pertaining to civil litigation against police abuse has taken centre stage (Jones, 2008:695). While the main purpose of civil litigation is to enable individuals to seek redress for wrongs committed against them, trends in the numbers and types of cases being brought can indicate organisational failures in procedures, training, and supervision, and also provide a way for individuals to seek accountability for police misconduct (Ransley, Anderson & Prenzler, 2007:146).
Criminal law, civil and administrative laws are important tools in the control of police (Roberg et al, 2009:75) and it is the duty of the courts to interpret these laws.

At the heart of legal accountability stands the principle that the police are subordinate to the law, just as other citizens are subordinate to the law (Harris, 2013:37). It is thus important to highlight that where a police officer commits misconduct which amounts to a criminal offence, the Judge or Magistrate will still have to adjudicate over the matter. Biswas (2012:3) highlights that any aggrieved person can file a criminal case with the police station or with a judicial magistrate against a police officer accused of any offence, such as brutality, harassment, and any abuse of power. It is also important to highlight the constitution as a key legal control instrument. The bill of rights is one of the major features of the constitution and any citizen whose constitutional rights have been violated by the police can approach the courts for recourse (Feltoe, 2012:23).

Courts have long been known to give judgements which have a direct bearing on police accountability (Swanson et al, 2008:111). Judges and magistrates can also refuse to convict persons if the evidence is obtained illegally (Shinar, 2009) and this also acts as a control measure. In the case of Mapp v Ohio (1961) 367 U.S 643, the court banned the use of illegally seized evidence in criminal cases and such an important decision was even co-opted into the Zimbabwean Criminal Procedure and Evidence Act [Chapter 11:09]. In another leading case of Miranda V Arizona (1966) 384 U.S 436, the court ruled that before questioning suspects, police officers should inform the suspects of their constitutional rights to remain silent and their right to have an attorney. Courts can also oversee police accountability through judicial
review of police disciplinary processes (Bronitt & Stenning, 2011:321). While judicial review has the potential to render police decision-making transparent and accountable, it is important to recognise its limitations. Bronitt & Stenning (2011: 329) argue that courts exercising judicial review are remote from the action in the streets, with many judges understandably reluctant to exercise close supervision over police decisions of operational nature.

There are however potential problems with legal control. Though criminal prosecutions send powerful messages about police misconduct, they are relatively rare (Ransley, Anderson & Prenzler, 2007). Reasons for this include difficulties in collecting evidence, the criminal standard of proof necessary for conviction, and the reluctance by other police and prosecutors to take action (Ransley, Anderson & Prenzler, 2007: 144). Consequently, Smith, in Ransley, Anderson & Prenzler (2007) suggests that police unlawfulness is much more widespread than the criminal statistics suggest and that a person suffering from police misconduct has a far greater chance of achieving a remedy in the courts than through criminal prosecution or by using the complaints process.

2.7.6 Societal control

In a democratic society, ordinary members of the public or representative groups such as media, community based non-governmental organisations and academics are actively involved in the accountability of the police (Matara, 2010: 52). Societal accountability is involved where civil society and the media take actions aimed at forcing decision-makers to give information on, and justifications for, their actions (Lindberg, 2009:4). This is done through exposing, documenting and reporting on
human rights violations perpetrated by the police, as well as conducting independent evaluation of performance (Matara, 2010:52). Societal control is premised on the assumption that power rests with the people, and that those who are entrusted with public governance must remain closely in tune with the views and preferences of ordinary citizens (Taras, 2001 in Caparini, 2007: 17).

2.7.6.1 Civil Society/ Nongovernmental organisations

The processes of democratisation and economic liberalisation have led to a dramatic growth in the number, diversity, reach and influence of civil society organisations (Nelson, 2007: 2). These civil society organisations, (also referred to as NGOs in this thesis, undertake a wide variety of activities at the community, national, regional and global level. According to the National Association of Non-Governmental Organisations (NANGO) (2014), Civil Society Organisations (CSOs) consist of a diversified community ranging from humanitarian charities and community- based organisations, to developmental NGOs complementing the government in service delivery, and governance – oriented civic organisations. To this end, civil society organisations operate in several fields such as: peace building; human rights protection, research and analysis, media and information dissemination; and democratisation, amongst others (NANGO, 2014).

In relation to policing, NGOs have long been known for their stance against violation of citizens’ rights by police officers (Amnesty International, 2006). Commenting on the role of NGOs, Nelson (2007) highlights two major roles namely advocacy and monitoring. On the former, as Nelson (2007:15) highlights, NGOs act as a voice for people both on a representative and self- appointed basis. This role possibly
explains the presence of NGOs such as the Zimbabwe Lawyers for Human Rights in Zimbabwe, whose role is to offer free legal advice to victims of police abuse of power (Mugari, 2014). For the latter role (monitoring), NGOs serve as watchdog or independent auditor of actions by government officials, including the police.

Human rights NGOs can thus work towards ensuring police accountability in two ways: by (1) publishing police atrocities and putting pressure on the government to take action against the police, and (2) by launching civil society movement and advocacy for police reforms (Biswas, 2012:3). NGOs can also stimulate debate and focus public attention on police policy issues (Caparini, 2007:19) through their advocacy and monitoring role. Summing up the importance of NGOs as institutions of control, Voltmer (2010:2) argues that the lack of a vibrant civil society in many new democracies has been linked to the persisting problems of corruption and ineffective governance in these countries.

Despite their role in enhancing police accountability, there have often been controversies surrounding the relationship between NGOs and police organisations. The relationship between human rights advocacy and policing is always somewhat ambiguous (Amnesty International, 2006) coupled with stereotypical thinking by human rights advocates regarding the police (and vice versa). There is an argument that many human rights NGOs have for long focused solely on the police as human rights violators (Amnesty International, 2006). As a consequence, the relationship between the two institutions is often characterised by animosity rather than trust. It has long been highlighted that NGOs derive their existence from vilifying government departments such as the police (Mugari, 2014) and this possibly explains why NGOs
(Human Rights Watch, 2006; International Bar Association, 2007; Human Rights Watch, 2014) always write negative reports about the police. However, despite the bad blood between police organisations and NGOs (Amnesty International, 2006), NGOs still remain invaluable institutions in keeping police excesses in check. To deal with the negative perception of the police by NGOs, Amnesty International (2006) highlight that approaching the police as human rights protectors presents an opportunity for increased cooperation between civil society and the police.

2.7.6.2 The media and police accountability

The idea of a vigilant media monitoring government and exposing its excesses has gained traction in many parts of the world (Coronel, 2010:1). Since the media are the main source of information and a vital link between the government and citizens, they are an indispensable precondition for both government accountability and social accountability (Voltmer, 2010:2). The concept of the media as the ‘fourth estate’ is now firmly established as a main principle in modern democracy (Caparini, 2007: 15; Voltmer, 2010) and it has been argued that publicity and openness provide the best protection from the excesses of power (Coronel, 2010). The media facilitates informed debate and critical appraisal of state action through provision of comprehensive and reliable information (Caparini, 2007). It therefore goes without argument that governments cannot be held accountable if citizens are ill informed about the actions of officials and institutions (Coronel, 2010). The media can thus give a critical analysis of police actions- whether good or bad, hence ensuring accountability.
An effective and independent media can function as a watchdog for subjecting the actions of police officers to public scrutiny and thereby holding the police officers to account. Investigative journalists may also expose corruption, wrongdoing and abuse of authority by police officers (Caparini, 2007: 18; Miller & Hess, 2008). With the ever-improving communication technology, the media is providing quick reports on any violation of human rights occurring anywhere around the globe (Biswas, 2012). Coronel (2010:3) succinctly summarises the watchdog role of the media as follows;

“Investigative journalists report on how laws and regulations are violated. They compare how organisations work against how they are supposed to work. They expose how and why individuals and institutions fail. They report when things go wrong, who is responsible, how the wrongdoing was done, and its consequences.”

Marion and Oliver (2012) also highlight four powers of the media, and these powers can also be read in the context of police accountability. These are: whistle blowing; influencing public opinion; influencing trials; and deterring future criminal behaviour. As has already been highlighted, whistle blowing relates to the media’s role in exposing incidents of police misconduct. In relation to its influence on public opinion, media can lead to a negative perception about the criminal justice system (Marion & Oliver, 2012) by exposing shortcomings in police actions. As regards deterrence of future criminal behaviour, the argument is based on the Deterrence Theory, which provides that information about the plight of other criminal will deter potential criminals from committing crimes (Marion & Oliver, 2012). Similarly information on how police officers who commit crimes have been dealt with will deter other officers from engaging in criminal activities.
For media to be an effective accountability institution, media freedom is a requirement (Voltmer, 2010). Media freedom, as Caparini (2007) highlights, is achieved in part through legal-constitutional guarantees of citizens’ access to information and when media pluralism is institutionalised. Similarly, Jebrial, Stetka and Loveless (2013) argue that media freedom has been perceived as an indicator of democratic reform, or as a precondition for democratic institutions to work properly. Caparini (2007) also highlights the importance of competition between state and commercial media in a democratic society. Mapuva and Munyengwa highlight that media freedom and independent newspapers in Zimbabwe have been under threat as many of their staff members have been arraigned before the courts for publishing what the state views as prejudicial to the state security (2012: 130).

Media accountability should also be analysed in light of the relationship between the police and the media. This relationship is succinctly highlighted by Miller and Hess (2008: 205) when they assert that the press and the police are two powerful forces in our society that depend on one another but are often hostile toward and mistrust each other. One source of media-police conflict is the so-called need to curb freedom of expression, access to information and scrutiny of the security sector activities in the interests of national security (Caparini, 2007). Despite deployment of media relations officers in recognition of the need to constructively manage relations with the public (Miller & Hess, 2008), the relationship between the police and the media retains many potential points of conflict (Caparini, 2007). Voltmer (2010) notes use of rumours and fabricated accusations as some of the journalists’ misdeeds, which can also affect the police-media relations.
2.7.7 Parliament oversight of the police

Parliament accountability is said to be the bedrock of good governance in democratic systems (Rahaman, 2008:39). One of the most important functions of contemporary Parliaments in liberal democratic states is to hold the executive to account (Mcleay, 2006). More so, international best practice supports an independent role for Parliament in keeping the police under scrutiny (Commonwealth Human Rights Initiative (CHRI), 2006). Also, under the doctrine of Separation of Powers, the role of the Parliament is to enact laws, which the police have to enforce. It goes without argument that the Parliament can enact laws which can help in curbing police abuse of power. Supporting this assertion CHRI (2006) provides that parliament has the power to correct systemic faults by passing new laws to seek accounts of police performance, and to keep policing under constant review.

Rahaman clearly notes the oversight function of parliament as follows;

“The philosophy behind parliamentary accountability is that in a democratic system, people are the main source of power and it is the moral obligation and occupational responsibility of people’s representatives to watch whether public’s opinion and desires are being reflected on the day to day activities of the government” (Rahaman, 2008:41).

To this end, parliamentarians, as representatives of ordinary citizens, play an important role of monitoring police actions on behalf of the citizens. Moreover, police officers are public servants and it is the citizens’ right to demand democratic control of the police through their elected representatives (Rahaman, 2008:40).
Other than just promulgating relevant laws, parliament oversight of the police happens in a number of ways. According to McLeay (2006:158), parliaments aim to examine ministers and public agencies carefully and critically, analysing what they do, whether they achieve their stated goals legally and effectively. Consequently, the minister who is responsible for the police can be answerable to parliament on any policing issues. CHRI (2006) asserts that one of parliament’s most effective oversight tools — if used properly, can be the question time, when any member of parliament has the power to query a member of the government. In addition, members of parliament have many routine opportunities for police oversight through the parliamentary committee system (CHRI, 2006). Moreover, parliamentary committees have been accepted as an effective instrument for ensuring government’s accountability in most democratic counties (Rahaman, 2008; Stapenhurst & Pelizzo, 2012). To be effective, Stapenhurst and Pelizzo (2012:337) emphasise that appointments to committees should not be arbitrarily made by political parties or the speaker but should rather be influenced by a combination of factors such as: background, education, specialisation, interests, leadership potential, party affiliation and experience in parliament.

2.7.7.1 Obstacles to the parliament’s oversight role

Despite extensive literature on the importance of the parliament role on police oversight, the institution has also received its fair share of criticism. Mcleay (2006:169) notes the reluctance by members of parliament to criticise their own ministers or the government departments over which they have authority. This is usually the norm where the ruling party has an absolute majority in parliament. Moreover, there is an assumption that individual parliamentarians are primarily
motivated to retain their elected positions (McLeay, 2006) and this possibly justifies their reluctance to criticise ministers from their respective political parties. In his study on parliamentary oversight of the security sector, Born (2003:20) also puts forward the following three challenges for parliamentary oversight of the security sector;

“Secrecy laws may hinder efforts to enhance transparency in the security sector: especially in emerging democracies or conflict-torn countries, secrecy laws may limit or jeopardize parliamentary oversight of the security sector.

The security sector is a highly complex field, in which parliaments have to oversee issues such as weapons procurement, arms control and the readiness of military units. Not all parliamentarians have sufficient knowledge and expertise to deal with these issues in an efficient manner.

The emphasis on international security cooperation may affect the transparency and democratic legitimacy of a country’s security policy if it leads to parliament being left out of the process”.

Though Born’s study was done in the context of the whole security sector (military, police and intelligence), the three security establishments usually fall under one portfolio committee in Zimbabwe. In support of some of Born’s findings, McLeay (2006) also argues that for effective scrutiny, individual members of parliament and committees must have the opportunity to learn about particular policy areas (such as
policing) and to specialise in them. Furthermore they should have access to informal advice, including subject expertise and legal help (McLeay, 2006).

2.7.9 Human Rights Commissions

Many international human rights instruments require states to introduce domestic measures in their territories to ensure the protection and promotion of human rights (Steiner, Alston & Goodman, 2007). This may be mainly attributed to the fact that States are generally held accountable or regarded as being responsible when international human rights obligations are not observed or given effect to (Evans, 2010:12). To achieve effective domestic protection of human rights, it is important that the introduction of pro-human rights laws is accompanied by a network of complementary norms and mechanisms to coordinate and supervise the implementation of such laws (Chiduza, 2015). The creation of National Human Rights Institutions (NHRI) whose role is to promote and protect human rights at all levels was adopted by the General Assembly Resolution 48/134 on the Principles Relating to the Status of National Institutions (Paris Principles). The Paris Principles provide significant guidance and direction on the establishment of NHRI in general, and also provide standards and principles that NHRI must follow in order to function effectively (Chiduza, 2015). They also define: the role; composition; methods of operation; status and functions of NHRI (ZHRC, 2013:14).

2.7.9.1 The Paris Principles and their significant role in the human rights discourse

The Paris principles identify six criteria that NHRI should meet in order to be effective. These are explained below.
A clearly defined and broad mandate – According to the Paris principles, a NHRI should be given a mandate that is as broad as possible, based on universal rights standards which should be clearly set out in a national constitution and/or legislation. Having the mandate within the constitution or legislation ensures that the independence and transparency of NHRI is guaranteed. The mandate should clearly specify the composition and sphere of competency of the NHRI and must include the dual responsibility to promote and protect human rights. (ZHRC, 2013:15).

Autonomy from government – The Paris Principles require NHRI to have legal, operational and financial autonomy. Legal autonomy means that the constitutional provision and the founding provisions should give it a distinct legal personality. Operational autonomy means that in the conduct of its day to day affairs, a national institution should be able to act independently from an outside influence or external authority. In as far as financial autonomy is concerned, the Paris Principles state that an institution should have the resources to have its own staff and premises (ZHRC, 2013:15).

Independence – The Paris Principles emphasise that true independence is important to the success of the institution and should be guaranteed by legislation or the constitution (ZHRC, 2013:15). The United Nations Centre for Human Rights have put in place criteria for determining the independence of any NHRI and the criteria deals with questions such as the following:

a) Does the institution enjoy legal or operational independence?
b) Does the institution have clearly defined appointment and dismissal procedures?
c) Does it control its own finances?
d) Is it composed of individuals capable of acting independently? (Chiduza, 2015:152)

**Pluralism (Diversity)** – The Paris Principles require that the principles of pluralism should apply to all NHRIs. The ultimate purpose of pluralism is to ensure that the NHRI can establish effective cooperation with government and the public at large. Pluralism is best demonstrated when an institution’s membership visibly reflects diverse staff representing the different societal groups within the society (ZHRC, 2013:15).

**Adequate resources** – NHRIs should receive adequate public funding to perform their mandated activities and to employ the skilled staff they need to maintain their offices. An institution with little or no control over its finances or its spending cannot be independent or autonomous (ZHRC, 2013:16).

**Adequate powers of investigation** – The Paris Principles provide that the constitutional and legislative bases should adequately provide for investigative powers, with the capacity to hear complaints and transmit them to the competent authorities. The Principles provide that NHRIs should have the authority to inquire into matters raised by a victim/survivor, their representatives or from third parties (ZHRC, 2013:16).
It is also important to emphasise that the above list of principles is not exhaustive but just sets the minimum basic standards for the NHRIs. A critical analysis will thus be done later in this thesis for the Zimbabwe Human Rights Commission, in light of the above principles.

2.8 INDEPENDENCE AND EFFECTIVENESS – THE HALLMARK OF POLICE ACCOUNTABILITY SYSTEMS

The issue of independence is perhaps the central point of police accountability mechanisms, and discourses of independence permeate much of the debate on police complaints systems and processes (Savage, 2013a). The notion of independent investigation of police complaints and police misconduct has taken centre stage in the field of police governance (Prenzler, 2011; Savage, 2013). The extent of the independent investigation of complaints against the police has become almost the litmus test of whether a police complaints system is deemed to be effective, just and fair - or at least seen to be so (Savage, 2013:95). If a measure of the effectiveness of a police complaints body is the degree of independence it can be said to exhibit, then contemporary debate on police complaints mechanisms should focus on the the extent to which complaints are investigated independently of police themselves (Savage, 2013; Filstad & Gottschalk, 2011). It can thus be argued that police oversight bodies should be sufficiently separated from the hierarchy of the police or other law enforcement agencies that are the subject of its remit (EPAC, 2011:7). The European Court of Human Rights highlighted the meaning of independence in the case of Ramsahai V the Netherlands (2007) 46 ECHR 43 as follows; there must not be any institutional or hierarchical connection between the
police officer under investigation and the investigator, and the conduct of the investigation must be independent in practice.

There are, however, several factors which militate against independence on police accountability issues. Savage (2013: 106) highlights that complaint investigators cannot operate in a vacuum, without forms of engagement with the police organisation against whom a complaint has been made. This engagement implies that the police organisation will have to be involved in one way or another, in the complaints procedure. Accountability institutions’ reliance on the police organisation is also noted by Berg (2013) when he highlights that the Independent Complaints Directorate in South Africa used to rely on the police organisation for support, thus creating a potential for conflict of interest. Another factor which affects the independence of accountability institutions is the cooption of former police officers as investigators (Savage, 2013b). The issue of former police officers working within civilian oversight bodies has been and continues to be a significant source of controversy (HAC, 2013; Savage, 2013b).

There are measures that have been put in place across the world to enhance independence of police oversight institutions. Hopkins (2009) highlights the use of a specialist internal unit which will be protected from the police hierarchy, as well as use of another police force to investigate. Whilst the former can be applied in Zimbabwe, the latter cannot be applied given the fact that Zimbabwe has a centrally controlled police force. Political independence is ensured when the police oversight institution is answerable to parliament rather than the government of the day (Hopkins, 2009:48). Fixed tenures beyond political terms, as Hopkins (2009) further
suggests, would also assist in the political independence of the commissioners or directors.

Whereas independence may be more to the fore in public debate, effectiveness is the key factor in the jurisprudence of the European Court for Human Rights (ECHR) (Smith, 2013). Whilst independence is an important consideration for the effectiveness of an oversight body (Smith, 2013a), other factors such as adequacy, promptness, public scrutiny and victim involvement are also key issues that determine the effectiveness of an accountability mechanism (ECHR, 2009; Hopkins, 2009). The ECHR adequacy principle holds that for an investigation to be effective it must be capable of gathering evidence to establish if police behaviour was lawful, and identify and punish those responsible (Smith, 2013: 95). In relation to promptness, Hopkins (2009:23) opines that a speedy response and expeditiousness is crucial for maintaining trust and confidence in the rule of law and in order to dispel any fear of collusion to conceal misconduct.

2.9 INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK FOR POLICE ACCOUNTABILITY

2.9.1 International Legal Framework

Most of the aspects of police accountability are addressed in various international and regional legal instruments. States are bound by international law in which principles of human rights are enshrined. To this end, Boer and Pyo (2011) highlight that States, which are embedded in an international legal system, are a partner in universal legal frameworks. Also important to highlight is the fact that all international
treaties that concern human rights are of direct relevance to policing. States are obliged to protect and promote human rights under the Universal Declaration of Human Rights, which embodies civil, political, economic, social and cultural rights, and it is proclaimed as a common standard of achievement for all people and all nations (Boer & Pyo: 2011:9). The United Nations framework gives a set of universal norms for good policing, which have to be adopted by all members of states.

2.9.1.1 The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) (UN, 1976) contains some very relevant provisions for police performance. The following are the most notable provisions which have a direct bearing on policing;

Article 9. 1.

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be
subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

Also, Article 9.4 and 9.5 seem to advocate for legal accountability by providing that;

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

As clearly expressed in Article 9 of the ICCPR, the right to personal liberty is among the most important individual rights that member states should take steps to protect. Given that police powers of arrest and detention have serious implications on the right to personal liberty, Article 9 the ICCPR sets the tone for the protection of this fundamental right. In summary, Article 9 outlaws arbitrary arrest and detention; provides for the suspects’ right to be informed of the reason for the arrest at the time of arrest; and provides that an arrested person should be brought before a judicial officer promptly or within a reasonable time.

It is also important to highlight that Zimbabwe is a signatory to the ICCPR. As shall be seen in this study, the country has taken the necessary steps to incorporate the provisions of Article 9 in its statutes. Moreover, some court judgements in Zimbabwe
have reiterated the importance of the fundamental right to personal liberty. For example, in the leading case of Botha v Zvada and Another 1997 (1) ZLR415 (H), it was held that interference with liberty is a serious matter. In another case of Minister of Home Affairs and Another V Bangajena 2000(1) ZLR 306 (S) the Supreme Court held that;

“... the deprivation of personal liberty is an odious interference and has always been regarded as serious injury... The courts have properly taken the stance that that deprivation of liberty through unlawful arrest and imprisonment is a very serious infraction of fundamental rights.”

2.9.1.2 The United Nations Code of Conduct for Law Enforcement Officials

Perhaps the most notable treaty which was adopted with the police in mind is the UN Code of Conduct for Law Enforcement Officials (1979). The code furthermore calls upon the police officers to protect human rights, use force when only strictly necessary, keep confidentiality, to not use torture, ensure the health of persons held in custody, rigorously oppose and combat corruption, and respect the rule of law (Boer & Pyo: 2011:10). However, it should be noted that this is a non-treaty code and hence not binding upon states. Furthermore, there are the Basic Principles on the use of Force and Firearms by Law Enforcement Officials, which express standards on good police practice in the use of force and firearms, thereby promoting and protecting the right to life. Though the two are not binding, they have laid a solid foundation for regional and national legal framework for police accountability.
2.9.1.3 The United Convention against Torture

The UN Convention against Torture and Other Cruel or Degrading Treatment (CAT) (UN, 1987) also holds considerable relevance for police practices. The following are some of the important provisions for CAT;

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all
ill-treatment or intimidation as a consequence of his complaint or any evidence given.

However, as with other international treaties, it is important to highlight that the treaty is only binding upon states that have ratified it. As a member State, Zimbabwe has however not yet ratified this important treaty; neither has it shown an interest to do so. Despite reluctance to ratify CAT, the Constitution of Zimbabwe outlaws torture under the Declaration of Rights section. Moreover, several court decisions have been made in which the police had been sued for allegations of torture. For example, in the leading case of Karimazondo and Another V Minister of Home Affairs and Another 2001 (2) ZLR 363 (H), the plaintiffs were both arrested on allegations of murder but the charges were subsequently dropped. The plaintiffs sued the police after they had been subjected to torture whilst in custody. The learned judge had this to say;

“The actions of the police in this case were in flagrant and disregard of the rights of the plaintiffs...the brutality and callousness with which the assaults were perpetrated on the first plaintiff instils in any right thinking person a sense of horror and shock...The unlawful and inhuman treatment to which the first plaintiff was subjected was, in my view totally unnecessary, vindictive and malicious.”

2.9.1.4 The Body of Principles for the Protection of Persons under any form of Detention

Additionally, the Body of Principles for the Protection of Persons under Any form of Detention or Imprisonment reiterates the prohibition of torture and respect for the
detainees’ rights to humane treatment. Boer & Pyo (2011:25) correctly point out that the Body of Principles for the Protection of Persons under Any form of Detention or Imprisonment is of more direct relevance to the treatment of detainees in police custody, who are suspected but not convicted of crime.

### 2.9.2 Regional Legal Framework

Most of the regional legal instruments were derived from the international instruments. In the African continent, the most notable instrument that has a direct bearing on policing among member states is the African Charter on Human and People’s Rights (ACHPR) (African Union, 1981). Though not as comprehensive as the UN legal framework, the following are some of the important provisions;

**Article 3**

1. *Every individual shall be equal before the law.*
2. *Every individual shall be entitled to equal protection of the law.*

**Article 5**

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.*
**Article 6**

_Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained._

Article 3 of the ACHPR deals with an important aspect of democratic governance, that is, the rule of law. Equal protection of the law imposes a duty upon the police to desist from partisan policing and from persecuting certain sections of the society. Similarly, Article 5 seems to summarily outlaw torture and inhuman treatment, whereas Article 6 deals with the fundamental right to personal liberty.

In Southern Africa, The Southern African Regional Police Chiefs Cooperation (SARPCCO) Code of Conduct is a minimum set of standards for policing in the Southern African Region. The code is derived from international and regional human rights standards and represents commitment to uphold and implement these rights (Tait, 2011). The SARPCCO Code of Conduct provides a one of the earliest efforts by a regional police organisation in Africa to develop a unified code and has served as an example for other regions. The Code of Conduct deals with fundamental human rights principles, accountability and the management of police use of force and police power, and acknowledges police responsibilities in protecting and serving members of the public, irrespective of gender, ethnic or religious affiliations, and victims of crime (Dissel & Tait, 2011:3). However, like most normative codes, the Code of Conduct is a broad statement of principles, which is sometimes difficult to interpret and apply consistently.
2.10 THEORETICAL FRAMEWORK AND APPLICATION

This section covers various sociological theories which relate to police accountability. The theories attempt to explain the rationale for police accountability. Three theories are explained and these are; The Social Contract Theory, The Democracy Theory and the Social Bonding Theory.

2.10.1 The Social Contract Theory

The social contract is a thought experiment, whereby we ask when people would agree to cede authority (i.e. the obligation to obey) to a governing body in return for the social order and other benefits it might provide (Leonard, Mushi & Vincent, 2011:3). Thomas Hobbes, John Locke, and Jean-Jacquis Rousseau are the pioneers of the social contract theory (Hamouda, 2012). Under the social contract, the police have power to use force against the citizen to maintain order and safety in society. To escape the evils of the state of nature and to protect their lives, individuals voluntarily give up their freedoms (Hobbes 1588-1679 in Hamouda, 2012). Button (quoted by Leonard et al, 2011:4) argues that social contracts are not self enforcing and they require supporting institutions. The police department is thus one of the important institutions whose purpose is to enforce the social contract. According to Stummvoll, in Mugari (2014:62), the social contract theory can be regarded as early justification for governmental control executed by a professional police force. Interestingly, Hamouda (2012) notes that police violence against protestors will often be seen as legitimate even where it goes beyond the bounds of reasonable force. Bowling and Sheptycki (2011:13) summed it up when they said, “The social contract is the key to police legitimacy and forms the basis of the liberal idea of policing”.

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In as much as society should cede some of their powers to social institutions such as the police, these social control institutions should also be willing to be cede their powers to other oversight institutions. The public police should operate within the confines of the principle standards outlined and derived from the statutes (Grollneck, 2014); the major statutes being the constitutions and all statutes relating to criminal procedure. These principles set boundaries for law enforcement officers to operate within and adhering to the principles ensures trust by means of measurable standards (Grollneck 2014). It should also be noted that the law, which constrains the behaviour of people in society, also applies to those who enforce it (Donner & Jennings, 2014:204).

Trust and confidence in the police form part of a larger social contract, in which police accountability to the public is the hallmark of democratic governance (Harris, 2013: 18). Citizens transfer their sovereignty to political representatives who, in turn delegate most of their powers to the public servants, who use discretionary powers to execute public policies, impose fines and lock up people (Bovens, 2005: 192). There is an implied contact that those powers will be exercised properly and in compliance with the law (Harris, 2013). Thus, the question of police oversight and its efficacy must be viewed within the broader context of police governance, and the contingent relationship between public confidence in the police and police effectiveness (Harris, 2013: 18). Where public confidence is lost as Maguire in Harris (2013) points out, it can only be restored if the police are answerable for their acts and act responsively to the concerns of the public at large.
2.10.2 The Democracy Theory

Public accountability is extremely important from a democratic theory perspective (Bovens et al, 2008) and it enables citizens and their representatives to make those holding public office answer for their deeds (Mulgan, 2003 in Bovens et al, 2008: 230). Hence, public accountability is an essential precondition for the democratic process to work, since it provides citizens and their representatives with the information needed for judging the propriety and effectiveness of government conduct (Bovens et al, 2008). The democratic perspective operates outside the traditional, formal legal infrastructure and is generally characterised by the greater participation and collaboration of non-traditional players, the use of consensus building mechanisms and the integration of private-public partnerships (Simmons, 2010: 379). It can thus be argued that those who advocate for external police accountability base their arguments on the democratic theory. Smith (2013: 92) also concurs that independent oversight of the police has emerged as a core principle of democratic policing.

Given the importance of citizens’ role in policing projects, the police must understand themselves as subservient to the community, and allow for citizens to evaluate police performance and assist in the construction of police policy (Hebert, 2006). Around the globe, non-police engagement in complaints procedures are to be found at the heart of police reform programmes that are carried out in the name of democratisation (Smith, 2013: 92). The legitimacy of the police and the ability of citizens to hold the police accountable for their actions is a very important factor in a democratic society (Bayley, 2006: 145; Beckley, 2014: 176). The involvement of the
free media and NGOs in police accountability possibly justifies the democracy theory of accountability.

The legitimacy theory is also an important aspect of the democracy theory (Harris, 2013; Markham & Punch, 2007). Legitimacy refers to the perception that police conduct is both lawful and consistent with expectations (Walker, 2007). This legitimacy is built on confidence and trust in the police (Savage, 2007:59). The legitimacy of the policing function in contemporary societies is underpinned by the rule of law notion that police are accountable for their acts and wrongdoing, just like other citizens (Ransley, Anderson & Prenzler, 2007: 144; Hebert, 2006). It is argued that confidence and legitimacy allow citizens to engage in law-abiding behaviour, cooperate with the police initiatives, and more readily accept police tactics (Jackson, 2009:495). Studies of public perceptions suggest that confidence in police legitimacy is adversely affected by any perceived lack of accountability for misconduct such as corruption and excessive force (Ransley, Anderson & Prenzler, 2007; Chermak et al, 2005). It can thus be argued that in order to win the citizens’ confidence and trust, police must be accountable to the public in all their policing efforts.

2.10.3 Social Bonding Theory
The Social Bond Theory was propounded by Travis Hirschi (Chriss, 2007:690). Hirschi’s theory is based on the assumption that delinquency results when an individual's bond to society is weak or broken. Hirschi, in Chriss (2007) proposes that the presence of four key elements of belief, attachment, commitment, and involvement may lead to deviant behaviour based on the strength of the social bonds. The Social Bond Theory can best explain the police organisational culture
which is characterised by loyalty and solidarity to fellow police officers, secrecy and isolation (Miller & Hess, 2008); and the blue wall of silence (Dempsey & Forst, 2010). In this vein, Grieve, Harfield and Mclean (2007:116) define an organisational culture as the deeper level of assumptions and beliefs that are shared by members of the organisation, that operates and projects unconsciously on organization’s view of itself and the environment. The nature of police work turns police into highly social animals (Kwon, 2012) and they inevitably engage in the rigorous re-socialisation process and become part of the exclusive subculture (Punch & Gilmore, 2010:10).

The police subculture, which is mainly a result of the social bond, can be an impediment to police accountability. As a result of the strong social bond, the more an officer is exposed to other officers’ misconduct, the more he is likely to slide further down the slope and take on the role of a deviant police officer (Punch & Gilmore, 2010). Due to strong solidarity amongst police officers, police officers turn a blind eye when they see other officers engaging in deviant behaviour (Donner & Jennings, 2014). Studies of the police culture indicate that police officers protect one another from outsiders, often even refusing to aid police superiors or other law enforcement officials in investigating wrongdoing by other officers (Dempsey & Forst, 2010:153). This implies that the social bond will negatively affect both the internal investigations and investigations by external oversight boards.

2.11 INTERNATIONAL AND REGIONAL PERSPECTIVES ON POLICE ACCOUNTABILITY

This section gives a comparative analysis of the various police accountability systems across the globe. It will cover continent by continent, while accountability
systems for several individual nations within the continents are also evaluated. An appreciation of accountability systems around the world will help in assessing the mechanisms for the ZRP.

2.11.1 Accountability systems in Asia

Shinar (2009) in his study on the accountability for the Indian police highlights torture and violence, police corruption and failure to observe due processes as some of the critical areas which call for police accountability mechanisms. He further highlights that true professionalism and political insulation are highly desirable, especially in a situation like India’s where the police are superintended by the state government, that is, the ruling party (2009:9). The Police Act of 1861, as well as courts, Parliament and Human Rights Commission are the prominent oversight mechanisms for police accountability. The situation in India seems to be the same as that in Bangladesh, as Biswas (2012:2) notes that the authority of police leadership in Bangladesh has been eroded over time by political interference, leading to a loss of discipline in the force. Due to lack of trust in the internal accountability mechanisms in Bangladesh, the Courts constitute one of the most important external mechanisms of ensuring police accountability, while The Human Rights Commission and the human rights Non-Governmental Organisations are also important.

In Hong Kong, Smith (2015) notes the tripartite police complaints system which comprises of The Independent Commission against Corruption (ICAC) the Complaints against Police Office of the Hong Kong Police Force (CAPO), and the Independent Police Complaints Council (IPCC). The ICAC is responsible for investigating corruption in public (including police) and private sectors and preparing
criminal proceedings. The CAPO is delegated by the Commissioner of Hong Kong Police Force to investigate police misconduct and to prepare disciplinary proceedings. The IPCC is responsible for monitoring and reviewing CAPO investigations, outcomes and police operations (Smith, 2015:121).

Amnesty International (2009) in a report on police accountability in Indonesia notes a number of internal and external mechanisms to monitor police. The internal disciplinary code and the code of ethics constitute the internal mechanisms, though Amnesty International (2009: 25) highlights that both measures do not fully comply with international human rights law or standards. External accountability mechanisms include the Corruption Eradication Commission, the National Human Rights Commission, The National Ombudsman and The House of People’s Representatives. However, the commissions remain in many ways too weak, too little known and their mandate largely inadequate to deal effectively with public complaints about ongoing police abuses (Amnesty International, 2009). The media and NGOs also play a role in providing some independent oversight of police actions. In South Korea, Nalla and Mamaye (2013:123) note the Human Rights Commission, Anti-Corruption agency, the National Ombudsman and Civilian Review Boards as the key external accountability mechanisms.

Among the Asian nations, China seems to have systems of police accountability that differ from other nations. In China, Haberfield and Cerrah (2008) highlight internal supervision, procuratorate supervision, administrative supervision and citizen supervision as the main accountability measures for the police. The people’s procuratorate has general oversight authority over the police. It has the power review
and approve police requests for arrest and if necessary, it may direct and provide
guidance to police criminal investigations (Haberfield & Cerrah, 2008:46). Another
important function of the procuratorate is to receive citizens’ complaints against the
police and to investigate alleged police misconduct. Under administrative
supervision, all government agencies, including the police, are subject to the
oversight by the Ministry of Supervision. The Ministry of Supervision and its
subordinate agencies have the authority to receive citizens’ complaints against the
police and to send agents to police agencies to inspect their work (Haberfield &
Cerrah, 2008:47). The law in China also specifies three ways in which citizens may
exercise the right of supervision. These are: the right to make recommendations and
suggestions to the police, the right to file complaints against the police, and the right
to bring lawsuits against the police (Haberfield & Cerrah, 2008:48).

2.11.2 Accountability systems in Europe

Across Europe, several independent oversight mechanisms are in place. Conway
and Walsh (2011) highlight the following oversight bodies across Europe: Standing
Police Monitoring Committee in Belgium; Independent Authority for the Investigation
of Complaints and Allegations Against the Police in Cyprus; Independent Police
Complaints Commission in Hungary and Garda Síochána Ombudsman Commission
in Ireland. Mawby and Wright (2005) in their works on police accountability in the
United Kingdom, highlight a tripartite system of police accountability. This tripartite
system comprises; accountability to Parliament through the Home Secretary, the
criminal justice system and Her Majesty’s Inspectorate of Constabulary. Smith
(2010) also highlights a two-tier complaints system across Europe, with the majority
of complaints investigated by the police and serious incidence investigated by a
separate body. Mawby and Wright (2005:3) also note various international and regional standards on policing, the most notable being the European Convention for the Protection of Human Rights and fundamental freedoms and the European Declaration on the Police Code of Ethics.

The Independent Police Complaints Commission (IPCC) is perhaps the most notable independent institution for police accountability in England and Wales (Smith, 2013; Fall, 2013) and it has powers to investigate complaints against the 43 police services of England and Wales (Smith 2013:93). The IPCC is there to investigate the most serious complaints and allegations of misconduct against the police, as well as to consider appeals from complainants who are unhappy with the way a police force has dealt with their complaint (Fall, 2013:13). Upon completion of investigations, the IPCC makes recommendations in order to improve policing in the hope of preventing similar incidents from occurring in the future (Smith, 2013:96). Importantly, the IPCC regularly carries out surveys across a range of stakeholders including police officers, complainants, police forces, community groups and bereaved families (Fall, 2013). Another important feature, which exhibits the efficiency of the IPCC pertains to the body’s ability to monitor and evaluate its own investigators. Fall (2013: 13-14) highlights the following three stages of evaluation and monitoring:

“Within three weeks of completion of an investigation, the investigator leading the investigation will complete a Self Inspection Document. The investigator documents a summary of the incident and comments on all aspects of the investigation. This includes the propriety of the decision to investigate, the terms of reference lines of inquiry, family liaison strategy,
police witness strategy, witness strategy exhibit strategy and intelligence strategy, amongst others.

Within four weeks of the start of the investigation, the Self Inspection Document will be reviewed by a senior investigator who is not connected to the investigation. The reviewing investigator will make recommendation to the case investigator that will be incorporated into the investigation (unless there is a very good reason not to) and this review can also highlight good practice that can be disseminated to the rest of the directorate to improve best practice and quality.

Every investigation is debriefed upon its completion. All individuals involved will discuss and document what went well, and what did not go well, in order to improve the practice throughout the whole organisation”.

Flowing from the above argument is an opinion that the IPCC meets most of the criteria for an effective police oversight institution. Important aspects of effectiveness namely independence, competence and promptness are all exhibited in the IPCC.

In Northern Ireland, Rea, Donnelly & Fitzsimons (2009) highlight the tripartite structure involving the Secretary of State for Northern Ireland, the Policing Board and the Chief Constable of Police. The Policing Board, which is comprised of civilians, is responsible for ensuring effective oversight and monitoring of the work of the police (Rea et al, 2009: 10). The Chief Constable, as Rea et al (2009) further assert, oversees the internal accountability mechanisms. Savage (2007; 2013b) also notes
the Police Ombudsman in Northern Ireland. The Police Ombudsman has the sole responsibility for handling all complaints, including investigations, against the Police Service of Northern Ireland (Fall, 2013; Savage, 2013b). Importantly, the Ombudsman conducts various other forms of monitoring and research, resulting in some helpful outputs. These are highlighted by Fall (2013:16) as follows:

1. An annual complaint satisfaction survey measuring: overall satisfaction; fairness of treatment; complainants who would use the system again; perceptions on the ombudsman staff (for example patient, impartial, rude, etc).

2. A report summarising the characteristics of police officers who attract the most complaints. This covers officer role, gender, rank and years of service, and aims to empower police managers.

3. Separate reports exploring complaints involving the use of pepper spray, firearms, batons and tasers by police.

Consequently the Police Ombudsman for Northern Ireland appears to follow the IPCC of England and Wales in its operations. Moreover, whilst the Ombudsman in other countries is responsible for all government departments and institutions, the situation in Northern Ireland is unique in the sense that the office has been solely put in place to monitor the police.

Savage (2013b) also notes the Independent Police Complaints Commission (IPCC) and the Garda Síochána Ombudsman Commission (GSOC) in the Republic of Ireland. The IPCC was formed on the basis that it would investigate only a small
proportion of complaints and would still leave many complaints fully in the hands of police forces themselves (Savage, 2013a: 98). Another key feature of the IPCC is that it is also enabled to investigate incidents of possible misconduct even where no complaint has been made and can furthermore act as a body to which complainants can appeal decisions made by police forces in their handling of complaints (Savage, 2013a). The GSOC, as Savage (2013a) puts it, similarly independently investigates only a minority of complaints and leaves the majority of cases to the police. The Police Complaints Commissioner for Scotland (PCCS) has the responsibility for overseeing complaints, without investigation powers against eight police services in Scotland (Scott, 2011:123).

France on the other hand has developed two different police forces: the National Police, which is in charge of main urban centres; and the National Gendarmerie, which is responsible for limited urban areas and rural areas (Rea et al, 2009). The oversight of both police forces is organised at a national level, whilst objectives of both forces are fixed by the Home Ministry. In addition, the French Parliament controls the actions of security forces by questioning the government (Rea et al, 2009: 15). Another important oversight feature, as highlighted by Rea et al, (2009), is the fact that members of parliament have the authority to make unannounced visits to detention/ custody centres and meet with detainees. As regards internal mechanisms, both forces have developed their own inspectorate bodies, whose roles are quite similar (Rea et al, 2009: 10).

Overall, Smith (2010:62) notes a two-tier complaints system in Europe, with the majority of complaints investigated by the police and serious incidents investigated
by a separate body. Perhaps another important feature for accountability institutions in Europe is the categories of workers who are employed by the oversight bodies. Savage (2013a) highlights three categories of employees namely; Complaints officers, investigators and commissioners or ombudsmen. Savage (2013a) distinguishes the important roles that are played by the employees at different stages of the police complaint investigation.

2.11.3 Accountability systems in Australia and New Zealand

Heyer & Beckely (2013)’s study on police accountability in New Zealand and Australia highlight the New Zealand Independent Police Conduct Authority (IPCA) as the main oversight body for police complaints in New Zealand. The Authority refers to the police all complaints pertaining to the breaches of the Police Code of Conduct, and investigates serious complaints (Heyer & Beckely, 2013). The Authority reports to the Attorney General when police fail to implement the Authority’s recommendations and the Attorney General will in turn report to Parliament. Another important observation worth noting is that the IPCA employs approximately five experienced investigators who have extensive policing experience in New Zealand or in any other British Commonwealth countries (Heyer & Beckely, 2013:135).

In Australia, there seems to be a tripartite system of police external accountability. The Ombudsman, the Police Integrity Commission and Anti-Corruption Commission are the key oversight bodies (Heyer & Beckely, 2013). The Ombudsman, who is referred to as the Commonwealth Ombudsman, exists to safeguard the community in dealing with Australian government agencies, including the Australian Federal Police. The Ombudsman has four major statutory functions namely: complaint
investigations; investigations initiation on its own initiative; compliance audit; and immigration detection oversight, with complaints investigations occupying the bulk of the Ombudsman’s work (Fall, 2013: 12). It is also important to highlight that the majority of police oversight bodies in Australia have responsibilities across government departments (Heyer & Beckely, 2013). Stone (2007: 245) also highlights that police killings in Australia are the subject of separate investigations by an independent inquiry established by the state assembly.

Another important point worth highlighting is the fact that there are different states in Australia and New Zealand and in addition to countrywide oversight institutions, states will be having their own police accountability mechanisms. For example, Fall (2013:14) notes the Crime and Misconduct Commission (CMC) in Queensland, Australia. The CMC oversees investigations carried out by the police in order to judge how well they are carried out. It monitors the police’s complaints handling processes and can investigate cases itself when the cases are considered to be of public interest (Fall, 2013:14). The CMC is also empowered to conduct detailed reviews of a sample of cases and these reviews are intended to consider:

“The adequacy, impartiality and transparency of the process;

The appropriateness of the conclusions and recommendations made;

The appropriateness of any decision, whether or not to lay disciplinary charges, or of any other action taken;

Where charges have are proposed, the appropriateness of the charges and of the choice of tribunal; and

The appropriateness of any procedural or preventive recommendations” (Fall, 2013: 11).
2.11.4 Accountability systems in the United States of America, North America, South America and Latin America.

2.11.4.1 United States of America

Unlike the pattern in many places in the world where law enforcement is exclusively a state or national function, policing in the United States is predominantly a matter for local, municipal government (Rea et al, 2009: 17). Consequently, accountability systems differ in their roles and responsibilities across states and counties in the United States. Stone (2007:245) argues that in the United States, policing in most cities, is subject to oversight by monitors approved by the United States Department of Justice and this development came as a result of allegations of a pattern of police misconduct.

The New York Police Department has a Civilian Complaints Review Board (CCRB), which is an all- civilian agency with subpoena power (Brown, 2012) and this is the largest civilian oversight agency of its kind within the United States (Rea et al, 2009: 17). The board has 13 members who are appointed by the York City Council (5), the Police Commissioner (3) and the Mayor (5) (Brown, 2012). The board is also empowered to receive, investigate, hear, make findings and recommend action on complaints against New York City police officers which allege the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language (Rea et al, 2009: 20). However, not all complaints lodged with the CCRB are investigated and some are handled by the agency’s mediation unit rather than undergoing a full investigation (Fall, 2013:18). One important aspect of the CCRB is the fact that data generated is made public in its detailed reports. For the Los
Angeles Police Department (LAPD), the power to investigate and adjudicate misconduct is shared by LAPD’s Internal Affairs, a Police Commission, and an Inspector General (Bobb, 2010). The Los Angeles Board of Police Commissioners is composed of five civilians and sets the overall policy, while the Chief of Police manages the daily operations of the department and implements the Board’s policies (Rea et al, 2009: 18). The Office of the Inspector General (OIG) has oversight over the LAPD’s internal disciplinary process and in addition the OIG audits selected investigations and conducts systematic reviews of the disciplinary system to ensure fairness (Rea et al, 2009: 18). Los Angeles County also created the Office of Independent Review (OIR) in 2001 to ensure quality when investigating police misconduct (Bobb, 2010; Rea et al, 2009).

In Chicago the Police Board of the City of Chicago is an independent civilian body that oversees certain activities of the Chicago Police Division (CPD) (Rea et al, 2009). The members of the Police Board are private citizens appointed by the mayor with the advice and consent of the city council (Rea et al, 2009). Hopkins (2009) also notes the Independent Police Review Authority (The IPRA) as the agency which is responsible for handling police complaints, whether generated externally by the public or by the police department personnel. When an allegation involves excessive use of force, officer involved shooting, extraordinary occurrences in places of detention, domestic violence, or verbal based abuse, IPRA conducts the investigation into the allegation and recommends the result (Rea et al, 2009: 17). In Seattle, the authorities have chosen to bring a civilian lawyer from outside the department to head the Internal Affairs Unit (Bobb, 2010).
Overall, The National Association of Civilian Oversight of Law Enforcement (NACOLE) is the national organisation that serves the oversight community in the United States (Attard, 2010: 1555). With members representing oversight agencies across the nation, NACOLE works to support oversight practitioners and improve policing and police accountability. Despite varying accountability mechanisms across states in the United States of America, Quinn (2009) highlights three models namely investigative model, monitoring model and Auditor/ Ombudsman model.

Karimu and Foluke (2012) conducted a research on the comparative analysis of police accountability in Nigeria and The United States of America. They highlighted that, in both countries, the accountability mechanisms can be grouped into three different levels namely; internal or departmental control, state or governmental control and societal control (2012: 252). While in the United States, most police departments have a more effective internal system for identifying, investigating, adjudicating and punishing individual instances of police misconduct (Karimu & Foluke, 2012:254), citizens in Nigeria do not have absolute confidence in the police internal control. Bobb (2010:7) highlights that civilian review boards in the United States typically go to work after the law enforcement agency itself has completed an internal investigation of a citizen’s complaint.

2.11.4.2 North America

Canada seems to have the same approach towards police accountability as the United States. Different cities and states have different police oversight mechanisms. In Ontario, the Special Investigations Unit (SIU) investigates complaints in Ontario province when someone has been seriously injured, dies or alleges sexual assault
involving a police officer (Fall, 2013:10). Thus, the SIU has a statutory mandate to conduct independent investigations to determine whether police officers have committed a criminal offence. Fall (2013) also notes the Serious Incident Response Team (SiRT) in Canada’s Nova Scotia province. The SiRT independently investigates all serious incidents which arise from the actions of police and these are matters that involve death, serious injury, sexual assault and domestic violence. Also, the SiRT provides detailed public reports for every investigation it undertakes.

2.11.4.3 South America

In Brazil, Stone (2007) highlights that independent investigators can conduct investigations on police killings and civilian complaints. The state assembly can also institute an independent inquiry when there are serious incidents of police misconduct in Brazil. Stone (2007) also notes the presence of the state’s police ombudsman whose role is to investigate serious incidents of police misconduct. In Canada, the central independent oversight body for the Royal Canadian Mounted Police (RCMP) is the Commission for Public Complaints against the RCMP (CPC) (Puddister & Riddel, 2012). Created by Parliament in 1988, the mandate of the CPC is to receive complaints from the public regarding the RCMP, conduct reviews and investigations of the complaints, and issue reports and recommendations (Puddister & Riddel, 2012:396).

2.11.4.4 Latin America

In Costa Rica, Eijkman (2006) notes the presence of both internal and accountability mechanisms, with the police chief, peer control and disciplinary proceedings as the main internal accountability mechanisms. The Legal Disciplinary Department is a
special section in the Ministry of Public Security responsible for the investigation of citizens’ complaints and other disciplinary measures (Eijkman, 2006). As in most European jurisdictions, the Ombudsman office is there for any Costa Rica inhabitant to make complaints against the government. In an effort to protect human rights of citizens and to promote good administration, the Ombudsman’s office investigates how the public administration and its officials (who include the police) carry out their duties (Eijkman, 2006: 417). Complaints to the Ombudsman’s office about the police, as Eijkman (2006) highlights, relate to abuse of authority, negligence or corruption.

2.11.5 Accountability systems in Africa

2.11.5.1 West Africa

In West Africa, Alemika (2005) notes the Police Council and the Police Service Commission as the two major constitutional bodies for oversight of the Nigerian Police Force. The Nigeria Police Council, which is chaired by the President, can address structural problems that contribute to police abuse and can also hold police accountable for policies and programmes that the council introduces (Gombert, Davis & Lawson, 2009:32). The Police Service Commission is designed as a powerful oversight agency that is empowered to appoint persons to offices in the police force. There is also the National Human Rights Commission which is empowered to investigate human rights violations, as well as the Police Complaints bureau, which accepts reports of police misconduct for internal investigation in each state command (Gombert, Davis & Lawson, 2009). Police oversight in Ghana comprises a number of bodies which include; the Police Council, regional police committees, the Commission for Human Rights and the Administration of Justice, Legislative authorities and an effective NGO community (Aning, 2006). Regional
police committees were designed to support the Police Council by monitoring the conduct and performance of regional police forces (Gombert, Davis & Lawson, 2009:9). Whilst the Commission for Human Rights and Administrative Justice is mandated to investigate breaches of fundamental rights and abuse of power (Aning, 2006), the commission’s powers are generally recommendatory (Gombert, Davis & Lawson, 2009). In both Nigeria and Ghana, certain NGOs play an advocacy role and watch police compliance with international human rights norms (Gombert, Davis & Lawson, 2009).

2.11.5.2 East Africa

In East Africa, CHRI (2006) notes the important role of parliamentary oversight over the police in Kenya, which is achieved through question and time sessions and parliamentary committees. Kenya also has a National Commission of Human Rights which has a broad mandate to investigate human rights violations, including violations by police officers (CHRI, 2006:25). Kenya Anti-Corruption Commission was also established in 2002 to investigate and suppress corruption. In his study on police accountability in Kenya, Matara (2010) notes the Police Act as the key legal instrument for internal accountability. To this end, the Kenyan Police Act provides for the conduct of its officers by setting up institutions and regulations within the police force that handle discipline of wayward officers. Further, as Matara (2010) highlights, the Act provides for the formulation of the Force Standing Orders which provide a comprehensive version of disciplinary proceedings among police officers. For external accountability mechanisms, Matara (2010:49) notes the formative stages of the Independent Policing Oversight Authority (IPOA), which was to be charged with investigations on all public complaints against the police service. However, IPOA
only became operational in 2012 after the promulgation of the enabling statute- The Independent Policing Oversight Authority Act, in 2011. In a critic on the effectiveness of the IPOA, Kiarie (2014:1) notes rigid resistance from the police through a well-calculated tendency by the police to impede investigations by ignoring summons, as well as tampering with and substituting evidence.

2.11.5.3 Southern Africa

Berg (2005), in his works on police accountability in Southern African Commonwealth countries highlights the Constitution, Ombudsman, the Judiciary, Human Rights Commissions and civil society as key oversight mechanisms. In his paper on police accountability in Sothern Africa, Lumina (2006) notes the internal oversight mechanisms in several countries within the SADC region. Internal accountability mechanisms are generally provided for in terms of laws governing police, as well as police standing orders (Lumina, 2006:98). In a number of SADC countries (including Mauritius, Tanzania, South Africa and Zambia), Human Rights Commissions have been established with broad human rights mandates, including the handling of complaints alleging violations of human rights on the part of the police (Lumina, 2006: 101).

In Mozambique, the police service has established a system of Public Complaints Books which are kept at police stations to enable members of the public to lodge complaints against the police (APCOF, 2008). Under the Mozambican Constitution, the Attorney General has the responsibility for protecting and promoting human rights and is required to supervise and defend the established legal order. The Procurator-General, as APCOF (2008) highlights, is empowered to initiate a
complaints process against a member of the police and to carry out investigations. In Zambia, the most notable institution for external police accountability is the Police Public Complaints Authority, which has powers to investigate complaints against police and injury or deaths in police custody (APCOF, 2008). The authority submits findings, recommendations to and directions to a range of agencies – to the Director of Public Prosecutions (for criminal prosecutions), to the Inspector General of Police (for disciplinary or administrative action) and to the Anti-Corruption Commission (in cases of corruption) (APCOF, 2008). The Anti-Corruption Commission also investigates complaints relating to corrupt practises (Shezongo-Mcmillan, 2013). For internal accountability, Shezongo-Mcmillan (2013) notes the Zambia Police Act, the Police Tribunals (Procedure) Regulations and the Zambia Police Standing Orders No. 32-34. Complaints against police officers, as Shezongo-Mcmillan (2013) highlights, may be dealt with by the Legal and Professional Standards Unit of the Zambian Police.

Several researches have also been conducted in South Africa on the subject of police accountability (Masuku, 2005; Varvaloucas, 2007; and Bruce, 2006), all of which clearly spell out the internal and external police accountability mechanisms in the Republic of South Africa. These studies highlighted the Courts, Parliament, the Independent Complaints Directorate (ICD), and the Public Protector as the main accountability mechanisms for the police. Perhaps the most important body for police accountability is the Independent Police Investigative Directorate (IPID) which is mandated through the Independent Police Investigative Directorate Act (1 of 2011) and replaced the ICD. The IPID Act compels the South African Police Services to cooperate with the IPID through giving identity parades; making officers available for
taking affidavits; giving evidence or producing any document and providing any other information or documentation required for IPID to investigate (Berg, 2013:150). An important provision in the IPID Act, as Berg (2013: 150) points out, is the fact that the National Commissioner of Police is now compelled to initiate disciplinary recommendations made by IPID within 30 days, submit a quarterly report on progress regarding disciplinary matters to the Minister of Police.

In Tanzania, Parliament and the Commission on Human Rights and Good Governance are the prominent external accountability mechanisms for the police (Commonwealth Human Rights Initiative (CHRI), 2006). Parliament has the power to question police wrongdoings, to seek accounts of police performance and to keep policing under constant review; whilst the Commission on Human Rights and Good Governance has the power to investigate complaints of human rights abuses (CHRI, 2006:26). In Angola, the most notable accountability mechanism is the Judicial Procuratorate which has the mandate of defending the rights, freedoms and guarantees of citizens (African Policing Civilian Oversight Forum (APCOF), 2008). The Justice Ombudsman is also empowered to receive complaints from members of the public and to make recommendations aimed at preventing and remedying injustices (APCOF, 2008:52).

In Zimbabwe the area of police accountability has not been widely researched. Most researchers only focused on police accountability as a recommendation for various police misconduct. The research by the International Bar Association on Human Rights (IBAHIRI) (2007) focused on partisan policing, though the issue of accountability came as a recommendation. Other researches (Mudzongo, 2001;
Makwerere et al, 2012) were mainly carried out in the context of human rights violations by the police and not much was covered on the issue of police accountability. NGOs, however, attempted to cover the concept of police accountability in their reports (Human Rights Watch, 2006; Zimbabwe Human Rights NGO Forum, 2012, 2014; Zimbabwe Peace Project, 2014). Reports from NGOs should however be treated with caution, as most NGOs are well-known for their inherent hostility towards the police.

2.12 SUMMARY OF LITERATURE REVIEW AND JUSTIFICATION FOR THE PRESENT STUDY

The initial phase of the literature review highlights the need for police accountability, in light of immense powers that are bestowed to police officers. The link between accountability and democratic policing is vividly highlighted, with police accountability being a major tenet of democratic policing. The wide discretionaty powers of police officers and their authority to use force were clearly highlighted as the major reasons why accountability is important for police organisations. Moreover the concept of police accountability resonates with the community policing philosophy.

The diversity of police accountability models across the globe (Doherty, 2013:30) and the evolving nature of these mechanisms (Porter, 2013:179) highlight the need for constant research on the topic. The social contract theory and the democracy theory highlight the importance of citizen control of the police organisation. This citizen control, through external accountability mechanisms, helps in building trust and confidence in the police (Harris, 2013; Bowling and Sheptycki, 2011). Citizens and their representatives should make those holding public office (including the
police), answer for their misdeeds (Bovens et al; 2008; Herbert; 2006; Smith, 2013; Beckley; 2014) as this promotes legitimacy – the hallmark of democratic process. The social bonding theory explains the police culture of loyalty and solidarity (Miller & Hess, 2008; Dempsey & Forst, 2010; Punch & Gilmore, 2010) which can be an impediment to police accountability. The international and regional legal framework also highlights the need for accountable police organisations across the globe. The UN, the AU and the SADC have important legal instruments on police accountability.

Previous studies on the concept of police accountability point to the fact that different nations have different accountability mechanisms. What works for developed countries may not work in a developing nation like Zimbabwe and some of the studies (Haberfield & Cerrah Shinah, 2009; Bobb, 2010; Mawby & Wright; Heyer & Beckley, 2012) were conducted in China, India, United States of America, United Kingdom and Australia respectively, which are all developed nations. The findings and recommendations in these studies may not be applicable for a developing nation like Zimbabwe. Other researches (Karimu & Foluke, 2012; Bobb, 2010; Mawby & Wright, 2005; Heyer & Beckley, 2013) were carried out in nations where there are different police departments in different states and the findings cannot be generalised for a nation like Zimbabwe where the control of the police organisation is centralised. Police accountability systems in West African countries such as Nigeria and Ghana seem to be unique (Alemika, 2005; Aning, 2006; Gombert, Davis & Lawson, 2009) and they may only be appropriate for that region. It should also be highlighted that some of the external accountability mechanisms that are in various countries across the globe are absent in Zimbabwe.
While research on police accountability was carried out in most Southern African countries (Berg, 2005, 2013; Masuku, 2005; Lumina, 2006; Varvaloucas, 2007; Bruce, 2006; APCOF, 2008), very little has been done on the area of police accountability in Zimbabwe. Some of these studies lacked depth as they were more of summaries of accountability across the African continent. There are no documented studies on police accountability in Zimbabwe, though there have been several studies on human rights and policing in the country. Though some NGOs have reported on the subject, their objectivity is questionable as most of them thrive on vilifying government departments such as the police. A comprehensive study on police accountability mechanisms in Zimbabwe should be conducted, which includes representative samples from the key institution for police accountability. The effectiveness of these accountability mechanisms also needs to be interrogated.

2.13 CONCLUSION

The chapter reviewed related literature on the subject of police accountability. The concept of police accountability was explained and the rationale for police accountability was also highlighted. Various police accountability models were explained, as well as various theories that relate to police accountability. Also, the chapter reviewed the international and regional legal framework for police accountability. Trends in police accountability systems around the world were also outlined. The next chapter focuses on research methodology.
CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY

3.1 INTRODUCTION

According to Welman, Kruger and Mitchel (2005:52), a research design is a plan according to which the researcher identified research participants and collects information from them to support the aims and objectives of the research or study. De Vaus (2011:9) opines that the function of a research design is to ensure that the evidence obtained enables us to answer the initial question as unambiguously as possible. In this vein, there is need for a design or a structure before data collection or analysis can commence. Gilbert (2011) highlights two major research designs namely qualitative research design and quantitative research design. A combination of the two culminate in a mixed method approach.

Complimenting the research design are the research methods, which Wassenaar (2006:63) define as approaches employed by researchers in carrying out specific types of research. Fundamentally, research methods assist researchers in providing illumination or what Brent and Kraska (2010:412) termed “shedding empirical light” on multifaceted phenomena by offering suitable techniques on how best to examine and investigate an object under study. Research methods also outline the parameters for a “systematic collection of data, provide researchers with ethical boundaries, and guide scholarly activity”.

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With the above expositions, the objective of this chapter is to explain the research design and methodologies which were adopted in this study. The study population, sample population and sampling techniques are also explained. Research instruments are clearly explained, as well as data collection and analysis methods.

3.2 RESEARCH PARADIGM

A paradigm may be thought of as pattern or model of how something is structured (the parts and their interrelationships) and how the parts function (behaviour within a specific context or time dimension) (Huitt, 2011:1). Morgan (2007:53) in one of his four definitions on paradigms argued that a paradigm is “shared beliefs within a community of researchers who share a consensus about which questions are most meaningful and which procedures are most appropriate for answering those questions”. There are three types of research paradigms namely; qualitative approach, quantitative approach and mixed methods approach. To Johnson & Onwuegbuzie (2004), Constructivism is another term for qualitative research, whereas Positivism is another term for quantitative research. However, in this study the terms qualitative and quantitative research were used. According to Gilbert (2011: 35), quantitative research aims to measure phenomenon using numbers, and surveys are typical forms of quantitative research. On the other hand, qualitative research most often describes scenes, gathers data through interviews or analyses the meaning of documents (Gilbert 2011: 35). The combination of both qualitative and quantitative methods is also referred to as mixed methods.
3.3 THE MIXED METHODS APPROACH

This research adopted the mixed method approach. The mixed method approach has gained ground in contemporary research and its application is increasingly being adopted in several disciplines of research work. Logically, this approach encapsulates the combination of at least one or more elements of both the qualitative and quantitative methods in a single research work (Bergman, 2008:35). According to Greene et al (2012), mixed methods approaches to social inquiry involve the planned use of two or more different kinds of designs, data gathering and analysis techniques within the same study. Johnson and Turner as cited by Harwell (2010: 152) have argued that the fundamental principle of mixed methods research is that multiple kinds of data should be collected with different strategies and methods in ways that reflect complementary strengths and non-overlapping weaknesses. Some researchers have termed this approach as the “third methodological movement” in research, one which supplements either the purely quantitative or qualitative approaches (Tashakkori & Teddlie, 2003:76; Bello, 2015:121).

3.3.1 Purpose of the mixed methods approach

Mixed methods approaches are uniquely able to generate better understanding in many contexts than studies bounded by a single methodological tradition (Greene et al (2012: 260). A combination of the two approaches will produce a robust, bias-free research findings, hence – the relevance of the mixed method approach (Bello, 2015). Greene et al (2012:260) indentify five distinct purposes for mixing, all of which were capitalised on in this study, as follows:
“a) Triangulation– seeking convergence, corroboration, or correspondence of results from different methods, thereby enhancing validity and credibility of inferences;
b) Complementarity – using the different lenses of different methods to generate elaborated and comprehensive understanding of complex social phenomena.
c) Development – the results of one method are used to inform the instrumentation, sampling or implementation of another method;
d) Initiation – invoking paradox through divergent results from different methods, and the consequent generation of fresh insights from analytic engagement with this dissonance; and
e) Expansion – extending the conceptual scope and reach of the study by extending methods choices to more than one methodological tradition, thus enabling selection of the most appropriate method for each construct within an expanded set of study foci.”

3.3.2 Benefits and criticism of the mixed method approach

Whilst we can derive the benefits from the above mentioned purposes of mixed methods, it is also imperative that we highlight the benefits that accrue from adopting the method. Proponents of mixed methods research like Creswell & Clark, 2007; Harwell, 2010; De Vos et al 2011; Delport & Fouche, 2011) have advanced some benefits of this research method, which to a large extent informed the decision of the researcher to adopt this method for this study. These benefits are:

1. Mixed methods research assists a researcher to deal with varieties of confirmatory and exploratory questions concurrently using both the qualitative and quantitative
approaches and corroborates or substantiates and derive theory in the same study accordingly (Harwell, 2010).

2. Mixed methods research offers strong points that compensates for the flaws of both quantitative and qualitative research, as such possesses the aptitude to offer superior or robust inferences (De Vos et al, 2011).

3. Mixed methods research offers an all-encompassing evidence for investigating a research problem than what either quantitative or qualitative research can provide (Cresswell & Clark, 2011).

4. Mixed methods research offers the prospect for a better variety of conflicting views and perspectives and prepared researchers to the realisation that research problems are more complicated than they may have been originally presented (Harwell, 2010).

5. Mixed methods research supports the use of several perspectives or paradigms rather than the typical association of certain paradigms for quantitative researchers and others for qualitative researchers (Delport & Fouche, 2011:432).

6. Mixed methods research “eliminates different kind of bias, gives explanation on the true characteristics of an occurrence under investigation and improves various forms of validity or quality criteria” (Delport & Fouche, 2011:433).

Despite the numerous benefits highlighted above, mixed methods research also has its fare share of criticisms. Bello (2015:125) highlights that the method is time consuming and often gulps much resources. Moreover, specific skills are required to collect, analyse and blend the duo of quantitative and qualitative data in one study (Bello, 2015). The above arguments lend credence to the position of Caruth (2013),
who maintained that one of the weaknesses of mixed methods design is that using mixed methods approach require that the researcher learn multiple methods on how to combine the qualitative and quantitative approaches knowledgably, defend their usage and utilise them professionally. However, the researcher is well versed with both qualitative and quantitative approaches hence he was able to circumvent most of the limitations.

### 3.4 RESEARCH DESIGN: EXPLANATORY SEQUENTIAL MIXED METHODS DESIGN

In a mixed method research design, two fundamental factors can assist in determining the exact or suitable design to employ. Lopez-Fernandez & Molina-Azorin (2011:1462) advance these two factors to be:

(a) The priority / weight / emphasis of approach, which follows the notion that the researcher gives equal priority, weight or status to both the quantitative and qualitative part of the study. It can also be termed an equal weight design.

(b) Implementation of data collection / time orientation, which addresses the manner in which the researcher obtains information or collects both qualitative and quantitative data. The two options entail collecting information at the same time (simultaneously) or collecting data at different points (sequential design) (Lopez-Fernandez & Molina-Azorin 2011:1462).

With Lopez-Fernandez & Molina-Arizon’s ideas in mind, the researcher reiterates that equal weight was given to both quantitative and qualitative methods. A
sequential orientation was however adopted, whereby quantitative data was gathered first before conducting in-depth interviews.

Creswell (2014) identifies three main types of research designs in the mixed methods approach and these are: (1) Convergent parallel mixed methods design, (2) explanatory sequential mixed methods design, and (3) exploratory sequential mixed methods design. All the three research designs have diverse approaches to data collection, data interpretation and data analysis. Notwithstanding the merits of other research designs, the researcher adopted an **explanatory sequential mixed method design**. Unlike the exploratory design that commences with qualitative data collection and analysis, explanatory mixed methods design begins with the collection and analysis of a quantitative data, and then supported with the collection and analysis of a qualitative data (Delport & Fouche, 2011). The explanatory sequential mixed methods design appeals to individuals with a strong quantitative background (Creswell, 2014).

Another important point as suggested by Creswell (2014) is that the qualitative results typically inform the types of participants to be purposefully selected for the qualitative phase and the types of questions that will be asked. In this vein, the researcher first distributed the questionnaires to different institutions of police accountability. The questionnaires responses were quickly examined before in-depth interviews. Therefore, quantitative results did not only inform sampling procedure for interview respondents, but also pointed toward the types of questions that were asked from the interview respondents. Whilst semi structured interview guides had
already been crafted, additional questions were included in light of views from questionnaire respondents.

The intent of the explanatory mixed methods design is to follow up the quantitative results and explore the results in more depth (Creswell, 2014:224). In this vein, all the interview respondents were selected from the questionnaire respondents. It also follows that, on data interpretation, quantitative results were reported first, followed by qualitative results.

3.5 DESCRIPTION OF LOCATION OF STUDY

This study was carried out in Harare metropolitan area. Harare is the capital city of Zimbabwe and it houses the major administration offices of government. The area comprises the central business district and several residential areas which are located closer to the central business district. Like any capital city, the central business district has various state owned infrastructure and commercial infrastructure such as supermarkets, shopping malls, banks and offices. Various political and social activities take place in the area resulting in constant encounters between the police and the public. The area is policed by Harare Central police station. The police general headquarters, the largest police training depot (Morris Depot), and the Police Staff College are also located within the Harare metropolitan area. The capital city is host to key police accountability institutions namely: the Courts, the Parliament; the Human Rights Commission; NGOs and Media Houses. The area is host to several courts of law– from the Magistrate Court to the Constitutional Courts.
The magistrates’ courts within the Harare Province fall under the provincial Magistrate, who in turn reports to the Chief Magistrate. The Parliament of Zimbabwe comprises of the Senate and the National Assembly, and both are housed at the Parliament building. Several Human Rights based NGOs are based in Harare and these include: The Zimbabwe Lawyers for Human Rights; Transparency International; Amnesty International; Human Rights NGO Forum, amongst others. Various state and private media houses are located and have their head offices in the capital city. The most notable media houses are: Alpha Media Holdings and its affiliate papers; Zimpapers and its affiliate papers; and the national state broadcaster- Zimbabwe Broadcasting Corporation (ZBC).

3.6 STUDY POPULATION

A population is defined by Johnson & Reynolds (2012:223) as any well defined set of units of analysis to which a hypothesis applies. What is important is that the population should be carefully and fully defined and that it be relevant to the research question. With this in mind, the study incorporated former members of the Zimbabwe Republic Police, as well as employees from various institutions of police accountability. After failing to obtain authority to gather data from police officers, possibly due to the nature of the study, the researcher settled for former police officers to provide insights into internal accountability mechanisms. Institutions which provided respondents include: the Courts; the Parliament; The Zimbabwe Human Rights Commission; NGOs and media houses. These institutions were viewed by the researcher to be the key institutions for enhancing police accountability.
The Magistrate Court in Harare has about 50 Magistrates, who are based at Rotten Row Courts, Chitungwiza Courts and Mbare Courts. The Parliament of Zimbabwe has a total of 350 members who comprise of 80 Senators and 270 Members of the National Assembly. The Human Rights Commission has its head office in the Capital City, whilst there is another office in Bulawayo - the second largest city in Zimbabwe. According to the 2014 Zimbabwe Human Rights Commission year book, the commission had a total of 51 employees as at December 2014. Whilst there are no documented statistics on the number of NGO employees based in Harare, the researcher estimated the figure to be in the range of plus or minus 100, basing on an estimated establishment of five employees per each of the 20 human rights based NGOs. It is also important to highlight that most law firms in Harare are affiliated to the Zimbabwe Lawyers for Human Rights.

3.7 POPULATION SAMPLE

Sampling is the process of selecting a suitable sample for the purpose of determining parameters or characteristics of the whole population (Adams, Khan & Raeside, 2014: 72). A sample is thus defined as a subset of units collected in some manner from a population (Johnson & Reynolds, 2012: 224). How ‘representative’ is one’s sample is thus a common question in research. The advantages of taking a sample are often savings in time and money (Adams, Khan & Raeside, 2014), whilst the disadvantage is that information based on a sample is usually less accurate or more subject to error (Johnson & Reynolds, 2012: 225).

A total of 148 participants, drawn from various institutions of police accountability and former members of the police, were invited to participate in this study. From the
total population sample, 126 respondents selected from various external institutions of police accountability were invited to take part in this study (See Table 3.1). Questionnaires were distributed to all the 126 respondents, whilst 17 respondents from the 126 provided data through in-depth face-to-face interviews. It is also important to highlight that interviews were conducted with selected respondents who had initially been given questionnaires, in accordance with the dictates of the explanatory sequential mixed methods research design.

A total of 22 former police officers took part in this study and questionnaires were distributed to all of them (See Table 3.2). Three former police officers from the 22 were selected for in-depth face-to-face interviews.

3.8 SAMPLING PROCEDURES

3.8.1 Stratified Random Sampling

Stratified random sampling was used to select a total of 126 respondents from institutions of police accountability, who provided data through completion of the questionnaire. According to Sturgis (2011: 176) stratification divides the sample into separate subgroups and then selecting random samples from within each group. Johnson and Reynolds (2012: 234) assert that a stratified sample is a probability sample in which elements sharing one or more characteristics are grouped and elements are selected from each group in proportion to the group’s representation in the total population. The institutions of police accountability namely; the Courts, The Human Rights Commission, The Parliament, Human Rights based NGOs and the media constituted the strata from where respondents were selected. After stratification, a proportionate sample size was drawn from each stratum. The
researcher attempted to ensure a minimum of a 10 percent representation of respondents from each stratum. A stratified sample takes advantage of the principle that the more homogenous the population, the easier it is to select a representative sample from it (Johnson & Reynolds, 2012). To this end, it was easy for the researcher to distribute and collect questionnaires from the respective strata.

3.8.2 Snowball sampling

Snowball sampling, according to Kalof, Dan and Dietz (2008:44) is when people in a group of interest inform the researcher about other individuals in that population who could also fit into the study. Adams, Khan and Raeside (2014:76) assert that snowball sampling is a special type of non-probability sampling where respondents are difficult to identify and are best located though referral networks. This technique was used to select all the former police officers who took part in this study. The researcher selected few known former police officers, who in turn introduced the researcher to other former police officers. Snowball sampling technique was also used to select respondents from the media houses.

Sturgis (2011: 179) argues that snowball sampling can be used when there is no adequate list to use as a sample frame. Therefore, the absence of lists of former police officers as well as media practitioners necessitated the use snowball sampling.

3.8.3 Purposive sampling

Purposive sampling involves choosing respondents whom the researcher considers best to articulate the issues pertaining to the area of study (Kalof, Dan & Dietz,
2008). With this technique, a researcher exercises considerable discretion over what observations to study, because the goal is typically to study a diverse and usually limited number of observations (Johnson & Reynolds, 2012:239). This technique was used to select 17 of the interviewees from the external accountability institutions. Some of the Members of Parliament interviewed were selected based on their legal background. Other interviewees from the other accountability institutions were selected based on their positions and nature of their duties, and the perceived relevance of their input in articulating issues of police accountability.

3.9 METHODS OF DATA COLLECTION

3.9.1 The in depth Interview

The researcher solicited for responses by asking questions during face to face interviews which lasted between 30 to 45 minutes. Babbie (2007) describe research interview as a social interaction between two or more persons where the goal of one person is to obtain vital information from another during a well-thought-out conversation based on a prearranged set of questions. Put differently, interviewing involves direct and personal communication with individuals in a less formal and less structured situation- more in the nature of a constrained conversation (Johnson & Reynolds, 2012:307).

In-depth interview guides were prepared in advance and notes were taken as the respondents responded to questions. Due to the perceived sensitive nature of the area of study, the majority of the interviewees were not keen to be recorded; hence the researcher had to take notes. However, a few interviewees permitted the researcher to record the interviews using the researcher’s phone.
The researcher used semi standardised interview guides. Fielding and Thomas (2011: 246) point out that in a semi standardised interview, the interviewer asks major questions the same way each time, but the researcher is free to alter this sequence and probe for more information. The researcher can thus adapt the research instrument to the respondent’s level of comprehension and articulacy (Fielding & Thomas 2011: 246). To this end, the researcher had standard questions that had been prepared in advance and would ask further questions depending on the respondents’ level of articulacy and comprehension. With the diverse backgrounds of the respondents that were interviewed, the semi standardised interview was considered by this researcher to be the most appropriate for this study.

The major advantage of an in depth interview is that it allows the researcher to get the opinion of each respondents in a relaxed atmosphere, since it is conducted with respondents on a one-by-one basis. To this end, most of the interviews were conducted at the respondents’ places of work and where this arrangement was not possible, the respondents were asked to suggest places at which they would be comfortable. Adams, Khan and Raeside (2014: 147) also note that it is very important not just to listen to the questions and note the answers but also to observe body language, that is, the gestures and tone used by the subject. Some of the interview questions evoked emotional but useful responses from the interviewees and the researcher had to ask further probing questions.

Moreover, use of the interview technique presented the researcher with an advantage and opportunity to control the flow of discussion, and the rate of responses. Whilst a standard schedule of questions had been prepared in advance,
the researcher would adjust the questioning to suit the respondents levels of understanding. Direct interaction with the respondents also allowed the researcher to clarify issues where ambiguity arose.

Despite the above cited merits, the interview technique also has its own disadvantages. Chief among the disadvantages is the stressful process of securing the attention of the respondents. It was difficult to have definite dates for interviews as at times the interviews had to be rescheduled. Though the researcher had to be patient, this had financial implications to the researcher.

Moreover, the problem of bias is inherent with in-depth interviews (Adams, Khan & Raeside, 2014:149). Such bias was noted during an interview with one former police officer, who claimed to have been forced to resign after false criminal allegations. Most of his responses painted a negative picture of the police organisation. Also, some of the respondents deliberately declined to answer some questions, especially those that were critical to their operations. Their reluctance to answer pertinent questions could have adverse impact on the quality of information collected, especially when such questions were directly linked to the thrust of the study. However, the researcher reiterates that the sample of the interview respondents was large enough to necessitate valid data analysis, despite the noted shortcomings. Use of the questionnaire also addressed some of the limitations of the in-depth interviews.
3.9.3 The questionnaire

Respondents were given questionnaire forms and they responded to the questions by completing the forms. Luck and Rubin (2008: 173) define a questionnaire as a formalised schedule to obtain and record specified and relevant information with tolerable accuracy and completeness. More precisely, Babbie (2007: 246) defines it as “a document containing questions and or other types of items designed to solicit information appropriate for analysis”. According to Adams, Khan and Raeside (2014: 123) a questionnaire can have open or closed ended questions. Closed ended questions were mainly used in crafting the questionnaire. According to De Vaus (2011: 192), closed questions are developed in advance, complete with a number of possible answers that could be given and each respondent is asked to choose from one of the listed options. Respondents were thus required to pick from the responses that were provided by the researcher. Given that open ended questions are difficult to code (Lewin, 2012), use of open ended questions was minimised. Lewin (2012:225) notes the following types of questions, which were also utilised in this study: Likert (level of agreement with a statement), ratings scales, dichotomous questions (yes/no), and multiple choice.

There are different types of questionnaire surveys. Adams, Khan and Raeside (2014: 128-129) notes mail surveys, E-surveys and social media surveys. Similarly, Delport and Roestenburg (2011:186-189) identified six (6) different types of questionnaire surveys namely: mailed questionnaires; telephonic questionnaires; questionnaires delivered by hand; self-administered / individually administered questionnaires; group-administered questionnaires, and electronic questionnaires. Importantly, all these questionnaire types are unique, but their application varies from field to field,
and dependent on a range of factors, such as time factor, distance, availability, project duration, amongst others (Bello, 2015:125). However, in this study, questionnaires were administered by hand and this was mainly due to the close proximity of the researcher to the area of study.

The major advantage of using the questionnaire is that it is a fast and cost effective way of collecting data from a large number participants (Lewin, 2012; Adams, Khan & Raeside, 2014). Less time was consumed in gathering data through the questionnaire since the task of the researcher was to distribute and then to collect the completed questionnaires. More so, no postage costs were involved as the researcher personally delivered the questionnaires.

Whilst the presence of the researcher during a face-to-face interview can unsettle the respondents, the absence of the researcher during the completion of the questionnaire could have yielded objective responses. More so, respondents had time to think over responses before answering the questions.

Despite the positive aspects of the questionnaire, the major disadvantage was non-response by some of the intended respondents. However it should be reiterated that the non-response did not have a significant impact on the quality of findings, as the researcher had distributed more questionnaires. Respondents may also fail to respond to all questions and this was evidenced by some uncompleted portions on some of the questionnaires that were returned. Given the fact that the questionnaires are completed in the absence of the researcher, some people, other than the intended respondents could have completed the questionnaire.
It should however be noted that the researcher made attempts to minimise the inherent weaknesses of the questionnaire. To encourage respondents to fill in the questionnaires willingly, the researcher assured respondents of confidentiality on the introductory part of the questionnaire. The issue of confidentiality was also reiterated on the covering letter which was obtained from the supervisor. Use of the in-depth interview guide also helped to offset some of the weaknesses of the questionnaire.

3.9.3 Documentary survey

Document analysis was unavoidable in this study. According to Johnson and Reynolds (2012: 278) use of the written record raises fewer ethical issues than either observation or interviewing. They further reiterate that research involving the collection or study of existing data, documents, or records often does not pose risks to individuals, because the unit of analysis for the data is not the individual. Data pertaining to internal police accountability systems was thus readily available in various documents and statutes. Moreover, though some of the human rights based NGOs were not keen to cooperate in this study, invaluable information was obtained from these organisations’ websites.

Useful information was also obtained from various articles and journals on policing. Several documents on human rights and policing, as well as police accountability were obtained from Non-Governmental Organisations and they were useful in describing some of the actions by members of the ZRP. Relevant case law was applied in some parts of the study to help in showing how police misconduct was handled by the courts of law. Important statutes namely: The Constitution of
Zimbabwe, The Criminal Procedure and Evidence Act [Chapter 9:07] and The Police Act [Chapter 11:10] were important sources of information pertaining to the legal framework of police accountability. The Z.R.P policy documents such as the Service Charter, the Police Standing Orders and the Human Rights Manual were also invaluable sources of information.

3.10 VALIDITY AND RELIABILITY OF THE INSTRUMENTS

Validity and reliability are essential factors that were carefully considered by the researcher in this study, before and during data collection, notwithstanding the methodological approach and instruments employed. These two factors, as Bello (2015) opines, are fundamental for any research study to be considered truthful, authentic, accurate and acceptable to an appreciable level.

3.10.1 Validity

To Lewin (2012: 221) validity refers to whether or not the measurement collects the data required to answer the research question. According to Babbie (2007:146), validity invariably implies the extent to which an empirical measure adequately reflects the real or actual meaning of the concept under consideration. Summing up the concept of validity, Vos in Bello (2015: 135) opines that “truthfulness, accuracy, authenticity, genuineness and soundness are synonymous for validity”. De Vaus (2011: 29-30) identifies three tests for validity namely: criterion validity, content validity and construct validity and if a measure passes all these three tests, it is more likely to be valid. To this end, the researcher had to ensure that all the three tests were taken care of in this study.
To enhance validity, the two instruments were pilot tested with 10 respondents (6 questionnaires and 4 interviews) in the Harare Metropolitan area. Pilot testing exposed some minor errors on the questionnaire and they were adjusted. Minor adjustments were also made to the interview questions after noting shortcomings.

Moreover, the researcher subjected the research instruments and the various interview and survey questions to validity test by presenting those set of questions to both the supervisor, who in turn scrutinised them before forwarding them to the faculty for further scrutiny. To this end, based on their wealth of experience and objective scrutiny, the questions were reviewed and in some instances modified. Eventually, given, the rigorous procedures and scrutiny the instruments and questions contained in both the questionnaire and interview passed through, the researcher is certain that the instruments and results from this study are valid.

3.10.2 Reliability

Reliability has to do with accuracy and precision of a measurement procedure (Cooper & Schindler, 2005: 236). In other words, reliability describes a situation in which the same results would be obtained when the same research is repeated or undertaken by different researchers (De Vaus, 2011:32). It is thus concerned with the ability of a research measurement or instrument to generate or produce consistent numerical results each time it is applied. Bello (2015) importantly notes that reliability in social science research could be described as, or synonymous with the following nouns: dependability, consistency, stability, genuinety, predictability and faithfulness.
In light of the above arguments, the reliability of the findings was enhanced through careful and purposeful selection of the respondents. Moreover, careful selection of respondents from accountability institutions went a long way in enhancing reliability of the findings. To this end, the researcher is confident that if a similar study is conducted with different respondents from the accountability institutions, the study would yield similar findings.

Moreover, pilot testing of the research instruments and subsequent amendments helped in enhancing accuracy and dependability of the research instruments. This is especially true in light of De Vaus (2011)’s supposition that poor question wording may lead to unreliability of data. Another important way of enhancing reliability emanated from triangulation of both the research approach and the research instruments. In other words, adopting a mixed method approach, together with the use of the questionnaire and the interview helped to enhance reliability as weaknesses in one approach/ instrument were offset by strengths in the other approach/ instrument.

3.10.3 Qualitative aspects of validity and reliability

Morse et al (2002:2) identify four aspects for ensuring trustworthiness in qualitative research namely: credibility, transferability, dependability and confirmability. Credibility denotes the ability of the study to capture what the research really aimed at studying (Shenton, 2004: 64). To this end, the research instruments, as well as sampling techniques were triangulated to enhance credibility of the findings. Preliminary visits were also made to the institutions of police accountability and the researcher had enough background information before actual data gathering.
For dependability, Shenton (2004:69) argues that an inquiry must also provide its audience with evidence that if it were replicated with the same or similar respondents, its findings would be repeated. To achieve this, the researcher clearly described the research design, as well as the operational details of data gathering. Also, given the limited number of the institutions of police accountability in the country, taking a different sample from the same institutions would likely produce similar results.

Confirmability is the degree to which the findings are the product of the focus of the inquiry and not of the biases of the researcher (Shenton, 2004:72). Use of direct quotations from the respondents enhanced objectivity in data analysis. Some important quantitative questions on the questionnaire were also repeated during interviews in order to have an objective data analysis.

### 3.11 METHODS OF DATA ANALYSIS

Quantitative data obtained through questionnaires were coded into variables and fed into Software Package for Social Sciences (SPSS) for analysis. Descriptive statistics were used to explain data. According to Lewin (2012:221) descriptive statistics are used to describe and summarise data and include measures of central tendency and dispersion. Moreover, descriptive statistics have an important role to play, enabling data to be explored before any further analysis is undertaken but also as a primary means of describing how things are, rather than seeking to explain why phenomena occur (Lewin, 2012). In addition to descriptive statistics, data was presented on graphs and pie charts to reveal various trends in the data. For clearer illustrations, data was exported from the SPSS spreadsheet to Microsoft Excell.
Though presented separately, responses strongly agree and agree, as well as strongly disagree and disagree were mainly combined on data interpretation. Data was evaluated with reference to previous research findings, as well as international trends on police accountability.

Interview manuscripts were analysed using the content analysis. Though there are software packages such as NIVO or SPSS text analyser, Adams, Khan and Raeside (2014) recommend that these packages should be used when you have a lot of interview data (more than 40 interviews). With a total of 20 respondents from different accountability institutions, it made sense to dispense with the use of computer packages. Content analysis involves the counting and comparisons, usually of key words or content, followed by interpretation of the underlying context (Kalof, Dan & Dietz, 2008). In support of content analysis, Adams, Khan and Raeside (2014) point out that “all reporting of semi-structured interviews assumes that you present findings which are representative of what was said, and content analysis is a powerful means for familiarising yourself with what’s there.” Having utilised semi-structured interviews for gathering qualitative data, content analysis was therefore unavoidable. Thematic analysis, a key component of content analysis, was also used. This entails a number of key themes which are then examined in detail (Adams, Khan & Raeside, 2014:158). All the interview manuscripts were carefully studied and subthemes which addressed the research questions were identified.

The challenge in a mixed methods design, as highlighted by Creswell (2014:222) is how to actually merge data. Data from in depth interviews was used to compliment data that was obtained through the questionnaire, as both instruments were coined
to address similar objectives. Creswell (2014: 222) identifies two methods of analysing data in mixed methods designs. The first approach is to do a side-by-side comparison in which the researcher will first report the quantitative statistical results and then discuss the qualitative findings. Alternatively, the researcher might start with the qualitative findings and then compare them to the quantitative results (Creswell, 2014). In this study, the researcher adopted a side-by-side comparison approach.

### 3.12 OPERATIONALISATION OF RESEARCH VARIABLES

Before collecting data to analyze and draw conclusions, the researcher must decide how to operationalize the research variables (Chumney, 2012). Operationalization is the development of measurable representations of concepts and/or dimensions of concepts (i.e., variables) (Martin, Cohen & Champion, 2013:6). To this end, operationalization is the process of putting the concepts of interest into operation or of operating on those concepts in order to “measure” them, both individually and/or in relation to other concepts (Martin, Cohen & Champion, 2013:6). The two main variables of this study are the independent and the dependent variables. Dependent variables are derived from the being of the independent variables.

#### 3.12.1 Independent variables

The independent variables for this study, as shown on the questionnaire were as follows;

- **Gender of respondents** - respondents were asked to indicate their sex (whether male or female)
• **Age range**- respondents were required to select from the given age ranges, which ranged from less than 25 years to 56 years and above.

• **Highest level of education**- respondents were asked to select their levels of education from the given options, which ranged from Ordinary level to Postgraduate level.

• **Employment sector**- Respondents were asked to indicated their sector of employment from the available options. The options were the institutions of police accountability namely; The Judiciary, The Parliament, NGOs, Human Rights Commission and the media. An option was available for respondents who did not fall in any of these categories.

• **Years in employment**- Respondents were provided with years which ranged from less than 2 years to above 5 years, from where they selected their period in employment.

For former police officers the following additional independent variables were also important:

• **Rank**- Respondents were asked to indicate the rank at which they left the police organisation. A total of 5 options was available, the lowest being the rank of Constable and the highest being the rank of Superintendent and above.

• **Reason for leaving the police**- This was also an important variable to gauge the respondents’ perception towards the police. Five options were available and these are; greener pastures, pension, dismissed, cannot disclose and other reasons.
• **Nature of duties upon leaving the police** - Respondents were provided with options ranging from police command down to other operational sections.

The above mentioned variables were viewed by the researcher to have a bearing or influence on the way the respondents responded to questions pertaining to police accountability. For easy input into SPSS software, the variables were given numerical values ranging from 1 to 6, depending on the nature of responses.

3.12.2 Dependent variables

The dependent variables are components emanating from the study's independent variables. In this study, the perceptions of the sample population on the study topic were obtained. Moreover, the dependent variables related to the four study objectives. The suggestions that were put forward by the researcher on the questionnaire were derived from extensive literature survey.

Respondents were mainly asked to indicate their opinion by indicating their response on the Likert Scale, which was enumerated as follows: 1- Strongly disagree, 2-agree, 3- Neutral, 4 Agree and 5- Strongly agree. The views on internal accountability mechanisms, which hinged on transparency, trust, police officer involvement in investigations and promptness were indicated through the use of the Likert Scale. Obstacles to police accountability were also provided to respondents and they indicated their response by ticking on a Likert Scale.

For views on external accountability mechanisms, respondents were supplied with the institutions of police accountability namely; the courts, the parliament, NGOs,
Media and the Human Rights Commission. They were then asked to indicate the level of effectiveness of these institutions using the following scale:

1- Not effective
2- Less effective
3- Somewhat effective
4- Effective
5- Very effective

Consequently, the above scale was also used on the recommendation objective. Respondents were asked to indicate the effectiveness of the given accountability systems, which were obtained from extensive literature review.

In addition to use of the Likert Scale in addressing some of the questions, the respondents were also required to indicate the current roles played by the institutions. Depending on the institution, the roles that were put forward by the researcher included; Advocacy role, advisory role, exposing incidents of police misconduct, giving legal support to victims of police abuse of power, holding police to account through portfolio committees, amongst other roles. Moreover, respondents were also required to indicate the adequacy of the current accountability mechanisms by indicating on a scale which ranged from not adequate to more than adequate.

Another important highlight on the recommendations was the question on which procedure the respondent would take when his/her rights are violated. The respondents were given options namely; take no action, file a complaint with the
charge office, inform the officer in charge and file a civil suit with the courts. Respondents were also asked to indicate the nature of people whom they would want to be included in an independent board for handling police misconduct. To this end, they indicated their response by selecting either yes or no on the categories that were supplied by the researcher.

For easy input into the SPSS software, all the questionnaire response were pre-coded during the preparation phase. The responses were then analysed by giving the necessary commands to the SPSS software, resulting in the preparation of descriptive statistics tables as well as charts. Notwithstanding the value of numerical questionnaire responses, the interview responses addressed the same objectives, albeit on a qualitative note. Summative content analysis, which was used to analyse qualitative data from interviews also encompassed a bit of counting; hence some of the responses could be measured numerically.

3.13 PROFILE OF RESPONDENTS

This section shows the demographic characteristics of the two categories of respondents, as extracted from the questionnaire responses. First to be presented are the statistics on external accountability institutions, followed by statistics for former police officers.
3.13.1 Demographic characteristics for external accountability institutions

Table 3.1 Demographic characteristics for external accountability institutions

<table>
<thead>
<tr>
<th>Variable</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender of respondents</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>74</td>
<td>58.7</td>
</tr>
<tr>
<td>Female</td>
<td>52</td>
<td>41.3</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100</td>
</tr>
<tr>
<td><strong>Respondents age ranges</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 25 years</td>
<td>14</td>
<td>11.1</td>
</tr>
<tr>
<td>26-35 years</td>
<td>52</td>
<td>41.3</td>
</tr>
<tr>
<td>36-45 years</td>
<td>15</td>
<td>11.9</td>
</tr>
<tr>
<td>46-55 years</td>
<td>23</td>
<td>18.3</td>
</tr>
<tr>
<td>56 years and above</td>
<td>22</td>
<td>17.5</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100</td>
</tr>
<tr>
<td><strong>Highest level of education</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ordinary/ Advanced level</td>
<td>9</td>
<td>7.1</td>
</tr>
<tr>
<td>Certificate/ Diploma</td>
<td>25</td>
<td>19.8</td>
</tr>
<tr>
<td>Undergraduate</td>
<td>53</td>
<td>42.1</td>
</tr>
<tr>
<td>Postgraduate</td>
<td>39</td>
<td>31.0</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100</td>
</tr>
<tr>
<td><strong>Employment sector</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judiciary</td>
<td>18</td>
<td>14.3</td>
</tr>
<tr>
<td>Parliament</td>
<td>26</td>
<td>20.6</td>
</tr>
<tr>
<td>NGO/Civil Society</td>
<td>28</td>
<td>22.2</td>
</tr>
<tr>
<td>Human Rights Commission</td>
<td>20</td>
<td>15.9</td>
</tr>
<tr>
<td>Media</td>
<td>16</td>
<td>12.7</td>
</tr>
<tr>
<td>Other</td>
<td>18</td>
<td>14.3</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100</td>
</tr>
<tr>
<td><strong>Years in current employment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 2 years</td>
<td>20</td>
<td>15.9</td>
</tr>
<tr>
<td>2-3 years</td>
<td>30</td>
<td>23.8</td>
</tr>
<tr>
<td>4-5 years</td>
<td>13</td>
<td>10.3</td>
</tr>
<tr>
<td>Above 5 years</td>
<td>63</td>
<td>50</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100</td>
</tr>
</tbody>
</table>

As depicted on table 3.1, majority of the respondents (58.7%) were male. The modal age range was 26-35 years, with 41.3% of the total respondents; followed by the 46-55 year age group which had a representation 18.3% of the respondents. Only
11.1% were below the age of 25. To this end, most of the respondents were old enough to comprehend important aspects of this study.

Most of the respondents had either an undergraduate degree (42.1%) or a postgraduate degree (31.0%). Only 19.8% held a certificate or a diploma, with the remaining 7.1% holding either an ordinary level or advanced level certificate. These statistics can possibly be explained by the fact that a minimum of an undergraduate degree is the entry qualification for the judiciary, Human Rights Commission and other NGOs.

Barely a quarter (22.2%) of the respondents was from the NGOs, followed by: Parliament (20.6%); Human Rights commission (15.9%); Judiciary (14.3%); and media (12.7%). However, 14.3% were not from any of the above accountability institutions. They were drawn from academics, community leaders and key political figures. Moreover, half of the total respondents had worked in their respective institutions for more than five years. Whilst only 15.9% had worked for a period less than two years, the remainder had worked for a period spanning above two years.

3.13.2 Demographic characteristics for former police officers

Nearly two thirds of the respondent former police officers were male (Table 3.2). The modal age range was 36- 45 years, which had 36.4%, followed by 27.3% for the age group of 46- 55 years. Half of the respondents had either an undergraduate degree (40.9) or postgraduate degree (9.1%). This was followed by 27.3% with ordinary or advanced level, which is the minimum entry point for police officers. The remaining 22.7% had either a certificate or a diploma.
### Table 3.2 Demographic characteristics for former police officers

<table>
<thead>
<tr>
<th>Variable</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender of respondents</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>14</td>
<td>63.6</td>
</tr>
<tr>
<td>Female</td>
<td>8</td>
<td>36.4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
<td><strong>100</strong></td>
</tr>
<tr>
<td><strong>Respondents’ age ranges</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 25 years</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>26- 35 years</td>
<td>4</td>
<td>18</td>
</tr>
<tr>
<td>36- 45 years</td>
<td>8</td>
<td>36.4</td>
</tr>
<tr>
<td>46- 55 years</td>
<td>6</td>
<td>27.3</td>
</tr>
<tr>
<td>56 years and above</td>
<td>4</td>
<td>18.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
<td><strong>100</strong></td>
</tr>
<tr>
<td><strong>Highest level of education</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ordinary/Advanced level</td>
<td>6</td>
<td>27.3</td>
</tr>
<tr>
<td>Certificate/ Diploma</td>
<td>5</td>
<td>22.7</td>
</tr>
<tr>
<td>Undergraduate degree</td>
<td>9</td>
<td>40.9</td>
</tr>
<tr>
<td>Postgraduate</td>
<td>2</td>
<td>9.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
<td><strong>100</strong></td>
</tr>
<tr>
<td><strong>Respondents’ rank on leaving the police</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constable</td>
<td>2</td>
<td>9.1</td>
</tr>
<tr>
<td>Sergeant</td>
<td>5</td>
<td>22.7</td>
</tr>
<tr>
<td>Assistant Inspector</td>
<td>6</td>
<td>27.3</td>
</tr>
<tr>
<td>Inspector/ Chief Inspector</td>
<td>4</td>
<td>18.2</td>
</tr>
<tr>
<td>Superintendent and above</td>
<td>5</td>
<td>22.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
<td><strong>100</strong></td>
</tr>
<tr>
<td><strong>Reasons for leaving police</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greener pastures</td>
<td>11</td>
<td>50</td>
</tr>
<tr>
<td>Pension</td>
<td>5</td>
<td>22.7</td>
</tr>
<tr>
<td>Can’t disclose</td>
<td>5</td>
<td>22.7</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>4.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
<td><strong>100</strong></td>
</tr>
<tr>
<td><strong>Nature of duties on leaving police</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police command (Inspector and above)</td>
<td>9</td>
<td>40.9</td>
</tr>
<tr>
<td>Charge office/ Patrols</td>
<td>4</td>
<td>18.2</td>
</tr>
<tr>
<td>Investigations</td>
<td>4</td>
<td>18.2</td>
</tr>
<tr>
<td>Training</td>
<td>3</td>
<td>13.6</td>
</tr>
<tr>
<td>Community relations</td>
<td>1</td>
<td>4.5</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>4.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
Most of the respondents (40.9%) had left the police after attaining a commissioned rank (Inspector and above) and were considered to be in the police command. The remainder had attained the ranks of Assistant Inspector (27.3%), Sergeant (22.7%) and Constable (9.1%). To this end, most of the ranks were represented.

Half of the respondents had left the police in search of greener pastures, with most of them now employed as security officers in various institutions. This resonates with the fact that most of the respondents had an undergraduate degree. Those who had retired on pension constituted 22.7%, whilst another 22.7% were not willing to disclose their reasons for leaving. While the majority had been in the police command, 18.2% apiece had been in the charge office/patrols and investigations section respectively. Another 4.5% apiece had been with the community relations section and the training section.

3.14 LIMITATIONS/ CHALLENGES TO THE STUDY

The success of this study was not without challenges. Considering the sensitive nature of the area of study, the researcher had to get clearance for gathering data from the institutions of accountability. The requests for gathering data had to be scrutinised by the institutions and this scrutiny had to take a bit longer than expected. Eventually, the researcher secured the approval letters after making several follow ups (See Appendices). This delay affected the researcher's preparation for field work, especially in commencing data collection processes early.

Given the distance from the researcher's area of residence to the area of study (Approximately 90 km), this study involved a lot of travelling to distribute
questionnaires, collect questionnaires and conduct in-depth interviews. This also contributed to the delay in meeting up with appointments with some of the respondents who at times had extremely busy schedules. Moreover, with the condition that data gathering at courts was not supposed to interfere with the normal functioning of the court, the researcher had to be at court by 07:20hrs to gather data from judicial officers before court sessions.

Another limitation pertains to failure to obtain authority to gather data from ZRP officers. This development can possibly be attributed to the perceived sensitive nature of the study topic. Serving police officers would have been invaluable sources of information on internal accountability systems. However, despite this development, the researcher maintained objectivity and did not draw any negative inferences from the failure to obtain approval. The researcher also settled for former police officers, most of whom had left the organisation in good terms. Moreover former police officers were considered to provide neutral analysis due to their non-attachment to the ZRP organisation. The researcher also utilised police libraries to gather documentary data on internal accountability measures.

However, despite the glitches encountered by the researcher in the field, the exercise was still successful, as the researcher was able to generate valuable and relevant information that were instrumental to the realisation of the objectives of this study.

Leedy and Omrod (2010:94) highlight that whenever human beings are the focus of investigation, the researcher must look closely at the ethical implications of what he/
she proposes to do. To this end, this study complies with the research ethics with respect to anonymity, confidentiality, transparency and professionalism. Importantly, the researcher sought and got approval to gather data from key institutions of accountability namely; the Parliament, the Judicial Service Commission and the Zimbabwe Human Rights Commission.

3.15 RESEARCH ETHICS

Babbie (2005) also states that a research project guarantees confidentiality when the researcher can identify a given person’s responses, but promises not to do so publicly. The researcher reiterated the issue of confidentiality to all respondents throughout the whole data gathering process. Informed consent, which Leedy & Omrod (2010:94) highlight as a key aspect of research ethics, was sought before conducting interviews and before questionnaire distribution. A copy of the information leaflet and informed consent document, which provides comprehensive information on the ethical aspects of the research (See attached Appendix 4), was also handed over to the respondents before the data gathering process. Finally, the researcher in this study complied with other requirements as prescribed by the Tshwane University of Technology (TUT) and the Human Science Research Council (HSRC) of South Africa.

3.16 CONCLUSION

In this chapter the researcher provided and justified the research methods, approaches, techniques of data collection, instruments used, and categories of respondents amongst others. Notwithstanding some difficulties that were encountered during the field work, this chapter has been able to demonstrate the
aptness of this study, the validity and reliability of the instruments and findings, to mention a few. Usually in research, after data collection, the next logical task is to analyse data and discuss the results, with a view to drawing inferences from it. Hence, the proceeding chapters focus on data presentation, analysis and discussion.
CHAPTER FOUR

RATIONALE FOR POLICE ACCOUNTABILITY AND THE MECHANISMS

4.1 INTRODUCTION

This chapter begins by presenting and discussing respondents’ views on the need for police accountability. However, the chapter’s main focus is to evaluate the internal accountability mechanisms that are available within the ZRP. To this end, relevant provisions within the Police Act are explained, as well as other relevant regulations and policy documents that have a bearing on police accountability.

More importantly, respondents’ perceptions on the internal police accountability mechanisms are also presented and discussed. Whilst discussion will mainly be on the effectiveness of the internal accountability mechanisms, obstacles that militate against the effectiveness of internal accountability mechanisms are also explained. Moreover, reference is constantly be made on existing literature on the subject of police accountability.

4.2 RESPONDENTS’ PERCEPTIONS ON THE RATIONALE FOR POLICE ACCOUNTABILITY

Whilst the main thrust of this thesis was to deal with internal and external police accountability mechanisms, it was also important to gauge the respondents’ perceptions on the need for police accountability. Consequently, in the interview
respondents were asked, “Why do you think we should be concerned with police accountability?”

The following are some of the views that were expressed by the respondents;

“The police have immense powers which no other citizens possess. These powers need to be put under constant checks- otherwise they will be abused. We need laws to limit these powers, we need courts to interpreted these laws and we need other systems to ensure that these powers are not exercised arbitrarily” (R4).

“The police are a member of the security forces which deals with the public on a regular basis, unlike other forces such as the army, the air force and the prison and correctional services. So they shouldn’t be secretive in their operations and everything that they do should be open for the public to see” (R5).

“....when they interact with the public, we need to see if they are doing it correctly. We need to curb police abuse of power, given the wide powers that they possess. We do not want to see them violating the human rights for which they are employed to uphold. If minor misconduct is condoned, this may lead to other vices like corruption” (R12).

Police officers also engage in misconduct, just any other citizen. But we do not expect the police to effectively deal with their own officers’ misconduct. So we need independent investigations of police misconduct- I think that’s the main reason why we should be concerned about police accountability” (R13)
“The police are paid from the taxpayers’ money and are there to serve every citizen of the nation. They should be answerable to the citizens if indeed they exist to serve the citizens. We do not expect them to use excessive force on innocent civilians; we do not expect them to arbitrarily arrest citizens. They should not cry foul if the public, from whom they derive their legitimacy, demand explanations for some of their actions” (R14).

“We do not need any justification for police accountability than what is currently prevailing- where police are using brutal force on innocent citizens who are exercising their constitutional rights” (R15).

“In as much as we need the police to police the communities, we also need someone to police the police- that is what democracy entails. We have witnessed numerous situations in which police officers have been brought before the courts for various criminal offences. We have of late witnessed use of brutal force on peaceful protestors. So we need some mechanisms to monitor the police actions” (R16).

“Just as we demand transparency and accountability in all public institutions, the police should not be an exception. Policing is a service to the nation and we need to ensure that the service is rendered in a professional and friendly manner... so we need someone to monitor the propriety of police actions” (R17).

From the above findings, it is clear that police accountability is an important requirement in a democratic society. Most of the points that the respondents raised on this aspect are supported by the reviewed literature on police accountability. The
issue of the need to curb abuse of power (R4; R12) was buttressed by several authors (Bronnit & Stenning, 2011; Doherty, 2013; Calderon & Hernandez-Figuera, 2013). For example, Bronnit and Stenning (2011:320) highlight the need to control the wide discretionary powers which the police wield. Such discretionary powers are abused through arbitrary arrests and unlawful detention.

Moreover some respondents (R14; R15; R16) raised an important issue by highlighting the need to curb excessive use of force by the police. Protests, which characterised the nation in July 2016 during the period when the researcher was gathering data, suffered police heavy-handedness. Several videos and images on police heavy-handedness were circulated on social media, with the incidents receiving worldwide condemnations. Moreover, several authors (Klahm & Tillyer, 2010; Harmon, 2008; Terril & Paoline, 2007) have written against excessive use of force by the police.

Other respondents (R16; R17) indirectly highlighted the need for independent mechanisms to monitor police behaviour by indicating that there is need for someone to monitor the police. Importantly, the idea of “policing the police” is the major reason for external accountability mechanisms. Supporting these arguments, Donner and Jennings (2014) correctly point out that the law, which constrains the behaviour of people in society also applies to those who enforce it. To this end, the external accountability institutions such as the courts will help to enforce compliance with the law on the part of the police. Similarly, according to the social contract theory by Hobbes, Locke and Rousseau (Leonard et al, 2011:3) social control institutions such as the police should be willing to cede their powers to oversight
institutions. Lastly, the issue of an independent investigation of police misconduct which was raised by Respondent 13, has also been highlighted by several authors (Prenzler, 2011; Fielstad & Gottschalk, 2011; Savage, 2013). Such an investigation can only be independent if conducted by someone outside the police.

4.3 INTERNAL ACCOUNTABILITY MECHANISMS

According to Alemika and Chukwuma (2011), mechanisms within the police force designed to receive, investigate and determine complaints against officers should be conceived as internal disciplinary measures. They are meant to enhance police integrity, which is an essential requirement for public confidence, and to enforce discipline within the force, which is also necessary for effectiveness and efficiency (Alemika & Chukwuma, 2011:10). The internal accountability mechanisms fall under the Internal Affairs Model (Prenzler & Ronken, 2001; Brown; 2012) in which the police department is responsible for receiving complaints alleging misconduct by police officers.

4.3.1 Legal and regulatory framework: The Police Act and the Police Standings Orders

4.3.1.1 The Police Act

According to Lumina (2006:98), the mechanisms for internal oversight are generally provided in terms of laws and regulations governing the police. The Police Act [Chapter 11: 10] is the main statute that deals with internal accountability mechanisms for the ZRP. The Act provides for the establishment, organization and control of the Police Force; and also provides for the functions of the Police Service and the conditions of service of its members. Part V of the Act specifically deals with
discipline. Section 29 of the Police Act provides that any person who contravenes any provision of the Act shall be guilty of an offence. Most of the offences are listed in the schedule of offences within the Act and out of a total of 48 offences, the following are some of the most notable offences:

20. Releasing any person in custody without proper authority, or by any wilful act or negligence suffering a person in custody to escape.

21. Using unnecessary violence towards, or neglecting or in any way ill-treating any person in custody or other person with whom he may be brought into contact in the execution of his duty.

27. Soliciting or accepting any bribe or soliciting any present, reward or consideration whatsoever in connection with his position or duties as an member, or accepting such a present, reward or consideration without the authority of the Commissioner-General.

30. Unnecessarily or negligently discharging any firearm.

31. Knowingly making a false entry in any official book, diary, form or document or wilfully omitting to make any entry therein which it is his duty to have entered.

34. Omitting or neglecting to perform any duty, or performing any duty in any improper manner.

39. Improperly using his position as a member for his private advantage.

Importantly, some of the provisions within the Police Act actually deal with criminal activities by police officers. For instance, Sections 20, 27 and 39 of the schedule of offences border around corruption by police officers, which Thomas (2011) considers to be a serious form of police misconduct; while section 21 of the schedule seems to
outlaw torture, which is also indicated by Shinar (2009) as a form of police misconduct. On the other hand section 21 and section 30 seem to outlaw excessive use of force by police officers.

Two of the interviewees had negative perceptions towards some of the provisions of the Police Act, which they perceived to be repressive. When asked to comment their views on the provisions of the Police Act, they raised the following sentiments;

“Just look at the offences, how wide and unclear they are. I tell you, with the nature of offences in the Police Act, every police officer is a potential offender. If the Act was to be strictly applied, then almost every police officer would be arraigned before a disciplinary board” (R18).

“Some of the provisions are a bit tyrannical, especially towards junior officers. I witnessed several incidents in which junior police officers were charged and convicted by disciplinary boards on unsubstantiated allegations...perhaps it’s the calibre of some of the trial officers that is questionable” (R20).

In a development that possibly supports the above opinions, the Parliament of Zimbabwe is currently debating amendments to the Police Act. During the data gathering phase for this thesis, the Parliamentary Portfolio Committees on Defence and Security, as well as Justice had a workshop to discuss amendments to the Police Act.
The trial procedure in cases of police misconduct is also another important aspect of the Police Act. To this end, a person who is charged for any offence under the Police Act may be tried by;

(a) The High Court; or

(b) A Magistrates Court; or

(c) A board of officers (not less than three officers of or above the rank of Superintendant, or

(d) An officer of or above the rank of Superintendant.

Whilst the High Court and The Magistrate Court constitute external accountability mechanisms, the whole investigative process is done by the police. It is also important to highlight that the punishment that can be imposed by the above categories of trial officers vary, with the High Court and the Magistrates Court having the same jurisdiction as with criminal trials. A board of officers can only pass a punishment of a period of imprisonment not exceeding 6 months, whilst a single officer can only impose a punishment of a period of imprisonment not exceeding fourteen days. However, majority of the former police officers indicated that disciplinary proceedings are mainly adjudicated by single officers for junior ranks and a board of officers for senior ranks.

4.3.1.2 The Police Standing Orders

Whilst the Police Act is the main statute that regulates the disciplinary process within the ZRP, the Police Standing Orders also act as a guide on disciplinary and operative procedures. The Commissioner General is granted power to make standing orders (regulations) with respect to the discipline, regulation and orderly
conduct of the affairs of the Police Force by section 9(1) of the Police Act. The ZRP Standing Orders Volume 1 regulates (among other things) the conduct of police officers and communication channels within the organisation. It sets out the ethics of the ZRP officers in the performance of their duties and is the bedrock of its internal accountability (Makono, 2015). The Police Standing orders also provides for various stages of discipline namely; verbal warning, written warning, imprisonment and ultimately dismissal. The Standing Orders also provide for police policies on important issues such as dealing with suspects in police custody, procedure on acceptance of gifts by police officers and use of force policy.

4.3.2 Other policy manuals

The ZRP has also crafted two key policy manuals to promote professionalism in its dealings with the public. The Human Rights and Policing Manual as a key policy document guides police officers on issues pertaining to human rights. The manual incorporates some of the international and regional legal provisions relating to human rights and policing. The manual succinctly addresses some of the following;

- Policing in democracy
- The Code of Conduct for Law Enforcement Officials
- Guidelines for arrest and detention
- Guidelines for use of force and firearms
- Policing vulnerable groups and
- Policing and non discrimination

Similarly, the Public Order Strategy also addresses topical aspects on police use of force. The manual clearly shows the guidelines for the use of force, as well as the
tactics for specific public disorder situations. However one former senior police officer highlighted the need for effective use of these important policy documents. He also noted the need for each and every police officer to have a copy of the documents rather than to have them lie idle in libraries.

4.3.3 Non legal internal accountability mechanisms
These are other available mechanisms that are in place to enhance police accountability, other than the legal mechanisms discussed above. However, the researcher needs to highlight that some of these non-legal accountability measures have their roots in some of the legal instruments that have been explained above. A qualitative question was thus posed to former police officers, which required them to list the available mechanisms on the questionnaire. Moreover, a similar question was also posed to interview respondents.

4.3.3.1 Internal disciplinary procedure
Majority of former police officers cited the internal disciplinary procedure as one of the important ways of enhancing police accountability. Much of the procedure as espoused in the Police Act has however been highlighted. One of the most decisive phases of the disciplinary process that was highlighted by the respondents is the suspension of implicated members pending determination by the disciplinary board. Moreover, in cases of corruption, as well as serious cases of misconduct, an implicated police officer will be dismissed from the force if found guilty by the disciplinary board. The internal disciplinary procedure thus enhances accountability in two ways; first by punishing those who are implicated in police misconduct and
secondly by deterring other police officers from engaging in similar forms of police misconduct.

The idea for an internal disciplinary procedure in the ZRP is not a new phenomenon, as the system is also in place in other police establishments across the globe. In support of the idea of internal procedures, Skogan (2009:311) argues that outside discipline can be counterproductive because it undermines the willingness of the police to discipline itself. However, as will also be highlighted later in this thesis, the researcher argues that the internal disciplinary procedure should only apply to minor incidents of police misconduct.

4.3.3.2 The Service Charter

The majority of respondents also indicated the Service Charter as an important tool for police accountability. Whilst the importance of the Service Charter cannot be downplayed, interview respondents highlighted that it mainly applies to accountability on police performance. The Service Charter sets the minimum policing standards that the public should expect from the police. It therefore enables the citizens to judge the propriety of police actions by comparing expected performance standards with actual police performance. Though this study’s thrust was on police misconduct, Gompert et al (2009:7) notes enhancing professionalism as one of the reasons for police accountability. In this vein, it can be argued that one of the major thrusts of the Service Charter is to instil professionalism within the police service.

The Service Charter has also improved the relationship between the police and the public, especially in the light of previous strained relationship that was brought about
by the colonial legacy. Moreover, the public no longer hesitates to complain whenever the police fail to live up to the expected standards in terms of both performance and conduct. In this vein, the Service Charter has created a conducive environment for the public to complain against incidents of police misconduct.

Closely related to the Service Charter is the creation of the Inspectorate Unit, which is housed at the Police General Headquarters. This important section helps in monitoring all sections within the whole police organisation to ensure compliance with policing standards. The Inspectorate Unit performs annual audit for all police establishments and identifies weaknesses in terms of performance and conduct. The Inspectorate Unit can be equated to the Legal and Professional Standards Unit of the Zambian Police.

4.3.3.3 Internal investigations

Respondents also cited investigations by the Police Internal Security Investigations (PISI) section as one of the main internal accountability mechanisms. This is a specialised section within the ZRP which is manned by plain clothed police officers, whose role is to investigate cases of misconduct by police officers as well as to investigate cases that relate to national security. The unit investigates complaints from the public or initiates investigations whenever they suspect misconduct by police officers. The idea of a specialised unit to handle police misconduct is also the practice in other countries such as France (Rea et al, 2009), Hong Kong (Smith, 2015), and the United States (Karimu & Foluke, 2012).
4.3.3.4 Use of suggestion boxes

Use of suggestion boxes as a way of making complaints against the police was also highlighted by both questionnaire and interview respondents. Suggestion boxes, which are dotted around high activity areas, give the public a platform to lay anonymous complaints against police officers on incidents of misconduct. To this end, victims of police abuse who find it difficult to explore other complaints platforms can make use of the suggestion boxes. However, one former senior police officer expressed reservations in which the system operates. He expressed dissatisfaction in having the suggestion boxes opened by junior members from the community relations office. He remarked:

“...the whole idea surrounding suggestion boxes is noble, but the system of having junior officers to open those suggestion boxes is untenable- what if senior officers are implicated, the complaint just dies like that...”(R19).

4.3.3.5 Measures to curb corruption

The scourge of corruption has also received much attention within the ZRP as evidenced by various controls that have been put in place by the police commanders. Respondents cited the use of the declaration register which is completed by the junior police officers whenever they report for duty. In this case, junior officers are required to declare all the money in their possession before they commence operational duties such as road blocks, where temptations to receive bribes would be high. Spot checks will be carried out by the commanders at any time and those found with unaccounted extra money would be charged with
corruption. Though this is a noble idea, the researcher argues that this deterrent measure should also be extended to the police command.

Moreover, police officers are no longer allowed to venture into transport business so as to avoid conflict of interest. Two former senior police officers who recently retired from the police indicated that there were numerous complaints from public transport operators against police officers who had ventured into public transport businesses. The complaints emanated from the fact that commuter omnibuses which were owned by police officers were allowed to operate on roads without any scrutiny on road blocks, even when they violated the road traffic laws. To this end, any police officer who ventures into public transport business will be brought before a disciplinary board.

4.4 Respondents' knowledge of internal police accountability mechanisms

Respondents from external accountability institutions were asked to indicate their level of knowledge on internal accountability mechanisms within the ZRP. Slightly above half of the total respondents from external accountability institutions had no knowledge (18.3%) or had little knowledge (34.1%) about the internal accountability mechanisms available within the ZRP (Table 4.1). The remainder had either moderate knowledge (38.1%) or vast knowledge on the internal accountability mechanisms.
Table 4.1 Respondents’ level of knowledge on internal accountability systems (N=126)

<table>
<thead>
<tr>
<th>No knowledge</th>
<th>Little knowledge</th>
<th>Moderate knowledge</th>
<th>Vast knowledge</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18.3%</td>
<td>34.1%</td>
<td>38.1%</td>
<td>9.5%</td>
<td>2.3889</td>
<td>0.89418</td>
</tr>
</tbody>
</table>

The mean statistic of 2.3889 indicates that the respondents had little knowledge on the internal accountability mechanisms. Similarly, the majority of the interview respondents confessed that they had partial knowledge about the internal accountability mechanisms for the police. This lack of knowledge possibly explains why in some instances a number respondents indicated neutral as their response on some of the questions that directly related to the internal accountability mechanisms. However, despite their low level of knowledge, the statistics indicate that at least the respondents had an appreciation of internal police accountability mechanisms.

4.5 Transparency of complaints system

Transparency is one of the major determinants of the effectiveness of a complaints system (Hopkins, 2009:18; Eijkman, 2006:413). To this end, respondents were asked about their view on the transparency of the ZRP complaints procedure. Despite the little knowledge that the respondents had on internal police accountability mechanisms, most of the respondents concurred that the ZRP has a transparent system for members of the public to air their complaints against the police. Table 4.2 shows that 46.8% of the respondents were inclined to agree to the fact that the ZRP has a transparent system for members of the public to air their
complaints against the police. Contrary, only 32.5% were inclined to disagree with the fact, whilst the remaining 20.6% were undecided.

Table 4.2 Response on whether the ZRP has a transparent system for members of the public to air their complaints against the police

<table>
<thead>
<tr>
<th>Variable</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly disagree</td>
<td>11</td>
<td>8.7</td>
</tr>
<tr>
<td>Disagree</td>
<td>30</td>
<td>23.8</td>
</tr>
<tr>
<td>Neutral</td>
<td>26</td>
<td>20.6</td>
</tr>
<tr>
<td>Agree</td>
<td>49</td>
<td>38.9</td>
</tr>
<tr>
<td>Strongly agree</td>
<td>10</td>
<td>7.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Despite reservations on other aspects of internal police accountability, majority of the interviewees from external accountability institutions praised the complaints procedure for the ZRP. One of the respondents highlighted the recent creation of a website by the ZRP as a positive step in the complaints procedure. He highlighted that the public can make use of the website to forward their grievances against members of the force. Another former senior police officer had this to say;

“The nature of the complaints system makes it difficult for the commanders to overlook transgressions by officers under their command. You wouldn’t know where the complaint would end. If you fail to properly handle a complaint, the complainant can directly approach the Commissioner General of police. I tell you the current Commissioner General is a no nonsense man on issues of misconduct…” (R19).
The researcher observed that the complaints procedure is written in all charge offices that he visited, as well as in all important police establishments such as the district headquarters, the provincial headquarters and the Police General Headquarters (PGHQ). To this end, any member of the public can report a complaint to the Officer In Charge Station; if not satisfied, to the Officer Commanding District; if not satisfied, to the Officer Commanding Province; and finally to the Commissioner General of Police. Consequently, a hotline for lodging a complaint with the PGHQ is also provided.

While an effective complaint reporting procedure can be regarded as a positive step, the effectiveness should however be considered in light of the action that is taken against implicated officers. One human rights lawyer correctly pointed out that “...having a transparent complaints procedure is one thing and dealing with that complaint is another different thing. It is what they do with the complaint that matters and not the receipt of the complaint” (R4). In view of this, further questions were asked pertaining to the issue of effectiveness and this was addressed in the proceeding sections.

4.6 Police investigating police- Can they be trusted?

Whilst the issue of the complaints procedure is a positive note on the part of the ZRP, majority of the respondents indicated that they do not trust the police to deal with cases of misconduct by fellow police officers. Figure 4.1 shows that 58.7 % of the respondents from external accountability institutions were inclined to disagree with the fact that police can be trusted to deal with all cases involving misconduct by
fellow officers. Only 19.9% were inclined to agree, whilst the other 21.4% was neutral.

\[ N=126 \]

![Pie chart showing responses on whether police can be trusted to handle all cases of misconduct involving fellow officers.]

**Figure 4.1 Responses on whether police can be trusted to handle all cases of misconduct involving fellow officers.**

Similarly, most of the interviewees from the external accountability institutions concurred that police should not handle cases of misconduct by police officers. The major reasons that were put forward were lack of independence and lack of procedural fairness by having only the police to handle complaints against the police. This resonates with the European Court of Human Rights’ finding that there must not be any institutional connection between the police officer under investigation and the
investigator (Ramsahai V the Netherlands (2007) 46 EHRR 43). The issue of lack of independence on the internal affairs model was also cited as a major challenge by Smith (2013:99) and Prenzler (2011:289). To this end, an entirely police investigation of the police deals a heavy blow on independence.

Commenting on fairness and transparency, a human rights lawyer remarked, “We can’t have the police to investigate the police- there is no fairness and transparency in such a scenario”. Moreover, other interviewees also highlighted lack of objectivity and bias of police investigators in favour of fellow police officers. This resonates with Prenzler (2011:288) and Savage (2013b:887) who also stressed the pathological inability of the police to objectively investigate their peers as well as an inherent bias in the investigations.

4.6.1 Arguments for police investigating the police

Notwithstanding the negative perceptions towards an all police complaints handling process, some of the respondents however noted that there are some complaints which have to be dealt with internally. They opined that minor incidents of misconduct, especially offenses that do not directly affect the public, should be handled by the police. One former senior police officer remarked that, “if we were to leave all complaints to an independent body from outside the police, the body would be inundated with frivolous complaints, which the police would have easily dealt with”. To this end, despite the global trends towards independent investigations by the civilian authorities, internal investigations are also useful.
In addition, despite showing their disdain towards a purely internal investigation of police officers' misconduct, a number of the interviewees from external accountability institutions maintained that police still have to be involved in dealing with incidents of police abuse of power and any form of complaints against the police. A human rights lawyer who was interviewed, and who had represented accused police officers during disciplinary trials had this to say,

“On one hand it’s good in the sense that the police who are in the system handle the disciplinary process...they know the system and they know how to deal with this culture of covering up for colleagues during investigations”.

Another interviewee remarked,

“given the fact that key witnesses during investigations may be police officers, it becomes inevitable to involve the police in one way or another when investigating incidents of police misconduct”.

Other respondents also reiterated the need for the communities to have a bit of trust in the police to handle issues of misconduct and abuse of power. The above arguments seem to suggest that the police should be involved in the investigation of fellow police officers for police misconduct, though they should not take a leading role in the investigation.

On another note, all former police officers opined that the police have the necessary expertise to investigate incidents of police misconduct, a sentiment which is also shared by Bobb (2010). Surprisingly though, the same sentiments were echoed by three of the interview respondents from external accountability institutions. In view of
the above arguments, majority of respondents from external accountability institutions indicated that they are still willing to report incidents of police officers’ misconduct to police commanders (Table 4.3).

Table 4.3 Response on willingness to report incidents of abuse to police commanders

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>18</td>
<td>14.3</td>
</tr>
<tr>
<td>Undecided</td>
<td>20</td>
<td>15.9</td>
</tr>
<tr>
<td>Yes</td>
<td>88</td>
<td>69.8</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Table 4.3 shows that the majority (69.8%) of respondents from external accountability institutions were willing to report incidents of police misconduct to police commanders. This statistic may be an indirect approval of the internal disciplinary mechanisms available in the police organisation.

4.7 Promptness of internal investigations

Smith (2013:93) notes promptness, public scrutiny and victim involvement as other determinants of an effective accountability system. According to Hopkins (2009), a speedy response and expeditiousness is crucial for maintaining trust and confidence in the rule of law and in order to dispel any fear or collusion in an attempt to conceal misconduct. However, this variable could not be adequately addressed by respondents from external accountability institutions. This is vividly shown on Fig 4.2
wherein the majority of the respondents (42.1%) were neutral on whether the police investigations into officers’ misconduct are done promptly.

N=126

Figure 4.2 Response on whether investigations into police officers misconduct are done promptly

The statistics on Figure 4.2 can be explained by the fact that majority of the respondents from external accountability institutions had little knowledge about the internal accountability mechanisms within the ZRP. In light of the above situation, the researcher had to consider responses from former police officers. Table 4.4 shows that an overwhelming majority (81.8%) of former police officers were inclined to agree with the fact that investigations into police officers’ misconduct are done promptly.
Moreover, all the former police officers who were interviewed concurred that investigations into police officers misconduct are done promptly. The fact that investigations are done promptly could be an indication of the organisation’s abhorrence towards any kind of indiscipline within the organisation. One former police officer remarked that, “Cases of indiscipline are always treated with urgency. Any officer in charge who takes long to deal with misconduct risks being accused of covering up for his subordinates’ misconduct. This will dent his promotion prospects and no sane officer in charge would take such a risk.”

4.8 Public scrutiny

The ECHR (Cited in Hopkins, 2009), highlight that there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability. Perhaps one of the major drawbacks with the current internal accountability mechanism for the ZRP is its immunity from public scrutiny, contrary to recommendations by Smith (2013) and CECHR (2009). An overwhelming majority from external accountability

Table 4.4 Former police officers response on whether investigations are done promptly

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>4</td>
<td>18.2</td>
</tr>
<tr>
<td>Agree</td>
<td>6</td>
<td>27.3</td>
</tr>
<tr>
<td>Strongly agree</td>
<td>12</td>
<td>54.5</td>
</tr>
<tr>
<td>Total</td>
<td>22</td>
<td>100.0</td>
</tr>
</tbody>
</table>
institutions were inclined to disagree with the fact that internal investigations on police officers’ misconduct are made public. Table 4.5 shows that 73 % of the respondents from external accountability institutions were inclined to disagree with the opinion that internal investigations into police misconduct are made public. Only 11.9 percent were inclined to agree with the opinion whilst the other 15.1% was undecided.

Table 4.5 Response on whether internal investigations into police misconduct are made public

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly disagree</td>
<td>34</td>
<td>27.0</td>
</tr>
<tr>
<td>Disagree</td>
<td>58</td>
<td>46.0</td>
</tr>
<tr>
<td>Neutral</td>
<td>19</td>
<td>15.1</td>
</tr>
<tr>
<td>Agree</td>
<td>13</td>
<td>10.3</td>
</tr>
<tr>
<td>Strongly agree</td>
<td>2</td>
<td>1.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
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</table>

Some of the interviewees from the external accountability institutions also bemoaned the secrecy surrounding disciplinary issues within the police organisation. One interviewee had this to say, “The whole disciplinary process, though internal, is done in the interest of the public. So why shouldn’t the public be involved. It’s the citizens’ right to be involved and to know how”.
Moreover, even former police officers disagreed with the opinion that the general public is informed of the disciplinary measures taken against officers implicated for misconduct. Figure 4.3 shows that 59% of the former police officers were inclined to disagree with the opinion that internal investigations into police officer misconduct are made public, whilst barely a third of the former police officers agreed to the opinion.

N=22

Figure 4.3 Response from former police officers on whether internal investigations into police misconduct are made public

In the absence of a mechanism for public scrutiny, the public only relies on press statements by the police press and public relations department. The information
provided during the press statements was however considered by the respondents to be lacking detail.

The scenario in which the internal investigation of misconduct is not subject to public scrutiny militates against the democracy theory. Bovens et al (2008) succinctly highlight that citizens should be given a platform to judge the propriety and effectiveness of actions by government officials. Consequently, citizens can only judge the legitimacy and effectiveness of the police organisation if they are provided with information on how the organisation deals with critical issues—particularly police misconduct. Moreover, trust and confidence forms part of the social contract and this trust and confidence can only be gained when police operations are open to public scrutiny.

4.9 Former police officers view of the current internal mechanisms

Former police officers did not consider the internal disciplinary process to be fair. Table 4.6 shows a mean of 3.0909 and a Standard Deviation of 1.15095 for the overall fairness of the internal disciplinary process. Therefore, they considered the internal disciplinary measures to be somewhat fair.

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9.1%</td>
<td>22.7%</td>
<td>27.3%</td>
<td>31.8%</td>
<td>9.1%</td>
<td>3.0909</td>
<td>1.15095</td>
</tr>
<tr>
<td>1 - very unfair</td>
<td>2 - unfair</td>
<td>3 - somewhat fair</td>
<td>4 - fair</td>
<td>5 - very fair</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Interesting as well, most of the respondent former police officers were of the opinion that investigations by PISI, as well as subsequent disciplinary boards are in fact biased against the implicated police officers. Consequently they considered the whole internal disciplinary process to be too harsh towards implicated police officers.

In support of the above statistics most of the questionnaire respondents preferred to appear before a judge or magistrate than to appear before an internal disciplinary board. As depicted on Figure 4.1, almost two thirds (63.6%) of the former police officers preferred to appear before a magistrate or a judge if ever they were to be charged for police misconduct.

![Figure 4.4 Response by former police officers on preferred disciplinary procedure for misconduct](image)

Figure 4.4 Response by former police officers on preferred disciplinary procedure for misconduct
Interesting though, the Police Act empowers the magistrate or judge to impose a sentence which is within his criminal jurisdiction. What this implies is that a magistrate can even impose a sentence of more than a year for a police disciplinary trial, whilst a judge can even pass a sentence of life imprisonment. This is in sharp contrast with the fourteen day maximum sentence that can be passed by a single police trial officer.

An article in the local newspaper- H-Metro on the issue of discipline seems to support the police command’s harsh stance on indiscipline. Commenting on the idea of suspending police officers on full pay pending investigations, the ZRP Commissioner General is quoted as saying;

“Meanwhile, the suspended member continues to draw a full salary, allowances, plus bonuses from the state. It is very much retrogressive and self- inflicting act for the state to continue rewarding criminal elements at the expense of diligent and hardworking members” (Nyamayaro, 2016:10).

However, though discipline remains the fulcrum of a competent and successful police force, the police organisation should be fair in its investigation and handling of cases of police officers’ misconduct.

4.10 Perspectives on the blue wall of silence

The blue wall of silence is defined by Dempsey and Forst (2010:152) as a protective barrier erected by the police in which officers protect one another from outsiders,
often refusing to aid police superiors in investigating wrongdoing of police officers. To this end, respondents from external accountability were asked to indicate their level of agreement on the opinion, “Police officers are not willing to expose incidents of fellow officers’ misconduct.

As depicted on Table 4.7 majority of the respondents were inclined to agree with the opinion that police officers are not willing to expose incidents of fellow officers’ misconduct, with nearly half (48.4%) agreeing to the opinion and 23% strongly agreeing. Whilst 18.3% were neutral, possibly due to inadequate knowledge, only 10.4% were inclined to disagree with the opinion.

Table 4.7 Response on the opinion that police officers are not willing to expose incidents of fellow officers’ misconduct

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly disagree</td>
<td>7</td>
<td>5.6</td>
</tr>
<tr>
<td>Disagree</td>
<td>6</td>
<td>4.8</td>
</tr>
<tr>
<td>Neutral</td>
<td>23</td>
<td>18.3</td>
</tr>
<tr>
<td>Agree</td>
<td>61</td>
<td>48.4</td>
</tr>
<tr>
<td>Strongly agree</td>
<td>29</td>
<td>23.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Similarly, former police officers were asked on whether they would be willing to testify against fellow officers during disciplinary trials whilst they were still serving in the police. Figure 4.5 shows that majority (59.1%) of former police officers admitted that they were not comfortable with testifying against fellow members whilst they were still serving in the police.
A further analysis by rank on Table 4.8 shows that all former police officers who had been in junior ranks (Constable and Sergeant) were not willing to testify against fellow officers whilst they were still serving in the police. Contrary, those who had served in managerial capacity (Assistant Inspector and above) indicated that they were willing to testify against fellow members on incidents of police misconduct.
Table 4.8 Response by rank on willingness to testify against a fellow member

<table>
<thead>
<tr>
<th>Respondent's rank on leaving the police</th>
<th>No</th>
<th>Yes</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constable</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>%</td>
<td>100.0%</td>
<td>.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Sergeant</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>%</td>
<td>100.0%</td>
<td>.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Assistant Inspector</td>
<td>3</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>%</td>
<td>50.0%</td>
<td>50.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Inspector/ Chief Inspector</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>%</td>
<td>50.0%</td>
<td>50.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Superintendent and above</td>
<td>1</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>%</td>
<td>20.0%</td>
<td>80.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>9</td>
<td>22</td>
</tr>
<tr>
<td>%</td>
<td>59.1%</td>
<td>40.9%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Whilst you were a serving member, would you be willing to testify against your workmate during trial?

The opinion from the external accountability institutions, as well as confirmation by former police officers point to a suggestion that the blue wall of silence is evident in the ZRP. Moreover, some of the respondents highlighted the inevitability of the code of silence. One respondent from the media sector retorted, “It's not uncommon that employees cover up for their colleagues’ misdeeds, especially if the implicated employee is your close friend”.

Similarly, a former police officer who had held the rank of Constable before leaving the police had this to say,
“How could I sell my colleague out during disciplinary trial. During dangerous encounters with criminals, my colleagues are there to cover my back...I would be with my colleagues deep through the night when other citizens are asleep. Even our own bosses would either be asleep or in office. So why would I betray my colleague-to please the bosses-no”.

In view of the above findings, the blue wall of silence is an impediment to internal accountability measures. The above findings show the impact of the social bonds, as enunciated in the Social Bonding Theory (Chriss, 2007:689), on the internal disciplinary processes. The findings also confirm longstanding empirical research that police officers display a high level of loyalty to their colleagues (Skogan, 2009; Dempsey & Forst, 2010; Simmons, 2010).

4.11 CONCLUSION

The chapter highlighted the need for accountability measures for the police in a democratic society. The major reasons that were put forward by the respondents include: the need to prevent abuse of discretionary powers; the need to ensure compliance to human rights; and the need for an independent monitoring and subsequent investigation of police misconduct. This chapter explored the Police Act as the main regulatory statute for policing in Zimbabwe. The Police Act, together with the Police Standing Orders provide guidance on all disciplinary issues within the ZRP. Whilst both former police officers and representatives from external accountability institutions agree on the transparency of the complaints procedure within the ZRP, there is little trust on the overall ways of handling incidents of police complaints. The organisation is also credited for its promptness in instituting
investigations on officer misconduct. Lack of independence, inherent bias and absence of public scrutiny militate against effectiveness of the current internal accountability measures within the ZRP. In light of the shortcoming of the current internal accountability measures, the proceeding chapters focus on external accountability measures as an alternative or compliment to the internal accountability measures. Precisely, the next chapter focuses on the national legal framework and the role of the courts in police accountability.
CHAPTER FIVE

NATIONAL LEGAL FRAMEWORK AND THE ROLE OF THE COURTS

“The court’s authority – possessed of neither the purse nor the sword- ultimately rests on sustained public confidence in its moral sanction”

- (Justice Felix Frankfurter)
- (Hon Wayne Martin, 2009:6)

5.1 INTRODUCTION
This chapter begins by reviewing various statutes as well as statutory provisions that assist in curbing police abuse of power in Zimbabwe. First, the Constitution, as the supreme law of the land is explored, followed by the Criminal Procedure and Evidence Act [Chapter 9:07]. Also, the role of the Court as an institution for police accountability is also evaluated. In order to adequately address aspects of this chapter, a documentary survey of the relevant statutes was conducted. Moreover, primary data is also presented, interpreted and discussed.

5.2 THE NATIONAL LEGAL FRAMEWORK
Legal control is one of the vital external mechanisms for police accountability. Harris (2013: 37), correctly points out that much of the parameters of what should be done and not done by the police are determined by the law. While most of the statutes clearly define the roles of the police in the enforcement of the relevant statutes, the Constitution of Zimbabwe Amendment (No 20) of 2013 [hereinafter referred to as the
Constitution of Zimbabwe] and the Criminal Procedure and Evidence Act [Chapter 9:11) are the two key statues that help in constraining police behaviour.

5.2.1 The Constitution of Zimbabwe

5.2.1.1 From the Lancaster House to the new people driven Constitution

The current Zimbabwean constitution is the successor to the 1980 Lancaster House Constitution. The Lancaster House constitution was a negotiated document, which had the liberation movements (ZANLA and ZIPRA), and the Rhodesian Front as the key negotiators. While the Declaration of Rights in Chapter III was the major police accountability feature, the Bill of Rights was not as detailed as in the new Constitution. Of particular importance was section 13, which dealt with the right to personal liberty. The section laid down the parameters for depriving citizens of this right, thereby restraining the police. Other important provisions were; Section 15 which provided for protection from inhuman treatment and Section 17, which provided for protection from arbitrary search and seizure. In addition to providing the institutions of governance such as the Police and the Judiciary, the Lancaster House constitution also provided for the creation of the Ombudsman, which was to be later abolished to pave way for the creation of the Human Rights Commission.

The current Constitution of Zimbabwe was promulgated after a referendum in 2013. Two leading political parties- ZANU PF and MDC spearheaded the drafting of the constitution during the time of the inclusive government from the year 2009. Perhaps one of the most notable highlights of the current constitution is the inclusion of a dedicated chapter on founding provisions, some of which have a bearing on the
policing discourse. To this end, section 3 of the Constitution of Zimbabwe provides for the following founding values principles;

a) Supremacy of the Constitution
b) The rule of law
c) Fundamental human rights and freedoms
e) Recognition of the inherent dignity and worth of each human being
f) Recognition of equality of every human being
h) Good governance.

Moreover, section 3(2) provides for the following;
e) Observance of the principle of separation of powers.
g) Transparency, justice, accountability and responsiveness.

The founding provisions of the Constitution set the tone for democratic governance in the country. Moreover, all the above founding provisions are vividly espoused in the democracy theory, as espoused by Bovens et al (2008) and Harris, (2013). The police, as important players in the democratic governance play a key role in upholding the rule of law and in protecting fundamental human rights and freedoms. In the same vein, the police should not be an impediment to democratic governance through selective application of the law, abuse of power and through violation of citizens’ rights.

5.2.1.2 The Constitution and the Bill of rights

An important aspect of the Constitution in as far as policing is concerned pertains to the declaration of rights in Chapter 4. Unlike the Lancaster House Constitution in
which the rights were not clearly defined, the current Constitution has a well framed chapter on the declaration of human rights.

The right to life- its impact on policing

The right to life, as defined in section 48 of the Constitution of Zimbabwe, is considered as an important fundamental right, hence its priority on the declaration of rights. The only exception to the right to life in the current constitution is when a person is sentenced to capital punishment for murder in aggravating circumstances. This is in sharp contrast with the Lancaster House constitution which had the following provision under section 12;

“(2) A person shall not be regarded as having been deprived of his life in contravention of subsection (1) if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable in the circumstances of the case—(a) for the defence of any person from violence or for the defence of property; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; (c) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or (d) in order to prevent the commission by that person of a criminal offence.”

To this end police would use excessive force, some of which resulted in death, only to be protected by section 12(2) of the Lancaster House Constitution. With such a provision, judicial enquiries would seldom be carried out on officer involved killings. However, with the current constitution, every death in the hands of police officers should be open to judicial enquiry.
Interesting though, there is debate as regard the provision on the right to life within the current Constitution. Some legal experts regard the provision as inconclusive and acknowledge that there was need for the Constitution to define parameters in which use of deadly force by the police is justified. Others, whose views are shared by this researcher, argue that the courts should be left with the onus of determining the appropriateness of use of deadly force by the police.

The right to personal liberty and rights of detained persons

The right to personal liberty is arguably a notable right which has a direct influence on policing. Section 49 clearly constraints police behaviour through the following provisions;

1) *Every person has a right to personal liberty, which includes the right*;
   
a) *Not to be detained without trial; and*
   
b) *Not to be deprived of their liberty arbitrarily without just cause.*

The above important provisions literally outlaw unlawful arrests, arbitrary arrests and unlawful detention. The above provisions are in congruent with the international and regional legal framework for police accountability, particularly Article 9 of the International Covenant on Civil and Political Rights (ICCPR) and Article 6 of the African Charter on Human and People’s Rights (ACHPR).

In addition, section 50 of the Constitution provides for the rights of detained persons, with the provisions having more detail than those in the Lancaster House Constitution. The section has the following provisions;
Any person who is arrested-
(a) Must be informed at the time of arrest of the reason for the arrest;
(b) Must be permitted, without delay-
   (i) At the expense of the State, to contact their spouse or partner, or a relative or legal practitioner, or anyone else of their choice; and
   (ii) At their own expense, to consult in private with a legal practitioner and a medical practitioner of their choice; and must be informed of this right promptly:
(c) Must be treated humanely and with respect for their inherent dignity;
(d) Must be released unconditionally or on reasonable conditions, pending a charge or trial, unless there are compelling reasons justifying their continued detention; and
(e) Must be permitted to challenge the lawfulness of the arrest in person before a court and must be released promptly if the arrest is lawful.

The above constitutional provisions are very critical in constraining police actions. Section 50 outlaws arbitrary arrests by requiring that a suspect should be informed of the reason of arrest at the time of arrest. It also provides for humane treatment of all the persons in police custody. The above provisions are also in tandem with Article 9 of the ICCPR and Article 6 of the ACHPR. Moreover, they comply with the UN Body of Principles for the Protection of Persons under Any form of Detention or Imprisonment, which advocate for humane treatment of persons in police custody.

Failure to abide by this important provision on the part of the police will render the arrest unlawful. Similarly, the police cannot later prefer a different charge from the one that would have been read to the suspect during the time of arrest. In a case involving political activist Pastor Evan Mawarire, the suspect was released by a
magistrate after the State had preferred a different charge to the accused in violation of his constitutional rights (Kadirire, 2016:4). He was initially charged with inciting public violence but the charge was changed to subverting a constitutionally elected government (Kadirire, 2016:4).

Importantly, the Constitution also reiterates the accused person’s right to legal representation and access to relatives. In a development that was absent in the Lancaster House Constitution, the current Constitution imposes the duty upon the State to make arrangements for the accused person to meet his/ her legal practitioner, relatives or seek medical attention. Studies had previously raised concern over the denial of access to legal representatives, as well as denial of access to medical attention which the suspects suffered at the hands of the police (International Bar Association, 2007; Human Rights NGO Forum, 2006).

Another important dimension that was brought about by the current Constitution is the period of detention. The maximum period of detention, as provided in section 49 (2) of the Constitution is 48 hours. Importantly, the 48 hour period includes Public Holidays and Sundays. This provision places a duty upon the police to speed up their investigations to avoid being accused of over detaining suspects. Consequently, detaining the suspects for a period which is above the stipulated limit will prompt the court to order the release of the suspect. The Lancaster House Constitution did not provide for the maximum period of detention and the police had to rely on the provision of the Criminal Procedure and Evidence Act [Chapter] which even permitted detention for a period exceeding 14 days in some instances.
The importance of the right to personal liberty has also been reiterated in several court decisions. For example, in the case of Minister of Home Affairs and Another V Bangajena 2000(1) ZLR 306 (S) the Supreme Court stated that the deprivation of personal liberty is an odious interference and has always been regarded as serious injury. Similarly, in the case of Allan v Minister of Home Affairs and Another 1985 (1) ZLR 339 (H), It was held that “…it is essential for any person entrusted with the power of arrest to exercise the power only in cases of urgency and necessity”. To this end, the constitutional provisions pertaining to the right to personal liberty and the rights of accused persons play a major role in constraining behaviour and powers of police officers.

**Freedom from torture, inhuman and degrading treatment**

Section 53 of the Constitution provides that no person may be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment. This constitutional provision constraints police behaviour during investigations and when gathering information from suspects. Section 53 complies with Convention against Torture and other Degrading or Inhuman Treatment (CAT), as well as the Body of Principles for the Protection of Persons under Any form of Detention or Imprisonment. Though the State has not yet ratified CAT, it has indirectly acknowledged the need to outlaw torture by inclusion of section 53 in its Constitution.

Whilst the term torture is not clearly defined in the Constitution, Article 1 of the CAT defines torture as follows:
“Any act by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected to have committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of a public official or other person acting on an official capacity.”

From the CAT’s definition of torture, it is clear that the definition is wide. To this end all incidents in which police officers assault suspects, no matter how minor the assault is, amounts to torture. Jessberger (2005:1063) also correctly points out that the dignity of the human being is inviolable under any circumstances, and torture is the most severe violation of human dignity. This section therefore calls upon the police to be careful in their everyday encounters with suspects.

Several Court judgements have also been made against police torture. Malaba, J summed up the need to act against torture in the case of Mapuranga v Mungate 1997 (1) ZLR 64 (H) when he said;

“Every person’s body is however sacred and inviolable. No other man has a right to meddle with it in the slightest manner except in the circumstances prescribed by the law. The person assaulted is entitled to damages even though he suffered no severe pain or any damage at all other than the insult of having his bodily integrity interfered with”.

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In the case of *State v Slatter 1983 ZLR 144*, the accused persons were charged with aiding and abetting sabotage at the Air force Base. No evidence was adduced implicating the accused apart from their own statements which were procured through threats and torture. Rendering their confessions inadmissible, the court held that maltreatment during questioning makes statements inadmissible. The courts also ruled in favour of the plaintiffs in the following cases in which civil suits had been filed for torture and assault by police: *Karimazondo and Another v Minister of Home Affairs and Another 2001 (2) ZLR 363 (H)*; *Mugwagwa v Minister of Home Affairs and Commissioner of Police HH- 183-2004*; *State v Reza HH- 02- 2004*; and *Nyandoro v Minister of Home Affairs and Another HH- 196- 2010*. Some of the cases are also reviewed later in this chapter.

Right to privacy

The right to privacy directly impacts on the policing function, mainly on issues relating to search and seizure by police officers. Section 57 of the constitution provides that;

“Every person has the right to privacy, which includes the right not to have-

(a) Their home, premises or property entered without their permission;

(b) Their person, home, premises or property searched;

(c) Their possessions seized;

(d) The privacy of their communications infringed.”

Whilst section 57 outlaws unlawful search and seizure, it does not provide exceptional situations in which the police are expected to carry out search and
seizure. In the absence of such provisions, there will be reliance on other statutes such as the Criminal Procedure and Evidence Act [Chapter 9:07].

5.2.2 The Criminal Procedure and Evidence Act [Chapter 9:07]

Whilst the Constitution, as the supreme law of the land, lays the foundation on issues pertaining to control of police behaviour, other detailed procedures are contained in the Criminal Procedure and Evidence Act [Chapter 9:07] (hereinafter referred to as the CP and E Act). Part V of the CP and E Act deals with arrest - whether arrest without a warrant or arrest with a warrant. For arrest without a warrant, the CP and E Act emphasises reasonable suspicion to justify the arrest. To this end, any police officer who intends to effect an arrest should have reasonable grounds to suspect that the arrested person has committed an offence. Absence of reasonable suspicion will therefore culminate in arbitrary arrests, for which the arresting officer can be sued for violation of the right to personal liberty.

Part V1 of the CP and E Act provides for issues relating to search and seizure by police officers. Whilst a search warrant would normally be needed before conducting a search, the Act also provides for situations in which the police can search without a warrant, albeit under strict conditions. In a way to prevent arbitrary search and seizure, section 51 of the CP and E Act provides that;

(1) A police officer may, without warrant, search any person or container or premises for the purposes of seizing any article ... and additionally, or alternatively, seize any such article—
(a) if the person concerned consents to the search for and additionally, or alternatively, the seizure of the article in question or if a person who may consent to the search of the container or premises consents to such search and additionally, or alternatively, the seizure of the article in question; or

(b) if he on reasonable grounds believes that—

(i) a warrant would be issued to him if he applied for one; and

(ii) the delay in obtaining a warrant would prevent the seizure or defeat the object of the search, as the case may be.

Whilst it is logical that the police should be allowed to search without a warrant in the interest of justice, the above provisions prescribe limits in carrying out a search without a warrant. Such limits are important to prevent arbitrary search and seizures by the police.

The CP and E Act also provides for the use of force in order to carry out an arrest or to carry out a search. Section 42 provides for the use of reasonably justifiable force in order to overcome resistance to arrest. To this end, any force that would not be considered reasonable in the given circumstances will amount to excessive force. Also, section 40 authorises police to break open doors after failure to obtain admission for the purpose of arrest and search, though strict conditions are set before embarking on such action.

Another important provisions for curtailing police abuse of power is section 256 which renders inadmissible any confession which is not made freely or voluntarily by
the accused person. Consequently, any use of force by the police to obtain confessions from the suspects will render the confession inadmissible.

However, despite the above provisions, it is important to note that most of the provisions relating to criminal procedure still need to be aligned to the current constitution. The process is currently underway in Parliament. Important provisions which need alignment relate to the period of detention as well as procedure for issuing warrants of arrest and search. For example, whilst the CP and E Act provides for issuance of arrest and search warrants by a police officer who is of or above the rank of Superintendent, the Constitution provides that only a Court can issue such warrants. In the absence of such alignment, provisions of the Constitution take precedence.

5.3 THE COURT’S POLICE OVERSIGHT ROLES

Since much of the parameters of what should be done and not done by the police are determined by the law (Harris, 2013), the Court plays an important role in dealing with issues of police accountability. As regards police accountability, the role of the courts will thus be to interpret the legal provisions discussed above. First, it is important to emphasise that, just as the Court presides over all criminal matters wherein citizens are implicated, the Court also presides over criminal law violations by police officers. To this end, the Court passes the appropriate punishment on all cases where police officers are convicted of various criminal offences. In Zimbabwe, the Courts fall under the Judicial Service Commission, from where authority was sought to gather data. Whilst there are seven courts in Zimbabwe, only four of these
courts have a role in enhancing police accountability. These are; the Magistrate Court, the High Court, the Supreme Court and the Constitutional Court.

The role of the court in police accountability is multi-pronged, according to the judicial officers who were interviewed. One of the major roles is to adjudicate over civil suits against the police and to pass appropriate judgement. This role is mainly played by the High Court, which is empowered by section 13 of the High Court Act [Chapter 7:06] to have full original civil jurisdiction over all persons and over all matters within Zimbabwe. Similarly, the Constitutional Court hears all cases involving infringement of fundamental human rights. Consequently, all cases involving human rights violation by police officers will be referred to the Constitutional Court. Moreover, if an issue about violation of human rights by police officers is raised during trial, the trial process will be stopped pending determination by the Constitutional Court.

Judicial officers who were interviewed highlighted the tendency of suspects to complain about police brutality during their initial attendance at court. This could possibly point to the fact that suspects are comfortable with complaining to judicial officers than police officers. Ironic though, the judicial officer will have to refer the case back to the police to investigate the alleged incidents of police brutality. One judicial officer remarked, “the irony of it is that the judicial officer will have to refer the matter back to the alleged abusers...I know it sounds awkward but that’s how the system operates”. This then boils down to the same question, “will the police objectively investigate their own”, especially if they are acting on allegations from the suspects.
Interview respondents also had different opinion when they were asked about the role of the Courts in enhancing police accountability. The following were some of the responses;

“The court is a key player in the justice delivery system. In addition to passing appropriate sentences for criminals, they court also considers the appropriateness of police action during the whole criminal justice process. When the police act outside the confines of their powers, it is the role of the courts to take a correct position...” (R4)

“The role of the court is simple- to interpret laws. Whereas the police are there to enforce laws, the courts also consider the appropriateness of police behaviour during law enforcement. We often have situations in which police officers are accused of using inappropriate methods of gathering evidence, and the court has to take that into account during the trial proceedings” (R6).

“The court ensures that the police are not a law onto themselves” (R7)

“The court, specifically the High Court, presides over all the civil suits against the police especially on cases of police abuse of power. The court has been known to award necessary damages to victims of police abuse of power” (R12).

“Just as they preside over cases committed by criminals, they also preside over offences committed by police officers” (R13).
The above findings clearly show the importance of the Court as a key institution for police accountability. The Court is an important oversight arm of the government, amongst other arms such as the Executive and Legislature. As some of the respondents correctly pointed out, the role of the Court is to interpret laws. Similarly, the police, as an important arm of the Executive, have a major role of enforcing laws. Consequently, in the process of interpretation, the courts also judge the appropriateness of police behaviour. This way, the Court acts as an accountability institution for the police. The position of the Court as a key police accountability institution has been reiterated in several studies (Harris, 2013; Biswas, 2012; Bronnit and Stenning). The findings also resonate with Swanson (2008)’s argument that courts have long been known to give judgements which have a direct bearing on police accountability.

The opinion by Respondent 6 above supports findings by Shinah (2009) that judges and magistrates can also refuse to convict persons if the evidence is obtained illegally. To this end, any improper conduct by the police during the enforcement of the law will be reviewed by the courts during criminal proceedings. Also, some important court decisions have been widely accepted as standard operating procedure by police establishments across the globe. In the leading case of Miranda V Arizona (1966) 384 U.S. 436, the court ruled that before questioning suspects, police officers should inform the suspects of their constitutional rights to remain silent and their right to have an attorney. The court’s decision, which is now widely known as the Miranda warning, has also been adopted as a standard operating procedure by the ZRP.
Respondent 13 also raised a salient point in highlighting that judicial officers preside over criminal cases that are committed by police officers. This resonates with Harris (2013)’s observation that at the heart of legal accountability stands the principle that the police are subordinate to the law, just as other citizens are subordinate to the law. However, the question of who should investigate the police will remain unanswered. Another important observation on criminal prosecution is highlighted by Ransley et al (2007) when they remark, “though criminal prosecutions send powerful messages about police misconduct, they are relatively rare”.

Another respondent (R14) brought in an important dimension of the court’s police oversight role when he opined that, “the court also has the power to review all the police internal disciplinary processes”. This important role is also noted by Bronitt & Stenning (2011) who assert that courts can also oversee police accountability through judicial review of police disciplinary processes. Though this system is important, it only works to the extent that parties to the police disciplinary trial challenge the police board’s decision.

5.3.1 Effectiveness of the Courts

An overwhelming majority trust the Court as a police accountability institution. As depicted on Figure 5.1, three quarters of the respondents from external accountability institutions considered the courts to be either effective (48.4%) or very effective (27.0%). Whist 16.7% of the respondents considered the courts to be somewhat effective, only 6.3% and 1.6% considered the courts to be less effective and not effective respectively.
Figure 5.1 Respondents’ opinion on the effectiveness of the courts in holding the police to account

A further analysis of the statistics on Table 5.1 reveals a mean statistic of 3.9286, a Standard Deviation of 0.91371, a variance of 0.835 and a -.0880 level of skewness. The statistics clearly reveal gravitation towards effectiveness of the courts.

**Table 5.1 Statistics on the effectiveness of the Courts**

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Mean</th>
<th>SD</th>
<th>Variance</th>
<th>Sp</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.6%</td>
<td>6.3%</td>
<td>16.7%</td>
<td>48.4%</td>
<td>27.0%</td>
<td>3.9286</td>
<td>0.91371</td>
<td>0.835</td>
<td>-0.880</td>
</tr>
</tbody>
</table>

1 not effective 2 less effective 3 somewhat effective 4 effective 5 very effective SD standard deviation Sp Skewness
Majority of the interviewees also indicated that currently, the Court is the most effective police accountability institution. Interview respondents were asked to comment on the effectiveness of the courts in enhancing police accountability and the following were some of the views;

“In the absence of an effective independent body to deal with cases of police abuse of power, we have to put our trust in the courts” (R2).

“I tell you, among all the accountability institutions that you can think of- the court is the most effective. They understand the law, which puts them in a better position to judge the appropriateness of some of police actions” (R6)

“There has been a great improvement in the manner in which the courts handle cases in which the police are implicated. Previously the courts were known to show bias in favour of the police, especially on public gatherings. We were finding it difficult to hold rallies and the police would just deny us our constitutional right. But I tell you it’s now a different ball game. Even if the police deny us our freedom of assembly and gathering, the courts, in the interest of justice are always on our side” (R4).

Most of the interviewees commented the professionalism and impartiality that is currently being exhibited by the courts. This is in sharp contrast with the situation that obtained some years back when the courts were being accused of passing judgements which were politically biased. Other respondents cited several judgements by the High Court in 2016 in which political parties approached the courts after the police had denied them authority to conduct their rallies. The police
cited lack of manpower as the reason for denying the political parties their constitutional rights. All the judgements were made in favour of political parties. If the police were left to decide on who should be allowed to conduct rallies, then citizens’ constitutional freedom of assembly would be arbitrarily violated by the police. To this end, the court also has an enforcement mechanism to prevent the police from violating citizens’ rights.

However, the respondents had mixed reactions on the capacity of the courts to handle cases of police abuse. Despite the majority’s opinion on the effectiveness of the courts, 53.1% were inclined to agree with the fact that courts have the capacity and are independent enough to deal with incidents of police abuse of power (Table 5.2). Those who were inclined to disagree constituted 30.2% whilst 16.7% were neutral.

**Table 5.2 Response on whether the courts have capacity and are independent enough with incidents of police abuse of power**

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly disagree</td>
<td>15</td>
<td>11.9</td>
</tr>
<tr>
<td>Disagree</td>
<td>23</td>
<td>18.3</td>
</tr>
<tr>
<td>Neutral</td>
<td>21</td>
<td>16.7</td>
</tr>
<tr>
<td>Agree</td>
<td>43</td>
<td>34.1</td>
</tr>
<tr>
<td>Strongly agree</td>
<td>24</td>
<td>19.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>
As a follow up, interview respondents were also asked to comment on the capacity and independence of the court to handle incidents of police abuse of power. Majority of the interviewees highlighted the need to differentiate the two terms, capacity and independence. Below are some of the responses that were given;

“The answer is no and yes. As regards the capacity, I don’t think they have the capacity, considering the backlog that characterises court cases. But for independence, they have that independence. The court is one institution in which politicians have found it difficult to interfere with” (R6).

“Whilst the issue of capacity is subject to debate, I think the independence of the court is not questionable. In fact, independence is the hallmark of any effective judiciary. The court has on several occasions passed judgements against government policy and that on its own shows the independence of the judiciary” (R8).

“I don’t believe they have the capacity, considering the limited number of courts and trial officers. However for independence, I think the court is the most independent institution amongst all institutions of accountability” (R9).

Whilst the Court, as a police accountability institution is credited for its independence, the issue of limited capacity seems to militate against the court’s effectiveness. Currently the High Court is located in Harare and Bulawayo and this creates a depressed capacity for the courts to effectively deal with cases throughout the whole country. However, despite the opening of the High Courts in two cities
Masvingo and Mutare, the two courts were not yet operational at the time of writing this thesis. A different scenario exists in the neighbouring South Africa, where there are High Courts in all the country’s provinces. The fact that the courts do not have the capacity to speedily deal with criminal cases also implies that the court’s role of monitoring police behaviour will also be delayed.

5.3.2 Civil suits and the courts

Feltoe (2012: 127), commenting on the State Liabilities Act [Chapter 8:14] says, “...the state can be sued vicariously for delictual and contractual wrongs committed by State employees in the course of their employment”. This therefore implies that the state will bear the burden for civil wrongs done by individual police officers. To this end, citizens can directly sue police officers for harm caused to them by police officers (Haberfield & Cerrah, 2008; Shinar, 2009; Feltoe, 2012). This way, the courts also enhance police accountability. Judgements that have been made against police officers are contained in various law reports and cyclostyled judgements, an indication that the courts are holding the police to account.

Most civil suits are filed based on allegations of false arrests/ imprisonment, excessive use of force, negligence, constitutional violations and unlawful invasion of privacy (Mugari, 2014). McCullock and Palmer, in Mugari (2014) also highlight the trend towards greater resort to civil litigation against the police, combined with a definite trend to substantially larger judgements in favour of plaintiffs. To this end, citizens no longer hesitate to sue the police due to the large sums of money involved.
To highlight the importance of the Court as a police oversight institution, Table 5.3 shows selected judgements on civil suits against the police.

### Table 5.3 Selected civil suits against the Zimbabwe Republic Police

<table>
<thead>
<tr>
<th>Case</th>
<th>Reason for civil suit</th>
<th>Quantum of damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botha Versus (V) Zvada 1997 (1) Zimbabwe Law Reports (ZLR) 415 Supreme Court (S)</td>
<td><strong>Unlawful arrest and detention.</strong> Facts: A 71 year old man was arrested on allegations of murder by the police though there was no strong evidence linking him to the crime. He was detained in custody for 6 days under squalid conditions</td>
<td>Z$20 000</td>
</tr>
<tr>
<td>Karimazondo and Another V Minister of Home Affairs and Others 2001 (2) ZLR 363 High Court (H)</td>
<td><strong>Unlawful arrest, detention and torture.</strong> Facts: The plaintiffs were both arrested on allegations of murder but the charges were subsequently dropped. The plaintiffs were subjected to torture whilst in custody and suffered long lasting physical and psychological effects.</td>
<td>Z$1 500 000</td>
</tr>
<tr>
<td>Mugwagwa V Minister of Home Affairs and Another High Court Harare (HH)- 183-2004</td>
<td><strong>Assault by police officers</strong> Facts: The plaintiff who was a member of the opposition M.D.C was arrested on allegations of arson. He was assaulted on the way to the station and on arrival at the station.</td>
<td>Z$300 000</td>
</tr>
<tr>
<td>Chituku V Minister of Home Affairs and Others HH- 6- 2004</td>
<td><strong>Inhuman treatment by police whilst in police custody</strong> Facts: The plaintiff was arrested on a</td>
<td>Z$100 000</td>
</tr>
<tr>
<td>Plaintiff</td>
<td>Defendant</td>
<td>Claim</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------</td>
<td>-------</td>
</tr>
<tr>
<td>Mukumba V Minister of Home Affairs and Another HH- 84- 2009</td>
<td>Assault by police</td>
<td>Warrant of arrest and was detained under inhuman conditions. The cell was overcrowded with a malfunctioning flushing system and he was denied supper.</td>
</tr>
<tr>
<td>Nyandoro V Minister of Home Affairs and Another HH-196-2010</td>
<td>Assault by police officers</td>
<td></td>
</tr>
<tr>
<td>Muskwe V Minister of Home Affairs and Others HH-83-2013</td>
<td>Unlawful arrest and detention</td>
<td></td>
</tr>
</tbody>
</table>

Source: Selected cases from Zimbabwe Law Reports and Cyclostyled judgements
As depicted on Table 5.3, citizens have been able to successfully sue the police for incidence of police abuse of power. This stresses the court’s oversight role over the police. What is even more important is that most of these judgements are found online; hence citizens can refer to the cases for guidance whenever they intend to sue the police. Civil suits against the police also have a deterrent effect on police abuse of power, as the police will try by all means to avoid these costly civil suits through conscientising police officers.

Moreover, most of the respondents bemoaned the limited number of judicial officers to preside over civil suits against the police, especially given the fact that civil suits cannot be filed at the magistrates’ courts. With only the High Court as the court of first instance for civil suits against police and the Supreme Court as an appeal court, the courts may find it difficult to handle cases in time. Currently, the High Court is located in Harare and Bulawayo, whilst another High Court which was recently opened in Masvingo is yet to commence operations. To this end, majority of the respondents indicated that the court often takes long to pass judgements on civil suits against the police (Figure 5.2).

As depicted on Figure 5.2, slightly above half (52.4%) of the respondents were inclined to agree with the fact that courts often take long to pass judgements on civil suits against the police. The 22.2% proportion of those who indicated neutral could have been by respondents who were not well conversant with the courts. Only a quarter of the respondents were inclined to disagree with the opinion.
One human rights lawyer who was interviewed noted three incidents in which he had represented victims of police abuse of power, whereby the cases had to be finalised after three years. The old adage which goes “justice delayed is justice denied” seems to be a true reflection of the current state of affairs. However most of the interview respondents noted that the delay was not only common with civil cases but criminal cases as well.

Another barrier that was highlighted by five respondents (R2, R4, R7, R12 and R 16) was lack of mechanisms to enforce the court’s decision when the court orders the
police to pay damages. The respondents highlighted several cases in which the
court judgements. In one of the case cited (Muskwe V Minister of home Affairs and Others
HH-83-2013), the Human Rights NGO Forum (2014), reports that the plaintiff died in
2014, a year after he had been awarded damages, but the damages had not yet
been paid.

The delay in the payment of damages can also be due to the loopholes in the
statutes governing civil liability. Whilst the State Liabilities Act [Chapter 8:14]
imposes liabilities upon the State in respect of its employees, section 5 of the Act
outlaws attachment of State property. Consequently a plaintiff can win the civil suit
against the police, but can have a hard time to receive payment given the fact that
the plaintiff is not permitted by law to attach police property.

5.4 THE CONSTITUTION- EFFECTIVE OR MERE LEGAL DOCUMENT?
As earlier highlighted in this chapter, the Constitution, as the supreme law of the land
has important provisions for curtailing police abuse of power. To this end,
respondents were asked to indicate the effectiveness of the current Constitution in
curbing police abuse of power and their responses are indicated on Figure 5.3.

A total of 54% of the respondents from external accountability institutions
considered the Constitution to be either effective (35.7%) or very effective (18.3%).
Slightly above a quarter considered the constitution to be somewhat effective, whilst
19.9% considered it to be either less effective (18.3%) or not effective (1.6%).
Figure 5.3 Response on the effectiveness of the constitution in enhancing police accountability

A further analysis of the statistics on Table 5.4 shows a mean statistic of 3.5079, a standard deviation of 1.04112, and a variance of 1.084. Therefore, the statistics gravitate towards effectiveness, though more dispersed from the arithmetic mean compared to the effectiveness of the courts.

Table 5.4 Statistics on the effectiveness of the Constitution

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Mean</th>
<th>SD</th>
<th>Variance</th>
<th>Sp</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1.6%</td>
<td>18.3%</td>
<td>26.2%</td>
<td>35.7%</td>
<td>18.30%</td>
<td>3.9286</td>
<td>1.04112</td>
<td>1.084</td>
<td>-0.238</td>
</tr>
<tr>
<td>2</td>
<td>18.3%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>26.2%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>35.7%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>18.30%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1- not effective  2- less effective  3- somewhat effective  4- effective
5- very effective  SD- standard deviation  Sp- skewness
The above statistics show that respondents had faith in the Constitution as a key legal accountability measure. However, in comparison with the effectiveness of the courts, the statistics seem to suggest that the Court is more effective as an institution of police accountability. It also has to be understood that the effectiveness of the constitution thrives on the effectiveness of the Court. This was supported by one respondent who remarked that, “we can have an effective constitution but if we do not have an effective court system, the constitution will lose its effectiveness”.

Interview respondents also reiterated the importance of the constitution, with some of them comparing the current constitution to the now defunct Lancaster House Constitution. The following were some of the responses on the question, how effective is the constitution in curbing police abuse of power?

“If you are to compare our current constitution with the previous constitution, you will notice a great improvement, especially on the declaration of rights. The chapter on the declaration of human rights is well articulated to meet international standards” (R5)

“...the provisions on the powers of arrest and detention are well articulated. For example, once the police arrest a suspect, they have to bring him before a trial officer within a time of not more than forty-hours, and if they fail to meet that time the constitution provides that the police have to unconditionally release the suspect. This section will go a long way in preventing unlawful arrest and detention. Also, previously Sundays and public holidays were not considered as court days but with
the current constitution, Sundays and public holidays are court days and are counted in the forty-eight hour detention time limit" (R8).

“...other than just stating the Bill of Rights, the constitution provides a way of enforcing violation of human rights, for example the provision that anyone can approach the High Court if they have reasonable grounds to believe that a suspect is being unlawfully detained by the police. Again there is a provision that any person who is unlawfully detained can claim compensation from the person who is responsible for the detention. Such provisions were conspicuously absent in the Lancaster House constitution” (R10).

“As a document, I think it is good, but it’s not enough to have a good document. We need various institutions, including the police to make sure that the document is effective. We also need an effective judicial sector to make sure that the provisions of the constitution are adhered to... so it is only effective to the extent that institutions are willing to comply with it” (R11).

Most of the views from the above respondents (R5; R8; R10) seem to point to the fact that the current constitution is effective, at least to the extent that it has important provisions to curb police abuse of power. A comparison of the current constitution to the Lancaster House constitution clearly shows an improvement, especially on the declaration of rights. Moreover, the current constitution also reiterates the need for the police service to uphold the constitution on Section 219 (1) (e). However, an interesting fact was highlighted by Respondent 11, when he asserted that the
Constitution is effective to the extent that the police uphold it. This leaves the Court as an important institution which ensures compliance with constitutional provisions.

To further gauge their views on the effectiveness of the Constitution as a key legal instrument for enhancing police accountability, respondents were also asked to indicate their response on the adequacy of constitutional provisions which curtail police abuse of power. Their responses are presented on Table 5.5.

**Table 5.5 Response on adequacy of constitutional provisions which curtail police abuse of power**

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Not adequate</td>
<td>12</td>
<td>9.5</td>
</tr>
<tr>
<td>2 Less than adequate</td>
<td>11</td>
<td>8.7</td>
</tr>
<tr>
<td>3 Somewhat adequate</td>
<td>32</td>
<td>25.4</td>
</tr>
<tr>
<td>4 Adequate</td>
<td>69</td>
<td>54.8</td>
</tr>
<tr>
<td>5 More than adequate</td>
<td>2</td>
<td>1.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Slightly above half (56.4%) of the respondents considered the constitutional provisions to be at least adequate. Approximately a quarter considered the provisions to be somewhat adequate, whilst only 18.2% considered the provisions to be either less than adequate (8.7%) or not adequate (9.5%). Further the mean
Commenting on the adequacy of the constitutional provisions, one respondent (R5) noted that the constitution alone should not be enough. He argued,

“... remember, the constitution has to address all the issues of governance, not only issues to do with policing. We cannot expect the constitution to give every minute detail on how the police should operate. Therefore, the constitutional provisions are only adequate to the extent of laying the foundation for other relevant laws”.

To this end, while the constitution lays the solid foundation for enhancing police accountability in Zimbabwe, we also have to rely on other pieces of legislation for detailed laws which curtail police abuse of power. The CP and E Act, as well as the Police Act, which have been already discussed, are other relevant statues which have to be read with the important constitutional provisions. Guided by the constitutional provisions, the CP and E Act, as well as the Police Act, subsequently lay down the detailed procedure which should be followed by the police in exercising their powers.

5.5 CONCLUSION
This chapter's main thrust was on legal accountability mechanisms, with the evaluation of the laws as well as the role of the Court. The Constitution and the CP and E Act are the key legal instruments that help in curbing incidents of police abuse
of power. The findings have revealed that the Court is an effective institution for police accountability. The role of the Court is multi pronged; reviewing police actions during criminal trials, presiding over criminal cases in which police officers are accused of criminal offences and presiding over civil suits against the police. The major obstacles to the effectiveness of the courts are; the limited number of judicial officers, and lack of mechanisms to enforce judgements against the police. Similarly the constitution is also an effective legal instrument for police accountability, though its adequacy is debatable. Chapter six focuses on the Parliament and the Zimbabwe Human Rights Commission as key institutions for police accountability.
CHAPTER SIX

ACCOUNTABILITY THROUGH PARLIAMENT AND THE HUMAN RIGHTS COMMISSION

“The principal value of justifying legislative monitoring of the executive is to ensure the triumph of representative government by lines of accountability running through the organ that embodies popular sovereignty”

- (Rockman 1984 in Rahaman 2008:41)

6.1 INTRODUCTION

This chapter focuses on the role of Parliament and the Zimbabwe Human Rights Commission as key external accountability institutions for the ZRP. The chapter also outlines the relevant constitutional provisions and other enabling statutes that provide for the operation of these two institutions. The effectiveness of the two institutions is also interrogated and in the process bringing about some of the obstacles to the effectiveness of these institutions. In addition to secondary data from various sources, the chapter also presents and discusses primary data relating to the two institutions. The Parliament is presented first, followed by the Zimbabwe Human Rights Commission.

6.2 ROLE OF PARLIAMENT ON POLICE OVERSIGHT IN ZIMBABWE

Parliamentary accountability is considered to be the bedrock of good governance in democratic systems (Rahman, 2008:39). To this end, parliamentarians are the representatives of the electorate and are better placed to hold various public
institutions accountable on behalf of the electorate. International best practice supports an independent role for parliament in keeping the police under scrutiny (CHRI, 2006:46).

6.2.1 Constitutional provisions for operation of the Parliament of Zimbabwe

The Parliament of Zimbabwe, which consists of the National Assembly and the Senate, is provided for under Section 118 of the Constitution. The Constitution also provides for eighty members of the Senate, who are elected on proportional representation and two hundred and ten members of the National Assembly, who are directly elected by the electorate. Section 119 of the Constitution provides for the roles of Parliament in the following provisions;

(1) Parliament must protect this Constitution and promote democratic governance in Zimbabwe.

(2) Parliament has power to ensure that the provisions of this constitution are upheld and that the State and all institutions and agencies of government at every level act constitutionally and in the national interest.

(3) For the purposes of subsection (2), all institutions and agencies of the State and government at every level are accountable to Parliament.

From the above provisions, it can be argued that the role of Parliament is to promote accountability in all government institutions and agencies. Consequently, the police, as a key government agency, should also be answerable to Parliament. More importantly section 130 of the Constitution provides for Parliament's power to initiate, prepare, consider or reject any legislation. To this end, it is the Parliament which can pass either repugnant laws or democratic laws. Consequently all the legal provisions
for constraining police behaviour as discussed in the previous chapter are evidence of the Parliament’s role in police oversight.

6.2.2 Role of Parliament- Respondents’ views

The respondents were asked to indicate their views about the role of Parliament on police accountability. Majority (60.3%) of the respondents indicated holding police to account through portfolio committees as the major police oversight role by Parliament (Table 6.1). This was followed by 18.3% of the respondents who indicated that the Parliament’s major role is to advise on police policy. Another 7.1 percent were of the opinion that the major role of Parliament is to institute commissions of enquiry on major incidents of police misconduct. However, 14.3% were of the opinion that Parliament does not have any role to play on police accountability.

Table 6.1 Response on the major role played by parliament on police accountability

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No role</td>
<td>18</td>
<td>14.3</td>
</tr>
<tr>
<td>Advising on policy</td>
<td>23</td>
<td>18.3</td>
</tr>
<tr>
<td>Holding police to account through portfolio committees</td>
<td>76</td>
<td>60.3</td>
</tr>
<tr>
<td>Instituting commission of enquiries on major incidents of police misconduct</td>
<td>9</td>
<td>7.1</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100.0</td>
</tr>
</tbody>
</table>
Though they had diverse opinion on the role of the Parliament, at least the respondents indicated that the Parliament has a role to play- one way or another. Further, a follow up was made with interview respondents. Some of the interview respondents were asked to comment on the role played by Parliament in enhancing police accountability. The following were some of their responses;

“The legislature is responsible for passing laws and it can pass laws which can curb police abuse of power. All the laws that have a bearing on the police have been passed by parliament. Where we notice incidents of police abuse of power, we can as well pass laws to prevent such abuse” (R4).

“Of course the major role of parliament is to make laws. But we have mechanisms where parliament can directly hold the police to account. For example, we have a Portfolio Committee on Defence and Security which can summon the minister responsible for police to explain some of the police actions. We also have a Thematic Committee on Human Rights and the committee can address issues of human rights violations by the police” (R9).

“The parliament represents the electorate and where the electorate feels that the police are abusing their powers, they look upon their representatives in parliament to initiate corrective measures. Moreover, it is the role of the parliament to ensure that all institutions of the government- the police included, uphold the constitution” (R10).

“The whole essence of a parliament is to promote democratic governance. If the police decide to act contrary to the democratic governance, the parliament should
take them to task...we have Portfolio Committees on defence and security and justice- these can hold both the minister and the Commissioner General to account” (R11).

“To make laws which limit police powers and in the process curbing police abuse of power through arbitrariness” (R12).

The above findings clearly show the importance of the Parliament as an institution of police accountability. First, Parliament is the sole law-making branch of government (Stapenhurst & Pelizzo, 2012) and this explains why several interview respondents (R4; R9; R12) highlighted law making as one of the major Parliament roles on police accountability. Consequently, as noted by the respondents, Parliament is responsible for passing laws which curtail police abuse of power. In support of these views, CHRI (2006) correctly provides that Parliament has the power to correct systemic faults by passing new laws to seek accounts of police performance, and to keep policing under constant review.

The control of police through portfolio committees seems to be the major role played by Parliament in enhancing police accountability. The important role played by portfolio committees was also reiterated by several other previous researchers (CHRI, 2006; McLeay, 2006; Rahman, 2008; Stapenhurst, 2012). To this end, the Parliament of Zimbabwe has two portfolio committees which can deal with police accountability. These are Defence, Home Affairs and Security Services portfolio and the Justice Legal and Parliamentary Affairs portfolio. Among the two, the former seems to be the one which directly deals with the police. Whilst Portfolio Committees
are for members of the National Assembly, thematic committees are in place for Senators. The Thematic Committee on human rights is responsible for all human rights issues, including human rights violations by police officers. To this end, these portfolio committees and thematic committees play an oversight role though scrutinising actions by police.

Furthermore, some issues that were raised by the respondents (R10; R11; R12) bordered around democratic governance. To promote democratic governance and in the spirit of the democratic theory, all public institutions (including the police) should be held accountable and the Parliament has an important role to play in enhancing accountability. In support of the respondents’ views, Bovens et al (2008) correctly point out that public accountability is extremely important from a democracy theory perspective and it enables citizens and their representatives to make those holding public office answer for their deeds.

### 6.2.3 Parliament’s powers and capacity

The oversight role of Parliament can only materialise if the Parliament has the necessary powers and capacity to hold public institutions to account. McLeay (2006:158) points out that parliamentary committees must be able to summon Ministers, witnesses and documents in order to perform their legislative scrutiny. Further, committees must be able to question civil servants and the police also form part of the civil servants. To this end, questionnaire respondents were asked to indicate their response on whether the Parliament has the necessary powers and capacity to hold the police to account, and responses are presented on Figure 6.1.
As depicted on Figure 6.1, majority (58%) of the respondents were inclined to agree with the fact that the Parliament has the necessary powers and capacity to hold the police to account. Barely a third (28.6%) were inclined to disagree whilst the other 13.5% was undecided.

In addition, some interview respondents were asked to comment on the powers of Parliament and the institution’s capacity to hold the police to account. The respondents had the following views;
“I think they have the powers...if they can summon the Minister or the Commissioner General to appear before them...well exercising of these powers is another issue, whether they choose to exercise them or not- it’s up to them. But the bottom line is that they have the necessary powers” (R9).

“The parliament has the necessary powers. Most of these are contained in the Privileges, Immunities and Powers of Parliament Act. That’s where we have the powers to summon any employee of the state, the police included” (R10).

“The constitution has granted the parliamentarians power over all institutions of governance in Zimbabwe. In terms of capacity, I think they have the capacity. Where they see malpractice on the part of the police, they can simply pass law to deal with such malpractice” (R11).

“Like I have already highlighted, they have the power to make relevant laws to curtail police abuse of power. I think that is the most important power that is at their disposal. But I don't think making laws alone is adequate, they don't have mechanisms to force the police to comply with the relevant laws- meaning their capacity is only limited to the extent of making laws” (R12).

The findings suggest that the Parliament has the necessary powers to hold the police to account. As earlier indicated, the constitution provides for the generic powers of Parliament. More detail on these powers is given under the Privileges, Immunities and Powers of Parliament Act [Chapter 2:08]. Section 9 of the Act provides that;
Parliament or a committee—

(a) may by way of a summons issued in terms of section ten—

(i) order any person to attend before it;

(ii) require the production of any document or thing which is in the possession of or under the control of any person;

(b) may require any person attending before it, whether or not he is summoned in terms of section ten—

(i) to give evidence;

(ii) to be examined upon oath which the Speaker, the chairman of the committee or any other person appointed by the Speaker, may administer for the purpose.

To this end, Parliament therefore can summon any public official, including police officers to appear before it. Also, section 12 provides that a person who is summoned to appear before Parliament is bound to give evidence. More importantly, the Act also provides for certain offences in relation to appearance before Parliament. For example, section 19 provides for a charge of perjury on a person who gives false evidence before a Parliament or a Committee of Parliament. A person who has been summoned to appear before Parliament but fails to appear will be guilty of contempt and according to Section 23, the Speaker may issue a warrant for the arrest and imprisonment of any person who has been adjudged by Parliament to be guilty of contempt. From the above statutory provisions, it is evident that the Parliament has all the necessary powers at its disposal to deal with issues such as police abuse of power. The mere presence of these powers within the country’s statutes is a major milestone. Commenting on the mere presence of powers, Mcleay (2006) argues that, “It is not that committees generally have to exercise their powers.
Rather, the potential power of the committees to do this is very important”. However, as one respondent (R9) correctly pointed out, exercising of those powers is a different issue. The question to ask here is, “Is the Parliament really exercising these powers”. The question of effectiveness then comes to the fore.

6.2.4 Current effectiveness of the parliament on police oversight

Whilst the importance of Parliament as a police oversight institution has been emphasised in the preceding discussion, the current effectiveness of Parliament also needs to be assessed. As will be observed, a number of factors should be considered in determining the effectiveness of the Parliament as a police oversight institution. To this end, respondents from external accountability institutions were asked to indicate their opinion on the current effectiveness of Parliament as a police oversight institution.

As depicted on Table 6.2, slightly above a third (38.1%) of the respondents considered the Parliament to be effective, with only 1.6% considering it to be very effective. About a quarter of the respondents (26.2%) considered the Parliament to be somewhat effective. The remainder considered the Parliament to be either less effective (24.6%) or not effective (9.5%). Further, the mean statistic of 2.9762 seems to suggest that on average, most of the respondents considered the Parliament to be somewhat effective as a police oversight institution.
Table 6.2 Response on the current effectiveness of parliament in holding the police to account

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Not effective</td>
<td>12</td>
<td>9.5</td>
</tr>
<tr>
<td>2 Less effective</td>
<td>31</td>
<td>24.6</td>
</tr>
<tr>
<td>3 Somewhat effective</td>
<td>33</td>
<td>26.2</td>
</tr>
<tr>
<td>4 Effective</td>
<td>48</td>
<td>38.1</td>
</tr>
<tr>
<td>5 Very effective</td>
<td>2</td>
<td>1.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Mean 2.9762  SD 1.03896  Variance 1.079  Sp -0.387

Whilst majority of the respondents concurred that the Parliament has the necessary powers and capacity, they seemed to have a different opinion on its effectiveness. The possible explanation for the state of affairs could be that the Parliament is not fully exercising its oversight powers. The composition of the Parliament also has a bearing on the effectiveness of Parliament.

A follow up was also done with the interview respondents and the researcher posed the question “Currently how effective is the Parliament as an institution for police accountability?”

Two of the respondents were of the opinion that Parliament is effective and they provided the following responses;
“I think the Parliament is effective, not only for the police but for all other state institutions. We hear of public officials appearing before portfolio committees almost on a daily basis. During the question and answer sessions, we have also had questions on police operations, specifically on the increased number of road blocks and the responsible minister has been called to respond” (R4).

“I think the Parliament is effective, considering the fact that all political parties are represented...we even have some portfolio committees that are chaired by opposition MPs. We have even witnessed situations where ruling party MPs have criticised policies by ministers from their party. I am of the view that our Parliament is independent and it’s this independence that promotes effectiveness” (R10).

However, two respondents had different views, and they had reservations on the composition of parliament. They raised the following important points;

“Whilst the parliament has wider powers to whip government institutions into line, I think they are sitting on those powers. Maybe it’s because of political polarisation- MPs fearing to criticise ministers from their political parties” (R11).

“The parliament can only be effective to the extent that opposition political parties are adequately represented. The previous parliament- yes, it could have been effective because there was almost an equal representation of both ruling party and opposition party legislators. Currently opposition legislators are not even a third of the parliament and it becomes difficult to push for a bill to deal with police abuse...” (R12).
The divergent views from the respondents possibly justify the mean statistic of 2.9762, indicating that Parliament is somewhat effective. On the positive side, the question and answer session presents the Parliament with one of the best opportunities to raise questions about police policy. The issue of corruption and excess police roadblocks on the country’s highway received much attention during the question and answer sessions in 2016. Responding to questions raised by Parliamentarians, the Minister of Home Affairs, who is also responsible for the police had this to say,

“I want to inform this august House that there is a paper circulating in government whereby roadblocks will be manned by satellite so that from an office in Harare, you can see what is happening at a roadblock in Tsholotsho and you can pay using methods such as plastic money or mobile transfers. There will not be any cash that will be exchanged. Therefore we will be reducing the temptation for police officers to be corrupt” (Gumbo, 2016:1).

The above response from the Minister shows that the Parliament had been able to influence police policy on roadblocks, though the policy had not yet come into effect at the time of writing this thesis. In another headline in a local daily newspaper, the Speaker of Parliament is quoted saying, “We have observed as Parliament that there is no law concerning roadblocks and they are just being erected willy-nilly” (Majaka, 2016:1). This was highlighted after concerns had been raised by Parliamentarians on the negative impacts of numerous police roadblocks on the tourism sector (Majaka). The response by the minister and subsequent comments by the Speaker of Parliament show that the Parliament is taking action on police excesses. It can also
be argued that the Parliamentarians have been able to influence police policy by frequently raising the issue of corruption in Parliament.

Another positive aspect on the effectiveness of Parliament pertains to the composition of portfolio committees. Stapenhurst and Pelizzo (2012:335) opine that appointments to committees should not be arbitrarily made by political parties or the speaker but should rather be influenced by a combination of factors such as background, education, leadership potential, and party affiliation amongst others. The researcher noted that the majority of the members for the portfolio committee on Defence, Home Affairs and Security Services had a background on security; hence they can articulate issues pertaining to policing. The committee also has representatives from all political parties, though on a proportional basis. Moreover, most of the members for the Justice Legal and Parliamentary Affairs Portfolio have legal background.

However, the current composition of the Parliament also seems to militate against the effectiveness of this important institution, as was noted by two respondents (R11; R12). Currently the ruling party, Zimbabwe African National Union (ZANU PF) has about two thirds majority. This gives them the power to override on all important discussions, including those pertaining to police accountability. The negative effects of having a Parliament dominated by the ruling party is also noted by McLeay (2006:169), who asserts that government will pursue their own policy objectives unless constrained by legislative rules. It is also important to note that a Bill needs a two thirds majority to be passed into law in Zimbabwe. The domination of Parliament
by a single party possibly explains why the Parliament is taking longer to align laws such as POSA, AIPPA and the Criminal Law Code to the Constitution.

6.3 THE HUMAN RIGHTS COMMISSION

In order to ensure the domestic protection of human rights, the Constitution of Zimbabwe (Section 242) establishes the ZHRC, with the primary role of promoting and protecting human rights at all levels of society (Chiduza, 2015). The ZHRC was established in 2010 but the institution did not have a secretariat until June 2014. Effectively, the ZHRC commenced operations in 2014. The functions of the ZHRC, which were mainly derived from the Paris Principles, are contained in section 243 of the Constitution and the following are some of the powers:

“a) To promote awareness of and respect for human rights and freedoms at all levels of society; b) to promote the protection, development and attainment of human rights and freedoms; c) To monitor, assess and ensure observance of human rights and freedoms; d) to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate; e) to protect the public against abuse of power and maladministration by State and public institutions and by officers of those institutions; f) to investigate the conduct of any authority or person, where it is alleged that any of the human rights and freedoms set out in the Declaration of Rights has been violated by that authority or person; g) to secure appropriate redress, including recommending the prosecution of offenders, where human rights and freedoms have been violated”.
Whilst the Constitution spells out the broad mandate for the ZHRC, an enabling statute- The Zimbabwe Human Rights Commission Act [Chapter 10:30] was also promulgated in 2012. In addition to the above mentioned constitutional mandate, section 4 of the ZHRC Act also provides for the following functions of the ZHRC:

(a) to conduct investigations on its own initiative or on receipt of complaints;
(b) to visit and inspect prisons, places of detention, refugee camps and related facilities in order to ascertain the conditions under which inmates are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places or facilities;
(c) to visit and inspect places where mentally disordered or intellectually handicapped persons are detained under any law in order to ascertain the conditions under which those persons are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places; and
(d) to ensure and provide appropriate redress for violations of human rights and for injustice;
(e) to co-operate with human rights institutions belonging to international, continental or regional organisations of which Zimbabwe is a member.

To this end, the first principle on the Paris Principles for NHRI, that is, a clearly defined broad mandate has been met by the nation through the broad constitutional mandate and promulgation of a separate enabling statute. More so the appointment, terms of office and conditions of service for the ZHRI are contained within the two statutes, in compliance with the dictates of the Paris Principles.
6.3.1 The ZHRC and the Paris Principles

The Paris Principles require NHRI s to have both operational independence and financial independence (ZHRC, 2013). Section 7 of the ZHRC Act provides for the independence and partiality of the ZHRC. Specifically section (1) provides that;

“A Commissioner or a member of staff of the Commission shall serve impartially and independently and exercise or perform his or her functions in good faith and without fear, favour, bias or prejudice and subject only to the Constitution and the law”.

The ZHRC Act also provides for the funding of the ZHRC by the State, thus providing the much needed financial independence. Additionally, under section 17 (c) the ZHRC can receive any donations, grants, bequests or loans made by any person or organisation or any government of any country to the Commission with the approval of the Minister. This section seems to promote the principle of pluralism through involving other societal players in the funding of the ZHRC. However, as noted by Chiduza (2015), the fact that the Minister has to approve the donations militates against the independence of the ZHRC.

The issue of adequacy of resources seems to be receiving attention from the State, as evidenced by the commissioning of the premises of the ZHRC in 2016 after completion of the construction of the head office in Harare. Moreover the Secretariat, which runs the day to day affairs of the institute, is also operational. Adequacy of the powers of investigation is also one of the important aspects of the Paris Principles. These investigative powers are contained under Section 243 (f) of the Constitution and Section 4(a) of the ZHRC Act, and these provisions have already been...
highlighted. However, the adequacy of the investigative powers is discussed later in this chapter.

6.3.2 The operating structure of the ZHRC and the complaints handling process

The ZHRC, has a complement of nine Commissioners, including the Chairperson and Deputy Chairperson (ZHRC, 2014:8). Whilst the Commissioners provide the leadership role to the ZHRC, the Secretariat is responsible for the day- to- day running of the institution. To enable it to carry out its mandate, the ZHRC has established three units, which are: the Complaints Handling and Investigations Unit (CHI); the Education Promotion and Research Unit (EPR); and the Monitoring and Inspections Unit (M&I) (ZHRC, 2014:9). Each Unit is headed by a Chief Human Rights Officer. Perhaps, the most important among the three is the CHI, which has the responsibility of handling and investigating complaints. However, the importance of the other two departments (EPR and M & I) in shaping the nation’s human rights discourse cannot be downplayed.

6.3.2.1 The ZHRC’s complaints handling process

It can be argued that an oversight institution’s complaints handling process largely determines the effectiveness of the institution. The ZHRC also has a six stage process for dealing with human rights complaints and the stages are presented on Table 6.3.
Table 6.3 Stages for making a human rights complaint with the ZHRC

<table>
<thead>
<tr>
<th>Stage 1</th>
<th>Stage 2</th>
<th>Stage 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person makes a complaint of a human rights violation to the Commission.</td>
<td>Intake Process- (Receiving and recording details of the alleged human rights violation).</td>
<td>Commission assesses whether it has a constitutional &amp; legal jurisdiction to handle the complaint.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Stage 4</th>
<th>Stage 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigation- (Thorough details of the complaint are collected and recorded from all sources through contacting and interviewing complainants, respondents and witnesses relevant to the complaint.</td>
<td>Commission recommends appropriate action to redress/ resolve the complaint.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Stage 6</th>
<th>Stage 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action is taken to address the complaint- (redress mechanisms recommended is implemented)</td>
<td>Monitoring and follow up on actions- (recommended redress mechanisms) is undertaken</td>
</tr>
</tbody>
</table>

**ZHRC brochure on complaints handling, 2013**

The above procedure was also reiterated by interviewees from the ZHRC. The major ways of reporting as highlighted by the interviewees (R1; R2; R3) were walk in(s), through email and telephone. Complainants from various communities also launch complaints during awareness campaigns in their respective communities.
6.3.2.2 Accountability for the ZHRC

Another important issue relates to the oversight mechanism for the ZHRC. Just as there is need for oversight of the police, there is also need for oversight of the institutions for police accountability. To this end, the ZHRC Act mandates the ZHRC to report to Parliament as well as to the Minister of Justice, Legal and Parliamentary Affairs. The ZHRC 2014 annual report also reveals that the ZHRC presented reports to the Thematic Committee on Human Rights.

6.3.2.3 Discussion on the complaints handling procedure

Victim involvement and public scrutiny have been identified as key features of an effective complaint handling process (CECHR, 2009; Hopkins, 2009). The complaints procedure depicted on Table 6.3 shows that the complainant or victim is involved in the whole complaints process, and this is positive scenario. Public scrutiny, as a measure of an effective complaints handling process, is exhibited through tabling of reports before Parliament, as well as publication of annual reports, which are provided to the public for free.

The mere presence of the ZHRC is a major milestone in addressing human rights issues. It is important to note that most of the complaints to the Commission are against the police, as highlighted by all the interview respondents from the ZHRC. In a democracy, citizens expect the police to take a leading role in the protection of human rights (Matara, 2010), and it is an affront to the democracy theory to have a scenario whereby the police are at the forefront for human rights violations. The ZHRC therefore acts as a watchdog to protect the citizens from abuse of powers by public officials such as the police. It is also important to highlight that several other
nations have Human Rights Commissions to deal with issues of human rights violations. Peter (2009) notes that a total of thirty-one countries in Africa have Human Rights Institutions. Other nations like Namibia have the Office of the Ombudsman, which has a human rights mandate (Chiduza, 2015).

However, the fact that the constitution has established a fully operational Human Rights Commission with enabling legislation will not automatically guarantee the effective protection and promotion of human rights. Chiduza (2015) correctly points out that the success of the ZHRC in effectively protecting and promoting human rights goes deeper than its mere establishment. The next section of this chapter deals with opinion on the effectiveness of the ZHRC as an institution for police accountability, as well as some of the obstacles to its police oversight role.

6.3.3 Respondents' views on the effectiveness of the ZHRC

Respondents were asked about their opinion on the current effectiveness of the ZHRC as an institution of police accountability. Their responses are presented on Figure 6.2. Almost 40% of the respondents considered the ZHRC to be either effective (36.5%) or very effective (3.2%). Another 28.6% considered the institution to be somewhat effective. The remainder considered the ZHRC to be either less effective (25.4%) or not effective (6.3%).
Figure 6.2 Response on the effectiveness of the ZHRC in enhancing police accountability

Further statistics on Table 6.4 show a mean statistic of 3.0476, implying that on average the respondents are of the opinion that the ZHRC is somewhat effective as a police oversight institution.

Table 6.4 Statistics on the effectiveness of the ZHRC as a police accountability institution

<table>
<thead>
<tr>
<th>Not effective</th>
<th>Less effective</th>
<th>Somewhat effective</th>
<th>Effective</th>
<th>Very effective</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Skewness</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.3%</td>
<td>25.4%</td>
<td>28.6%</td>
<td>36.5%</td>
<td>3.2%</td>
<td>3.0476</td>
<td>1.0476</td>
<td>-0.290</td>
</tr>
</tbody>
</table>
Though, not as effective as the Courts and the Constitution, respondents seem to be a bit satisfied with the current ZHRC. This could possibly be as a result of the absence of an alternative independent body to specifically deal with police misconduct. On being asked on current effectiveness of the ZHRC for holding the police to account, interview respondents however had different perceptions and the following were some of their responses;

“ I don’t think there is anything that can stop them from being effective. They are an independent body and it difficult for the police to exert undue influence on them. It’s one of the independent institutions that is on the ground and working. We have also seen them present their reports before parliament... so maybe we have to give them a bit of credit” (R11).

“I don’t think they are effective. If they were, we would be seeing them taking action on some of the highly publicised incidents of police brutality. Currently, opposition politicians are being denied their constitutional right to protest but the commission is silent, only for the protestors to get relief from the courts” (R12).

“Yes, I think they are doing their best under difficult conditions. Currently they are doing awareness campaigns around the country, which is a positive development. In their annual reports, they have highlighted that they are receiving more complaints from the police than any other department” (15).

“Do you think they have the guts to investigate the police? I do not think so. They may be effective on other spheres but not with the police” (R16).
The above responses reveal mixed feelings on the effectiveness of the ZHRC in holding the police to account. From the above findings, it can be argued that the effectiveness of the ZHRC goes deeper than the mere presence of this important institution. We should also not lose sight of the fact that the ZHRC does not deal with the police only, but with any kind of human rights issues from any citizen. The Commission also deals with cases of maladministration; hence it may be difficult to judge their performance only on issues pertaining to policing. However, important facts were raised by some interviewees from the ZHRC, in addition to available secondary data, which addressed the issue of effectiveness.

6.3.4.1 Procedure for investigating complaints against the police and its effectiveness

Notwithstanding the whole complaints procedure as previously explained, respondents were asked to outline the procedure for investigating a complaint against the police. It was found out that the ZHRC does initial investigations through interviewing victims, complainants and witnesses. They then write to the Commissioner General of Police, indicating to him the nature of allegations, place and the implicated police officers. Though the respondents claimed that the Police General Headquarters (PGHQ) always acknowledges receipt of the complaint, the police do not always report on the findings and action taken against implicated officers. One interviewee remarked,

“...amongst all government institutions that we write to, the ZRP always responds in time to acknowledge receipt of the request. However, the challenge is in taking the necessary action against implicated police officers” (R3).
The current scenario seems to gravitate towards the **Hybrid Model**, which incorporates both internal and external models. There seems to be a shared responsibility of investigation. This scenario is supported by Punch (2009), who opines that shared responsibility for investigation represents best practice as well as good value for money.

Whilst the ZHRC does the preliminary interviews, it can be deduced that the police will have to do the investigation against implicated officers and provide feedback to the ZHRC. In essence, the police will do the investigation, not the ZHRC. However, as highlighted in the literature review, independent investigation of police misconduct is the litmus test of whether a police complaints system is deemed to be effective (Prenzler, 2011; Savage, 2013). Forwarding the complaint to PGHQ for the police to investigate removes the much needed independence. EPAC (2011) also argued that police oversight bodies should be sufficiently separated from the hierarchy of the police. To this end, an ideal situation would be whereby the ZHRC would carry out the whole investigation, including questioning the implicated police officers, rather than only carry out a partial investigation and forward to the PGHQ.

Moreover, the **adequacy principle**, as Smith (2015:120) highlights, holds that for an investigation to be effective, it must be capable of gathering evidence to establish if police behaviour was lawful, and identify and punish those responsible. Consequently, doing partial investigation, as is the current scenario does not augur well with the adequacy principle.
6.3.4.2 Competency of investigators

Despite calls for having an independent body to investigate police officers in cases of misconduct, concerns have been raised over the competency of investigators and their capacity to penetrate the police world (Simmons, 2010:373). Arguably, the investigation of police complaints involves dynamics different from those in criminal investigations (Prenzler & Ronken, 2001), hence the need for specialised skills. To this end, the researcher inquired from the respondents (ZHRC) about the educational background and experience of Human Rights Officers. The respondents concurred that most of the respondents have legal background, and none of the employees at the ZHRC has policing background.

The researcher also posed the following question to the interview respondents: 

Some people are of the view that only police officers are capable of conducting investigations. What’s your view and do you have former police officers as part of the investigators? The respondents had the following responses:

“No we don’t have police officers. I don’t think so. Anyone can be an investigator and we received training in investigations before we were assigned some investigative duties” (R1).

“Oh no, it’s absurd. Just as they were trained to do the investigation, we were also trained to do the investigations. We need lawyers and not police officers for a human rights institution. I totally disagree with that line of reasoning” (R2).
“No we don’t have any. We train all our human rights officers to be investigators and this training is not a one off event. We even engage the police to assist us on some aspects of investigation during these training sessions. Even though most of our investigators have legal background, we have managed to turn them into competent investigators through training” (R3).

Arguments that were raised by the respondents make sense, especially given the fact that even police investigators only became investigators after receiving the necessary training. However, as has already been indicated, situations in which the Human Rights Officers deal directly with police officers during investigation are limited or non-existent. To this end, the respondents, due to their lack of policing background, may not comprehend how the code of silence impacts on investigations in which police officers are implicated.

6.3.4.3 Does the ZHRC have the capacity?

The Paris Principles require that National Human Rights Institutions be capacitated in terms of financial and material resources. Currently the ZHRC has two offices- one in Harare (head office) and the other in Bulawayo. Respondents from the ZHRC were also asked on whether they are able to effectively deal with human rights complaints as well as the current situation in terms of financial resources. They had the following responses;

“We are effectively handling complaints from the two offices. We also carry out outreach programmes throughout the whole country so that all citizens know about
our mandate. However there is need for decentralisation for all citizens to be able to access and launch complaints with the Commission” (R1).

“No we really need to decentralise. We have to reach all four corners of the country. Staff compliment is also low- we are understaffed. We also have resource constraints and we do not have the funds to go on the ground” (R2).

“We have a very limited fiscal space and this is negatively affecting our operations” (R3).

From the above findings, it can be argued that the ZHRC does not have the capacity to effectively deal with human rights complaints. Having only two offices to cover the whole country is an untenable situation. As the respondents correctly pointed out, there is need to decentralise the offices to all the country’s provinces in order to afford every citizen an opportunity to report incidents of human rights violations. The issue of limited funding to the ZHRC is also an assault on democratic governance. Though the whole economy is operating under a constrained fiscal space, institutions such as the ZHRC should receive adequate funding.

6.3.4.4 Powers of the ZHRC: Are they adequate

An effective police oversight body should have the power to investigate (Porter, 2013), powers to gather evidence and to identify and punish the implicated police officers (Smith, 2013:95). To this end, respondents were asked to indicate their agreement to the opinion that the ZHRC has limited powers and their responses are presented on Figure 6.3.
Figure 6.3 Response on the opinion that the ZHRC has limited powers

As depicted on Figure 6.3, majority of the respondents (68.3%) believed that the ZHRC has limited powers for holding the police to account. Only 14.3% of the respondents were inclined to disagree with the fact that the ZHRC has limited powers, whilst the other 17.5% was undecided.

The above findings point to the need for addressing the issue of powers for the ZHRC. Whilst the Constitution provides for the powers to investigate, it is not clear on how the investigation should be conducted. Even the ZHRC Act does not specify how the investigations should be conducted. One respondent raised the following important points regarding the powers;
“Powers could be adequate but they need to be modified into clearer roles. There is need for regulations – something broader that what is in the constitution. Of course the constitution cannot have every detail but we need detailed information on the power to investigate...” (R3).

Other respondents from human rights based NGOs also bemoaned the limited powers of the ZHRC, with one respondent even labelling this important institution a “toothless bulldog”. They reiterated the need for more clear powers and roles, especially when dealing with organisations such as the police. There is therefore need for more statutory provisions which amongst others provide for compelling the police to provide evidence to the ZHRC and specifying the relevant remedies for specific human rights violations, as recommended by Smith (2013).

Respondents also cited Section 243 (h) of the Constitution which empowers the ZHRC to direct the Commissioner General of Police to investigate criminal cases of human rights violations. Whilst this is an important provision, it actually removes the investigative powers from the ZHRC and gives them to the police. To this end, what the Constitution does is to give the powers to the Commission with one hand, only to take them away with the other hand.

6.4 CONCLUSION

The chapter began by evaluating the Parliament’s role in police accountability. The Parliament’s primary role is to enact laws, and in the process of enacting laws, the parliament can pass laws which curtail police abuse of power. Accountability through the relevant portfolio committee was highlighted as the major role that is played by
Parliament on police accountability. Moreover, the Parliament is empowered to summon the minister responsible for police, and even police officers to question them about police operations. The question and answer time also presents legislators with the opportunity to scrutinise some of the police actions. More importantly, the Parliament has legal mechanisms to enforce some of their powers. However, a minority opposition in Parliament militates against the effectiveness of the parliament. The chapter also evaluated the ZHRC as a police accountability institution. In the absence of an independent body to solely deal with police misconduct, the nation can rely on the ZHRC; at least in as far as human rights violations are concerned. Whilst the nation has followed the global trends to create an independent human rights institution, the institution has been faced with a number of challenges. Lack of clearly defined roles, limited fiscal space and limited powers are the major challenges for the ZHRC. The next chapter will focus on societal accountability.
CHAPTER SEVEN

CIVIC SOCIETY AND MEDIA’S ROLE ON POLICE ACCOUNTABILITY

“A free, independent and plural media can provide a crucial check on abuse of power and corruption, enables informed public debate on critical issues and provides recognition to all sectors of society”

- (Emslie, 2015:7)

7.1 INTRODUCTION

This chapter focuses on the role of the civic society and the media on police accountability. Firstly the chapter discusses the role of civic society; mainly focusing on human rights based NGOs. The nature of civil society operations in Zimbabwe is outlined, as well as its role in enhancing police accountability. The effectiveness of this important societal accountability mechanism is also interrogated. Secondly, this chapter focuses on the media’s oversight role of the police. The legal framework, as well as the nature of the media operations in Zimbabwe is also outlined. Also, the effectiveness of the media on police accountability is evaluated. Lastly, the challenges that are faced by the two institutions in enhancing police accountability are also discussed.

7.2 CIVIC SOCIETY ORGANISATIONS

Civic society organisations are composed of diversified community ranging from humanitarian charities and community based organisations, to development NGOs and governance- oriented civic organisations (NANGO, 2014). Social movements,
advocacy groups and human rights activists also form part of the civil society (Zhou, 2014). Civil society organisations operate in several fields including: peace building, human rights protection, research and analysis, media and information dissemination, transitional justice, democratisation amongst others (NANGO, 2014). It is important to note that most of the fields have a bearing on policing, hence the importance of the civil society in the policing discourse.

Whilst there are numerous diverse civil society organisations operating in Zimbabwe, this thesis mainly focused on human rights based NGOs. Human rights based NGOs deal with issues of human rights violations by public officials, especially the police. However, a few respondents were also selected from various pressure groups and they provided insights into their encounters with the police.

7.2.1 Regulation of NGO operations in Zimbabwe: The legal arsenal

The operations of NGOs in Zimbabwe are governed by several legal instruments. Whilst the Private Voluntary Organisations Act [Chapter 7:05] is the enabling statute for the operations of NGOs, other statutes such as the Public order and Security Act [Chapter 11: 17] and the Constitution have an impact on the operations of NGOs in Zimbabwe.

7.2.1.1 The Private Voluntary Organisations Act

Civil society organisations CSOs in Zimbabwe are governed mainly by the Private Voluntary Organisations Act [Chapter 7: 05]. The mandatory registration of CSOs in Zimbabwe is primarily provided for by the Act and the registration gives the CSO a legal status. However, the legal framework applicable to private voluntary
organisations contains several legal barriers for the establishment of CSOs. NANGO (2014) notes the complexity of the registration of CSOs and the absence of established criteria for evaluation of applicants as impediments to the operation of CSOs in Zimbabwe. The absence of evaluation criteria leads to subjective evaluation of applications and potential human rights NGOs which are perceived to be hostile to public institutions’ operations may find it difficult to register. Foreign international NGOs also face stringent procedures.

7.2.1.2 The Public Order and Security Act

The Public Order and Security Act [Chapter 11:17] (POSA) also impacts on the operations of CSOs in Zimbabwe, specifically on public gatherings by CSOs. POSA, which was enacted in 2003 to deal with the maintenance of law and order in the country provides for procedures for processions, public demonstrations and public meetings. Most of the operations for human rights based NGOs involve regular meetings and processions; hence they have to comply with the statutory provisions. Of particular interest is Section 25 which requires conveners of public gatherings to notify the regulating authority (officer commanding police district) for any intended procession, public demonstration and public meeting. Another provision, which is however controversial is section 27 of the Act, which empowers the regulating authority powers to temporarily prohibit public demonstrations in the interests of national security. This section has faced criticism from the broad spectrum of the civil society, as it is perceived to violate the citizens’ freedom of association. Whilst POSA has been widely criticised for its perceived violation of constitutional rights, it is important to note that countries across the globe are also enacting stringent legislation to deal with the threats of terrorism and extremism.
7.2.1.3 The Constitution

The Constitution of Zimbabwe, which was adopted in May 2013, contains a number of new provisions that could potentially enlarge the operational space for civil society in the country (NANGO, 2014:4). Amongst these provisions is the respect for the rule of law and fundamental rights and freedoms. The inclusion of the right to assembly and association, freedom of expression and freedom to demonstrate, create an enabling environment for the operations of NGOs in Zimbabwe. To this end, human rights based NGOs can gather and express their opinion on issues of governance, including issues relating to policing.

However, an issue that has been raised on various platforms, even in Parliament, is the slow pace at which various laws are being aligned to the new Constitution. NANGO (2014:7) also reports that the government has failed to amend or repeal all the laws rendered unconstitutional and continues to use these laws to repress people exercising their rights in Zimbabwe. However, there has of late been progress as reported by Kakore (2016) wherein the Minister of Justice reported that 159 laws out of the 200 which require alignment had been aligned as of June 2016.

7.2.2 Nature of human rights based NGO and their roles in the human rights discourse

The largest human rights based NGO in Zimbabwe is the Zimbabwe Human Rights NGO Forum, which is an umbrella body for about 20 other human rights NGOs and pressure groups. Other important human rights based NGOs, which are affiliated to the Zimbabwe Human Rights NGO Forum include: Amnesty International-Zimbabwe; Zimbabwe Human Rights Association (ZHRA); and the Zimbabwe
Lawyers for Human Rights. It is important to note that most of the police misconduct manifests itself through violation of citizens’ rights, hence the human rights based NGOs play an important role in monitoring violations of citizens’ rights by the police.

In its quest to deal with human rights violations in Zimbabwe, the Zimbabwe Human NGO Forum has three units. These are: (1) The Transitional Justice Unit which is responsible for rebuilding social trust; building a democratic system of governance and addressing human rights violations; (2) The Public Interest Unit, which is responsible for challenging impunity and holding the government accountable for its actions by litigating cases of organised violence and torture; and (3) The Research and Documentation Unit, which is responsible for the production of regular reports on human rights violations in Zimbabwe (Zimbabwe Human Rights NGO Forum, 2016). Similarly, the Zimbabwe Human Rights Association (ZimRights)’s mission is to promote, protect and defend human rights in Zimbabwe through education, information, legal aid, counselling, lobbying, advocacy and networking (Zimrights, 2016). Amongst others, the ZimRights is guided by the following objectives: lobbying and advocating for the ratification of regional and international instruments; promoting human rights awareness and respect for all with special emphasis on the marginalised groups; and networking with local, regional and international human rights organisations with similar objectives (Zimrights, 2016).

Amnesty International is the leading international human rights NGO that is operating in Zimbabwe, whose mandate is to help fight abuses of human rights. The organisation also deals with issues such as detention, disappearances, freedom of expression and torture (Amnesty International, 2016). In addition Amnesty
International fulfills its mandate in three ways namely: research; advocacy and lobbying; and campaigns and action (Amnesty International, 2016). Amnesty International has written several reports on human rights violations in Zimbabwe and other countries across the globe.

Perhaps the most influential human rights based NGO is the Zimbabwe Lawyers for Human Rights (ZLHR). The ZLHR under its Public Interest Litigation cluster has the following objectives amongst others: redressing and compensation for victims and survivors; documentation of human rights violations; introducing personal accountability to State actors like policemen and other public officials; introducing institutional and collective accountability to police, army, State organs and ministries; and creating human rights violators or representative state organs to justice (ZLHR, 2016). The ZLHR has also established the Human Rights Defenders Project with the primary goal of assisting in the protection of human rights defenders from the effects of directed harassment, intimidation, arrests and victimisation by the state and other non-state functionaries (ZLHR, 2016). It can thus be argued that the major thrust of the ZLHR is to offer legal advice to victims of police abuse of power.

7.2.3 Respondents’ views on the role of NGOs

Respondents were asked to indicate their opinion on the role of NGOs in enhancing police accountability. As depicted on Figure 7.1, majority of the respondents indicated advocacy role and legal advice to victims of police abuse as the major roles of NGOs in holding the police to account, with 44.4% apiece.
Figure 7.1 Respondents’ views on the major role played by the NGOs in holding the police to account

The two roles (advocacy role and giving of legal advice to victims of police abuse) were also cited by the interview respondents as the major roles played by the NGOs in holding the police to account.

### 7.2.3.1 Advocacy role

The advocacy role mainly entails documentation of human rights violations, lobbying and campaigning against human rights violations by the police. In relation to the above mentioned NGOs, this role is played by the Research and Documentation Unit of the Human Rights NGO Forum; the Zimbabwe Human Rights Association and Amnesty International. To perform this advocacy role, these NGOs make press
statements denouncing police abuse and call on relevant authorities to take action, as well as writing reports on incidents of police abuse of power. During the period of writing this thesis, the Zimbabwe Human Rights NGO forum issued a press statement on police brutality on 14 July 2016. This was issued after police had used excessive force to disperse protestors who were protesting against deteriorating economic conditions. Part of the press statement read as follows;

*The government has the obligation to respect, protect and fulfil human rights. State sponsored violence that is systematically planned, financed and deployed against the country’s citizens using state resources violates the Constitution and contravenes international human rights law. It further erodes government legitimacy. Thus, the police which must serve us, in accordance with Section 208 of the Constitution, has an obligation to protect, not to violate the fundamental rights of any person* (Zimbabwe Human Rights NGO Forum, 2016).

In the same press statement, the Zimbabwe Human Rights Commission was urged to investigate the police brutality. In the same vein, Amnesty international also condemned the alleged incidences of police brutality during the protests.

In addition, the Zimbabwe Human Rights NGO Forum issues monthly bulletins on human rights issues and violations by the police feature prominently in some of these bulletins. Moreover, Amnesty International issues annual reports on the country’s human rights situation and these reports highlight some of the forms of human rights violations by the police. For example, the 2015/2016 report notes that,
“the rights to freedom of expression for journalists and human rights defenders continued to be restricted through arbitrary arrests, detentions and prosecutions for peacefully exercising their rights” (Amnesty International, 2016: 406).

7.2.3.2 Legal advice to victims of police abuse of power

Police abuse of power manifests itself through arbitrary arrests, unlawful detention and excessive use of force (Mugari, 2014), amongst others. Human rights NGOs, mainly the Zimbabwe Lawyers for Human Rights, provide free legal assistance to victims of police abuse of power. During the protests that characterised some parts of the country in June and July 2016, the ZLHR offered legal assistance to most of the suspects who had been arrested by the police. Some were acquitted whilst the ZHRL had to negotiate bail for other suspects. Another interesting development occurred at Harare magistrates’ court during the trial of political activist Pastor Evan Mawarire, where more than fifty lawyers from the ZLHR turned up at court to represent the activist (Taruvinga, 2016:1).

Access to legal advice is one of the important aspects of the rights of accused persons as enshrined in the Constitution. Thus, the ZLHR ensures protection of this right to victims of police abuse of power, some of whom would not ordinarily afford legal fees.

7.2.4 Respondents’ views on the effectiveness of NGO in enhancing police accountability

Whilst the NGOs play an important role in holding the police to account, the researcher also sought to gauge the respondents’ opinion on the current
effectiveness of NGOs in holding the police to account. Table 7.1 shows that 42.1% of the respondents from external accountability institutions considered the NGOs to be either not effective (17.5%) or less effective (24.6%). Another 38.9% considered NGOs to be somewhat effective, whilst only 19.1% considered NGOs to be either effective (15.9%) or very effective (3.2%). The mean statistic of 2.6270 indicates gravitation between less effective and somewhat effective.

Table 7.1: Respondents’ views on the effectiveness of NGOs in holding the police to account

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Not effective</td>
<td>22</td>
<td>17.5</td>
</tr>
<tr>
<td>2. Less effective</td>
<td>31</td>
<td>24.6</td>
</tr>
<tr>
<td>3. Somewhat effective</td>
<td>49</td>
<td>38.9</td>
</tr>
<tr>
<td>4. Effective</td>
<td>20</td>
<td>15.9</td>
</tr>
<tr>
<td>5. Very effective</td>
<td>4</td>
<td>3.2</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Mean 2.6270  SD 1.04869  Variance 1.100  Sp 0.038

Interview respondents had mixed views on the effectiveness of NGOs, with some viewing them as effective whilst others viewed them to be ineffective. The high success rate in most of the cases in which ZHRL represent their clients points to the effectiveness of the NGOs. Some of the respondents had the following responses;
“I think the NGOs are effective. Among all the NGOs, I would rank the Zimbabwe Lawyers for Human Rights on top. They have successfully represented their clients on incidents of police abuse of power” (R6).

“To some extent I would consider them to be effective. They give an independent critical review of police action. We have seen them criticising police abuse of power in public and in the media, something which you rarely get from the state media and government officials. However, the effectiveness is hampered by the difficult operating environment for human rights based NGOs” (R7).

“They have been effective in some areas such as documenting human rights violations by the police, as well as offering free legal advice to victims of abuse. However, documentation alone without taking corrective action is not enough and this inability to take corrective action is the missing link for NGOs to be considered effective” (R8).

Though the respondents had divergent views on the effectiveness of NGOs, the importance of NGOs in shaping the human rights discourse in the country cannot be downplayed. They have written reports, detailed newspaper articles and have also issued press statements on incidents of police abuse of power. Some of the documents have also been reviewed in this thesis. By offering free legal advice to victims of police abuse of power, they are protecting marginalised members of the society an opportunity to deal with police abuse of power. Pointing to the success of NGOs, the Zimbabwe Human Rights NGO Forum reported on its website that it had over 700 cases that are before the High Court of Zimbabwe and 15 cases that are
before the Supreme Court of Zimbabwe (Zimbabwe Human Rights NGO Forum, 2016).

7.2.4.1 The operating environment for NGOs in Zimbabwe

The operating environment for NGOs has a bearing on their effectiveness in enhancing police accountability. Most of the interviewees cited the difficult operating environment for the NGOs as one of the major impediments to their police oversight role. Incidents of arbitrary arrests and detention of human rights defenders (Amnesty International, 2016; Zimbabwe Human Rights NGO Forum, 2016) present evidence of the nature of the environment in which the NGOs operate. These arbitrary arrests stifle the NGOs’ oversight role of the police in two ways, first by stopping the NGOs from commenting about police abuse of power, and secondly by instilling fear on other NGO representatives.

7.2.4.2 Platform for NGOs to express their opinion

Respondents were asked on whether NGOs are given platform to express their views on police accountability. Slightly above half (52.3%) of the respondents were inclined to disagree with the fact that NGOs are given platforms to express their views about police accountability (Figure 7.2). Barely a third (31%) of the respondents was inclined to agree with the fact whilst the remaining 16.7% was undecided.
Interviewees from NGOs reiterated the need for awareness campaigns on human rights in various communities. This provides them with the opportunity to educate the citizens on issues relating to police abuse of power. However, they claimed that efforts to directly engage the communities are being hindered by the negative perception towards the human rights based NGOs. In addition, the Public Order and Security Act also requires them to seek police clearance before they hold such educational campaigns and the respondents claimed that the clearance is difficult to obtain. Two respondents highlighted the challenges that are encountered by NGOs in publishing some of their press statements in the state media. Private media and the internet become the only viable options to disseminate their information on police accountability.
It can however be argued that since policing is a public service, citizens have a right to be informed about all policing issues. NGOs can play an important role in disseminating the information through awareness campaigns. A community oriented police service would engage the NGOs in its policing endeavours and would appreciate constructive criticism.

7.2.4.3 Mistrust of NGOs by government: Impacts on police accountability

There has always been inherent mistrust of civil society organisations by the government and this is probably due to the history of civil society organisations in the post-independent Zimbabwe. Under normal circumstances, civil society organisations should be apolitical. Though civil society should theoretically remain non-partisan, Zimbabwean civic society organisations have demonstrated some partisan behaviour (Zigomo, 2013). According to Zhou (2014), civil society played a crucial role in the formation of the opposition Movement for Democratic Change (MDC) in the 1990s. To this end, the relationship between the state and civil society organisations has been a terrain of political struggle, with the state stepping up surveillance and threats, especially against organisations engaged in governance and human rights work (Zhou, 2014:59).

The animosity between the State and NGOs is compounded by the fact that most of the NGOs receive foreign funding, with much of the funding coming from countries that are perceived to be hostile to Zimbabwe. NANGO (2014:8) succinctly point out that some of the civil society organisations lack ideological autonomy and this makes them vulnerable to external manipulation. Arguably, this foreign funding can
negatively affect the objectivity of these civil society organisations. Consequently, most of these NGOs criticise government actions at every opportunity that they get.

Also, another respondent highlighted the challenges they face in engaging citizens during awareness campaigns. Due to the negative perception towards NGOs, members of the community are not comfortable to be seen associating with NGOs; lest they are considered to be associating with enemies.

The above arguments clearly show why the government mistrusts human rights based NGOs in Zimbabwe. This possibly explains why NGOs face hurdles in securing the necessary clearance to do their awareness campaigns. This mistrust between the government and NGOs will negatively affect police accountability in several ways: firstly, even if the NGOs give an accurate report which exposes police abuse of power, they will always be deemed to be working for pleasing their foreign donors; secondly, the NGOs will not be given platforms to express their views on police accountability due to their perceived bias against the police; and finally, even if the NGOs have concrete solutions to the challenge of police abuse of power, it will be difficult for them to be heard. However, the police and human rights based NGOs need to coexist, as the NGOs are also important stakeholders in the community oriented policing philosophy.

Notwithstanding the above obstacles to the effectiveness of NGOs as police accountability institutions, there are however factors which point to an improvement in the operating environment for NGOs. First, the Zimbabwean Constitution has created a conducive environment for the operation of human rights based NGOs
through several detailed provisions that deal with human rights issues. The presence of several human rights based NGOs in Zimbabwe, including international NGOs, is an indication that they are allowed to operate. Zimbabwe has the largest civil society in Southern Africa (NANGO, 2014; Zhou, 2014) and this could be an indication that the operating environment could be conducive. Also, there are no legal limitations in the ability of civil society organisation in their ability to obtain foreign funding.

7.3 THE MEDIA’S POLICE OVERSIGHT ROLE

Whilst the preceding section dealt on the role of the civil society on police accountability, this section focuses on the role of the media. There is symbiotic relationship between the media and the operations of the NGOs. The advocacy role of the NGOs is necessitated by the media. This section therefore explores the important role played by the media in holding the police to account.

Media plays an important role in a democratic society. The media is the main source of information and a vital link between the government and the citizens and this makes it an indispensable precondition for government accountability (Voltmer, 2010). The normative functions of the media are often based on the characteristics of representative or liberal democracies. These functions, according to Jebrial, Stetka and Loveless (2013) are: (1) a forum encouraging pluralistic debate about public affairs; (2) a guardian against abuse of power; and (3) a mobilising agent encouraging public learning and participation in the political process. Similarly, the media can; encourage debate about police policies, expose police abuse of power, and inform the public about police actions.
It is also important to highlight the nature of media operations in Zimbabwe. The media in Zimbabwe falls into three broad categories namely broadcast media, print media and electronic media. The **broadcast media** is mainly dominated by the State controlled television and radio stations. However, new private players have been granted licences to commence operations, though only a few have commenced. The **print media** comprises of both state-owned and private-owned publishers and there seems to be an equal ratio between state-owned and private publishers. The **electronic media** comprises online publications by both state owned and private media houses. With the fast changing technology, people across the globe are now finding it better to access news from the electronic media. Importantly, **social media** is one of the leading forms of electronic media and has played a significant role on policing.

### 7.3.1 Legal framework for media operations

The Constitution of Zimbabwe provides for a conducive environment for the operation of the media. Section 61 of the Constitution provides for the freedom of expression and the freedom of media. Specifically, section 61(1) provides that every person has the right to freedom of expression, which includes; (a) freedom to seek, receive and communicate ideas and other information; (b) freedom of artistic expression and scientific research and creativity; and (c) academic freedom. State owned media should also be impartial (Section 61(4)(b)) and should afford fair opportunity for the presentation of divergent views and dissenting opinions (Section 61(4)(c)). In addition section 62 (1) provides for the right of access to any information held by the state or by any institution of government if the information is required in the interest of public accountability. Put differently the Constitution gives two
important rights citizens: (1) the freedom to express their views on police accountability; and (2) the right of access to information about police accountability. It is noteworthy to mention that the Lancaster House Constitution was silent on the freedom of the media, though the freedom of expression was there.

The Access to Information and Protection of Privacy Act [Chapter 10:07] (AIPPA) has provisions which affect the operation of the media in Zimbabwe. Amongst others, the major objectives of AIPPA are: to provide the public with the right of access to information held by public bodies; to protect access to certain information; and to provide for the regulation of mass media. Section 17 provides for the protection of information whose disclosures will be considered to be harmful to law enforcement processes and national security. However, most of the provisions of AIPPA seem to be contrary to the constitutional right of access to information. Calls have frequently been made by civil society organisations and the media for the repeal of AIPPA. According to NANGO (2014) AIPPA further limits the operating environment of civil society organisations in Zimbabwe.

7.3.2 The role played by the media on police accountability

The media is an important institution for police accountability. Respondents were asked to indicate the major role that is played by the media in enhancing police accountability, and their responses are presented on Figure 7.3.
Figure 7.3 Response on the major role that is being played by the media to enhance police accountability

Figure 7.3 depicts that an overwhelming majority (81%) considered exposing incidents of police abuse of power as the major role played by the media in enhancing police accountability. Another 15% considered advocacy role as the major role whilst 4% were of the view that the media has no role in police accountability.

Similarly some of the interview respondents were also asked on the major role that is currently being played by the media. All the respondents to whom the question was posed also highlighted the media’s important role of exposing police abuse of power. Documentary survey has also shown that the media – both state and private has exposed incidents of police misconduct and abuse of power, and some of the reported incidents are reviewed in this thesis. Some of the misconduct by junior
Officers may not be known to the police command and the media can play the important role of bringing information on police misconduct to the police command.

The social media has also taken centre stage in exposing excessive use of force by the police. During the protests in July 2016, several videos showing excessive use of force by the police were circulated on social platforms such as Watsapp and Facebook, with the police actions receiving worldwide condemnations. Moreover, international broadcast media houses have also broadcast videos of police brutality that they would have obtained from social media. To this end, incidents of police brutality have been watched by millions of people across the globe.

The advocacy role was also cited by some of the respondents, especially NGO representatives, who mainly rely on the media to convey information on police abuse of power. Other respondents highlighted the importance of opinion analysis about policing issues in both state and private print media. They argued that some of the analysis has stimulated debate in Parliament. One respondent also highlighted several opinions on the negative impacts of excessive roadblocks on the country's roads in local newspapers, which was later brought to Parliament for debate. To this end, the advocacy role of the media, as well as opinion analysis necessitates informed public debate on policing issues to curb police abuse of power.

The above findings highlight the importance of the watchdog role of the media. This resonates with previous findings (Caparini, 2007; Miller & Hess, 2008) that the media, through investigative journalism can expose corruption, wrongdoing and abuse of authority by police officers. Exposure of incidents of police abuse of power
to the public domain has a deterrent effect on police behaviour. This will prompt the police to be careful in their encounters with the public and to act within the confines of the law. In the same vein, the police command, through its public relations department can also use the same media to provide information to the public on how they would have dealt with incidents of police misconduct.

### 7.3.3 Effectiveness of the media as a police oversight institution

About two thirds of the respondents considered the media to be either effective (50.8%) or very effective (15.9%), as a police accountability institution (Table 7.2). Another 18.3% considered the media to be somewhat effective, whilst only 15.1% considered the media to be either less effective or not effective. The mean of 3.6587 shows gravitation towards effective, implying that on average, the respondents considered the media to be an effective police oversight institution.

#### Table 7.2 Respondents’ view on the effectiveness of the media as a police oversight institution.

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>1 Not effective</td>
<td>2</td>
<td>1.6</td>
</tr>
<tr>
<td>2 Less effective</td>
<td>17</td>
<td>13.5</td>
</tr>
<tr>
<td>3 Somewhat effective</td>
<td>23</td>
<td>18.3</td>
</tr>
<tr>
<td>4 Effective</td>
<td>64</td>
<td>50.8</td>
</tr>
<tr>
<td>5 Very effective</td>
<td>20</td>
<td>15.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
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</table>

Mean 3.6587 SD 0.95635 Variance 0.915 Sp -0.290
Similarly, most of the interview respondents considered the media to be an effective police oversight institution. However, they pointed out that the private media is at the forefront in championing for proper police governance.

There could be several explanations on why the media is considered to be an effective police oversight institution. First, the constitutional provisions which provide for the freedom of expression, as well as the media freedom, provide an impetus for the media to freely publish information on police accountability. Secondly, the presence of numerous private media operating in the country increases the breadth of the coverage on policing issues. In support of these explanations, Emslie (2015:5) and Caparini (2007) suggest that a free, independent and plural media can provide a crucial check on abuse of power and corruption. To this end, the media freedom as espoused in the Constitution, as well as plurality- as evidenced by numerous players in the media fraternity, provide a fertile ground for media effectiveness.

The effectiveness of the media as a police oversight role is further buttressed by the important role that is currently being played by the social media. Commenting on the social media’s role, Shepherdson (2014:3) had this to say: “New technology clearly offers new opportunities for citizen journalism; a video can be captured on a mobile phone, shared via Twitter, then spread rapidly through shares, likes and an ability to trend”. To this end, incidents of police abuse of power- mainly through excessive force, are trending on the social media. Importantly, social media has resulted in incidents of police abuse receiving global attention.
7.3.4 Obstacles to media effectiveness

Notwithstanding the important role played by the media, as well as its effectiveness, there are obstacles which were noted and which militate against the media effectiveness. The obstacles, which are explained below include: repugnant media laws; and persecution of journalists.

7.3.4.1 Repugnant media laws

The Access to Information Protection and Privacy Act (AIPPA) [Chapter 10:07] was cited by respondents as an impediment to media freedom in Zimbabwe. Whilst the Constitution provides for the freedom of expression and the freedom of media, AIPPA seems to take away some of the rights, allegedly in the interests of national security. Similarly, there is section 31 of the Criminal Law (Codification and Reform) [Chapter 9:23] which criminalises publishing or communication of information which is prejudicial to the State. Though the section was ruled to be unconstitutional by a duly constituted Constitutional Court (Murwira, 2013:1), the provision is yet to be repealed.

Questionnaire respondents were also asked to indicate their response on whether the laws which regulate media operations in Zimbabwe are favourable or not. Slightly above a third (37.3%) of the respondents considered the laws to be either unfavourable (25.4%) or very unfavourable (11.99%). Another 30.2 percent considered the laws to be somewhat favourable whilst the remaining 32.6% were inclined to consider the laws as favourable.
Table 7.3 Respondents’ views on the laws which regulate media in Zimbabwe

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very unfavourable</td>
<td>15</td>
<td>11.9</td>
</tr>
<tr>
<td>Unfavourable</td>
<td>32</td>
<td>25.4</td>
</tr>
<tr>
<td>Somewhat favourable</td>
<td>38</td>
<td>30.2</td>
</tr>
<tr>
<td>Favourable</td>
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<tr>
<td>Very favourable</td>
<td>4</td>
<td>3.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
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From the above statistics, it can be argued that the laws are favourable to the extent of the necessary constitutional provisions and unfavourable to the extent of other undemocratic statutory provisions. Notwithstanding the constitutional provisions on media freedom, the mere presence of repugnant statutory provisions in the AIPPA and the Criminal Law Code impinges on the media freedom. This is despite the fact that media freedom has been perceived as an indicator of democratise reform, or as a precondition for democratic institutions to work properly (Jebriel, Stetka & Loveless, 2013:7). In the end, there is need to align all the laws that have an impact on media operations with the provisions of the Constitution.

### 7.3.4.2 Persecution of journalists

Despite the perceived effectiveness of the media, the police have frequently arrested journalists for publishing information which was viewed to be prejudicial to the State. Whilst more journalists in the private media have been at the receiving end, arrests have also been made amongst State media journalists. For example in early 2016,
two journalists were arrested from State print media after they had written an article implicating a senior police officer in alleged rhino horn poaching. True to their important roles, the media fraternity and NGOs condemned the arrests. Mapuva & Munyengwa (2012:126) also concur that media freedom and independence of newspapers has been under threat due to numerous arrests of staff members in the publishing houses.

7.4 CONCLUSION

This chapter evaluated the two important institutions of societal accountability—NGOs and the media. The Constitution is the key legal instrument which provides for an enabling environment for the operations of both the civil society and the media. However, laws such as POSA, AIPPA and section 31 of the Criminal Law Code present an unfavourable legal environment for the operations of the institutions for societal accountability. The major roles that are played by the NGOs on police accountability are giving legal advice to victims of police abuse of power, as well as an advocacy role. The major role of the media on police accountability is exposing incidents of police abuse of power. The government’s mistrust of human rights based NGOs limits the NGOs’ police oversight role, while persecution of journalist is the major obstacle to the media’s police oversight role. The next chapter focuses on obstacles to police accountability, as well as recommendations.
CHAPTER EIGHT

OBSTACLES TO POLICE ACCOUNTABILITY AND RECOMMENDATIONS: TIME FOR AN INDEPENDENT BODY

8.1 INTRODUCTION

This chapter starts by exploring some of the obstacles to police accountability that were not highlighted in the previous chapters. Recommendations for enhancing police accountability as suggested by the respondents are also outlined in this chapter. Part of the discussion also centres on the respondents’ views on various mechanisms of police accountability across the globe. Most importantly, the chapter recommends a model for police accountability in Zimbabwe, which will be based on the findings and international best practices.

8.2 OBSTACLES TO POLICE ACCOUNTABILITY

Respondents were asked to comment on the obstacles that are hindering police accountability in Zimbabwe. It is important to note that other obstacles, which are peculiar to some of the accountability institutions, have been highlighted in the previous chapters. Some of the obstacles which have already been discussed in the preceding chapters include: (1) mistrust by the public on the police complaints handling processes; (2) challenges in executing court judgements against the police, as well as lengthy period in passing judgments on civil suits against the police; (3) limited powers, capacity and resources for the ZHRC; and (4) difficult operating environment for the civic society and the media. The respondents however brought
in other dimensions of obstacles. The responses, which were mainly qualitative in nature, were categorised into three areas namely: undemocratic laws; partisan policing; and absence of an independent investigation of police misconduct.

8.2.1 Undemocratic laws

Laws become repugnant if they do not conform to the democratic principles. On the other hand democratic policing is a form of policing in which the police are accountable to the law, at the same time respecting the rights of citizens (Haberfield & Cerrah, 2008:46). However, most of the respondents bemoaned the unfavourable legal framework for the operation of institutions of police accountability in Zimbabwe. Instead of promoting democracy, respondents indicated that laws such as the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA), perpetuate human rights violations by the police. One respondent equated POSA to the previous draconian Law and Order Maintenance Act (LOMA), which was used by the colonial government to suppress Black Nationalism through arbitrary arrests and detention. Though LOMA was repealed, he argued that some of the undemocratic provisions found themselves in the POSA. Another respondent expressed concern over the delay in amending the alleged undemocratic laws. He remarked:

“Look it’s now three years since we adopted the current Constitution, why is it taking so long to repeal some of these undemocratic laws. If they cannot do that, they can just amend certain provisions which are inconsistent with the constitution”.

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Undemocratic laws stifle police accountability in a number of ways. First, they discourage free media and it becomes difficult for incidence of police abuse of power to be exposed. Also, undemocratic laws create an unfavourable working environment for the civil society. Laws such as POSA also make it difficult for the civic society to gather and express their views on policing. Lastly, undemocratic laws legitimise police actions which may however be considered to be contrary to democratic principles.

In his study on human rights and policing in Zimbabwe, Makwerere (2012) also highlighted the presence of pieces of legislation that do not meet international human rights standards. As is the case with the current findings, he also cited POSA and AIPPA as examples of laws which do not meet international human rights standards. In what could be tacit acceptance of the presence of undemocratic laws in Zimbabwe, section 31 of the Criminal Law (Codification and Reform) Act [Chapter 9:23] was ruled unconstitutional by the Constitutional Court of Zimbabwe. The section criminalises publishing or communicating false statements which are prejudicial to the State. The section had been previously abused by the police to arrest journalists who criticised unlawful actions by security sector officials.

Arguably, the presence of these undemocratic provisions will continue to present challenges for police accountability. Interesting although, the continued presence of the provisions may also point to the ineffectiveness of the legislature. As long as the laws remain in the country’s statutes, it may be unfair to criticise the police when they enforce the laws. One former senior police officer who was interviewed had this to say,
“the police do not create laws, it is the role of the legislature to create laws. The role of the police is just to enforce laws, no matter how bad or good the laws are. If the citizens feel certain laws are undemocratic, then they have to approach their representatives in Parliament. I think it’s a bit unfair to blame the police for enforcing existing laws”.

Madhuku (2010:78) raises an interesting point when he highlights that many regimes defend their resort to draconian laws that infringe basic human rights by appealing to the overriding need to preserve peace and order. Ironical though, unjust laws invite disobedience and may ultimately lead to disorder (Madhuku, 2010). Whilst laws are needed to protect the rights of citizens, the laws should not promote infringement of the rights.

8.2.2 Partisan policing

In a democratic country, the police force will be a politically neutral professional force that applies the law equally to all persons (Mugari, 2014:84). Consequently, police officers are expected to refrain from active involvement in politics, lest they are perceived to be politically biased in the way in which they perform their duties (Zimbabwe Human Rights NGO Forum, 2006). However, almost half of the interview respondents cited partisan policing as one of the impediments to police accountability. Most of the respondents highlighted situations in which gatherings by the ruling party have always received approval from the police without any glitches, whereas civic society organisations and opposition political parties have often been denied permission to hold public gatherings. Opposition political parties and civil society organisations have on several occasions sought recourse through the courts.
after having been denied permission to hold their public gatherings by the police. Admitting to the presence of partisan policing in Zimbabwe, Makwerere (2012) points out that most of the top police commanders are veterans of the liberation struggle, hence making it difficult to alienate them with the ruling party ZANU PF.

In Zimbabwe’s political dynamics, most of the human rights based civil society organisations have been associated with opposition political parties. Indeed some of the civil society organisations have openly expressed their allegiance to opposition political parties. Whilst civil society organisations are important institutions for enhancing police accountability, their advocacy role has been negatively affected by the police. Reports of police heavy handedness on protestors occupied the private media space for the greater part of July 2016. One former junior police officer who was interviewed acknowledged the presence of partisan policing and laid blame on the police command. However, former senior police officers denied the presence of partisan policing and one of them brought in an interesting argument;

“I don’t think there is partisan policing. Usually these civic society organisations and opposition politicians do not want to follow procedures as laid down by law. They want it like that and they have political reasons for doing that. On the issue of force, it’s sometimes inevitable to use force. Some of these protests have turned violent, property destroyed and even the police officers have been attacked. Under such situations the police have to use force, first to protect themselves and secondly to protect innocent citizens”.
Without mentioning partisan policing and commenting on police use of force on protestors in July 2016, another former senior police officer said,

“The police have to serve the government of the day and all its policies should be in line with government policy. If the government adopts a policy and law is passed to support the policy, then the police also have to support that policy. If MDC comes to power, the ZRP also has to support its policies. The recent protests were against government policies yet the ZRP is an important instrument of government”.

The above arguments are important, especially given the nature of the relationship between the police, and the civil society and opposition political parties. The police could be in a dilemma in the sense that they would not want to oppose the government’s position, lest they be labelled a renegade police force. Whilst the citizens have a democratic right of assembly and gathering, as well as the right to protest, exercising this right violently will invite the police to act. However, when the police find themselves in situations where use of force is inevitable, the force should be proportionate to the threat posed by the protestors.

Notwithstanding the prevailing situation, the prohibition of police officers to engage in political activities is contained in various statutory provisions. Section 48 of the schedule to the Police Act [Chapter 11:10] makes it an offence for police officers to actively participate in politics. Whilst the police commanders have the duty to enforce compliance with the provisions of the Police Act, it becomes a dilemma if they are the ones who exhibit partisan tendencies. Also, section 29 (3) of The Constitution of Zimbabwe provides that, “The Police Service must be non-partisan in character,
patriotic, professional and subordinate to the civilian authority as established by this constitution”. By including such a provision in the Constitution, the legislature clearly showed its disdain for partisan policing. Therefore any partisan tendencies by the police will be a clear sign that the police does not serve the interests of all citizens but particular citizens.

8.2.3 Absence of an independent body to investigate police misconduct

Six of the interview respondents argued that the current mechanisms do not allow an independent investigation of police misconduct. They criticised the current scenario whereby incidents of police misconduct are investigated by the police. Whilst they agreed with the idea of having the police deal with minor incidents of misconduct, they were however critical of having the police deal with criminal offences committed by police officers.

Similarly, most of the questionnaire respondents from the judiciary criticised the current scenario whereby complaints against torture at the hands of the police are referred back to the police to investigate. Consequently the researcher sought further clarification during in-depth interviews and he got the following responses;

“It just doesn't make sense. I preside over a case and a suspect in the dock complaints that he was assaulted by the police and sometimes the accused will be finding it difficult to walk due to the assault. I will be left with no option but to refer the case back for the police to investigate the allegations. I know it will be a difficult decision- having the complaint investigated by the same assailants. It was going to be better if we had a special body to carry out such investigations” (R6).
“I do not think it’s proper. If a suspect alleges that he has been tortured by the police, I don’t think it’s fair to refer the matter back to the police. We need an independent investigation of the allegations and certainly such independent investigation cannot be done by the police themselves” (R7).

In what seems to supporting the above arguments, Jones (2008:715) correctly points out that the system whereby only the police are competent and capable of investigating the police is patently flawed, unsatisfactory and contrary to public expectation. Consequently, the need for an independent body to investigate police misconduct becomes apparent. The absence of such a body in Zimbabwe highlights the inadequacies of police accountability mechanisms.

8.3 Overall adequacy of police accountability mechanisms in Zimbabwe

Respondents were asked to comment on the overall adequacy of the police accountability mechanisms in Zimbabwe. As depicted on Table 8.1, slightly above two thirds of the respondents were inclined to consider the accountability mechanisms as inadequate, with 40.5% considering them as not adequate, whilst 27% considered them to be less adequate. The remainder considered the mechanisms to be either somewhat adequate (23.8%) or adequate (8.7%). The arithmetic mean of 2.0079 points to the fact that the mechanisms are less adequate.
Table 8.1 Respondents' views on the overall adequacy of police accountability mechanisms

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Not adequate</td>
<td>51</td>
<td>40.5</td>
</tr>
<tr>
<td>2 Less than adequate</td>
<td>34</td>
<td>27.0</td>
</tr>
<tr>
<td>3 Somewhat adequate</td>
<td>30</td>
<td>23.8</td>
</tr>
<tr>
<td>4 Adequate</td>
<td>11</td>
<td>8.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Mean 2.0079  Standard deviation 0.99997  Variance 1.000  Skewness 0.521

The above statistics possibly justify the obstacles to police accountability that have been discussed above and in other preceding chapters. Chief among the reasons could be the non-availability of an independent body to investigate incidents of police misconduct. Therefore an attempt to have adequate police accountability should aim at; (1) strengthening the existing mechanisms of police accountability, and (2) creation of an independent body to handle major incidents of police misconduct. The next sections of this chapter will therefore focus on recommendations for enhancing police accountability.

The concept of adequacy also needs to be understood in the context of the effectiveness of individual institutions of police accountability. Adequacy has also been considered by some authors (CECHR, 2009; Hopkins, 2009; Smith, 2015) as a key determinant of the effectiveness of an accountability institution. Similarly, Smith (2013:98) argues that the adequacy principle hold that, for an investigation to be effective, it must be capable of gathering evidence to establish if the police behaviour
was lawful and punish those responsible. As has been shown in this study, the available external mechanisms for police accountability do not allow for both investigation and punishment of implicated police officers. Whilst the Zimbabwe Human Rights Commission seems to be the notable independent body, findings have shown that investigations in respect of human rights violations by police officers are actually done by the police.

8.4 RECOMMENDATIONS FOR IMPROVING POLICE ACCOUNTABILITY

8.4.1 Institutions for investigating police misconduct – their effectiveness

Notwithstanding the current level of effectiveness of the institutions of accountability as highlighted in chapters 4-7, the respondents were also asked to comment on the effectiveness of some of the institutions in investigating incidents of police misconduct. This was of course based on the assumption that the institutions were adequately capacitated. The researcher supplied them with five systems that were obtained from extensive literature survey and these were: Police command; internal police investigation unit; an external body consisting of non police officers; a board consisting of both police officers and non police officers; and the Human Rights Commission. The results are tabulated on Table 8.1.

As depicted by Table 8.2, an external body comprising non-police officers tops the list in terms of its effectiveness in investigating incidents of police misconduct, with a mean statistic of 4.1587, followed by a board comprising both police and non-police officers, with a mean statistic of 3.9921. The Human Rights Commission comes third, with a mean statistic of 3.7302, which gravitates towards effective. The internal
mechanisms, namely police command and an internal police investigating unit were considered to be the least effective methods of investigating police misconduct, with a mean statistic of 2.9127 and 2.7540 respectively.

Table 8.2 Respondents opinion on the effectiveness of selected systems for investigating police misconduct

<table>
<thead>
<tr>
<th>System</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Mean</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>An external body consisting of non-police officers</td>
<td>1.6%</td>
<td>7.1%</td>
<td>15.9%</td>
<td>24.6%</td>
<td>50.8%</td>
<td>4.1587</td>
<td>1.03856</td>
</tr>
<tr>
<td>A board consisting of both police and non-police officers</td>
<td>1.6%</td>
<td>7.1%</td>
<td>20.6%</td>
<td>31.7%</td>
<td>38.9%</td>
<td>3.9921</td>
<td>1.01584</td>
</tr>
<tr>
<td>Human Rights Commission</td>
<td>3.2%</td>
<td>8.7%</td>
<td>16.7%</td>
<td>54.8%</td>
<td>16.7%</td>
<td>3.7302</td>
<td>0.95005</td>
</tr>
<tr>
<td>Police command</td>
<td>15.9%</td>
<td>18.3%</td>
<td>28.6%</td>
<td>33.3%</td>
<td>4.0%</td>
<td>2.9127</td>
<td>1.14556</td>
</tr>
<tr>
<td>Internal police investigating unit</td>
<td>12.7%</td>
<td>20.6%</td>
<td>31.7%</td>
<td>34.1%</td>
<td>0.8%</td>
<td>2.7540</td>
<td>1.04176</td>
</tr>
</tbody>
</table>

1 Not effective  2 Less effective  3 Somewhat effective  4 Effective  5 Very effective  SD Standard Deviation

8.4.1.1 An external body consisting of non-police officers

An overwhelming majority (75.4%) were of the view that police misconduct should be investigated by an external body consisting of non police officers, as they considered such a system to be either effective (50.8%) or very effective (24.6%). The arithmetic
mean of 4.1587 clearly points to the fact that it is an effective way of investigating police misconduct.

Interesting though, the system is currently not present in Zimbabwe. The idea of having an external body to investigate police officers on misconduct resonates well with the **Civilian Control Model**, which is established on the principle that police should not investigate the police (Savage, 2013b:888). Such a system will help to curb some of the obstacles of having to rely on internal mechanisms to investigate police officers’ misconduct. Some of the obstacles that were also earlier highlighted in this thesis include: (1) the tendency for police officers to cover up for fellow officers’ misconduct; (2) the reluctance of police officers to testify against implicated police officers; and (3) mistrust in the whole internal disciplinary processes by both the public and some police officers. Consequently, having an independent board to investigate the police will help to address some of these obstacles.

Excluding the police in the investigation of police officers’ misconduct also resonates with the **Democracy Theory** (Bovens, 2008), in which citizens and their representatives take part in making those holding public office answer for their misdeeds. Given that the police are subservient to the community (Herbert, 2006), it makes sense for the citizens to take a leading role in the handling of police misconduct, albeit through their representatives- members of the external body. Also, studies have shown that independent oversight of the police has emerged as a core principle of democratic policing (Bayley, 2006; Smith, 2013:93). To this end, a system of investigating police misconduct in which the public takes a leading role will not only be acceptable to the public but will also be fairer and objective.
The major credit for an external body is its independence in investigating police officers’ misconduct. Several writers (Savage, 2013; Porter, 2013; Prenzler, 2011; Filstad & Gottschalk, 2011) have indicated the importance of having an oversight body that is alienated from the police department. Similarly, the European Court of Human Rights held that, there must not be any institutional or hierarchical connection between the police officer under investigation and the investigator, and the conduct of the investigator must be independent in practice (Ramsahai V Netherlands (2007) 46 EHRR 43). It therefore becomes logical to conclude that an external body comprising non-police officers provides the much needed independence in the police accountability discourse.

8.4.1.2 A body of both police and non-police officers- is it feasible?

Nearly three quarters of the respondents considered a body comprising of police and non-police officers to be either effective (31.7%) or very effective (38.9%). Though, not considered as effective as a purely non-police officers board, the arithmetic mean of 3.9921 shows a gravitation towards effective. This system, which adopts a Hybrid Model, consists of a compromise between a purely internal investigative system and an external police misconduct investigation system. The system therefore comprises a combination of civilian and police personnel. In support of this system, Punch (2009) opines that shared responsibility for investigation between police and external oversight agencies represents best practice.

This model addresses some of the shortcomings for a body comprising purely of non-police officers. Concerns have been raised over the competency and capacity
of an outside body to penetrate the police world (Simmons, 2010), due to the “Code of Silence” (Lamboo, 2010; Miller & Hess, 2008). Similarly, as Bobb (2010) highlights, the lack of expertise in police tactics, strategy, and policy has prevented external boards from effectively handling cases of misconduct. It is against this background that police should at least be involved in the investigation of police officers. The police officers will bring in the necessary expertise, whilst non-police officers will provide the much needed independence.

8.4.1.3 Human Rights Commission

Despite the current challenges that are currently being faced by the Zimbabwe Human Rights Commission, most of the respondents considered a Human Rights Commission to be an effective institution for investigating police officers’ misconduct. As shown on Table 8.1, 54.8% of the respondents considered a Human Rights Commission to be effective, whilst 16.7% considered it to be very effective.

If properly capacitated, the Human Rights Commission can be effective in handling police misconduct which involves violation of human rights. Incidents of police abuse of power which may fall within the mandate of the Human Rights Commission include: unlawful arrest and detention; unlawful search and seizure; and torture, amongst others. With much of the police work having an impact on citizens’ rights, the Human Rights Commission becomes an important institution for investigating police misconduct. The importance of the Human Rights Commission is further emphasised through adoption of Resolution 48/134 by the United Nations General Assembly on the need for creation of National Human Rights Institutions. One of the
arguments in support of the Human Rights Commission is the issue of its independence from the police organisation.

Across the globe, nations have also established Human Rights Commissions for investigating incidents of human rights violations. In Asia, Shinar (2009) notes the Human Rights Commission as one of the prominent oversight mechanism, whilst Amnesty International (2009) also notes the National Human Right Commission in Indonesia. Similarly, in West Africa, there is the National Human Rights Commission in Nigeria (Gombert, Davis & Lawson, 2009) and the Commission for Human and Administration of Justice in Ghana (Aning, 2006:5). In Southern Africa, Lumina (2006) notes the presence of the Human Rights Commissions in Mauritius, Tanzania, South Africa and Zambia. It is however important to note that in all these countries, the Human Rights Commissions have broader mandates on all state institutions within their nations and they do not only focus on the police. Though not much research has been done on the effectiveness of these institutions, it is important to mention that they were modelled on the Paris Principles which advocate for independence of national human rights institutions.

In line with the global trends, the country has thus taken an important step of establishing the Zimbabwe Human Rights Commission (ZHRC). The legal framework also provides for the independence of the Commission. There are however issues which need to be addressed for the ZHRC to be effective. The Commission needs to have clear investigative roles, which include the powers to gather evidence from the police, the powers to summon implicated police officers and the power to subpoena police witnesses. The current scenario in which the ZHRC refers the
cases back to the police to investigate militates against the effectiveness of this important institution. Also there is need to decentralise to all the country’s provinces to make it convenient for the citizens to launch complaints against the police.

8.4.1.4 The Police Command and the Internal Police Investigation Unit

The two internal mechanisms follow the Internal Affairs Model in which the police organisation is responsible for receiving and investigating complaints alleging misconduct by police officers. As has been highlighted in this thesis, the mechanisms for internal control are provided for in terms of the Police Act as well as Police Standing Orders.

Table 8.1 depicts that 37.3% of the respondents considered the police command to be either effective or very effective in investigating police misconduct, while 34.9% considered an internal police investigation unit to be either effective or very effective. The arithmetic mean of 2.9127 for the police command and 2.8968 for the internal investigation unit show that on average, the respondents considered both systems to be somewhat effective.

The above statistics are justified by the existing literature on the Internal Affairs Model. Several authors have noted the inability of the police to objectively investigate their peers (Stone, 2007; Jones, 2008; Smith, 2013; Beckely, 2014). Similarly, De Angelis (2009:220) has argued that internal investigative mechanisms that are operated solely by the police will have little credibility with either complainants or the public. Conversely, there are also arguments in support of the internal investigations mechanisms. Chief among the arguments is the fact that the police officers who are
in the system know how to gather evidence from police officers, as well as how to circumvent the “blue wall of silence”. Another important point which was raised by Quinn (2009) is that an investigation by an external body tends to rouse opposition from police commanders as well as the rank and file.

In what seems to be support for having the police command to investigate incidents of police misconduct, respondents indicated that they would prefer to report to the officer in charge in cases of human rights violation by a junior officer (Figure 8.1).

![Figure 8.1 Response on preferred action when human rights are violated by a junior officer](image)

Figure 8.1 Response on preferred action when human rights are violated by a junior officer
Figure 8.1 shows that the majority (38.1%) of the respondents preferred to report to the officer in charge. Also, 21.4% preferred to file a complaint with the charge office. Importantly, both are internal mechanisms- an indication that respondents still had faith in the internal accountability mechanisms. It can be argued that, though not as effective as the external mechanisms, the two internal mechanisms are considered useful in investigating police misconduct.

8.4.2 An independent police complaints investigation department- The missing link for police accountability in Zimbabwe

The absence of an external body to solely deal with police misconduct, as well as the inadequacies of the current accountability mechanisms for the police in Zimbabwe call for the need to create an independent police complaints investigations department. The ZHRC is seized with human rights violations in all spheres of the society, as well as maladministration and hence cannot adequately deal with human rights violations by the police. Also, not all forms of police misconduct fall within the mandate of the ZHRC, thus justifying the need for a special body which is dedicated to handling police misconduct. Absence of independence and objectivity on the internal accountability mechanisms also justify the need for the independent body to deal with police misconduct. To this end, all interview respondents were asked, how do you take the idea of having a special independent board to investigate incidents of police misconduct? All the respondents acknowledged the need to have this special board. The following were some of the responses;

“I would buy that idea. We should have an independent body to handle all incidents of police misconduct” (R1).
“It’s a very good idea which I think is long overdue. We need an independent investigation for all cases of police misconduct” (R2).

“That’s a noble idea. This will ensure an objective investigation of cases of police misconduct. Like I earlier said, there is no objectivity in having the police to investigate the police” (R3).

“I think that’s a noble idea. The board will consist of individuals who are separate from the system and there will be an objective investigation of police misconduct. Investigators will not be influenced by the system” (R4).

“For me, it will be the best way to handle police misconduct. Police officers work with the public for the good of the public and if they are sincere they should accept this independent board. The benefits of such board are multi-pronged: first, it instils confidence in the public towards the police disciplinary process; two, it brings objectivity and impartiality to the investigation; and three, it protects junior officers from the police command’s heavy-handedness” (R15).

“This would be a very good development. Our neighbour South Africa has such a board and it has proven to be effective” (R18).

“I would recommend such a board. But steps should be taken to ensure that the composition of the board is not compromised” (R20).
The overwhelming responses clearly point to the fact that an independent body is the missing link in the police accountability discourse in Zimbabwe. Most of the respondents highlighted the need for an independent and objective investigation of incidents of police misconduct. The issue of independence has long been considered as the central point for police accountability (Savage, 2013; Prenzler, 2011). Savage (2013a:95) also correctly points out that the extent of independent investigation of complaints against the police has become the major test of whether a police complaints system is deemed to be effective, just and fair. To this end it can thus be argued that there will be no independence in having the police to investigate fellow police officers on cases of police misconduct. This therefore justifies the need for a special body for handling issues of police misconduct.

8.4.2.1 Independent police complaints investigation - learning from the global trends

Moreover, as the literature survey has highlighted, the idea of an independent police complaints investigation unit has been adopted in several countries across the globe. In Hong Kong, Smith (2015:121) notes the the Independent Police Complaints Council (IPCC) as the independent body which is responsible for handling complaints against the police. In China, there is a People’s Procuratorate, who receives and investigates citizens’ complaints against the police (Haberfield & Cerrah, 2008:48). The following are some of the independent police oversight bodies across Europe: Standing Police Monitoring Committee in Belgium; Independent Authority for the Investigation of Complaints and Allegations Against the Police in Cyprus; Independent Police Complaints Commission in Hungary; Garda Siochana Ombudsman Commission in Ireland (Walsh, 2011); and the Independent Police
Complaints Commission (IPCC) in England and Wales (Smith, 2013:94). Northern Ireland has the Police Ombudsman who has the sole responsibility for handling all complaints against the Police Service of Northern Ireland (Savage, 2007).

The New Zealand Independent Police Conduct Authority (IPCA) is the main oversight body for police complaints in New Zealand (Heyer & Beckely, 2013:132). In the United States of America, the New York Police Department has a Civilian Complaints Review Board which has the responsibility of handling police misconduct (Brown, 2012:358). In Chicago, complaints against the police are handled by the Independent Police Review Authority (Hopkins, 2009). Despite the presence of different independent boards in different cities and States, the National Association of Civilian Oversight of Law Enforcement (NACOLE) is the national organisation that serves the police oversight community in the United States (Attard, 2010:1555). In Canada, the Commission for Public Complaints against the Royal Canadian Mounted Police handles complaints against the police (Puddister & Riddel, 2012:385).

Several African countries have also embraced the idea of an independent investigation of police misconduct. In East Africa, Kenya has established the Independent Policing Oversight Authority (IPOA), whose role is to investigate incidents of police misconduct in Kenya. In Southern Africa, Mozambique has the Procurator – General, who is empowered to initiate a complaints process against a member of the police and to carry out investigation (APCOF, 2008:32). In Zambia, the Police Public Complaints Authority has powers to investigate complaints against police and injury or deaths in police custody (APCOF, 2008:67).
From the above examples, it can be seen that the concept of an independent body for handling police misconduct has taken centre stage in many countries across the globe. Regionally, Zimbabwe is surrounded by three countries that have adopted the concept and these are; Mozambique, South Africa and Zambia. It is also important to highlight that most of the nations that have established independent police complaints investigations also have other oversight bodies whose mandates cut across all other government institutions. In addition to special bodies for investigating the police, the States also have Human Rights Commissions, Ombudsman Offices and Anti-Corruption Commissions. It can thus be argued that the mere presence of the Zimbabwe Human Rights Commission and the Zimbabwe Anti-Corruption Commission does not guarantee effective investigation of police misconduct by these institutions.

8.4.2.2 The South African experience- Borrowing from the IPID

The Independent Police Investigative Directorate (IPID) is mandated to independently investigate incidents of complaints against the police in South Africa. It was established in 2012 after its predecessor- the Independent Complaints Directorate (ICD), had been considered to be ineffective. Burger and Adonis (2008:29) noted that the ICD had to remain dependent on South African Police Service during the course of investigation. Berg (2013:150) also reports that the police would not cooperate with the police in terms of answering questions from ICD investigators. Moreover, the housing of the ICD in the Ministry Police presented a potential conflict of interest. Therefore, in order to come up with an effective
independent police oversight body in Zimbabwe, lessons should also be drawn from the weaknesses of the ICD in South Africa.

The IPID is created in terms of the Independent Police Investigative Directorate Act (1 of 2011) (herein after called the IPID Act), which amongst others, provides for: the functions of IPID; appointment and powers of the investigators; and to provide for reporting obligations for the South African Police Service and the Municipal Police Services. The objectives of the IPID as highlighted in section 2 of the IPID Act succinctly highlight the importance of this police oversight institution. Among the objectives are:

“...b) to ensure independent oversight of the South African Police Service and Municipal Police Service;... (d) To provide independent and impartial investigation of identified criminal offence allegedly committed by members of the South African Police Service and Municipal Police Services; (e) To make disciplinary recommendations in respect of members of the South African Police Service and Municipal Police Services resulting from investigations conducted by the directorate;...(g) To enhance accountability and transparency by the SAPS and Municipal Police Services in accordance with the principles of the Constitution.” (IPID Act).

To enhance the capacity and effectiveness of the IPID, the IPID Act provides for the decentralisation of the IPID operation through the creation of provincial offices. Moreover, the investigators are given the powers of peace officers under section 24(2) of the IPID Act. What this entails is that, the investigators have the power to arrest; to carry out search and seizure; to execute warrants; and to attend court.
Another important feature in the IPID Act is the specification of matters that have to be investigated by the IPID. These matters are specified in section 28 and they include:

“Any death in police custody; deaths as a result of police actions; any complaint relating to the discharge of an official firearm by any police officer; rape by a police officer, whether the police officer is on or off duty; rape of any person while that person is in police custody; any complaint of torture or assault against a police officer in the execution of his or her duties; and corruption matters within the police initiated by the Executive Director on his or her own, or after the receipt of a complaint form a member of the public”.

The clarity of the types of matters is very important. It can be argued that an independent police complaints investigation unit cannot deal with all the cases of police misconduct. To this end, the police will still need to retain their powers to internally deal with minor incidents of police misconduct. It also flows from the above provision that institutions such as the Human Rights Commission will still have to handle other incidents of human rights violation which do not fall within the mandate of the IPID.

8.4.2.3 Respondents’ views on the composition of the independent body

With all the interview respondents having acknowledged the need for the establishment of a special independent body to handle incidents of police
misconduct, respondents were also asked to indicate their preferred composition of the board. Table 8.2 shows the responses from questionnaire respondents.

**Table 8.2 Response on who should be included in the special independent body**

<table>
<thead>
<tr>
<th>Category</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inclusion of retired court officials</td>
<td>96%</td>
<td>4%</td>
<td>100%</td>
</tr>
<tr>
<td>Inclusion of retired police officers</td>
<td>83.3%</td>
<td>16.7%</td>
<td>100%</td>
</tr>
<tr>
<td>Inclusion of human rights NGO</td>
<td>77.8%</td>
<td>22.2%</td>
<td>100%</td>
</tr>
<tr>
<td>representatives</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inclusion of the Clergy</td>
<td>57.9%</td>
<td>42.1%</td>
<td>100%</td>
</tr>
<tr>
<td>Inclusion of media practitioners</td>
<td>42.1%</td>
<td>57.9%</td>
<td>100%</td>
</tr>
<tr>
<td>Inclusion of serving senior police</td>
<td>22.2%</td>
<td>77.8%</td>
<td>100%</td>
</tr>
<tr>
<td>officers</td>
<td></td>
<td></td>
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</tbody>
</table>

As depicted on Table 8.2, an overwhelming majority (96%) indicated that retired court officials should be included in the independent police complaints investigation board. Their vast experience in presiding over criminal matters is of paramount importance. Arguably, the role of the magistrate or judge requires someone with unquestionable integrity and their moral uprightness will be required on the board.

It is also important to include retired senior police officers on the board, as indicated by 83.3% of the respondents. Their presence on the board will address the concerns which were raised by Prenzlzer and Ronken (2001) and Simmons (2010) over the competency of investigators and their capacity to penetrate the police world. Having
been in the system, the retired police officers understand the dynamics of police investigations and they have the expertise on how to deal with the blue wall of silence which characterises the police culture. Also, the fact that they are no longer attached to the police organisation brings in a sense of objectivity on their part. In South Africa, the IPID Act requires the investigator to have relevant experience in investigation, though it is silent on the issue of retired police officers.

Conversely serving police officers should not be included in the special independent board. This resonates with the idea of independence, wherein EPAC (2011:13) argues that police oversight bodies should be sufficiently separated from the hierarchy of the police organisation. Therefore, excluding serving police officers will enhance independence of the oversight body.

Also, as Table 8.2 depicts, there is need for inclusion of representatives from human rights based NGOs. Most of the interviewees also suggested the need for inclusion of human rights lawyers in the independent body. Given the fact that most of the incidents of police abuse of power involve violation of human rights, it becomes important to incorporate human rights lawyers in the board. In addition, inclusion of the clergy in the board will also ensure that all spheres of society are well represented in the board.

In addition to the questionnaire responses, interview respondents also expressed their views on the composition of the special body to handle incidents of police misconduct. Retired judicial officers, retired police officers and NGO representatives featured in most of the suggestions. A number of respondents also highlighted the
need to include academics that are into the field of security and governance. Other interviewees further suggested the need to include retired officers from other security officers. Two of the interviewees had the following responses:

“Retired police commissioners mixed with civil society organisations and no serving police officer should be in such a board” (R2).

“I would rather state the attributes of the person rather than state who should be in the board. We need someone who understand labour issues, human rights issues and someone of high moral ground. Anyone who can have these attributes should be included in the board” (R16).

The above findings show that the independent board should be representative of different societal interests. Legal background seems to be an important consideration, as indicated by most of the respondents. This is possibly because of the legal ramifications on most of the incidents of police abuse of power. However, appointments to the board should be based on merit and competence and should not be based on patronage.

8.4.2.4 Powers for the independent body

To enable the institution to carry out its mandate, it has to be given adequate powers. Again the IPID can provide the bench mark for these powers. The IPID Act compels the SAPS to cooperate with the IPID through giving identity parades; making officers available for taking affidavits; giving evidence or producing any document and providing any other information or documentation required for IPID to
investigate (Berg, 2013). Such an important provision should be incorporated in the enabling statute for the creation of an independent police complaints investigation department.

In addition, Berg (2013) also highlights an important provision in the IPID Act, in which the National Police Commissioner is compelled to initiate disciplinary recommendations made by IPID within 30 days, and to submit quarterly reports to the Minister of Police on the progress regarding disciplinary matters. Also, as is the case with IPID, the investigators for the independent body should have the powers of peace officers and such powers are found in the CP and E Act. Such powers include the powers of: arrest; detention; search and seizure; as well as the power to use force under certain circumstances to overcome resistance.

8.4.2.5 Oversight for the independent body

Under the Social Contract Theory, social control institutions should also be willing to cede their powers to other oversight institutions. Similarly, though an independent police investigation unit plays an important part of protecting the citizens from police excesses, it should also be open to oversight by other institutions. To this end, respondents were asked on whom the independent board should be accountable. As depicted by Figure 8.2, an overwhelming majority (86.5%) of the respondents indicated that the independent body should be accountable to the Parliament. Conversely, respondents were against the idea of the independent board accountable to the Police Commissioner General, Courts and the Human Rights Commission, with 66.7%, 70.6% and 53.2% respectively indicating “No” on the questionnaire.
Figure 8.2 Respondents’ views on whom the independent board should be accountable

Similarly, most of the interview respondents also concurred that the independent board should be accountable to Parliament. In the case of IPID, the IPID Act provides for accountability to Parliament and the Minister responsible for police. Whilst it is important to be accountable to Parliament, it is also important for the board to be accountable to the minister responsible for the police. The Minister responsible for police can make use of the recommendations from the independent body to craft police policy. Important as well, the minister can also be questioned by Parliament on issues pertaining to the recommendations from the independent body.
8.4.3 Other recommendations for enhancing police accountability

This was an open question on both the questionnaires and the in-depth interviews. Most of the respondents also reiterated the need for a special body to handle all serious cases of police misconduct. Flowing from the concerns over the politicisation of the police service in Zimbabwe, most of the respondents called for the need to depoliticise the police organisation. In a democratic dispensation, the police should be seen as a neutral institution for social control. Importantly, one of the founding principles of the Constitution is recognition of equality of all human beings. To this end, the police should be seen as a people's police force rather than an appendage of the ruling party.

Respondents also highlighted the need for decisiveness on the part of the police in handling allegations of officer misconduct. Two of the respondents highlighted the tendency of transferring implicated officers to remote police stations as being indecisive. They viewed such a move to be akin to transferring a problem from one place to another without solving the problem. To this end police officers implicated in misconduct should be promptly punished and the public should be informed of the nature of punishment.

Most of the respondents also called for capacitation of constitutional institutions for good governance, specifically the Zimbabwe Human Rights Commission and the Zimbabwe Anti-Corruption Commission. This can be achieved through: (1) giving the investigators the powers of arrest; (2) availing adequate financial and material resources for their operations; and (3) decentralising these institutions to all
provinces within the country. Moreover, these institutions should not rely on the police to carry out important activities such as arrest, detention, investigations, and search and seizure. The government should ensure continuity of these institutions through timely appointment of commissioners after expiry of terms. Importantly, these institutions should work hand in glove with an independent police complaints investigations unit.

Respondents also called for the need to repeal some of the provisions which are inconsistent with the Constitution. The statutes that need to be amended include the Public Order and Security Act [Chapter 11:17]; the Access to Information and Protection of Privacy Act [Chapter 10:07]; and some provisions of the Criminal Law (Codification and Reform) Act [Chapter 9: 23]. The police are capitalising on the loopholes in these statues to deny citizens of their democratic rights. Interesting though, some of the provisions in these statutes have been ruled to be unconstitutional by the Constitutional Court. There is therefore need for the legislature to quickly consider amending or repealing these statutes.

Other respondents also called on the police to increase the content on human rights in their initial recruit training. Workshops and refresher courses on human rights should also be conducted on a regular basis. The police command can also invite leading academics as well as human rights NGO representatives to make presentations at these workshops and refresher courses. More importantly, the workshops should start with the police command before cascading to all other junior police officers.
8.5 CONCLUSION

This chapter began by highlighting the obstacles to police accountability. Whilst other obstacles for specific institutions were highlighted previously, respondents also cited undemocratic laws, partisan policing and absence of an independent body as some of the obstacles to police accountability. Majority of the respondents recommended the creation of an independent police complaints investigations department, which the researcher suggests should be modelled around South Africa’s IPID. Other recommendations that were suggested by the respondents include: de-politicisation of the police force; human rights training for police officers; and capacitation of the Zimbabwe Human Rights Commission. The final chapter focuses on the summary of major findings, conclusions and recommendations.
CHAPTER NINE

SUMMARY OF MAIN FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

9.1 INTRODUCTION

This chapter concludes the study by providing an overall review and summary of the findings of the study. It also outlines the recommendations from this study and recommendations for further study. These findings and recommendations are based on the information obtained through; questionnaire surveys and in-depth interviews with representatives from various institutions of police accountability, literature review and documentary searches.

9.2 SUMMARY OF STUDY

As highlighted in chapter one, the purpose of this study was to examine the internal and external accountability mechanisms for the Zimbabwe Republic Police and to evaluate the effectiveness of these mechanisms. It also aimed at identifying some of the challenges that are hindering effective police accountability. This study was guided by the following objectives;

1. To examine the internal accountability mechanisms for the ZRP
2. To examine the external accountability mechanisms for the ZRP
3. To investigate the obstacles to police accountability in Zimbabwe
4. To recommend an appropriate model for police accountability in Zimbabwe.
Chapter one focused on providing background information to the study. Forming part of the background was the history of the ZRP and an expose on the entrenchment of police abuse of power in the colonial Rhodesia, as well as the early years of the post-independent Zimbabwe. It provided a discussion on the problem statement; highlighted the research questions, the rationale for embarking on a study of this nature, the benefits of the study; and also discussed in concise form, the methodology and major concepts used in this study.

Chapter two focused on an extensive review of literature on the area of police accountability. The rationale for police accountability was also explored, with the major reasons being the need to promote democratic ideals, the need to control police discretion, and the need to curtail excessive use of force. The chapter explored the three models of police accountability namely: the Internal Affairs Model; the Civilian Review Model; and the Civilian Control Model, and reference was made to these models throughout this study. The chapter also examined the international, and regional legal framework for police accountability, as well as various accountability mechanisms at international and regional levels. Three theories- the Social Contract Theory, the Democracy Theory and the Social Bonding Theory were used in explaining various aspects of police accountability. Lastly, the chapter also identified various research gaps which this study sought to address.

Chapter three essentially focused on the research methodology employed for the study. It also explained the reasons behind the choice of the methodology and the study approach. This study utilised the mixed method approach, comprising both the quantitative and the qualitative approach. This study adopted the explanatory
sequential mixed method research design, and quantitative data was gathered before qualitative data. Data was collected through closed-ended questionnaire, semi-structured interviews and documentary survey. Stratified random sampling, snowball sampling and purposive sampling techniques were adopted in the selection of research participants.

**Chapter four** began by highlighting the respondents’ views on the rationale for police accountability. The chapter mainly focused on the internal accountability mechanisms that are available for the ZRP. The chapter explored the Police Act [Chapter 11:10] as the main statute that regulates police conduct, as well as other internal regulations that help in regulating police conduct. Also, findings from primary data on internal accountability mechanisms were also presented and discussed. In addition, shortcomings of internal police accountability mechanisms were also highlighted.

**Chapter five** of the study focused on the national legal framework for police accountability, as well as the role of the court as an institution for police accountability. Constitutional provisions which help in constraining police behaviour were outlined. Moreover, the relevant provisions of the Criminal Procedure and Evidence Act [Chapter 9:07] were also discussed. The court’s oversight role of the police was also discussed in this chapter. In addition, the effectiveness of the Courts and the Constitution in holding the police to account was also interrogated.

In **chapter six**, the role of Parliament and the Zimbabwe Human Rights Commission as key external accountability institutions for the ZRP was explored. The chapter
also outlined the relevant constitutional provisions and other enabling statutes that provide for the operation of these two institutions. The effectiveness of these two institutions was investigated and in the process bringing about some of the obstacles to the effectiveness of these institutions. In addition to secondary data from various sources, the chapter also presented and discussed primary data relating to the two institutions. The chapter emphasised the important role played by parliament through the portfolio committee, as well as question and answer sessions in Parliament. Moreover, the important role played by the Zimbabwe Human Rights Commission in handling human rights issues was emphasised, especially in the absence of an independent body to handle incidents of police misconduct.

**Chapter seven** dealt with the civil society and media’s roles on police accountability. First, the chapter discussed the role of civic society; mainly focusing on human rights based NGOs. The legal framework, as well as the general operating environment for this institution for police accountability was also evaluated. The effectiveness of this important societal accountability mechanism was also investigated. Secondly, the chapter also focused on the media’s oversight role of the police and highlights the important role played by the media in exposing incidents of police abuse of power. The legal framework, as well as the nature of the media operations in Zimbabwe was also outlined. Also, the effectiveness of the media on police accountability was evaluated. Lastly, the challenges that are faced by the two institutions in enhancing police accountability were also discussed.

**Chapter eight** started by highlighting the obstacles to police accountability. More importantly, recommendations for enhancing police accountability as suggested by
the respondents were also outlined in this chapter. Flowing from this chapter is the argument in favour of the establishment of an independent police complaints investigation department.

9.3 SUMMARY OF FINDINGS

Flowing from the research objectives were four research questions which the researcher attempted to answer. The following section presents findings in relation to the research questions.

9.3.1 Question 1: Which internal accountability mechanisms are available to the Zimbabwe Republic Police?

This study found out that there are several internal systems that are available within the ZRP to curb misconduct and police abuse of power. The Police Act [Chapter 10:11] is the major statute that governs internal disciplinary procedure for the ZRP. What is particularly important about the Police Act is the schedule of offences for which a police officer can be arraigned before disciplinary trial. Some of the important aspects in this schedule include; corruption related offences (Sections 20, 27 and 39); section that outlaws torture (Section 21); and a section that relates to excessive use of force (Sections 21 and 30). Consequently, any police officer who contravenes a provision of the Police Act can be tried by a single officer of or above the rank of Superintendent or by a board of officers who are of or above the rank of Superintendent. Punishment for convicted police officers ranges from imprisonment to dismissal. It was also found out that all corruption related offences warrant dismissal from the police organisation.
In addition to the Police Act, the ZRP has in place Police Standing Orders which guide the organisation on disciplinary and operational procedures. Moreover, the Human Rights and Policing Manual and the Public Order Policing Manual provide professional guidance on dealing with delicate issues on human rights and use of force.

The ZRP’s Service Charter was also considered by most of the respondents to be a key mechanism for police accountability. The Service Charter enhances accountability in two ways; first by setting minimum policing standards that the public should expect from the police, and secondly, by compelling the police to improve their policing standards so as to meet the set standards. In essence the Service Charter makes it possible for the public to judge the propriety of police actions through comparison of set standards with actual performance. Closely related to the Service Charter is the creation of the Inspectorate Unit which helps in monitoring all sections within the whole police organisation to ensure compliance with policing standards.

The complaints procedure is also another important component of the internal accountability mechanisms for the ZRP. Majority of respondents from external accountability institutions indicated that the ZRP has a transparent system for launching complaints against the police. A citizen can launch a complaint against the police with: the Officer in Charge station; Officer Commanding district; Officer Commanding province; or Commissioner General of Police. Moreover, there is a toll free number for launching a complaint against the police with the Police General
Headquarters. Use of suggestion boxes was also highlighted as a way of exposing incidents of police abuse of power, though some respondents criticised the idea of having the suggestion boxes opened by junior police officers.

The ZRP also has an internal unit- the Police Internal Security Intelligence (PISI) for investigating misconduct by police officers. The unit investigates complaints from the public or initiates investigations whenever they suspect misconduct by police officers. However the key question on whether the police can objectively investigate their own remains. Majority of the respondents indicated that they do not trust the police to investigate fellow police officers on incidents of police misconduct.

9.3.2 Question 2: Which external accountability mechanisms are available for the Zimbabwe Republic Police?

This study examined the role played by five institutions for police accountability and these are, The Court, The Parliament, the Zimbabwe Human Rights Commission, NGOs and the media.

9.3.2.1 The Courts

The court was considered by the respondents to be the most effective institution for police accountability amongst the five external institutions. The role of the court is to interpret laws and in the process of interpreting laws, they judge the propriety of police behaviour. For, example, when a suspect alleges torture by the police during criminal proceedings, the court can order the investigation of the allegations and can also disregard all the evidence obtained through torture. To this end, any improper conduct by the police will be reviewed by the courts during criminal proceedings.
Also, judicial officers preside over criminal cases in which police officers are implicated.

The courts also preside over civil suits against the police. Most of the civil suits, some of which were reviewed in this study, emanate from: unlawful arrest and detention; torture; and arbitrary search and seizure. This way, the court keeps police actions under check. Another important oversight role of the court over the police is its power to review internal police disciplinary processes. In this regard, they consider the appropriateness and procedural fairness of internal police disciplinary trials.

9.3.2.2 The Parliament

The role of Parliament is to make laws and in the process of making laws, they can pass laws which help to constrain police behaviour. One of the constitutional mandates of Parliament is to promote good governance and the Parliament’s oversight role of the police will promote good governance. The control of police through portfolio committees seems to be the major role played by parliament in enhancing police accountability. Moreover, the Parliament is empowered to summon the minister responsible for police, and even police officers to question them about police operations. The question and answer time also presents legislators with the opportunity to scrutinise some of the police actions. More importantly, the Parliament has legal mechanisms to enforce some of their powers and these powers are enunciated in the Privileges, Immunities and Powers of Parliament Act [Chapter 2:08]. However, the effectiveness of the Parliament as a police oversight institution is
negatively affected by the dominance of the ruling party, which has more than two thirds majority in Parliament.

9.3.2.3 The Zimbabwe Human Rights Commission (ZHRC)

In line with the United Nations General Assembly resolution 48/134 which recommended the creation of Human Rights Institutions, the ZHRC was established in 2010, though operations began after the establishment of the secretariat in 2014. Amongst its roles are: promotion and protection of human rights; monitoring assessing and ensuring the observance of human rights; and investigating incidents of human rights violations. Whilst the ZHRC deals with issues across all sections of the society, it was found out that most of the complaints that they deal with are complaints against the police. Also, one of the important powers of the ZHRC is the power to order the Commissioner General of Police to investigate criminal violations of citizens’ rights.

9.3.2.4 Societal accountability mechanisms

Societal accountability mechanisms comprise the police oversight role by the civil society and the media. Regarding, the civil society, Zimbabwe has numerous human rights based NGOs that are directly or indirectly involved in holding the police to account. Two major roles of the human rights based NGOs as identified in this study are: giving legal advice to victims of police abuse of power; and advocacy role. To this end, human rights lawyers have on numerous occasions successfully represented victims of police abuse of power. Similarly, they have on numerous occasions issued press statements denouncing police brutality and police abuse of power.
On the other hand, majority of the respondents noted the media’s role of exposing incidents of police abuse of power. Though the private media is taking a leading role in this regard, the State media has also in some occasions exposed cases of police brutality and police corruption. The social media has also brought in new dimension on the media’s police oversight role. Citizens are now using social media to watch post and share videos showing incidents of police brutality.

9.3.3 Question 3: What obstacles are hindering police accountability in Zimbabwe?

The presence of undemocratic laws was cited by most of the respondents as an impediment to police accountability. Some provisions of the laws such as: The Public Order and Security Act (POSA); the Access to Information and Protections of Privacy Act; and the Criminal Law (Codification and Reform) Act were considered to be undemocratic. These provisions are not only contrary to the Constitution but they also seem to justify infringement of citizens’ rights by the police. Also, contrary to the Constitution and the Police Act, it was found out that the police have on several occasions exhibited partisan tendencies. Respondents highlighted that by invoking some of the sections within the POSA, the police have made decisions which favour the ruling party.

Most of the respondents also indicated that they do not trust the police to handle all incidents of police misconduct. They indicated that there is lack of independence and objectivity in having the police to investigate fellow police officers on incidence of misconduct. To this end, absence of an independent body to investigate incidence of police misconduct was considered to be an obstacle to police accountability. Another
important finding that was highlighted was the prevailing situation in which judicial officers have to refer complaints by suspects against police torture back to the same police to investigate.

Despite its effectiveness, the respondents indicated that the courts have limited capacity to handle cases of police abuse of power, mainly due to the limited number of courts within the whole country. In addition, there are currently no mechanisms that are in place to enforce judgments on civil suits against the police. This is evidenced by findings in this study that some victims of police abuse of power have not yet received their compensation despite the courts having ordered the police to compensate the victims years back.

The current Parliament, in which one party (the ruling party) has a two thirds majority, makes it difficult for the Parliament to pass laws which limit police abuse of power or even to repeal undemocratic statutory provisions. Respondents noted that any discussions regarding police accountability would be overridden by one party. Majority of the respondents also indicated that the ZHRC does not have the capacity to deal effectively with human rights violations by the police, especially given the fact that the ZHRC only has two offices to cover the whole country. Lack of clearly defined investigative roles, limited fiscal space and limited powers were also viewed to be the major challenges for the ZHRC.

For societal accountability, the unfavourable operating environment for both the civil society organisations and the media, coupled with an unfavourable legal framework, was considered to be the major obstacle to police accountability. There is an
inherent mistrust by the government of human rights based NGOs and the private media, yet these institutions are expected to play a leading role in advocating for police accountability. To this end, there have been reports of arbitrary arrests, detention and persecution of civil society activists and journalists.

9.3.4 Research question 4: What can be done to improve police accountability in Zimbabwe?

The major recommendation that was suggested by the respondents is the creation of an independent body to handle serious cases of police misconduct. This will ensure an independent and objective investigation of incidents of police misconduct. Majority of the respondents also suggested that a board consisting of non police officers would be most effective. Moreover, it was recommended that the independent board should be accountable to the Parliament.

However, respondents also indicated the need to retain the internal mechanisms for handling minor incidents of misconduct. Suggested internal measures included: the need for continuous training of police officers on human rights; the need for depoliticisation of the police organisation; and decisiveness in dealing with police misconduct.

Majority of the respondents also highlighted the need to repeal or amend undemocratic statutory provisions. They also indicated that amendment of these laws will promote a favourable operating environment for civil society organisations and the media.
Respondents also called for the decentralisation of the Zimbabwe Human Rights Commission, as well as capacitating the institution with adequate human and financial resources. In addition, they also advocated for clearer investigative roles and adequate powers to be able to investigate incidents of human rights violations by police officers.

9.4 CONCLUSIONS

The ZRP has a multifaceted internal system of accountability comprising of the legal framework and other various measures. As with other jurisdictions across the globe, the Police Act is the major legal instrument that regulates disciplinary issues within the ZRP. The Service Charter, the police complaints procedure, use of suggestion boxes and use of the declaration register are amongst the prominent mechanisms that are within the ZRP to curb incidents of police abuse of power. Notwithstanding the presence of these internal mechanisms, the lack of independent investigation of police misconduct is the major challenge to the internal accountability mechanisms. Concerns have been raised over the police’s ability to objectively investigate their own.

The Court’s oversight role over the police through examining the propriety of police actions and presiding over civil suits against the police makes the court one of the most effective institutions for police accountability. However the limited number of courts, as well as fewer judicial officers limits the courts’ capacity to hold the police to account. The absence of a mechanism to enforce compliance with judgements on civil suits against the police also limits the effectiveness of the courts.
Whilst the State has taken a good initiative of creating the Zimbabwe Human Rights Commission, the institution has not been as effective as it is supposed to be. Two understaffed offices may not be adequate for the whole nation. Despite the ZHRC’s role of investigating incidence of police misconduct, this study established that the greater part of investigation on human rights violations by police officers is actually done by the police.

The media plays an important role in police accountability through exposing incidents of police abuse of power. The importance of the media as the fourth estate of the State was confirmed in this study. The social media has also greatly assisted other media platforms in exposing police abuse of power. Similarly, though in a difficult operating environment, human rights based NGOs have also been influential in police accountability through advocacy role and legal representation for victims of police abuse of power.

In the end, though mechanisms are available internally and outside the ZRP to curb police misconduct and abuse of power, the mechanisms are either inadequate or they have inherent weaknesses. Whilst global trends have shown a shift towards civilian oversight of the police organisations, the findings seem to suggest a limited role of civilians for police oversight in Zimbabwe. Given that the police are employed to serve the interests of the public, it is logical that they be subservient to the communities by allowing citizens to scrutinise their actions. Also, the absence of an independent body to handle serious cases of police misconduct in Zimbabwe has implications on police accountability.
9.5 RECOMMENDATIONS FROM THE STUDY

Based on the findings of the study as presented and discussed in this thesis, and more specifically on the above findings and conclusions, a number of recommendations are offered.

9.5.1 Creation of an independent police complaints investigations department

The public’s mistrust on the internal mechanisms for handling police misconduct, as well as the need for an objective and independent investigation of police misconduct can be addressed by the creation of an independent body to handle police misconduct. The independent body will be responsible for investigating all serious incidents of police misconduct which include: death or serious injuries involving the police; excessive of force by the police; corruption by police; all criminal offences that are committed by the police; and all serious human rights violations by the police. The starting point will be the promulgation of an enabling statute, which will be in the mould of South Africa’s Independent Police Complaints Directorate Act. In line with the research findings and the international practices, the following are some of the important considerations for the operations of the independent body:

A. The independent body should be headed by a director, who will be non-partisan. Appointment of the director should be approved by the Parliament. The enabling Act of Parliament should also clearly specify the appointment policy as well as tenure of office for the director and other key personnel.

B. Serving members of the ZRP should not form part of the institution, though a limited number of retired police officers can be incorporated in non-management positions.
C. The investigating officers should be given powers of peace officers as provided in the Criminal Procedure and Evidence Act [Chapter 9:11]. They should therefore have the powers to arrest, and to carry out search and seizure of necessary evidence.

D. The institution should have a dual reporting system - to Parliament and to the Minister responsible for Police.

E. The enabling Act should also direct the Police Commissioner General of Police to implement recommendations that would have been specified by the independent body.

However the creation of the independent body will not take away the current internal mechanisms for handling minor incidents of police misconduct. To this end, minor violations in respect of the Police Act should be handled through the internal disciplinary procedure.

9.5.2 Human rights training for police officers

Given that most of the incidents of police abuse of power have an element of human rights violations, there is need for comprehensive training of police officers on human rights. The human rights content on initial recruit training should be increased and should be continuously updated. Moreover, human rights training should be ongoing and provincial training centres should take a leading role in conducting refresher courses on contemporary human rights issues.

The police staff college should conduct workshops for all the senior officers within the police command, as they have the responsibility of shaping the human rights
discourse for the whole police organisation. Moreover, leading academics in the areas of law and human rights, as well as NGO representatives should be invited to make presentations at the workshops.

9.5.3 Transparency in complaints handling by the police

Whilst this study revealed that the current system of launching complaints against the police is transparent, the subsequent investigation of the complaints needs to be transparent as well. The public needs to be informed of how the police deal with complaints against police officers. To achieve this, there is need for constant engagement with victims of police abuse of power. There is also need for press release of national statistics on all the cases of police misconduct that the police would have handled.

9.5.4 Repealing of undemocratic statutory provisions

The Parliament should take a leading role in addressing undemocratic statutory provisions. The Acts which need to be amended include: the Public Order and Security Act; Access to Information and Protection of Privacy Act; and the Criminal Law (Codification and Reform) Act. Whilst the Constitutional Court has taken a bold step in condemning some statutory provisions within these Acts, the Parliament should also complement such important efforts. As long as these provisions remain in the country’s statues, the police will continue to enforce them. Repealing the laws will make it impossible for the police to justify their actions, some of which have long been considered to be violation of citizens’ rights.
9.5.5 De-politicisation of the police organisation

The police organisation should adhere to the constitution, which requires them to be non-partisan. Moreover, their own Police Act makes it an offence for police officers to engage in political activities. There is therefore need for the police to be professional, impartial and to apply the law equally to all citizens. In a democratic society, police are expected to be neutral players in the criminal justice system and any partisan tendencies should not be tolerated at any level within the organisation. On the other hand, politicians should desist from interfering with police work, as this will present a breeding ground for partisan policing.

9.5.6 Capacitating the Zimbabwe Human Rights Commission

In the absence of an independent police complaints investigations unit, the ZHRC becomes important in addressing human rights violations by police officers. The ZHRC should decentralise to all the country’s provinces to enable all the citizens to lay complaints. Moreover, the government should avail adequate financial resources to this important institution, as reliance on donor funding will have an impact on the objectivity of the institution.

Also, there is need for clear investigative roles for the ZHRC. Other than having the power to direct the Commissioner General of Police to investigate criminal human rights abuses, an ideal situation would be whereby the ZHRC carries out the investigation on its own. In addition to the investigative roles, the ZHRC officials should be given the powers of arrest, as well as powers to compel implicated police officers to appear before the Commission.
9.5.7 Enforcement mechanisms for court judgements

With the finding that the court is an effective institution for police accountability, there is need for a policy to enforce compliance with judgements on civil suits against the police. There should be a time frame by which compensation for victims of police abuse of power should have been paid. Moreover, the policy should clearly specify the modalities of settling the amounts that would have been specified in the judgements. Situations whereby victims of police abuse face difficulties in receiving compensation from the police should not be allowed in a democratic society.

9.5.8 Paradigm shift on attitudes towards the civil society and the media

The culture of mistrust between the police and societal institutions of accountability should be dealt with and either party should play a role. The police should allow the civil society organisations and the media to exercise their constitutional rights without impediments. This however should not stop the police from using proportionate force on cases where the civil society organisations engage in violent conduct as they exercise their constitutional rights. The police should also treat the civil society and the media as important players in community policing, hence they should be allowed to operate without obstruction.

Conversely, the civil society and media should view the police as protectors of human rights rather than violators of human rights. Whilst the civil society and the media have the duty to expose wrongdoings by the police, they also have a role to play in highlighting policing success stories to the general public. Moreover, civic society organisations should also desist from engaging in violent behaviour, as this provokes the police to use force.
9.6 RECOMMENDATIONS FOR FUTURE RESEARCH

From this study, further study is recommended on: (1) the impact of police culture on police accountability; (2) the effectiveness of an independent police complaints investigations department, on the pretext that the recommendation from this study for its establishment is implemented; (3) individual studies on each of the institutions for police accountability.


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LIST OF CITED COURT CASES

Botha v Zvada and Another 1997 (1) ZLR415 (H)

Chinjayani V Minister of Home Affairs and Others HH 76- 2010

Chituku V Minister of Home Affairs and Other HH- 6- 2004

Karimazondo and Another v Minister of Home Affairs and Another 2001 (2) ZLR 363 (H)

Mapp v Ohio (1961) 367 U.S 643

Mapuranga v Mungate 1997 (1) ZLR 64 (H)

Minister of Home Affairs and Another V Bangajena 2000 (1) ZLR 306 (S)

Miranda V Arizona  384 U.S 436 (1966)

Mugadza v Minister of Home Affairs and Another 2001 (2) ZLR 134 (H)

Mugwagwa v Minister of home Affairs and Commissioner of Police HH- 183-2004

Mukumba V Minister of Home Affairs and Another HH-84-2009

Musadzikwa v Minister of Home Affairs and Another 2000 (1) ZLR 405 (H)

Muskwe v Minister of Home Affairs and Others HH- 83-2013

Nyandoro v Minister of Home Affairs and Another HH- 196- 2010

Ramsahai V the Netherlands (2007) 46 EHRR 43

State v Slatter 1983 ZLR 144

State v Reza HH- 02- 2004

Trevor Simbanegavi v Officer Jachi HH -40 – 13
Dear Respondent

My name is Ishmael Mugari. I am a doctoral student at Tshwane University of Technology, in the Republic of South Africa and I am studying towards my D Tech degree in Policing.

As a requirement for completion of my studies, I am currently carrying out a research entitled, “An analysis of institutionalised accountability mechanisms for the Zimbabwe Republic Police”. The aim of this study is to evaluate the current internal and external accountability systems for the Zimbabwe Republic Police.

I am kindly requesting for your participation in this research study. You were randomly selected from a population sample of institutions which are responsible for enhancing police accountability. I would be grateful to have your input in the above topic through completion of an attached questionnaire and returning the questionnaire back to me.

Participation in this research project is voluntary. You may refuse to participate or withdraw from the research project at any stage and for any reason without any form of disadvantage. There will be no monetary gain from participating in this research project.

I assure you that both the responses and identities of all the respondents will be kept strictly confidential. This is purely an academic exercise for academic purposes. Your cooperation will be greatly appreciated.

If you have any questions or concerns about participating in this study, please feel free to contact myself or my supervisor using the contact details below;

**Resercher**: Ishmael Mugari
Institution: Tshwane University of Technology
Telephone number: +263775651150
Email: ishiemugari@gmail.com

**Supervisor**: Prof A. A. Olutola
Institution: Tshwane university of Technology
Telephone number: +27123829696
Email: olutolaaa@tut.ac.za
**Instructions**

Please indicate your answer by ticking the relevant boxes.

### Section A: Demographic Information

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<td>6</td>
<td>Other/ Please specify [ ]</td>
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<td>4</td>
<td>Above 5 years [ ]</td>
</tr>
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### Section B: Opinion on Internal accountability mechanisms

7. Can you comment on your level of knowledge on the internal accountability systems within the Z.R.P.

No knowledge [ ]

Little knowledge [ ]

Moderate knowledge [ ]

Vast knowledge [ ]
8. Please indicate your level of agreement to the following statements in relation to internal police accountability mechanisms. Use the following scale:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th>3 Neutral</th>
<th></th>
<th>5 Strongly Agree</th>
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<tbody>
<tr>
<td>1</td>
<td>Strongly disagree</td>
<td>2</td>
<td>Disagree</td>
<td>4</td>
<td>Agree</td>
</tr>
</tbody>
</table>

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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>The Z.R.P has a transparent system for members of the public to air their complaints against the police.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b)</td>
<td>The police can be trusted to deal with all cases involving misconduct by fellow officers.</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>c)</td>
<td>The police should be involved in all investigation involving fellow officers’ misconduct</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d)</td>
<td>Currently, internal investigations on police officers’ misconduct are made public</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e)</td>
<td>Internal investigations into police officers’ misconduct are done promptly</td>
<td></td>
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</table>

9. Are you willing to report incidents of police officers’ misconduct to the police commanders?

<p>| | | | | |</p>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No</td>
<td>2</td>
<td>Undecided</td>
<td>3</td>
</tr>
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</table>

Section C: External accountability mechanisms

10. Various external accountability mechanisms are available to curb incidences of abuse of power by the police in Zimbabwe. Can you indicate the current effectiveness of the following accountability mechanisms? Use the following scale:

<table>
<thead>
<tr>
<th>1</th>
<th>Not effective</th>
<th>2</th>
<th>Less effective</th>
<th>3</th>
<th>Somewhat effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Effective</td>
<td>5</td>
<td>Very effective</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>Courts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b</td>
<td>The Constitution</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c</td>
<td>Parliament</td>
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<tr>
<td>d</td>
<td>NGOs</td>
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<td>e</td>
<td>Media</td>
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<td></td>
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<tr>
<td>f</td>
<td>Human Rights Commission</td>
<td></td>
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</table>

11. The Constitution of Zimbabwe has specific provisions which curtail police abuse of power. In your opinion how adequate are the constitutional provisions in curbing police abuse of power?

<p>| | | | | |</p>
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<th></th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Not adequate</td>
<td>2</td>
<td>Less than adequate</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Somewhat adequate</td>
<td>4</td>
<td>Adequate</td>
<td>5</td>
</tr>
</tbody>
</table>

12. The courts have the capacity and are independent enough to deal with cases of police abuse of power.

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<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Strongly disagree</td>
<td>2</td>
<td>Disagree</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Neutral</td>
<td>4</td>
<td>Agree</td>
<td>5</td>
</tr>
</tbody>
</table>
13. The Parliament has the necessary powers and capacity to hold the police to account for their actions.
1 Strongly disagree [ ] 2 Disagree [ ]
3 Neutral [ ] 4 Agree [ ]
5 Strongly agree [ ]

14. In your opinion, what major role is being played by the Parliament in enhancing police accountability?
1 No role [ ] 2 Advising on police policy [ ]
4 Holding police to account through a portfolio committee [ ]
5 Instituting commission of enquiries on major incidents of police misconduct [ ]

15. NGOs are given platforms to air their views about police accountability.
1 Strongly disagree [ ] 2 Disagree [ ]
3 Neutral [ ] 4 Agree [ ]
5 Strongly agree [ ]

16. In your opinion, what major role is currently being played by the NGOs in enhancing police accountability?
1 No role [ ] 2 Advocacy role [ ]
3 Advising on policy issues [ ]
4 Giving legal support to victims of police abuse of power [ ]

17. The media in Zimbabwe has been able to expose incidences of police abuse of power.
1 Strongly disagree [ ] 2 Disagree [ ]
3 Neutral [ ] 4 Agree [ ]
5 Strongly agree [ ]

18. In your opinion, what major role is currently being played by the media in enhancing police accountability?
1 No role [ ] 2 Advocacy role [ ]
3 Advising on police policy [ ] 4 Exposing incidents of police abuse of power [ ]

19. The Human Rights Commission has the necessary powers and capacity to deal with incidences of police abuse of power.
1 Strongly disagree [ ] 2 Disagree [ ]
3 Neutral [ ] 4 Agree [ ]
5 Strongly agree [ ]

20. How would you view the nature of accountability mechanisms for the ZRP?
1 Mainly internal [ ] 2 mainly external [ ]
3 Balanced (Both internal and external) [ ]

21. Overall, how would you rate the adequacy of the current external accountability mechanisms for the Zimbabwe Republic Police?
1 Not adequate [ ] 2 Less than adequate [ ]
3 Somewhat adequate [ ] 4 Adequate [ ]
5 More than adequate [ ]
Section D: Obstacles to police accountability

22. To what extent do you agree with the following as possible obstacles to police accountability in Zimbabwe? Use the following scale:

<table>
<thead>
<tr>
<th>1 Strongly disagree</th>
<th>2 Disagree</th>
<th>3 Neutral</th>
<th>4 Agree</th>
<th>5 Strongly agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a The laws which curtail police abuse of power are inadequate</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>b The laws are adequate but the police are not sticking to the relevant statutory limits of their powers</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>c There is lack of transparency in the police complaints procedure</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>d The police are incompetent to conduct internal investigations</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>e Police officers are not willing to expose incidents of fellow officers’ misconduct</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>f Limited powers for the Zimbabwe Human Rights Commission</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
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</table>

23. The Courts often take long to pass judgements on civil suits against the police. To what extent do you agree?

1 Strongly disagree [ ] 2 Disagree [ ] 3 Neutral [ ] 4 Agree [ ] 5 Strongly agree [ ]

24. Can you comment on the laws which regulate media operations in Zimbabwe?

1 Very unfavourable [ ] 2 Unfavourable [ ] 3 Somewhat favourable [ ] 4 Favourable [ ] 5 Very favourable [ ]

25. Can you comment on the operating environment for human rights based NGOs in Zimbabwe?

1 Very unfavourable [ ] 2 Unfavourable [ ] 3 Somewhat favourable [ ] 4 Favourable [ ] 5 Very favourable [ ]

26. It is difficult to involve non police officers in the investigations of police officers on cases of police misconduct. To what extent do you agree?

1 Strongly disagree [ ] 2 Disagree [ ] 3 Neutral [ ] 4 Agree [ ] 5 Strongly agree [ ]

27. Overall, how adequate are the current accountability mechanisms to curb incidents of police abuse of power?

1 Not adequate [ ] 2 Less than adequate [ ] 3 Somewhat adequate [ ] 4 Adequate [ ] 5 More than adequate [ ]
Section E: Recommendations

28. The following are some of the systems for investigating incidents of police misconduct. In your opinion, who would you consider to be effective?
Use the following scale;
1 Not effective   2 Less effective   3 Somewhat effective
4 Effective       5 Very effective

<table>
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<td>Police command</td>
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<tr>
<td>b</td>
<td>Internal police investigation unit</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>c</td>
<td>An external body consisting of non police officers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d</td>
<td>A board consisting of both police officers and non police officers</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>e</td>
<td>Courts</td>
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<tr>
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<td>Human Rights Commission</td>
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</table>

29. Suppose your rights have been violated by a junior police officer during a police operation, what action would you take?
1 Take no action  [ ]
2 File a complaint with the charge office [ ]
3 Inform the officer in Charge  [ ]
4 File a civil suit at the courts  [ ]
5 Other action/ please specify [ ].................................................................

30. Suppose there is police misconduct which also amounts to a criminal offence. Which course of action would you recommend?
1 Disciplinary procedure then criminal procedure  [ ]
2 Criminal procedure, then disciplinary procedure [ ]
3 Disciplinary and criminal procedures to run concurrently [ ]
4 Disciplinary procedure only  [ ]
5 Criminal procedure only  [ ]

31. Suppose we want to create a special independent board for handling incidents of police misconduct. Who among the following would you consider to be included in the board?

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<td>Human Rights NGO representatives</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c</td>
<td>Serving senior police officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d</td>
<td>Retired senior police officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e</td>
<td>Media practitioners</td>
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<tr>
<td>f</td>
<td>The Clergy</td>
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<td></td>
</tr>
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</table>
32. To whom should the special board be accountable?

<table>
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<th>Item</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
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<td>a</td>
<td>Parliament</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b</td>
<td>Police Commissioner General</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c</td>
<td>Courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d</td>
<td>Human Rights Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e</td>
<td>Should not be accountable to anyone</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

33. *(Optional)* What other recommendations would you suggest in order to enhance police accountability?

Thank you for your valuable input
APPENDIX 2
QUESTIONNAIRE FOR FORMER POLICE OFFICERS

Tshwane University of Technology
Faculty of Humanities
Department of Safety and Security Management
Soshanguve Campus
Pretoria
South Africa

Dear Respondent

My name is Ishmael Mugari. I am a doctoral student at Tshwane University of Technology, in the Republic of South Africa and I am studying towards my D Tech degree in Policing.

As a requirement for completion of my studies, I am currently carrying out a research entitled, “An analysis of institutionalised accountability mechanisms for the Zimbabwe Republic Police”. The aim of this study is to evaluate the current internal and external accountability systems for the Zimbabwe Republic Police.

I am kindly requesting for your participation in this research study. You were randomly selected from a population sample of former police officers to provide your input on the internal accountability mechanisms to curb incidence of misconduct. I would be grateful to have your input in the above topic through completion of an attached questionnaire and returning the questionnaire back to me.

Participation in this research project is voluntary. You may refuse to participate or withdraw from the research project at any stage and for any reason without any form of disadvantage. There will be no monetary gain from participating in this research project.

I assure you that both the responses and identities of all the respondents will be kept strictly confidential. This is purely an academic exercise for academic purposes. Your cooperation will be greatly appreciated.

If you have any questions or concerns about participating in this study, please feel free to contact myself or my supervisor using the contact details below;

Reseacher: Ishmael Mugari
Institution: Tshwane University of Technology
Telephone number: +263775651150
Email: ishiemugari@gmail.com

Supervisor: Prof Adewale A. Olutola
Institution: Tshwane University of Technology
Telephone number: +27123829696
Email:olutolaaa@tut.ac.za
**Instructions**
Please indicate your answer by ticking the relevant boxes and filling on the provided space where applicable

### Section A: Demographic Information

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<td>Undergraduate degree [ ]</td>
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<td></td>
<td>4</td>
<td>Postgraduate degree [ ]</td>
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<td></td>
<td></td>
<td>5</td>
<td>Other please specify [ ] ............................................</td>
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<tr>
<td>4</td>
<td>Indicate your rank before you left the police</td>
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<td>Constable [ ]</td>
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<tr>
<td></td>
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<td>2</td>
<td>Sergeant [ ]</td>
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<td></td>
<td></td>
<td>3</td>
<td>Assistant Inspector [ ]</td>
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<td>4</td>
<td>Inspector/Chief Inspect [ ]</td>
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<td>5</td>
<td>Superintendent and above [ ]</td>
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<td>5</td>
<td>Indicate reason for leaving the police</td>
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<td>2</td>
<td>Pension [ ]</td>
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<td>3</td>
<td>Dismissed [ ]</td>
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<td>4</td>
<td>Can't disclose [ ]</td>
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<td></td>
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<td>5</td>
<td>Other, please specify [ ] ............................................</td>
</tr>
<tr>
<td>6</td>
<td>Indicate your nature of duties upon retirement from the police</td>
<td>1</td>
<td>Police command (Insp +) [ ]</td>
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<td></td>
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<td>2</td>
<td>Charge office/Patrols [ ]</td>
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<td>Investigations [ ]</td>
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<td>Training [ ]</td>
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<td>5</td>
<td>Community/Public relations [ ]</td>
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<td>6</td>
<td>Other/Please specify [ ] .............................................</td>
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</tbody>
</table>
Section B: Internal Accountability mechanisms

7. There are various internal mechanisms that are available in the Z.R.P to deal with incidences of misconduct and abuse of power by police officers. Can you list any mechanisms that come to your mind?
1........................................................................................................................................
2........................................................................................................................................
3........................................................................................................................................
4........................................................................................................................................
5........................................................................................................................................
6........................................................................................................................................
7........................................................................................................................................
8........................................................................................................................................
9........................................................................................................................................

8. Please indicate your level of agreement to the following statements in relation to internal police accountability mechanisms within the Z.R.P. Use the following scale:

1 Strongly disagree   2 Disagree   3 Neutral
4 Agree              5 Strongly Agree

<table>
<thead>
<tr>
<th>No</th>
<th>Question</th>
<th>1</th>
<th>2</th>
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<th>4</th>
<th>5</th>
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<tbody>
<tr>
<td>a)</td>
<td>The Z.R.P has a transparent system for members of the public to air their complaints against the police.</td>
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<td>b)</td>
<td>Internal investigations into police officers’ misconduct are done promptly</td>
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<tr>
<td>c)</td>
<td>The victims of police abuse are informed of the disciplinary measures taken against implicated officers</td>
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<tr>
<td>d)</td>
<td>The general public is informed of the disciplinary measures taken against officers implicated for misconduct</td>
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</tbody>
</table>

9. In case of a police officer’s misconduct which amounts to a criminal offence, which of the following comes first?
1 Internal disciplinary action
2 Criminal action through courts
3 Run concurrently

10. Who carries out investigations on cases involving police officers’ misconduct?
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

11. Whilst you were a serving member, would you be willing to testify against your workmate during disciplinary or criminal trial?
1 No
2 Yes

12. Suppose there were allegations against you pertaining to misconduct, which procedure would you be comfortable with?
1 Appear before a disciplinary board
2 Appearing before a magistrate or judge
13. Internal disciplinary measures are unreliable as they are usually biased in defence of police officers. To what extent do you agree?

1 Strongly disagree [ ]
2 Disagree [ ]
3 Neutral [ ]
4 Agree [ ]
5 Strongly agree [ ]

14. Can you comment on the fairness of the current internal disciplinary procedure within the Z.R.P?

1 Very unfair [ ]
2 Unfair [ ]
3 Somewhat fair [ ]
4 Fair [ ]
5 Very fair [ ]

Please expand if necessary

Section C: Views on external accountability systems

15. The Constitution of Zimbabwe gives too many rights to accused persons and this sometimes brings dilemma to police officers. To what extent do you agree?

1 Strongly disagree [ ]
2 Disagree [ ]
3 Neutral [ ]
4 Agree [ ]
5 Strongly agree [ ]

16. Can you comment on the current relationship between the police and the media?

1 Very bad [ ]
2 Bad [ ]
3 Somewhat good [ ]
4 Good [ ]
5 Very good [ ]

Please expand if necessary

17. It is difficult to have a good relationship between the police and private media. To what extent do you agree?

1 Strongly disagree [ ]
2 Disagree [ ]
3 Neutral [ ]
4 Agree [ ]
5 Strongly agree [ ]

Please expand if necessary
18. How feasible is the idea of having a board of non-police officers investigating police officers on incidences of police misconduct?

1 Not feasible [ ] 2 Somewhat feasible [ ]
3 Feasible [ ] 4 Very feasible [ ]

Please expand if necessary

Section D: Recommendations

19. The following are some of the systems for investigating incidents of police misconduct around the world. In your opinion, who would you consider to be effective?

Use the following scale

1 Not effective 2 Less effective 3 Somewhat effective
4 Effective 5 Very effective

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<tr>
<th>No</th>
<th>System</th>
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<th>2</th>
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<tr>
<td>a</td>
<td>Police command</td>
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<td>b</td>
<td>Internal police investigation unit</td>
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<td>c</td>
<td>An external board consisting of non police officers</td>
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<tr>
<td>d</td>
<td>A board consisting of both police officers and non police officers</td>
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<td>e</td>
<td>Courts</td>
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<td></td>
<td></td>
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<tr>
<td>f</td>
<td>Human Rights Commission</td>
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</table>

Thank you for your valuable information
APPENDIX 3: SEMI STRUCTURED INTERVIEW GUIDES

1. Interview guide for external accountability institutions

Why do you think we should be concerned with police accountability?

Are you aware of any internal police accountability mechanisms to curb police abuse of power and which mechanisms come to your mind?

How do you take the idea of having the police to investigate fellow police officers on incidents of police misconduct?

Would you consider a purely internal mechanism when dealing with incidents of police abuse of power, why?

How adequate are the constitutional provisions which deal with police abuse of power?

Other than the Constitution, can you comment on other statutory provisions to curb incidents of police abuse of power?

Can you comment on the effectiveness of the Courts in dealing with incidents of police misconduct?

Currently, how is the Parliament helping to enhance police accountability and how effective is this organ of the state?

How effective has the Human Rights Commission been in enhancing police accountability? What challenges are being faced by this constitutional body in light of the issue of police accountability?

Can you comment on the operating environment of Human Rights based NGOs? How effective have these NGOs been in advocating for police accountability?

How effective has the media been in exposing incidents of police abuse of power? In your opinion, what obstacles are being faced by the media in holding the police to account?

Can you comment on the adequacy of external mechanisms to curb police abuse of power?

What other obstacles would you consider to be negatively affecting police accountability?

What should be done by your institution to improve its effectiveness in enhancing police accountability?

How do you take the idea of having an independent body to investigate complaints against the police?
Who would you want to be incorporated in the arm?
What measures would you suggest to promote police accountability?

2. Interview guide for former Police Officers

Which internal mechanisms are available in the Z.R.P to curb police abuse of power?

Can you comment on the complaints procedure which is in place for the public to complain against the police?

How does the ZRP deal with police misconduct which does not amount to a criminal offence?

How does the ZRP deal with police misconduct which amounts to a criminal offence?

How fair is the disciplinary procedure that is available for the ZRP?

Can you comment on the complaints procedure on cases of police misconduct? In your opinion, how effective is this procedure?

How do you take the idea that police internal investigations should be open to public scrutiny?

The media can play a role in exposing incidents of police misconduct. Can you comment on the ZRP’s relationship with the media?

How has the current constitution affected your operations in light of police accountability?

How would you take the idea of an independent police investigations unit consisting of non-police officers to investigate incidents of police misconduct?
Dear Potential research participant,

You are invited to participate in a research study that forms part of my formal doctoral degree study. This information leaflet will help you to decide if you would like to participate. Before you agree to take part, you should fully understand what is involved. You should not agree to take part unless you are completely satisfied with all aspects of the study.

WHAT IS THE STUDY ALL ABOUT?
This study will examine a number of critical issues associated with the issue of police accountability. The researcher argues that police accountability is one of the most important aspects of democratic policing. Police officers, who are representatives of democratic order, possess various powers which enable them to carry out their constitutional mandate of maintaining law and order. Given the complexities of their work and the huge discretionary powers which they wield, there is need for a solid system of checks and balances to protect the public from police excesses. These checks and balances, which are known as accountability mechanisms, are crucial if ever police are to win the citizens’ trust.

On numerous occasions, the Zimbabwe Republic Police (ZRP) has had to content with allegations of abuse of powers and functions, with the allegations mainly emanating from Non-Governmental Organisations (NGOs) and independent media houses. This study seeks to explore the various internal and external accountability mechanisms that are available for the Z.R.P. Drawing on empirical data from the questionnaire and in-depth interviews with the police officers and representatives from various external accountability institutions, this study will give an in-depth and balanced analysis of the current accountability mechanisms.

The following research objectives were identified to guide the study;

- To examine the internal accountability mechanisms in the Z.R.P.
- To examine the external accountability mechanisms for the Z.R.P.
- To evaluate the obstacles to police accountability for the Z.R.P.
- To suggest an appropriate model for police accountability.

WHAT WILL YOU BE REQUIRED TO DO IN THE STUDY?

Selected interview respondents will be asked to take part in face to face in-depth interviews which will take about 30 to 40 minutes of their time (i.e once off sessions). Selected respondents will be asked general semi structured questions which relate
to police accountability, as well as specific question on accountability that relate to 
the nature of their work. The scheduling of the interviews will depend on the 
availability of the participants in relation to their daily schedule and prior appointment 
will be made before hand.

Selected questionnaire respondents will each be given a questionnaire to complete 
at their own convenient time. The questionnaire, which consists of closed ended 
questions, will require the respondents to tick on the appropriate response and will 
take approximately 15 to 25 minutes.

It will be stipulated that all participants have a choice whether or not to participate in 
the research. The researcher will ensure that all the research participants speak 
English and have the ability to read and write, thus the researcher is confident that 
the participants will fully understand the consent form. With the permission of the 
participants by virtue of their informed consent, the data will be audio-recorded and 
then transcribed to be analysed.

If you decide to take part in the study, you will be required to do the following:

- To sign this informed consent form;
- Avail yourselves for the interviews where your opinion will be required on the 
nature and effectiveness of police internal accountability mechanisms, or nature 
and effectiveness of police external accountability mechanisms, as well as your 
opinion on the obstacles to police accountability. As highlighted earlier, your 
participation to this study will last for approximately 30 to 40 minutes. Note that 
the data collected will be kept in a lockup cabinet for record purposes for a 
period of three years.

ARE THERE ANY CONDITIONS THAT MAY EXCLUDE YOU FROM THE STUDY?
For the purpose of this study the researcher will conduct the study focusing on police officers and representatives from various accountability mechanisms namely; The Courts, the Human Rights Commission, the Parliament, Human Rights Based NGOs and The Media. The study will be restricted to Harare Metropolitan policing area. All other respondents who do not fall in any of the mentioned categories will be omitted from the study.

CAN ANY OF THE STUDY PROCEDURES RESULT IN PERSONAL RISK, DISCOMFORT OR INCONVENIENCE?

**Minimal risk/discomfort/inconvenience:** The study and procedures involve no foreseeable physical discomfort or inconvenience to you or your family. Due to the personal nature of the questions, you may experience some emotional discomfort.

The information that you will provide during participation in this study will be included in this research study, which will be analysed in conjunction with the literature and data collected from questionnaire responses. The consent form provided to you will stipulate your right to privacy and undertaking that your identity will remain anonymous and at any time during the interviews you are allowed to terminate your participation if you feel uncomfortable to proceed.

WHAT ARE THE POTENTIAL BENEFITS THAT MAY COME FROM THE STUDY?

The research will shed more light on the topical issue of police accountability, giving an in-depth analysis of the available mechanisms to enhance police accountability. By selecting samples from police and non-police officers, the study will give a balanced and objective argument that will prove invaluable to both the police and non-police policy makers. The general public will also be informed of the manner in which the police deal with cases of police misconduct.
WILL YOU RECEIVE ANY FINANCIAL COMPENSATION OR INCENTIVE FOR PARTICIPATING IN THE STUDY?

Please note that you will not be paid to participate in the study. However, your responses remain of utmost importance in regard to evaluating the accountability mechanisms for the Z.R.P, as this will enable informed recommendation to be made pertaining to the issue.

WHAT ARE YOUR RIGHTS AS A PARTICIPANT IN THIS STUDY?

Your participation in this study is entirely voluntary. You have the right to withdraw at any stage without any penalty or future disadvantage whatsoever. You do not even have to provide the reason/s for your decision. Your withdrawal will in no way influence your continued care and relationship with the researcher or Tshwane University of Technology (TUT). Note that you are not waiving any legal claims, rights or remedies because of your participation in this research study.

HOW WILL CONFIDENTIALITY AND ANONYMITY BE ENSURED IN THE STUDY?

Babbie (2005:65) states that a research project guarantees confidentiality when the researcher can identify a given person’s responses, but promises not to do so publicly. The researcher also perceives confidentiality as a salient factor in the study. Asking the respondents to provide with their views on the effectiveness of current police accountability mechanisms may make them feel vulnerable. They may feel intimidated and uncertain as to where the information will be going to, and who will know who has said what. For these reasons the researcher believes that confidentiality is an important factor and should be addressed with all the respondents.

In the meeting with all respondents, the researcher will verbally express the importance of confidentiality and will indicate to the respondents that every effort will
be made at all times to ensure that all information is treated in strict confidence. For the questionnaire respondents, the researcher will provide each respondent with the questionnaire, which has to be completed anonymously. All questionnaires will be coded to ensure that confidentiality is maintained.

IS THE RESEARCHER QUALIFIED TO CARRY OUT THE STUDY?

The researcher will conduct the research under the supervision of the supervisor as well as guided by the TUT ethical norms regarding how he is supposed to conduct the research. The competence of the researcher refers to the researcher’s professional training by an accredited institution to be proficient enough to perform quality research (Bless, Higson-Smith & Kagee, 2006:141). It is the ethical responsibility of the researcher to have sufficient skill and competency to conduct the research (Strydom, 2011:123). The researcher’s studies in policing, equipped him with the necessary skills for the research and as highlighted earlier, supervision will be received throughout the research process. The researcher’s behaviour and actions will be guided by the research ethics that were stipulated in the study’s research proposal and approved by an ethical committee prior to the commencement of the study (Bless, Higson-Smith & Kagee, 2006:145).

HAS THE STUDY RECEIVED ETHICAL APPROVAL?

No. The Faculty Higher Degrees Committee and the Research Ethics Committee of the Tshwane University of Technology is still on a process of approving the formal study proposal. All parts of the study will be conducted according to internationally accepted ethical principles thereof.

WHO CAN YOU CONTACT FOR ADDITIONAL INFORMATION REGARDING THE STUDY?
The primary investigator, Mr Ishmael Mugari, can be contacted on his cellular phone at Cellphone +263775651150. The study leader, Dr AA Olutola, can be contacted during office hours at Tel (012) 382-9696. Should you have any questions regarding the ethical aspects of the study, you can contact the chairperson of the TUT Research Ethics Committee, Dr WA Hoffmann, during office hours at Tel (012) 382-6265/46, E-mail hoffmannwa@tut.ac.za. Alternatively, you can report any serious unethical behaviour at the University’s Toll Free Hotline 0800 21 23 41.

DECLARATION: CONFLICT OF INTEREST

No conflicts of interest are expected from this study in line with study procedures, data collection, data analysis and publication of results. The cost of the study is carried by the researcher and is not sponsored by any organisation. Therefore, the publication of the research results will not be placed under any contractual obligation to the-said study. The final results of the study will published on a final written research report and made available to the TUT library.

A FINAL WORD

Your co-operation and participation in the study will be greatly appreciated. Please sign the informed consent below if you agree to participate in the study. In such a case, you will receive a copy of the signed informed consent from the researcher or the researcher will verbal read and explain any necessary instructions to you regarding this study.
CONSENT

I hereby confirm that I have been adequately informed by the researcher about the nature, conduct, benefits and risks of the study. I have also received, read and understood the above written information. I am aware that the results of the study will be anonymously processed into a research report. I understand that my participation is voluntary and that I may, at any stage, without prejudice, withdraw my consent and participation in the study. I had sufficient opportunity to ask questions and of my own free will declare myself prepared to participate in the study.

Research participant's name: ___________________________ (Please print)

Research participant's signature: ___________________________

Date: ______________________

Researcher's name: ___________________________ (Please print)

Researcher's signature: ___________________________

Date: ______________________
VERBAL CONSENT

I hereby declare that I have read and explained the contents of the information sheet to the research participant. The nature and purpose of the study were explained, as well as the possible risks and benefits of the study. The research participant has clearly indicated that he/she is aware of the right to withdraw from the study at any time, for any reason and without jeopardizing his/her relationship with the research team. I hereby certify that the research participant has verbally agreed to participate in this study.

Research participant’s name: __________________________ (Please print)

Researcher’s name: __________________ (Please print)

Researcher’s signature:

Date: ___________
APPENDIX 5: INTRODUCTORY LETTER FOR DATA GATHERING

Our ref: D-Tech Thesis/Mugari

Dr AA Olutola (012) 382 9696
Email: olutola@tut.ac.za

Faculty of Humanities
Dept. of Safety & Security Management
4th May, 2016

TO WHOM IT MAY CONCERN

Sir/Madam,

REQUEST TO PARTICIPATE IN RESEARCH, BY COMPLETING QUESTIONNAIRE AND INTERVIEW:

DTECH STUDENT—MR. ISHMAEL MUGARI, (Student No. 212493023)

Mr. Ishmael Mugari is a Doctoral degree student at the Tshwane University of Technology in the Department of Safety and Security Management. The research D-Tech degree that he attempts to complete requires of him to complete a Thesis of approximately 350 pages. The preliminary title of his Thesis is: An analysis of Institutionalised accountability mechanisms for the Zimbabwe Republic Police

In order to complete his Thesis, he would like to conduct in-depth research interview and distribute questionnaire amongst the following relevant stakeholders within the Republic of Zimbabwe:

1) Zimbabwe Police
2) The Zimbabwe Human Rights Commission
3) The Parliament
4) The Judicial Service Commission
5) Other relevant Non-governmental and nonprofit organisations
6) Community leaders.

Given the scientific nature of this exercise, managers like yourself might hopefully benefit from his findings, although the University’s position is firstly to determine whether the student is able to do scientific research.

We want to point out that Mr. Mugari study requires of him the normal scientific approach and methods of describing and analysing the relevant matter critically, within

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the broader framework of the University’s philosophy of contributing to society by way of constructive (and not negative) criticism, should it be necessary to point out certain shortcomings from his perspective.

Attached is a draft of the research questionnaire and interview schedules.

At the completion of this research, he will be willing to divulge his findings and conclusions.

It would be highly appreciated if you could grant him permission to continue with this research which is still at a very early stage.

Kindly accede to him favourable consideration.

Thank you for the efforts.

Yours sincerely,

[Signature]

Professor Edewale, A. Oluwola
Senior Lecturer & Postgraduate Supervisor
Department of Safety and Security Management
Tshwane University of Technology
APPENDIX 6: LETTER OF APPROVAL FROM THE ZIMBABWE HUMAN RIGHTS COMMISION

144 Samora Machel Avenue, Harare
Tel: +263 4 2393102/3 or 2393277/073/085 or 705268/426 or 703596/616 or 703811
Website: www.zhrc.org.zw
Email address: info@zhrc.org.zw

ZHRC
ZIMBABWE HUMAN RIGHTS COMMISSION
For Human Rights

144 Samora Machel Avenue, Harare
Tel: +263 4 2393102/3 or 2393277/073/085 or 705268/426 or 703596/616 or 703811
Website: www.zhrc.org.zw
Email address: info@zhrc.org.zw

144 Samora Machel Avenue, Harare
Tel: +263 4 2393102/3 or 2393277/073/085 or 705268/426 or 703596/616 or 703811
Website: www.zhrc.org.zw
Email address: info@zhrc.org.zw

144 Samora Machel Avenue, Harare
Tel: +263 4 2393102/3 or 2393277/073/085 or 705268/426 or 703596/616 or 703811
Website: www.zhrc.org.zw
Email address: info@zhrc.org.zw

REF: ZHRC/ES/LTR/07/16
20 April 2016
Mr. Ishmael Mugari
Bindura University of Science Education
BINDURA

Dear Sir,

RE: PERMISSION TO INTERVIEW THE ZIMBABWE HUMAN RIGHTS COMMISSION: ISHMAEL MUGARI; PhD STUDENT

1. The above subject refers.
2. Reference is made to your minute dated 22 March 2016 in respect of your request for permission to conduct research entitled "An Analysis of Institutionalised Accountability Mechanisms for the Zimbabwe Republic Police".
3. Please be advised that the Zimbabwe Human Rights Commission has approved your request to interview staff members of the ZHRC only on condition:
   3.1. That the data obtained will be used for academic purposes only
4. You may proceed to make the necessary appointments to facilitate these interviews.

[Signature]

ERICK V. MUKUTIRI (MR)
ACTING EXECUTIVE SECRETARY
ZIMBABWE HUMAN RIGHTS COMMISSION

Cc: Chairperson
Cc: Deputy Chairperson

Chairperson - E.H Mugwedi, Deputy Chairperson - E. Sithole
Commissioner J. Kurebwa, Commissioner K. M Jinja, Commissioner S. H Matindike, Commissioner C.T Khombe, Commissioner S. Ncube, Commissioner J. G Ndabeni - Ncube

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APPENDIX 7: LETTER OF APPROVAL FROM THE JUDICIAL SERVICE COMMISSION

Telephone: 704118
Fax: 700937

Ref: Research Authority/Student/Mugari I/16

29 March 2016

The Chief Magistrate
Attention: Mr M. Guvamombe

RE: PERMISSION TO INTERVIEW MAGISTRATES: ISMAEL MUGARI; PHD STUDENT; TSWANE UNIVERSITY OF TECHNOLOGY; SOUTH AFRICA

The above subject refers.

Reference is made to Mr Ishmael Mugari’s minute dated 22 March 2016 in respect of the member’s request for permission to conduct research entitled ‘An analysis of Institutionalised accountability mechanisms for the Zimbabwe Republic Police’.

Please be advised that the Secretary to the Judicial Service Commission has approved the member’s request for authority to interview Magistrates only on condition:

i. that data obtained will be used for academic purpose only
ii. that the research does not disturb or interfere with work and operations of the courts.

In view of the above, may your office therefore advise the member accordingly.

S. MUTENDAMAMBO
For: SECRETARY, JUDICIAL SERVICE COMMISSION

Cc: Human Resources - Chief Magistrate’s Office
Cc: Human Resources- Section Float
Cc: Mr I. Mugari- Department of Intelligence and Security Studies, Bindura University of Science Education, Box 1020, Bindura.
APPENDIX 8: LETTER OF APPROVAL FROM THE PARLIAMENT OF ZIMBABWE

Ref: Pers

12 April 2016

Mr. Ishmael Mugari
Bindura University of Science and Technology
P.O Box 1020
Bindura

Dear Mr. Mugari

RE: REQUEST TO CONDUCT RESEARCH

Reference is made to your letter dated 22 March 2016, wherein you requested to conduct research in partial fulfillment of the requirements for the degree programme you are currently doing.

Please be advised that the Clerk of Parliament has granted authority for you to conduct the said research. You will be required to report to the Human Resources Department before you proceed with the research work.

We wish you all the best in your research work.

Yours faithfully

[Signature]

Chingopa R. (Mr.)
Director Human Resources
For: Clerk of Parliament

E-mail: clerk@parlzim.gov.zw  Website: www.parlzim.gov.zw

"A SAZ ISO 9001: 2008 certified organisation"
APPENDIX 9: TUT FACULTY RESEARCH COMMITTEE APPROVAL LETTER

Mugari, I.
C/o Dr. A.A. Olutola
Department of Safety and Security Management
Faculty of Humanities

Dear Ms./Mr. Mugari, I,

Title: Analysis of institutionalised accountability mechanism for the Zimbabwean Police Republic Police

Investigator: Mugari, I,
Qualification: D Tech: Policing
Supervisor: Dr. A.A. Olutola
Co-supervisor: None
Co-supervisor: None

Thank you for submitting your proposal for ethics clearance.

Decision: The application be Approved

In reviewing the proposal, the following comments/notes, emanating from the meeting are tabled for your consideration/attention/notification:

- The study investigates the accountability of members of the Zimbabwean Republic Police Force. No South African body (including any Ethics Committee at TUT) has the authority to grant ethics approval for such a project – it has to be approved by some body in the country where the research is going to take place. In this case the researchers have included letters of permission from three very influential Zimbabwean bodies, namely the Parliament of Zimbabwe, the Zimbabwean Judicial Services Commission, and the Zimbabwe Human Rights Commission. Such permission seem more that adequate.
- The interview schedule and questionnaire are in order
- The research proposal is in order
- Recommend: The FCRE takes note of at the project and that the study should proceed

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The Faculty of Humanities Research Ethics Committee reviewed the documents at its meeting on 04 August 2016. The study is approved.

The Committee wishes you well with your research endeavours.

Signature

Chair / Deputy-Chair
Faculty Research Ethics Committee
[Ref#: FCRE/SSM/STD/2016/01]

10 AUGUST 2016

cc Dr. A.A. Olutola

We empower people
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