

**A LEGISLATIVE FRAMEWORK FOR PARLIAMENTARY OVERSIGHT DURING  
NATIONAL EMERGENCIES IN ZIMBABWE**

by

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## **ABSTRACT**

National Parliaments have a legal and institutional obligation to exercise oversight on the Executive arm of government in order to ensure transparency and accountability in government functions. However, following the designation of the Corona Virus (COVID-19) as a global pandemic by the World Health Organisation in March 2020, most legislatures struggled to exercise continuous oversight over the emergency response measures that were being implemented by the Executive due to limited functionality during this period. The Parliament of Zimbabwe was no exception as the institution was side-lined by an Executive that chose to act unilaterally and govern through quasi legal instruments that bypassed Parliament.

The purpose of this study was to analyse the efficacy of the Parliament of Zimbabwe's oversight function in holding the Executive arm of government accountable during national emergencies using lessons from the COVID-19 pandemic and to propose an emergency oversight model to guide Parliament in future national emergencies. The study was grounded in the theoretical foundations of the Principal-Agent Network, Democratic Legitimacy and New Institutionalism theories to critically review the power structures that exist between executive authority and parliamentary oversight during times of crisis. The primary argument was that the breakdown in the Principal-Agent relationship between Parliament and the Executive, coupled with the erosion of Democratic Legitimacy, were the consequences of a legal gap in the Civil Protection Act on the role of Parliament during emergencies and weaknesses in Parliament's own rules of procedure to maintain legislative continuity. A New Institutional approach was needed to maintain parliamentary oversight and ensure legislative continuity during a national emergency.

Using the systematic review methodology, the study generated emergency oversight best practice from legislatures that managed to pro-actively sustain legislative continuity during COVID-19. The recurring theme from the findings of the review analysis was that, for emergency Parliaments to be institutionalised, emergency legislation should be amended to codify legislative oversight, rules of parliamentary procedure adapted to facilitate continuous legislative oversight over the Executive and mandatory reporting requirements placed on government during emergencies.

Findings from the systematic review informed the development of the Emergency Oversight Model for the Parliament of Zimbabwe. This model was validated through semi structured interviews that were conducted on a purposefully selected sample of Members of Parliament and heads of civic advocacy organisations in Zimbabwe. The validation process ensured that the model met its stated objective of achieving legislative continuity and oversight during

national emergencies. The study's practical significance extends beyond Zimbabwe. The Emergency Oversight Model provides a blueprint for legislatures using the parliamentary system to strengthen their emergency oversight frameworks. By adapting the model, they can achieve legislative continuity and hold governments to account during times of crisis.

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## **ABBREVIATIONS AND ACRONYMS**

**COPAC** - Parliamentary Select Committee on the new Constitution

**COVID-19** – Coronavirus Disease of 2019

**CPU** – Civil Protection Unit

**DA** – Democratic Alliance

**GoZ** – Government of Zimbabwe

**GPA** – Global Political Agreement

**IBSS** – International Bibliography of the Social Sciences

**IPSA** – International Political Science Abstracts

**JOC** – Joint Operations Command

**LHC** – Lancaster House Constitution

**MDC** – Movement for Democratic Change

**NCA** – National Constitutional Assembly

**NCCC** – National Corona Virus Command Council

**PAT** – Principal Agent Theory

**PRISMA** - Preferred Reporting Items for Systematic Reviews and Meta-Analyses

**PVOs** – Private Voluntary Organisations

**SADC** – Southern Africa Development Community

**SPICE** – Setting, Perspective, Intervention/Interest, Comparison and Evaluation Framework

**WHO** – World Health Organisation

**ZANU-PF** – Zimbabwe African National Union Patriotic Front

**ZDF** – Zimbabwe Defence Forces

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## **CHAPTER ONE**

### **INTRODUCTION AND BACKGROUND**

#### **1.1 INTRODUCTION**

The purpose of this research was to analyse the efficacy of the Parliament of Zimbabwe's oversight function in holding the Executive arm of government (hereafter the 'Executive') to account during national emergencies using lessons from the COVID-19 pandemic and to propose an emergency oversight model to guide Parliament in future national emergencies. The research drew on the theoretical foundations of the Principal-Agent Network, Democratic Legitimacy and New Institutionalism to critically review the power structures between executive authority and parliamentary oversight during times of crisis.

On 11 March 2020, the World Health Organisation (WHO) declared COVID-19 a global pandemic following the virus' rapid spread across 114 countries (WHO, 2021). The activation of emergency laws by world governments to contain the spread of the COVID-19 virus led to a corresponding increase in the use of executive authority, raising concerns about the rapid erosion of democratic accountability (Chaplin, 2020(a)). The rise of this executive dominance and the corresponding decline in democratic accountability was as much a consequence of the institutional unpreparedness of legislatures to ensure oversight continuity in an emergency environment (Bar-Siman-Tov, 2020(a); Serowaniec and Witkowski, 2020). Legislatures exhibited these institutional weaknesses because of weak internal operational procedures, unresolved dominance of emergency legislation over ordinary legislation and the continued deference to the Executive.

The Principal-Agent Network theory underscores the point that, under normal circumstances, Parliament (which acts as principal) exercises legislative oversight over the Executive (the agent) on the implementation of public policy. However, this power structure is upended in emergency situations as the agent often expands the scope of its authority and bypasses the normal parliamentary checks and balances. This creates a scenario in which the principal's ability to monitor and control the agent is severely limited, thereby weakening democratic oversight (Kassim and Menon, 2003).

From a different perspective, the theory of Democratic Legitimacy sheds further light on the governance shortcomings that defined Zimbabwe's response to the pandemic. The foundational premise of this theory is anchored on the view that political institutions only become legitimate if their authority is derived from elected institutions of accountability (Schmidt, 2013). During COVID-19, the Executive's unilateral control over decisions such as expropriation of public funds, emergency spending, and the restriction of civil liberties created

a perceived legitimacy deficit. Concentration of power in the Executive and the inability of Parliament to provide continuous oversight, created legitimate concerns about democratic legitimacy (Gordon and Cheeseman, 2021). The reduction of legislative oversight, particularly as Parliament was adjourned for weeks in Zimbabwe, confirmed the Executive's dominance and the erosion of democratic accountability (Bar Siman Tov, 2020(b)).

The declaration of a State of Disaster on 17 March 2021 under Section 27 of the Civil Protection Act, without Parliamentary approval, exemplified the power imbalances between the Executive and Parliament (Principal-Agent relationship) during emergencies in Zimbabwe. Unlike a State of Emergency, which would have required parliamentary approval within 14 days, the State of Disaster allowed the President to unilaterally impose a national lockdown, infringing on civil liberties and bypassing parliamentary oversight (Government of Zimbabwe, 2013). This concentration of executive power, projected through Statutory Instruments (SIs), highlighted the glaring shortcomings in Zimbabwe's emergency governance framework, especially the Executive's ability to operate without sufficient constraints from the legislative body (Mutambasere, 2020).

This breakdown in the Principal-Agent relationship, coupled with the erosion of Democratic Legitimacy, was further exacerbated by Parliament's unpreparedness to enforce continuous oversight during the COVID-19 emergency. The extended adjournment of Parliament and the delay in resuming oversight functions left the Executive with unchecked power to make critical decisions, such as the appropriation of public resources for emergency Personal Protective Equipment (PPE), which later became entangled in corruption scandals (VeritasZim, 2020). Without the institutional capacity to maintain legislative scrutiny, Parliament essentially ceded its constitutionally enshrined role as the principal, allowing the agent—here the Executive—to govern in a vacuum of non-accountability (Bar-Siman-Tov et al., 2021).

While addressing Members of Parliament on the 18<sup>th</sup> of March 2020 during the last sitting of the National Assembly, before the adjournment of Parliament following the gazetting of the State of Disaster, the Speaker notified legislators that parliamentary business was to be cancelled with immediate effect (Parliament of Zimbabwe, 2020). Parliament remained adjourned for close to 5 weeks, with the first two sittings after it reconvened in May 2020 dedicated to setting up an administrative structure to facilitate the resumption of parliamentary business. Committee's only started sitting on 1 June 2020, which was over two months since Parliament adjourned in March 2020 (VeritasZim, 2020).

Based on the Principal-Agent Network theory, the COVID-19 pandemic in Zimbabwe showed that Parliament needs an emergency oversight mechanism to hold the executive branch accountable in national crises. Relatedly, the decline in democratic legitimacy – necessitated

by Executive aggrandisement, underscored the need for a new approach to legislative oversight in Zimbabwe. By proposing a new emergency oversight model, this study aims to address the shortcomings identified during the pandemic and strengthen the democratic governance of Zimbabwe in future emergencies.

### **1.1.1 Legislative oversight and Executive accountability**

Narratives in constitutional discourse identify the role of legislative bodies as fulfilling three primary functions, namely, representation of constituents, passing legislation and exercising oversight over the government (Odalonu, 2020). Legislative or parliamentary oversight, which is the focus of this study, is a cumulative set of activities granted to Parliament by the Constitution to oversee government actions, bureaucratic institutions and the implementation of public policy (Chohan, 2017). The general consensus among legislative scholars is that parliamentary oversight is a key building block necessary for ensuring the sustainability of the democratic governance system of checks and balances, government transparency and public accountability (Van Rensburg, Vreÿ and Neethling, 2020; Malik, 2023). Parliaments exercise oversight over all organs of state, including the Executive, through but not limited to parliamentary committees, parliamentary questions, budget debates, public participation, legislation, hearings and briefings. When analysed through the principal agent theory, parliamentary oversight has the normative benefit of endangering democratic legitimacy on the exercise of state power (Brandsma and Adriaensen, 2017; Delreux and Adriaensen, 2017). This is because accountable organs of the state are key for promoting responsible governance through effective delivery of services.

Lawmakers monitor their duties carefully under the principle of checks and balances, which is based on separation of powers. Nazir, Ahmad and Afghani (2018), Brekuel (2017), and Fombad (2005) believe that legislatures must be autonomous from the executive branch to maintain separation of powers. Preventing executive encroachment on parliamentary authority is the normative requirement for accountability, openness, responsiveness, and transparency in governance, regardless of national power relations.

Zimbabwe is a constitutional democracy operating under a multi-party system. It has a bicameral Parliament, composed of the National Assembly and the Senate. Section 119 of the Constitution enjoins Parliament to act as a guarantor of democratic governance by ensuring that all state institutions and agencies, including the executive arm of government, abide by the constitution and operate in the national interest (Government of Zimbabwe, 2013). These constitutional provisions provide a framework within which Parliament strengthens the governance ecosystem by holding the Executive accountable for public policy implementation (Asali, 2020). Based on the idea that it is not their job to govern, the Zimbabwean Parliament

has built an institutional framework for executive branch oversight (Parliament of Zimbabwe, 2021). Parliament argues that its constitutional responsibility on Executive oversight is premised on:

- *“scrutinizing government policies, programmes and expenditure plans in order to ensure that they are in line with legislative intent and are governed by documented policies and procedures;*
- *monitoring all government policies and programmes to ensure efficient use of finite and scarce national resources;*
- *Ensuring that the Executive is accountable to Parliament as a body elected to represent the will of the people;*
- *Detecting and preventing poor administration, waste, abuse, arbitrary and capricious behaviour, or illegal and unconstitutional conduct;*
- *Protecting civil liberties and constitutional rights; and*
- *Preventing executive encroachment on legislative authority and prerogatives”* (Parliament of Zimbabwe, 2021; Zvoma, 2010).

Through the prism of legislative continuity, these functional responsibilities reveal the broad oversight parameters available to the Legislature and the extent to which they empower Parliament to fulfil its constitutionally mandated function of overseeing government agencies' actions.

The unpredictability of the highly contagious COVID-19 virus and the resultant lockdown measures implemented by world governments to contain its further spread presented unique challenges to Executive transparency and accountability. In efforts aimed at protecting and saving lives from the evolving pandemic, the Executive arms of government may have inadvertently apportioned themselves expansive emergency powers and marginalised national Parliaments (Chaplin, 2020(b)). Consequently, there were emergent questions on the legality of this approach when viewed against the constitutional principle, which requires that public power be exercised within the confines prescribed by law.

The operative purpose of legislative oversight is consistently similar across countries with active legislatures, but the approach may differ based on a correlation of casual relationships between the form of government, oversight capacity and quality of democracy (Pelizzo and Stapenhurst, 2013, Kumarasingham, 2012). While the United Kingdom's (UK) parliamentary system does not have specific provisions at law that assign responsibility for executive accountability, due to the absence of a formally written constitution, Parliament still exercises oversight through custom, conventions and the Select Committee system (Library of Congress, 2021). Select committees, appointed by either the House of Commons or the

House of Lords, exercise oversight over each government ministry by examining their policies, administration, bills and finances (Martin and Whitaker, 2019). The congressional oversight of the American Presidential system, exercised through the House of Representatives and Senate, is similarly designed “*to hold executive officials accountable for the implementation of delegated authority*” (Oleszek, 2010). Although Congressional oversight is an implied constitutional obligation based on the principle of law-making and implementation, the congressional committee system remains the primary vehicle through which executive branch operations are reviewed.

According to Windholz (2020), the COVID-19 crisis witnessed a “shift from parliamentary oversight to autocratic technocracy”. Using the Australian Parliament as his case study, Windholz argues that Parliament ceded its constitutional oversight role to the executive and unelected medical-scientific experts. This resulted in the abrogation of the constitutionally enshrined checks and balances system designed to keep Executive power in check. Essentially, legislative safeguards to prevent power abuse temporarily ceased to exist.

Public participation, law enforcement, individual rights, and public funding were greatly affected by the COVID-19 pandemic amidst the emergent emergency power paradigm. South Africa suspended public procurement laws to expedite the acquisition of Personal Protective Equipment (PPE) for health workers, but this resulted in increasing reports of corruption in awarding these contracts (Harper, 2020). The Zimbabwean government had to dismiss the Minister of Health after a multi-million Zimbabwean dollar COVID-19 corruption scandal was exposed (Mutsaka, 2020). Similarly, concerns were raised that the Zimbabwean government was using its emergency powers as cover to clamp down on government critics (Tsonga, Mazarura and Heywood, 2020). All these instances occurred while parliamentary powers were temporarily sidelined to approve the appropriation of public funds, hold ministers accountable for public spending, and uphold citizen rights. These cases showed that, even with requirements for social distancing to stop the virus from spreading, the legitimacy of government action and the accountability thereof remains the purview of Parliament (Chaplin, 2020(a)).

The proliferation of corruption, resulting in the dismissal of the Minister of Health, was indicative of weakened Parliamentary oversight over public expenditure. The sidelining of Parliament's role in monitoring public spending created an accountability vacuum and a crisis of legitimacy in the government's actions to respond to the pandemic. Public trust in the government's ability to manage the health crisis and ensure effective use of public funds was questioned.

Given this context, it is worth investigating Zimbabwe's emergency laws, Parliament's role within them, the steps taken by Parliament to hold the executive branch accountable immediately after the state of disaster was declared, and whether the laws as they stand allow Parliament to fulfil its oversight role during a national emergency.

## **1.2 BACKGROUND TO THE RESEARCH PROBLEM**

Using the lens of the Principal-agent network theory and democratic legitimacy theory, it is clear that the COVID-19 emergency in Zimbabwe disrupted government-legislature checks and balances, eroding democratic accountability. Through the power imbalance between the Principal (Parliament) and Agent (Executive), COVID-19 exposed how the underlying power structures that define Zimbabwe's constitutional framework for public accountability were inadequate in an emergency setting.

From an emergency legislation perspective, COVID-19 brought into sharp focus the legal gap between Parliament's constitutional obligation to exercise oversight and the Executive's penchant to abrogate more power during a national emergency. Chapter 119 of the Constitution authorises the Zimbabwean Parliament to oversee the executive and other institutions. However, the 1989 Civil Protection Act does not address how Parliament should discharge its constitutional obligations in a catastrophe. What the Civil Protection Act does is that it specifies the role of the Executive and completely ignores the accountability gap that this creates. While it is true that the executive needs to move at speed during an emergency, the Constitution does not have a provision nor prescribe the suspension of parliamentary oversight during an emergency.

Inconsistencies in the role of Parliament in an emergency had real-life consequences, especially on civil liberties and public finance management in Zimbabwe. Since there is no structured emergency oversight model in place to mandate that the Executive accounts to Parliament, the Minister of Police – for example, could not be summoned to come and account for the rise in police brutality towards civilians over the implementation of COVID-19 regulations. Reports by organisations such as the Zimbabwe Human Rights Commission and Afrobarometer highlighted cases of brutality, human rights violations and torture by police against civilians in the enforcement of lockdown regulations (Obioha and Mugari, 2022).

Outside of parliamentary accountability, the securitisation of the pandemic response was also evident in public finance management. The fact that there is neither a requirement in parliamentary rules for regular reporting to Parliament during an emergency nor a provision for real-time audits in public finance legislation created a loophole for corruption to fester during COVID-19. In an ex-post report on pandemic spending, the Auditor General exposed gross irregularities in handling COVID-19 funds, citing abuse and corruption in the

disbursement of emergency funds (Obioha and Mugari, 2022). Implementing extraordinary government expenditure without budgetary information transparency implied that the system of checks and balances was weak and the public finance system was vulnerable (Farazmand, De Simone, Gaeta and Capasso, 2022).

The response to public health emergencies in Zimbabwe has historically been politicised, with Parliament often sidelined, especially when the ruling party, ZANU-PF, faced opposition. Two key case studies—the 2008-2009 cholera pandemic and the 2019 Cyclone Idai disaster—illustrate this trend, but with differing outcomes in terms of parliamentary involvement.

The cholera outbreak, which occurred between 2008 and 2009, resulting in over 4000 deaths, was exacerbated by ZANU-PF's policy of withholding municipal funding from cities like Harare, where the opposition had gained control (Mtisi, 2011). This defunding crippled the city's water purification efforts and led to the contamination of Harare's water supply, causing widespread cholera infections. The outbreak was marked by the politicisation of essential services, especially water, which was used as a political tool to punish opposition strongholds (Cuneo and Beyrer, 2017). Executive measures exacerbated the public health situation, while parliament did little. There was no proactive legislative intervention, allowing the government to deny the outbreak's severity, suppress vital health information, and neglect to equip health centres adequately. This absence of parliamentary oversight during the cholera pandemic demonstrates the Executive's free rein in managing emergencies, often to the detriment of public welfare.

In contrast, Cyclone Idai, a natural disaster that struck Zimbabwe in 2019, saw parliamentary response to a certain degree. The cyclone caused widespread devastation, displacing over 51,000 people and damaging critical infrastructure (Chatiza, 2019). The Portfolio Committee on Local Government led efforts to push for more funding and the decentralization of disaster response capabilities. An argument can therefore be made to the effect that the work of Parliament during the Cyclone Idai pandemic generated key evidence that could be used to help the country respond effectively to future emergencies, especially on localized disaster preparedness and strengthening of institutional capacity in disaster response institutions.

Counterarguments on expanding government emergency powers have been made to justify the need for prompt emergency response. Proponents of this school of thought posit that the urgency to contain the further spread of the COVID-19 virus and protect the 'life and security of the nation' was necessary because only the executive has the information, decisiveness and speed to respond to a crisis (Ginsburg and Versteeg, 2020). Still, while the urgency to contain the further spread of the virus was apparent in government actions, extensive application of emergency legislation soon raised concern about negative governance

outcomes (Cormacain, 2020; Addadzi-Koom, 2020; Cormacain and Bar-Siman-Tov, 2020; Bar-Siman-Tov, 2020(a); Bjornskov, 2020 and Griglio, 2020);

- the concentration of power in the Executive;
- curtailment of civil liberties;
- institutional weaknesses at the legislature level to ensure legislative continuity;
- democratic legitimacy and accountability,
- the disjuncture between emergency legislation and ordinary legislation in protecting democratic principles;
- legal validity of emergency legislation and constitutionalism, and
- public finance management and spending.

Emergency restrictions disproportionately impacted legislative processes as Parliaments were either forced to adjourn or pursue a secondary role in support of government response to the pandemic (Chaplin, 2020(b)). The governance deficit that emerged from Executive dominance and marginalisation of legislatures led to what legal scholars refer to as a 'creeping loss of parliamentary power' (Griglio, 2020). The situation underlined the fact that only strong parliamentary oversight of the executive's emergency powers might protect the rule of law, human rights, and the executive-legislative balance.

Emerging research on governance during COVID-19 has shown that for countries that enabled legislative continuity through the adoption of a hybrid approach to emergency oversight, there were relatively better outcomes on transparency and accountability (Griglio, 2020; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Chaplin, 2020(a)). The European Parliament took the lead in introducing remote electronic participation and voting of members during sessions. In contrast, individual member states, such as Poland, Estonia, Lithuania and Belgium, modified the rules of procedure to enable hybrid sitting and voting in parliamentary committees (Crego, and Manko, 2020). Actions taken by legislatures in the aforementioned countries give credence to Meinel's theory that the strength of legislative oversight in any political context depends on the institutional and procedural framework in which it operates (Meinel, 2018).

A key distinguishing feature between legislatures that managed to pro-actively regain their oversight mandate in a short space of time soon after adjourning in response to emergency laws and those that did not is that the former were able to leverage their institutional rules of procedure to re-open legislative processes and enforce legislative continuity. Following an outcry from Members of Parliament expressing concern that they will not be able to hold the government to account for its pandemic response due to the inability to meet in person in parliamentary chambers, the Speaker of the British Parliament and the Leader of the House



of Commons developed 'detailed plans for remote participation in parliamentary proceedings which were endorsed by the House of Commons Commission (Lilly and White, 2020). Table 1.1 below shows that through a temporary standardised new system of parliamentary business management, the British Parliament was able to maintain legislative continuity through a hybrid model for the House of Commons and either a wholly in-person or virtual model for the House of Lords:

**Table 1.1: Temporary COVID-19 British Parliament Business Management**

Type of business	House of Commons	House of Lords
Oral questions	Hybrid (up to 50 MPs in chamber; up to 120 MPs virtually)	Virtual only
Urgent questions (private notice questions in the Lords)	Hybrid (chamber and virtual)	Virtual only
Ministerial statements	Hybrid (chamber and virtual)	Virtual only
Primary legislation	Hybrid (chamber and virtual: voting to take place remotely)	Chamber only (observing social distancing rules)
Secondary legislation	Hybrid (chamber and virtual: voting to take place remotely)	Chamber only if making a decision on the legislation; if just debating it, then done virtually
Emergency debates	Chamber only (observing social distancing rules) <sup>1</sup>	N/A
General debates	Hybrid (chamber and virtual: voting to take place remotely)	Virtual only
Select committees	Mostly virtual	Mostly virtual

Source: (Lilly and White, 2020)

Constitutional law scholars posit that the lack of legislated distinction between ordinary legislation and emergency legislation is often the primary contributory factor to legislature oversight regression during emergencies (Cormacain, 2020; Khakee, 2009; Ginsburg and Versteeg, 2020). Their premise is anchored on the view that during a state of emergency, emergency powers appear to override ordinary laws, restricting individual rights, undermining the constitutional order and lessening the oversight role of oversight bodies (Khakee, 2009). To remedy this anomaly, one school of thought advanced by Cormacain recommends the

‘social distancing of emergency legislation from ordinary legislation’ (Cormacain, 2020). The theory’s core argument is underpinned by a belief that such social distancing will reduce the chances of emergency laws being used for extended periods beyond their initial mandate because of clearly defined parameters comprising sunset clauses and the consolidation of emergency laws into a single legislative vehicle. When applied to the Zimbabwean context, Cormacain’s theory does show that the lack of social distancing between ordinary legislation, which underscores the importance of legislative oversight over the executive, and emergency legislation, which gives the executive broad powers under the Civil Protection Act, appears to suspend operation of the former whenever a State of Disaster is promulgated. Parliamentary exclusion in emergency governance in Zimbabwe is affected from the onset because the President can declare a State of Disaster under section 27:2 of the Civil Protection Act and extend it without Parliament’s input.

### **1.3 RESEARCH PROBLEM**

Legislatures are constitutional constructs whose institutional focus is ensuring transparency and accountability in the governance process through oversight of government functions, legislation scrutiny and public participation to generate effective public policy. Of these functions, legislative oversight is the baseline upon which legislatures seek to hold officials in the executive branch of government accountable in the exercise of their delegated authority (Oleszek, 2010; Meinel, 2018; Inter-Parliamentary Union, 2017; Chohan, 2017).

Despite having clearly defined roles as constitutional oversight bodies, their ability to ensure legislative oversight continuity during national emergencies came under the spotlight during the COVID-19 pandemic (Cormacain and Bar-Siman-Tov, 2020). The overriding theme of this scholarly output was that legislatures became marginalised as a result of the rise of executive dominance, autocratic technocracy and opportunistic exploitation of the health crisis to diminish horizontal accountability (Gordon and Cheeseman, 2021; Griglio, 2020; Windholz, 2020). Regular executive functions such as public expenditure, deployment of law enforcement to enforce lockdown restrictions, social intervention programmes to assist the vulnerable and implementation of emergency laws were suddenly being rolled out in an oversight vacuum.

When the Parliament of Zimbabwe adjourned earlier than scheduled, on 18 March 2020, two days before the declaration of the State of Disaster by the President on 20 March 2020, it inadvertently ceded its oversight responsibilities of *‘scrutinizing government policies, programmes and expenditure plans’* with regards to the pandemic response. A scorecard by the International Budget Partnership (IBP), which provided a rating on how 120 countries fared in ensuring accountability in the spending of COVID-19 budgets, revealed that Zimbabwe was

among the 32 countries which scored the lowest on fiscal accountability (International Budget Partnership, 2021). In fact, in half of the countries surveyed, the IBP found that governments were introducing COVID-19 spending plans through executive decrees, sidestepping normal legislative processes and foregoing the submission of debated audit reports (International Budget Partnership, 2021). The IBP report, while focusing on fiscal transparency in COVID-19 spending, is a key indicator which sustains the argument that the deliberative, pluralistic and scrutiny functions of legislatures not only strengthen the efficacy of emergency measures but also create opportunities for improved public accountability.

Zimbabwe's Parliament appears to have struggled to fully adapt to changed operational circumstances, choosing instead to remain adjourned for weeks, which was soon after the declaration of the State of Disaster. A global study of 152 countries carried out to measure parliamentary activity during the first wave of the pandemic found that the Zimbabwean Parliament was among one of many legislative bodies that were 'completely closed' and where 'no special digital devices were adopted' to ensure legislative continuity (Bar-Siman-Tov et al., 2021). This parliamentary inactivity coincided with a period of increased Executive action, chief among which was passing a multi-billion Zimbabwean dollar COVID-19 stimulus package and enforcing stringent lockdown regulations. Without parliamentary oversight, the democratic failsafe mechanisms to monitor public expenditure and law enforcement were removed from Zimbabwe's governance response to the pandemic.

What remains curious is that there was no discernible effort at an institutional level to adapt parliamentary business in order to ensure adequate oversight in the implementation of COVID-19 emergency intervention by the Executive. In fact, in the last sitting held on the 18<sup>th</sup> of March 2020, before Parliament adjourned following the announcement of the State of Disaster, the Speaker notified Members of Parliament that all committee meetings and public hearings were to be cancelled with immediate effect (Parliament of Zimbabwe, 2020). The proclamation was a confirmation that Parliament did not have an institutionalised framework in place to support oversight and legislative continuity in emergencies despite clear evidence that the use of emergency powers by the Executive had raised concerns about the rule of law and human rights.

In view of the foregoing, the researcher finds the research problem to be:

***Zimbabwe's national parliament does not have a structured emergency oversight model to hold the executive arm of government accountable and ensure continuous legislative oversight during a national emergency.***

Zimbabwe's Civil Protection Act of 1989, which the Executive uses to declare a state of disaster, currently lacks legislative oversight provisions. At the institutional level, the

Parliament of Zimbabwe cannot be proactive in emergencies because its standing rules and orders cannot respond effectively to executive actions during an emergency. This lack of institutional preparedness is reflected in the absence of codified emergency oversight instruments comprising specialised emergency parliament committees, regular reporting by the Executive and ex-post legislative inquiries.

The Emergency Oversight Model is built on the assumption that, in the absence of a formal framework within Zimbabwe's Parliament to maintain ongoing legislative oversight during national emergencies, the Executive will operate without sufficient scrutiny. This could result in potential power abuses, reduced transparency, and weakened public accountability, particularly in key areas such as public spending, law enforcement, and the execution of emergency actions. Therefore, the model guarantees continuous and effective legislative oversight during national emergencies. A robust emergency oversight model should have the following:

- Fit-for-purpose emergency legislation – codified sunset/review clauses enforced by parliament/legislature; Systematic monitoring and oversight over delegated legislation.
- Parliamentary leadership – Adaptation of standing rules and orders to respond to emergencies, proactive participation by political parties and emphasis on continuous innovation to ensure continuous oversight.
- Codification of emergency oversight instruments in parliaments/legislatures – Institutionalising special parliamentary committees, enforcing regular reporting and pursuing legislative inquiry on emergency responses.
- Institutionalised emergency fiscal oversight – strengthening procurement oversight, parliament/audit body nexus and real-time budget/expenditure oversight.

Counterarguments in favour of expedited executive action during emergencies argue that rapidly evolving emergencies require decisiveness in order to prevent widespread harm and ensure public safety. As such, parliamentary processes may be considered too slow, cumbersome and detrimental to implementing critical interventions (Ginsburg and Versteeg, 2020). However, while expediency in decision-making is essential, this does not preclude the need for oversight and accountability.

An emergency oversight model that offers parliament certainty in dealing with emergencies would not obstruct executive action. Instead, it would make such actions transparent, legal, and proportional to the crisis at hand. By codifying emergency oversight instruments, parliament can continue to exercise its oversight role in tandem with the urgency required to respond to the crisis. This approach balances the need for rapid response with the

requirement for checks and balances, thereby preventing potential abuses of power, ensuring fiscal accountability, and protecting civil liberties. In essence, oversight during emergencies is not an impediment but a safeguard to enhance the legitimacy and effectiveness of executive actions (Rozenberg, 2020).

## **1.4 AIM AND OBJECTIVES OF THE STUDY**

### **1.4.1 Aim of the Study**

This research aims to analyse the efficacy of the Parliament of Zimbabwe's role in holding the executive arm of government accountable for its COVID-19 pandemic response and propose an emergency oversight model to guide Parliament in future national emergencies.

### **1.4.2 Main objective of the study**

The main objective of this study is to develop an emergency oversight model that would guide the Parliament of Zimbabwe in ensuring continuous legislative oversight over the Executive during a national emergency.

#### **1.4.2.1 Sub-objectives**

Based on the premise of the main objective, the following sub-objectives were identified:

- Identify and analyze the current institutional, constitutional, and legal provisions defining legislative oversight during Zimbabwe emergencies.
- Examine the current committee system in Parliament and propose adaptations to facilitate continuity in legislative oversight during emergencies.
- Develop information-sharing mechanisms that ensure Parliament receives timely and accurate information from the Executive during emergencies.
- Compare international best practices on emergency legislative oversight and derive lessons applicable to Zimbabwe's Parliament.
- Formulate strategies for balancing rapid emergency responses with the need for continuous oversight and accountability within Parliament.
- Identify and assess potential challenges to ensuring continuity of legislative oversight during emergencies.
- Investigate methods to enhance civil society participation and public engagement to support emergency oversight efforts.
- Evaluate the implications of weakened parliamentary oversight on governance and accountability during national emergencies.
- Examine the role of public accountability in legislative oversight during emergencies in Zimbabwe.

- Recommend improvements to the legal framework, parliamentary standing rules and orders, and institutional capacities to ensure effective and continuous legislative oversight during emergencies.

### **1.4.3 Main review question**

The absence of scholarship on Zimbabwe's legislative response to the COVID-19 pandemic has created a knowledge gap on Parliament's oversight approach to Executive action while implementing emergency legislation and government interventions. It is for this reason that the main review question for this study has been identified as:

***How can the Parliament of Zimbabwe ensure continuous legislative oversight over the Executive arm of government during a national emergency?***

#### **1.4.3.1 Review sub-questions**

Since this is a qualitative systematic review, the evidence sought to answer the main research question should be specific and comprehensive. The following sub-questions were developed to answer the main research question:

- What institutional, constitutional and legal provisions currently define legislative oversight during emergencies in Zimbabwe?
- How can Parliament adapt its committee system to facilitate legislative oversight continuity during emergencies?
- What information-sharing mechanisms can be implemented to ensure that Parliament receives timely and accurate information from the Executive during emergencies?
- What comparative evidence can be drawn from other countries on emergency legislative oversight, and what lessons can be drawn for the Parliament of Zimbabwe?
- How can Parliament balance prompt reaction during emergencies with the need for legislative oversight and accountability continuity?
- What are the potential challenges to legislative oversight continuity during emergencies?
- How can civil society participation and public engagement be strengthened to support legislative oversight continuity in emergencies?
- What are the potential implications of a weak oversight role by Parliament during national emergencies?
- How does public accountability factor into the Parliament of Zimbabwe's oversight during national emergencies?

- What recommendations can be made to strengthen the legal framework, parliamentary rules and orders, and institutional capacity to ensure continuous legislative oversight during emergencies?

#### **1.4.4 Main assumption**

In addition to providing answers to the main review question, evidence from the selected review studies will be used to test assumptions formulated for this study. The main assumption is that:

- A positive correlation exists between a structured emergency oversight model and Parliament's ability to function with institutional, legal and procedural certainty during a national emergency in Zimbabwe.

##### **1.4.4.1 Sub-assumptions**

The main assumption stated in 1.4.4 is further subdivided into sub-assumptions as outlined below:

- Institutional, procedural, and legal provisions defining legislative oversight during national emergencies are inadequate.
- Parliament's committee system cannot effectively facilitate legislative oversight continuity during national emergencies.
- Parliament and the Executive do not have sufficient mechanisms to ensure timely and accurate information sharing during emergencies.
- Other countries with effective legislative oversight models during emergencies can offer lessons relevant to Zimbabwe's Parliament.
- A potential conflict between the necessity for prompt reaction during emergencies and legislative oversight continuity.
- Zimbabwe currently has challenges that could impede legislative oversight continuity during emergencies, such as resource constraints or logistical difficulties.
- Civil society participation and public engagement are insufficient to effectively support legislative oversight during emergencies.
- A weak oversight role by the Parliament of Zimbabwe during national emergencies could lead to adverse consequences for governance, accountability, and public trust.
- During national emergencies, the Parliament of Zimbabwe's prioritisation of public accountability can enhance transparency, responsiveness, and trust in the government's response.

- Strengthening the legal framework, parliamentary rules and orders, and institutional capacity are necessary to ensure continuous legislative oversight during emergencies, indicating current deficiencies in these areas.

## **1.5 THEORETICAL FOUNDATIONS FOR LEGISLATIVE OVERSIGHT**

Legislature and Executive relations have often been studied through the power relations between the two, especially how the former seeks to influence the actions of the Executive to ensure government accountability (Martin, Saalfeld and Strom, 2014). This Legislative-Executive relations debate has given rise to a school of thought that governing through an emergency is the exclusive preserve of the Executive arm of government. At the centre of this political philosophy is Carl Schmitt, who argues that checks and balances cease to exist during crisis governance in order to enable the executive to respond with decisiveness and speed to a crisis (Schmitt, 2005). Schmitt argues that emergency governance is executive governance because the Executive should be unbound with few legal constraints (Ginsburg and Versteeg, 2020). In jurisdictions such as Zimbabwe, where the Executive frequently undermines parliamentary accountability (Asali, 2020), Carl Schmitt's theory is deficient when viewed against the threat to the principle of democratic oversight, particularly during states of emergency. Schmitt's argument effectively endorses the granting of unchecked authority to the Executive, allowing it to act unilaterally in responding to crises without institutional constraints. The Zimbabwean government's handling of the COVID-19 pandemic exemplifies the dangers inherent in such an approach: the absence of robust parliamentary oversight facilitated extensive corruption, resulting in the loss of millions of dollars in taxpayer funds, while human rights abuses by security forces escalated, and government ministers operated with impunity, disregarding the rule of law (Obioha and Mugari, 2022).

Schmitt's position, introduced in the 1920s during the inter-war period and about Germany's Weimar Republic, has two shortcomings. First, it is anchored on a specific type of crisis related to national security, such as war. This makes it difficult to apply it in a crisis, such as a national health emergency brought about by a pandemic such as COVID-19. Second, critics of Schmitt's theory, such as Hans Kelsen, point out that the law still binds executive and administrative organs of the state during a state of emergency because their emergency powers are derived directly from the Constitution (Kelsen, 1992). This study subscribes to Kelsen's theory because it underscores the supremacy of constitutional arrangements that should remain valid in times of normalcy and emergency.

Kelsen rejected the idea that the Head of State acting as the sovereign should assume extensive emergency powers during a crisis as he/she stands above politics and represents the homogeneity of the people (Leelapatana, 2019). For Kelsen, this provided no guarantee



that the head of state would not abuse the extraordinary powers made available to them in an emergency. Kelsen's thesis – whose philosophical paradigm will anchor the proposed emergency oversight model for this research project, suggested that '...all branches of government have to cooperate in dealing with an exceptional political situation guided by the assumption of constitutionality' (Leelapatana, 2019). It is precisely why the emergency oversight model (focusing on accountable governance during emergencies) will call for an amendment to emergency laws, reform of Parliament's standing rules and orders, streamlining of audit functions and direct accountability of the Executive to Parliament. Kelsen emphasised that parliamentary democracy should mediate the emergency response not only as a way of protecting the constitutional order but also as a means to maintain constitutional legality.

The roots of Kelsen's opposition to unilateral Executive action using emergency powers can be traced to James Madison's theory on separation of powers. Madison was one of the framers of the US Constitution, and his strong advocacy on the separation of powers was driven by the desire to prevent '*governmental tyranny whose characteristic feature was seen as arbitrary and capricious rule resulting in government of men, not of laws*' (Carey, 1978). As its main thesis, the Madisonian model construct has the need to protect unrestrained government power and the pursuit of governance by the people. The COVID-19 pandemic made clear that emergency power statutes in Zimbabwe were the antithesis of what Madison advocated for. The exercise of emergency power was mostly done without input from Parliament. With the sidelining of legislatures a common feature across most countries, some Constitutional law scholars advocated for more democratic representation in emergency powers to contain the unilateral actions of the Executive (Weiss, 2021; Zhong, Makridis, and Diddams, 2020). They recommended that emergency laws be amended to facilitate more legislative participation in emergency decision-making to prevent democratic illegitimacy.

Given that this study's proposed emergency oversight model seeks to provide a new interaction model between the Parliament of Zimbabwe and the Executive, its ethos aligns with the philosophical foundations of the New Institutionalism theory. From an ontological and epistemological perspective, New Institutionalism is grounded in the identification of '...rules, norms, practices, and relationships that guide action and influence patterns of behaviour in politics and policy making' (Cairney, 2019). Based on this context, it is precisely why the problem statement for this study clearly articulates the view that Zimbabwe's national Parliament does not have a structured emergency oversight model in place to hold the Executive arm of government to account and ensure continuous legislative oversight during a national emergency. The question arises: what are the rules, norms, practices, and relationships that are supposed to guide the Parliament of Zimbabwe during an emergency? According to the New Institutionalism theory, the answer lies in the model of elements that

constitute the institution – in this case, the emergency Parliament (Cairney, 2019). What the emergency oversight model is advocating for is the amendment of emergency legislation to institutionalise legislative oversight during emergencies (rules), adaptation of parliamentary rules and orders – including the codification of emergency oversight instruments (norms and practices) and formalisation of Executive accountability to Parliament during emergencies (relationships). Perhaps much more importantly, new institutionalism requires formalising institutional models, hence the emphasis placed on emergency law amendment and adaptation of parliamentary administrative standing rules and orders.

## **1.6 RATIONALE AND SIGNIFICANCE OF THE STUDY**

### **1.6.1 Rationale of the study**

There is a growing consensus among global health practitioners that, following lessons learnt from the COVID-19 pandemic, the world is entering a ‘pandemic era’ where pandemics will occur regularly (Peters, 2020; Daszak, 2021; Morens, Daszak and Taubenberger, 2020; Morens and Fauci, 2020). They posit that COVID-19 was not an aberration but a reflection of the new normal where the world should adapt to increased human exposure to lethal and highly infectious bacterial and viral diseases. Admittedly, scientific projections are that the next pandemic will invariably occur at the intersection between ‘secure food systems, disease hotspots, human/wildlife interactions and crop diseases’ (Broom, 2020). In view of this emerging reality, there is an urgent need to put in place open and accountable governance systems that can respond timeously to the unpredictability of these health challenges.

The governing complexities brought about by the COVID-19 pandemic exposed the frailties that exist in continuous legislative oversight during national emergencies. Even as they are made to exercise a passive function within the constitutional framework of emergency powers, national Parliaments are still constitutionally obliged to exercise their oversight function at all times. The available evidence, however, suggests that during the COVID-19 crisis, most national Parliaments, including the Zimbabwe Parliament, took a back seat and gave the Executive arm of government carte blanche authority to exercise state authority and allocation of resources without adequate accountability mechanisms in place (Library of Congress, 2000). Therefore, this research's rationale was to generate an evidence-informed scientific model that would help the Zimbabwean Parliament enforce continuous legislative oversight during national emergencies.

### **1.6.2 Significance**

Legislative oversight and Executive accountability are governance areas that should be capacitated in preparation for future pandemics. This study intends to pioneer research and

create a new body of knowledge in enforcing legislature oversight during emergencies from a global south perspective. Although the focus was on Zimbabwe, the universal applicability of legislative oversight means that other legislatures in the global south can also derive lessons on using the evidence generated from this study to improve their legislative governance approach in national emergencies.

This study will allow the Parliament of Zimbabwe to self-reflect on the adequacy of its oversight infrastructure in holding the Executive accountable during national emergencies. In much the same way as other legislatures across the world, the Parliament of Zimbabwe found itself marginalised by the Executive as a result of its unpreparedness to respond effectively to the activation of emergency powers by the latter (International Budget Partnership, 2021; Bar-Siman-Tov *et al.*, 2021). The proposed model that this study suggests will help the legislature strengthen its internal rules of procedure and provide a blueprint to guide its discussions on the re-alignment of emergency laws to ensure legislative input and participation.

#### **1.6.2.1 Theoretical contribution**

The theoretical significance of this study is that it is anchored on the use of the New Institutionalism theory to design an emergency parliament that can perform continuous legislative oversight during a national emergency, with particular reference to Zimbabwe. Supported by Kelsen's seminal work on unchecked executive power during crises, the study promotes the principle of constitutional legality in emergencies and reinforces the inalienable role of Parliament as an integral governance actor during a crisis. The study offers a direct challenge to Schmitt's proposition that the Executive should not be constrained in times of crisis, arguing instead for a model that elevates the institutionalisation and formalisation of rules and norms in emergency legislative oversight. In doing so, the study broadens the scope of legislative-executive relations and highlights the need for a collaborative governance model during emergencies that safeguard democratic accountability.

Additionally, the study extends the theoretical framework of New Institutionalism by operationalizing it in the context of emergency governance. It offers a novel perspective on how institutional rules, norms, practices, and relationships can be redefined to accommodate continuous legislative oversight in unpredictable crises like pandemics. By proposing amendments to Zimbabwe's emergency laws and reforms to parliamentary standing rules and orders, the research provides a concrete mechanism to ensure executive accountability and prevent abuses of power. This contribution is particularly significant for countries using the parliamentary system, where the study's findings can be adapted to strengthen legislative

governance during national emergencies, thereby advancing the theoretical discourse on institutional resilience and democratic accountability in crisis governance.

#### **1.6.2.2 Practical contribution**

This study's primary practical contribution will be developing a structured emergency oversight model to ensure continuous legislative oversight, specifically referring to the Parliament of Zimbabwe. Through the proposed amendments to emergency legislation to allow for the institutionalisation of Parliament's oversight role, including adaptation of Parliament's standing rules and orders, the model will promote a balanced interaction between the Executive and Parliament during times of crisis. The objective is to ensure that Parliament is not sidelined during a national emergency. Instead, it is well-capacitated and equipped to actively promote accountability, transparency and the rule of law. Within this context, the model will provide Parliament with the tools to ensure the neutralisation of the abuse of emergency powers, as was the case during COVID-19, when the executive operated with minimal checks, leading to governance failures, including corruption and human rights violations.

Moreover, the study's practical significance extends beyond Zimbabwe. It provides a blueprint for other legislatures using the parliamentary system to strengthen their emergency governance frameworks. By adapting the proposed oversight model, parliaments across these regions will be better equipped to hold their governments accountable during crises, ensuring that democratic principles and public financial management are maintained despite national emergencies. The study thus addresses a critical gap in the global south's legislative responses to emergencies, providing a practical solution to enhance governance resilience in an era where pandemics and other crises are increasingly frequent.

#### **1.6.2.3 Policy Contribution**

Legislative oversight continuity over public policy formulation and implementation during crises will be this study's major policy contribution. Using Kelsen's theory of constitutional supremacy, the study challenges the policy dimension of unchecked executive dominance during a national crisis and calls for institutional reforms that cement the role of parliamentary oversight in emergency governance and foster executive accountability. Since public policy theory advocates for sustained collaboration among all stakeholders across the policy value chain, the proposed emergency oversight model will foster collaboration in crisis management where the Legislature, Executive, and other state organs work together within constitutional boundaries, ensuring that emergency powers are exercised with accountability and transparency. Through the codification of emergency oversight instruments and

adaptation of parliamentary processes, the Parliament of Zimbabwe will have the confidence to maintain democratic oversight, even in times of crisis.

Moreover, the study seeks to address the broader governance gap exposed by the COVID-19 pandemic, which revealed the Legislature's passivity during national emergencies.

Through its recommendations, the study intends to empower the Zimbabwean Parliament to play an active role in emergency governance, preventing the Executive from monopolizing decision-making and resource allocation. The significance of this policy contribution extends beyond Zimbabwe; it offers a model for other countries with a parliamentary system grappling with similar issues of legislative marginalization. By fostering accountable governance and continuous legislative oversight, this study aims to strengthen democratic resilience in the face of future emergencies.

#### **1.6.2.4 Personal**

The personal relevance of this study is deeply tied to the researcher's professional expertise as a Senior Parliamentary Researcher in the Parliament of South Africa, where the researcher has been exposed to the broad system of parliamentary oversight. The researcher is originally from Zimbabwe and during the COVID-19 period, the researcher followed closely the parliamentary and executive response to the pandemic and how public accountability was undermined. Through this research, the researcher was driven by the need to contribute towards the strengthening of legislative accountability in Zimbabwe during national emergencies. The study's focus on developing an emergency oversight model stems from the researchers' desire to provide a practical solution to the challenges faced by parliaments during crises, ensuring that they are not sidelined but instead play an active role in holding the Executive accountable. The research draws on the researchers' extensive knowledge of parliamentary functions to propose meaningful reforms that could safeguard democratic principles during emergencies.

Additionally, the study is significant as it aligns with the researchers' commitment to advancing institutional frameworks that strengthen governance across parliamentary systems. The researchers' professional background in parliamentary research has equipped him with a sound understanding of the complexities involved in legislative-executive relations, giving the researcher a unique grasp of the need for clear, enforceable oversight mechanisms during national crises. By advocating for amendments to emergency laws and parliamentary procedures, the researcher aims to ensure that parliaments are not only reactive but are prepared to maintain continuous oversight in future emergencies. As such, this research reflects on the researchers' professional commitment and personal dedication to fostering accountable and transparent governance in crises.

## 1.7 DELIMITATION OF THE STUDY

### 1.7.1 Delimitation of the study

Governing through emergencies is a broad field encompassing a wide array of variables, ranging from safety and security, resource mobilisation and distribution, and citizen mobilisation to the activation of pre-established emergency or disaster frameworks (Adey, Anderson and Graham, 2015). This study is a research inquiry on governance accountability during emergencies, especially the exercise of legislative oversight over Executive actions. The words 'Parliament' and 'legislature' will be used interchangeably as they both refer to the legislature as an oversight and law-making institution.

The study focused exclusively on the Parliament of Zimbabwe as an institution and its operational processes as underpinned by the constitution and officials, especially Members of Parliament. Based on this understanding and cognisant of the limited resources and time constraints, the study was confined to the Parliament of Zimbabwe's institutional approach to legislative oversight during emergencies.

The period covered by the study will be broken into two phases. The first phase started from 18 March 2020, when Parliament was adjourned following the declaration of the State of Disaster, to 1 June 2020, when the first parliamentary committees sat following the reinstatement of parliamentary business. With the introduction of interventionist measures during this period, it is important that the study examined how the absence of legislative continuity and oversight over these measures affected transparency and accountability.

The second phase covered the period from 1 June 2020, when the first parliamentary committees sat following the reinstatement of parliamentary business, to December 2023, when the government lifted some of the emergency restrictions. The intention was to:

- assess whether Parliament's institutional processes were effective in ensuring retrospective oversight over the Executive between 18 March 2020 and 1 June 2020 when it was not in session; and
- examine whether Parliament was able to adapt its oversight instruments and committee system to respond to the challenges posed by COVID-19 and ensure continuous oversight over the Executive.

A joint study by the University of Birmingham and the Westminster Foundation for Democracy on *'Legislative Leadership in the time of Covid-19'* recommended that *'Legislatures should be aided to strengthen committees, expanding the administrative support, resources and expertise available to them, and deepening the connection between these committees and*

*relevant experts, groups and concerned citizens'* (Gordon and Cheeseman, 2021). Therefore, This study analysed the nature of support, meeting frequency, and issues addressed (compared to executive actions) by the committees that had direct responsibility and oversight of the coronavirus outbreak.

### **1.7.2 Limitations of the study**

One limitation of this study was its narrow focus on the Zimbabwean Parliament's oversight mechanisms during emergencies, specifically during the period under review. While this time frame offers insight into how parliamentary processes were affected by COVID-19, it may not fully capture the evolving nature of legislative oversight in subsequent phases of the pandemic or other types of emergencies.

Another limitation stems from the study's reliance on the institutional framework of the Zimbabwean Parliament, which may not easily translate to other contexts. Although the research aims to provide lessons for legislatures using a parliamentary system, Zimbabwe's unique political and constitutional structures may differ significantly from those in other countries. This may pose challenges in applying the proposed emergency oversight model universally without considering other regions' political and legislative nuances, potentially restricting the scope of its practical contributions to a broader international audience.

## **1.8 RESEARCH METHODOLOGY**

### **1.8.1 Research paradigm**

The critical post-modern paradigm was the philosophical underpinning used to obtain inductive insight into the efficacy of the Parliament of Zimbabwe's oversight function in holding the Executive to account in national emergencies using lessons from the COVID-19 pandemic, including the proposed legislative model to guide Parliament in future national emergencies. From an epistemological, ontological, methodological and axiology perspective, the critical post-modern paradigm provides the requisite lens to deconstruct the dynamics of power relationships in legislative oversight continuity in emergency settings. The paradigm's basic premise is centred on a motivation to enable a rational and enlightened society through critically reflecting on the organisational efficacy of existing institutions and ideologues (Alvesson and Willmott 1996). It locates itself on social justice issues by seeking to address power structures at whatever level of society they may occur.

Critical post-modernism focuses on eliminating the causes of alienation and domination in society through a critique of the structural status quo, focusing mainly on the conflicts and constraints of contemporary society (Reeves and Hedberg, 2003). As such, its emphasis on enabling understanding of the normative characteristics of power relationships in society is in

tandem with this research's aim of analyzing how executive domination during emergencies sidelines legislature's oversight capabilities and leads to a regression in transparency and accountability. This explains why critical post-modernists argue that their focus is not predicated on a narrow focus of studying and understanding society but also on a broader quest to critique and interrogate its asymmetrical power relations (Patton, 2002). For this reason, it is clear why themes that dominate discourse in critical post-modernism include rationality, ideology, power, the emancipation of actors, organizational structure, interest and communication (Alvesson and Willmott, 1996).

In proposing a model to guide the Parliament of Zimbabwe on legislative oversight continuity in future national emergencies, this research was guided by the post-modernist view, which assumes that organisational change is achieved through helping organisational members understand, through research findings, their condition and the need for change (Reeves and Hedberg, 2003). The active role player in this transactional epistemology is the neutral researcher who, as envisaged by the critical post-modernist paradigm, should be within the study's frame (Hatch 1996). Researchers use a constructivist approach based on assumptions to build an informed "understanding of organisational complexity, ambiguity and paradox" (Karataş-Özkan and Murphy, 2010). For this research, the constructivist undertaking was to test the hypothesis that a proactive legislature reduces the frequency of state power abuse by the Executive if it retains legislative continuity during a national emergency.

The methodological relevance of the critical post-modern paradigm for this study was based on the paradigm's bias towards qualitative approaches in knowledge aggregation. Post-modernist discourse recognises the importance of language in constructing the symbolic and cultural elements of reality (Ogbor, 2000). Contextual knowledge is the foundation upon which scientific truth appropriate to localised contexts can be obtained. The researcher's obligation, therefore, is to produce a text showing how each element of this contextualised reality shapes the phenomenon being studied (Denzin, 2008).

The inapplicability of positivism and interpretivism for this study was informed by their respective theoretical underpinnings, where the former posits that true knowledge is only obtainable through observation and experiment while the latter relies on people's subjective experience of the external world to create social constructions (Lin, 1998). Critical post-modernism transcends all these deficiencies and enabled this study to pursue a post-modern deconstruction of inter-governmental relations between the executive and the legislature during national emergencies.



### **1.8.2 Research Design and Methodology**

After reviewing the efficacy of the Parliament of Zimbabwe's oversight response to Executive action during the COVID-19 pandemic, this research aimed to develop a legislative emergency oversight model to guide Parliament in future national emergencies. To achieve this, it was necessary to identify the key distinguishing features between legislatures that managed to pro-actively regain their oversight mandate in a relatively short time soon after adjourning in response to COVID-19 emergency laws and those that did not. For this reason, a systematic review methodology – using a qualitative research design approach was used to gather empirical evidence on legislatures that adapted their procedural functions to ensure legislative continuity during COVID-19.

The qualitative method provides the requisite research tools to enable a detailed assessment of the underlying motivations for Executive dominance during emergencies. In choosing the qualitative research approach for this study, the researcher was persuaded by its inductive characteristics and the interpretive lens that it provides to understand the phenomena under study (Strauss and Corbin, 2008; Denzin and Lincoln, 2011).

With the problem statement of this study centred around the absence of a structured model to hold the Executive arm of government to account during a national emergency, a qualitative approach was key in answering 'why' this is the case and 'how' the proposed model will help address this shortcoming.

The research leveraged on the systematic review methodology's in-built knowledge synthesis framework to generate a meta-analysis of evidence on effective legislative oversight during national emergencies using the COVID-19 experience as a case study. The descriptive research design was relevant for this study because it enabled the researcher to "describe systematically and accurately the facts and characteristics of the area of interest" (Isaac and Michael, 1979). A descriptive analysis of Zimbabwe's legislative ecosystem provided the basis for building an oversight model that allows the retention of parliamentary sovereignty in national emergencies.

The use of the qualitative systematic review is an invaluable methodology for bringing together research evidence to help inform best practices through uncovering new understandings, helping illuminate the 'why' and building theory (Seers, 2015). Guided by the review question, the research synthesis provided evidence on:

- 'why' the Parliament of Zimbabwe is not able to maintain effective legislative oversight during national emergencies

- 'what' needs to be done to strengthen the institutional, procedural and legal systems underpinning legislative oversight to ensure oversight certainty.
- 'how' can the Parliament of Zimbabwe strengthen its oversight role during emergencies using lessons from other countries?
- 'how' to build a structured emergency oversight model that will help Parliament maintain oversight continuity and hold the Executive to account.

## **1.9 REVIEW PROTOCOL**

The study used a systematic review protocol to define the review process, reduce instances of researcher bias and remove irrelevant or poor-quality studies. A protocol is a plan that details the processes and procedures that a reviewer will follow to 'identify, appraise, and synthesize the evidence, and disseminate the findings' (Petticrew and Roberts, 2012). Systematic review theorists point out that developing a protocol prior to conducting the review guarantees that every methodological choice—from selecting search keywords to executing data extraction and synthesis procedures—is thoroughly thought out and supported, improving the accuracy and reliability of the findings (Moher, Shamseer, Clarke, Gherzi, Liberati A and Petticrew, 2015).

### **1.9.1 Adaptation of the PRISMA Checklist**

The study used the Preferred Reporting Items for Systematic Reviews and Meta-Analysis (PRISMA) guidelines to structure the systematic review process. The PRISMA guidelines were originally developed to evaluate the effects of health interventions in the health sciences but have since become widely used in systematic studies for the social sciences and humanities (see attached Annexure C). PRISMA guidelines are designed to ensure that systematic reviews are comprehensive, transparent and well-documented to ensure reproducibility and minimise biases (Halling and Baekgaard, 2024). The guidelines comprise a 27-item checklist which a reviewer should use to structure the review – from the identification, screening, eligibility, and inclusion/exclusion of studies to data extraction and synthesis.

### **1.9.2 Eligibility criteria**

Item 6 of the PRISMA 2020 expanded checklist mandates that a reviewer should specify the eligibility criteria of the studies to be selected for inclusion in the review (Brennan and Munn, 2021). Eligibility criteria, commonly called inclusion and exclusion criteria, are predetermined guidelines that determine the scope of studies to be assessed in a systematic review based

on the review question. According to the PRISMA checklist, an exhaustive eligibility criteria guideline should:

- Specify study characteristics (for example, study design).
- Study characteristics (for example, year of dissemination, language, journal articles, think tank reports, book chapters)
- Ineligibility parameters (for example, outcomes of interest were not measured or outcomes of interest were not reported)
- Rationales for inclusion and exclusion criteria (Brennan and Munn, 2021).

### **1.9.3 Information Sources**

The review's operative focus on legislative oversight during emergencies, with a particular focus on the COVID-19 pandemic period, is specific and, as such, requires that the selected information sources reflect the data specificity needed to return studies relevant to the review questions. Selecting inappropriate information sources may lead to inappropriate findings, which will, in turn, negatively impact the overall review findings (Butler, Hall and Copnell, 2016). With this caution in mind, the following information sources will be used for this systematic review:

- Bibliographic databases
- Think tank data aggregation platforms
- Key journal publications
- Internet and web sources

### **1.9.4 Search strategy**

The anchor purpose of the search strategy for this systematic review was to use the information sources listed in section 1.9.3 to find all available studies that addressed the research questions through the operationalisation of customised search terms. Emphasis was placed on developing a sensitive and specific search strategy using search terms identified through word frequency analysis (Petticrew and Roberts, 2012). Using four platforms to search for articles ensures that studies missed by any one of the platforms are picked up by the other. In all platforms, the search was restricted to articles written in English.

### **1.9.5 Coding and Quality Assessment**

From the selected studies, the reviewer proceeded to identify key information markers that were used to answer the review question. This coding exercise was a synopsis map of the quality and relevance of the research, including the results, so that they could be synthesised to produce evidence that will answer the review question.

In preparation for thematic analysis, deductive coding was used to categorise the research data using pre-determined themes derived from this study's review question (Fereday and Muir-Cochrane, 2006). The data coding process will follow Bayetzis' six stages of deductive coding (Boyatzis, 1998), namely:

- *developing the code manual;*
- *testing the reliability of the codes;*
- *summarising data and identifying initial themes;*
- *applying the template of codes and additional coding;*
- *connecting the codes and additional coding, and*
- *corroborating and legitimising coded themes.*

Once the coded themes had been developed, they were added to the qualitative analysis software ATLAS.ti to begin the thematic analysis process of the selected review studies. The thematic analysis not only shed light on the issues currently defining legislative oversight in Zimbabwe during national emergencies but also provided the basis for the model to guide Parliament in future emergencies will be developed.

#### **1.9.6 Synthesis methods**

As a narrative systematic review, this study used thematic analysis to group the selected studies into deductive themes using the qualitative data aggregation method. Thematic analysis was chosen as a synthesis method because it identifies key similarities in the literature text that have used different methodologies or examined a homogenous subject using 'different theoretical conceptualizations, constructs, and/or relationships' (Baumeister, 2013).

#### **1.9.7 Reporting and communication of the review results**

Cognisant that the results will be shared with policymakers in Zimbabwe, especially in Parliament, this review endeavoured to move beyond cataloguing or summarising what already exists on legislative continuity during emergencies. The study integrated and critiqued the results of the review in order to "interpret the cumulative evidence from individual studies and provide a critical synthesis to advance the field's theoretical understanding of the issue" (Baumeister 2013).

To frame the critical review, emphasis was placed on providing new insights into the oversight approach legislatures used in response to the exercise of executive authority during the COVID-19 pandemic. While an ex-post review by legislatures of the Executive's response to the COVID-19 pandemic was critical, a major weakness for most of them is that they were caught ill-prepared to exercise their oversight function in real-time, through an ex-ante prism.

The systematic review, therefore, provided an evidence synthesis on how to strengthen the ex-ante function, which relates to the use of legislative oversight during emergencies.

The reporting approach used for this study was based on the PRISMA guidelines and the reporting framework recommended for qualitative systematic review by Siddaway, Wood and Hedges (2019):

- Linking concepts or grouping functions;
- Critiquing the evidence;
- Highlighting the methodological and conceptual factors;
- Observing variations in results and the reasons thereto;
- Assessing the strength of the overall evidence based on the review question.

### **1.10 ETHICAL CONSIDERATIONS**

After carefully considering the ethics involved in researching legislative oversight in emergencies, I outline the ethical issues that may arise in this research and how they will be addressed. The fact that oversight of government activities, whether by non-governmental actors or Parliament, has always been a contested area in Zimbabwe (Zvoma, 2010), I will submit the research study for full ethical review by CPUT's Faculty of Business and Management Sciences Ethics Committee (FBMS Ethics).

In recognition of the sensitivities that the Zimbabwean government often ascribes to a review of its processes, I will always reflect on any ethical issues that may arise during the research process. I do not have any conflict of interest that may compromise the integrity of this research study. As a Zimbabwean, I am not actively affiliated with any political parties represented in the Parliament of Zimbabwe. My political participation is restricted to exercising my constitutional obligations as a voter during elections.

### **1.11 LIMITATIONS OF THE STUDY**

Instead of using a systematic review as a methodology, it would have been preferable to interview members of Parliament about their experiences during COVID-19 and what can be done to improve legislative oversight during emergencies. The challenge is that politics and political research topics are a sensitive and highly partisan topic in Zimbabwe. This might have skewed the interview results as MPs could have given responses aligned with their partisan views. A study on the politicisation of COVID-19 in Zimbabwe by ruling ZANU-PF party officials revealed that the organisation used the pandemic to pursue its narrow political interests *through '...pulverising the opposition, selective application of lockdown regulations and the passing of laws to silence critics This resulted in the prohibition of political gatherings, arbitrary*

*arrests, labelling and name-calling of the opposition and the West by ZANU-PF officials who were safeguarding their party's waning support resulting from their mismanagement of the pandemic'* (Mutekwe and Vanyoro, 2021).

In the final analysis, the views of MPs were not discounted as they were allowed to review and validate the proposed emergency oversight model and offer input on how it can be improved to make it effective.

Legislative oversight is a generic function that defines the work of all legislative bodies worldwide. As such, while contexts of how they exercise this function may differ, the underlying principles that define their work are almost the same. This will act as a mitigating factor in the decision to include studies regardless of their geographical location.

### **1.12 EXPECTED OUTCOMES OF THE RESEARCH**

The COVID-19 pandemic exposed the frailties in legislative oversight continuity during national emergencies. The executive branch's lack of accountability for actions and the resultant democracy deficit exposed the institutional weakness that most legislatures had in preventing the marginalisation of their oversight mandate. The limited functionality of legislatures, which in some countries was punctuated by total shutdowns, may have negatively impacted horizontal accountability and the sustenance of the system of checks and balances.

This study pioneered research into how legislatures can strengthen their institutional systems and processes to ensure legislative continuity during national emergencies from a global south perspective. Global best practices in the research area were systematically reviewed to adapt the key lessons learnt to the unique socio-political environment in which the Parliament of Zimbabwe operates. The projected legislative model developed from this study will provide the basis for the Parliament of Zimbabwe to re-evaluate and adapt its approach to Executive accountability during national emergencies.

### **1.13 CLARIFICATION OF BASIC CONCEPTS**

This section defines and explains some key terms used for this study.

- **Constitutional democracy:** a country's constitution is the supreme law that guides how government should be run and is designed to limit government by dividing power between the three branches of government, namely, the legislature, the executive and the judiciary. In a constitutional democracy, the people's will is the power source. The people elect legislators and Presidents to represent them and uphold the rule of law (Murphy, 2007).

- **The executive arm of the government:** constitutional democracies are founded on the principle of the separation of powers between the Legislative, Executive, and Judicial arms of government. The Legislature functions to write laws, while the judiciary judges cases by interpreting the laws written by the legislature.  
The executive branch comprises political power holders (political executives) and the bureaucracy (public servants). They work to implement the laws passed in the legislature, formulate government policies and run the state's administration (Egobueze, 2017).
- **Parliamentary/Legislative oversight:** in addition to law-making and ensuring public participation in government processes, the legislature oversees the Executive. Legislative oversight involves scrutinizing the efficacy of policies and programmes the executive implements during governing (Malapane, 2016).
- **Legislative continuity:** the concept of legislative continuity originates in the United States of America. It refers to the explicit constitutional or statutory authority enabling a legislature to continue its functions during an emergency. A Legislative Continuity Plan (LCP) empowers the legislature to communicate, convene, exercise oversight and make decisions during a crisis (Warnock, 2020).
- **Pandemic:** epidemiologists define a pandemic 'as an epidemic occurring worldwide or over a wide area, crossing international boundaries and usually affecting many people' (Kelly, 2011).
- **State of emergency:** if a state of emergency is declared, the government suspends its constitutional procedures due to a major threat to the country. Wars, natural disasters, economic downturns, social unrest, and pandemics are all emergencies. Constitutionally authorised emergency powers allow the government to enforce the law in national emergencies. Regardless of the emergency, legislatures' oversight function to ensure accountability in exercising emergency powers should be guaranteed by law (DCAF, 2020).
- **Model:** according to collinsdictionary.com, a model is a systematic set of concepts, values and principles that guide making decisions and facilitating organisational change (Collinsdictionary.com, 2021).

#### 1.14 OUTLINE AND PLAN OF THE STUDY

To present the research accurately, this study will be divided into 7 Chapters:

**Chapter one – Introduction and Background:** This chapter provides detailed outline of the purpose and scientific research process that will be followed to carry out the study. The justification for the research will be achieved through an explanation of the research

problem, objectives of the study and the proposed research methodology. In addition, the chapter provides a preliminary overview of the knowledge gap that the study intends to fill in existing literature on legislative accountability during emergencies.

#### **Chapter two – Legislative Continuity and Emergency Oversight: Theories and Best**

**Practice:** This chapter outlines the theoretical foundation informing the concept of legislative continuity and executive accountability during times of crisis. It provides a critical review of three theories, namely, Democratic Legitimacy, Principal-Agent Network and New Institutionalism based on their use as the theoretical framework that will guide this research.

#### **Chapter three - Parliamentary oversight legislation and the Emergency Constitution in**

**Zimbabwe:** provides a detailed analysis of Zimbabwe's constitutional provisions underpinning legislative oversight and accountability. The idea is to establish whether Parliament's current oversight model, defined by ordinary law, enables legislative oversight continuity when juxtaposed with emergency legislation.

#### **Chapter four – The political economy of parliamentary oversight and Executive**

**accountability in Zimbabwe:** one of the factors that emerged from the analysis of COVID-19's impact on governance was the rise of executive dominance and the marginalisation of Parliament. This Chapter will track the historical roots of Executive and Parliament relations in Zimbabwe, how they have evolved on key issues such as public accountability and the impact of this dynamic on legislative oversight during the COVID-19 pandemic.

#### **Chapter five – Research design and methodology:**

a justification for the use of the qualitative systematic review research methodology will be discussed in this chapter. Particular attention will be given to research methods that will be used and research processes that will be followed to gather the review data.

**Chapter six – Review Results:** after collecting and processing the review findings, this chapter will analyse the data within the systematic review process.

#### **Chapter seven – Discussion and legislative model for parliamentary oversight during**

**an emergency:** will propose an emergency oversight model that would help guide the Zimbabwean Parliament in holding the executive to account in future national emergencies.

### **1.15 CONCLUSION**

This study seeks to analyse the efficacy of the Parliament of Zimbabwe's oversight function in holding the executive arm of government accountable during national emergencies using lessons from the COVID-19 pandemic and to propose an emergency oversight model to guide Parliament in future national emergencies.



The activation of emergency measures to contain the further spread of the COVID-19 virus raised concern that the concentration of power in the Executive was marginalising legislatures. Still, some scholars in legislative research believed that the rise in Executive dominance was as much to blame as the institutional unpreparedness of legislatures in precipitating a decline in democratic accountability.

When the President of Zimbabwe declared a State of Disaster in response to the pandemic, the national Parliament adjourned for five weeks. In the intervening period, the Executive used Statutory Instruments and executive orders to govern without the accountability constraints of Parliament. Even when Parliament later reopened, the lack of an institutionally standardised oversight approach to the prevailing emergency meant that the oversight deficiency remained high. It is for this reason that the researcher found the research problem to be:

***Zimbabwe's national parliament does not have a structured emergency oversight model to hold the executive arm of government accountable and ensure continuous legislative oversight during a national emergency.***

The proposed model will assist the Parliament of Zimbabwe to capacitate its institutional oversight framework in order to ensure that the legislature takes a proactive rather than reactive approach to its oversight obligations during national emergencies.

The systematic review methodology – using a qualitative research design approach - gathered empirical evidence on legislatures that adapted their procedural functions to ensure legislative continuity during COVID-19. Compared to a qualitative primary research methodology, the systematic review approach is appropriate for this study because it uses a scientific approach or protocol to minimise bias and ensure future replicability.

This study intends to pioneer research into how legislatures can strengthen institutional systems and processes to ensure legislative continuity during national emergencies. Global best practices in the research area will be systematically reviewed to adapt the key lessons learnt to the unique socio-political environment in which the Parliament of Zimbabwe operates. The projected emergency oversight model developed from this study will provide the basis for the Parliament of Zimbabwe to re-evaluate and adapt its approach to Executive accountability during national emergencies.

## **CHAPTER TWO**

### **LEGISLATIVE CONTINUITY AND EMERGENCY OVERSIGHT: THEORIES AND BEST PRACTICE**

#### **2.1 INTRODUCTION**

Chapter 1 offered a concise overview on the purpose of the research, its relevance within the existing body of literature, the research problem and the adopted research methodology that will be used to meet the research objectives. This chapter provides the theoretical foundation informing the concept of legislative continuity and executive accountability during times of crisis. Scholars hold the view that governing networks and accountability models often fail during national emergencies because of ‘...a breakdown in the democratic market, lapses in administrative accountability as well as a pervasive confusion over trade-offs between accountability types...’ (Koliba, Mills and Zia, 2011). This chapter will therefore provide a critical review of three theories, namely, Democratic Legitimacy, Principal-Agent Network and New Institutionalism based on their use as the theoretical framework that guided this research. These theories provide a window for understanding the complex dynamics between the legislative and executive branches during times of crisis, where oversight mechanisms are crucial to safeguarding democratic governance. Most importantly, the analysis will show how the theories anchored structure for the proposed Emergency Oversight Model to guide future legislative actions in times of national crisis. A comparative but brief discussion of how the philosophy behind the three theories have been applied in practice will be made, with a particular focus on two country case studies – the United States of America and Nigeria. The idea is to review the role played by institutional structures in these countries in maintaining executive accountability during emergencies and juxtaposing this with Zimbabwe’s emergency oversight infrastructure.

#### **2.2 DEMOCRATIC LEGITIMACY THEORY**

The philosophy behind the theory of democratic legitimacy is anchored on the principle that political institutions derive their authority from the consent of the governed - implying that the governed confer legitimacy to the rightfulness of a government or institution to exercise power (Peter, 2007). In order to maintain democratic legitimacy, institutions should endeavour to continually prove their authority through adherence to democratic norms such as transparency, accountability, and public participation (Buckwalter and Balfour, 2020). It therefore figures that during emergencies, when governments make decisions, they must maintain their legitimacy by ensuring that the decision-making process aligns with democratic principles of accountability.

Viewed differently, democratic legitimacy foregrounds political legitimacy as a value proposition in governance theory. According to Buchanan (2002), a state institution has political legitimacy if it is morally justified – through the delegated power of the state, in wielding political power in the making, application, and enforcement of laws. However, for that institution to exercise its authority in a politically legitimate frame, everyone subject to its rules has a right to comply (Buchanan, 2002; Coakley, 2011). One of the key issues to emerge during the COVID-19 health emergency was that people were often opposed to the strict stay-at-home regulations that were imposed by governments to try and restrict the spread of the virus. It raised questions of whether the principle of the consent of the governed had also been suspended as part of the emergency response by the executive arms of government. At a pragmatic level, the persistent question revolved around balancing the need for a rapid response to the pandemic with meeting the legitimate democratic requirement of fulfilling the consent of the governed. To overcome this predicament, political theorists suggests that state entities should not exercise their authority in absolute terms but should strive to strike a balance between authoritativeness and public accountability (Buchanan, 2002). The formal requirements for democratic legitimacy are that governance, including emergency governance, should be guided by the rule of law and by the consent and will of the governed.

The Democratic Legitimacy theory is important for this study because it provides the basis for understanding how a structured oversight mechanism can sustain the legitimacy of executive decisions during a national emergency. The proposed Emergency Oversight Model for this study places democratic legitimacy at the centre of emergency governance by ensuring that the Executive's use of emergency powers is subject to rigorous parliamentary scrutiny. Through this approach, it achieves a balance between the decision-making processes during emergencies with democratic values by promoting public trust in both Parliament and the Executive. The model is therefore designed to not only act as a buffer against the abuse of power by the Executive but also acting as a safeguard to protect the integrity of Zimbabwe's democratic institutions during emergencies.

The Democratic Legitimacy theory contends that, when viewed in the context of national emergencies in Zimbabwe, oversight is an integral process in maintaining public confidence. This is because in public emergencies like COVID-19, governments amass more state power to themselves which often undermines civil liberties and democratic norms. This theory becomes important in understanding how Parliament can scrutinize the Executive to contribute toward maintaining democratic legitimacy. A failure of parliamentary scrutiny may become a breeding ground for the erosion of public trust in government, particularly if such executive decisions are found not transparent and honest.

In the light of the above, the Democratic Legitimacy theory underpins this research and gives an insight into the role played by Parliament when emergencies arise. Failure to hold the Executive accountable may raise questions as to its legitimacy and that of Parliament itself. This concern for the democratic legitimacy of Parliament and the Executive is particularly acute for Zimbabwe, where powers attendant upon a state of emergency have been used and abused to consolidate executive authority.

### **2.2.1 Case application of the Democratic Legitimacy theory**

Scholarly output on democratic legitimacy during the COVID-19 emergency was pursued through varied points of analysis some of which include democratic and expert legitimacy (Weingart, van Schalkwyk and Guenther, 2022), balancing governance capacity and legitimacy (Christensen and Lægreid, 2020), legitimacy and citizens' satisfaction with pandemic management (Jamil and Hossain, 2022) and policymaking in a low-trust states (Hartley and Jarvis, 2020).

In Germany, the US, and South Africa, researchers evaluated popular perceptions of the pandemic danger, government confidence, and government initiatives to manage the epidemic. As the epidemic proceeded, people trusted scientists but not politicians (Weingart, van Schalkwyk and Guenther, 2022). The authors attributed this trend to the growing acceptance of expert knowledge in the running of modern governments while politicians are always under suspicion that they may try to use expert knowledge to pursue their own narrow political interests. Weingart, van Schalkwyk, and Guenther (2022) found that the Executive, particularly the White House, compelled the US Department of Health and Human Services, the CDC, and the Federal Emergency Management Agency to make policies and send contradictory messages, which affected public perception. In 2020, just before the presidential elections, the President is accused of politicising virus mitigation measures like mask-wearing, contradicting his task force, and sidelining advisers to undermine their democratic legitimacy. Similarly, public trust in government began to waver when government actions began to contradict scientific advice, while in South Africa the public lost trust in government decisions when it appeared that scientific advice was being politicised – especially after a ban was issued on tobacco products.

For governments that managed to achieve a high threshold of democratic legitimacy during COVID-19, such as Norway, the implantation of suppression and control strategies was well supported by ‘...competent politicians, high-trust society, a reliable and professional bureaucracy and a strong state...’ (Christensen and Lægreid, 2020). The key lesson to be drawn from Norway’s example is that pragmatic decision-making, open lines of

communication with the public and government/public relationship management are key for successful crisis management during an emergency.

## **2.2.2 Democratic legitimacy and the legislature/judiciary continuum – the case of the USA**

An area of contestation, especially among constitutional scholars, was how the system of checks and balances can work to act as a counterbalance to the accrued power by the executive arm of government during the COVID-19 pandemic (Parmet and Khalik, 2023; Tyler, 2023).

Popular hostility to COVID-19 legislation in the US was partly due to the fifty governors' emergency powers (Weiss, 2021). State emergency power, which is the default emergency framework in instances where an emergency is impacting all 50 states in the USA, grapple with the tension between rapid response to an emergency and democratic legitimacy. Although the US Constitution does try to strike a balance between executive power and legislative constraint during times of chronic emergency, the law effectively places substantive decision making in the hands of governors (Weiss, 2021). Faced with this predicament, does the judiciary have a role to play in acting as a counterbalance to the Executive and restoring democratic legitimacy?

When US government officials utilised their emergency powers to impose measures to control the spread of COVID-19, comprising the shutting down of businesses, mandating mask wearing and vaccines, and limiting crowd sizes among others, it resulted in court challenges and more than 1000 judicial decisions (Parmet and Khalik, 2023). The judicial contestations were largely around violations of administrative and procedural due process, religious freedom and executive overreach.

Although in most of these cases the courts did not rule in favour of the plaintiffs, in cases where they won – notably in the US Supreme Court, the scope of health officials' powers were curtailed especially on religious freedom (Parmet and Khalik, 2023). This showed that while courts gave officials the benefit of the doubt in implementing regulations to protect public health, the judiciary still underlined the importance of democratic legitimacy by indirectly asking officials to consider the extent and limits of their legal powers. In fact, the active role played by the US Supreme Court during the pandemic prompted Tyler (2023) to make the assertion that 'emergencies do not automatically diminish the individual rights protections in the Constitution or, for that matter, the judicial role.'

### 2.3. PRINCIPAL AGENT THEORY

The Principal Agent Theory (PAT) traces its origins in the fields of economic and organizational studies where it delineates the relationship between a principal (who delegates authority) and an agent (who executes tasks on behalf of the principal) (Stiglitz, 2008). In politics and public administration studies, scholarship on the accountability and oversight relationship between the elected public representatives and the bureaucracy is predominantly carried out through the prism of the principal-agent relationship (Khaile, Davids and Khaile, 2021). The Principal Agent theory theoretical framework advances the thesis that due to the information asymmetry and the risk of moral hazard that exists when a principal delegates authority to the agent, there is need for accountability and oversight to monitor the actions of the agent.

The concept of delegated authority in the political marketplace, viewed from the perspective of the Principal Agent theory, underlines the fact that the agent exercises implied authority which in turn must be regulated by the principal. This is because Principal Agent theory relies on the underlying assumption that the agent functions under a divergent and opportunistic interest, while the principal is a rational actor with integrity who must act to restrain and control the agent (Khaile, Davids and Khaile, 2021; Döhler, 2018). These normative values are grounded in the scholarship of philosophers Max Weber and Jean-Jacques Rousseau whose ideas of hierarchy and the interpretation of democracy present a frame where the principal - motivated by the need for efficiency, chooses to delegate power to an agent in order to control the powers of the agent (Brandsma and Adriaensen, 2017). As an analytical framework to study the design and effects of delegation and control, the Principal Agent theory provides that predefined rules, procedures, standards and guidelines should guide the political-bureaucratic system so as to enable adequate oversight and ensure the efficacy of accountability.

Conceptually, during COVID-19, the legislature was the principal agent because it had the constitutional prerogative to perform the dual function of law making and providing a check on executive powers through its oversight responsibilities. Even though some of the powers of the legislature may have been whittled down during the health emergency, the legislature still had the responsibility to exercise oversight over the emergency powers that the executive had accrued to itself (Dan-Azumi and Abubakar, 2020). It therefore figures that, in the Zimbabwean context, Parliament acts as the principal and the Executive as the agent, with the expectation that the Executive will act in the best interests of the public during emergencies. However, the emergent challenge was that the information asymmetry between Parliament and the Executive was exacerbated because the latter held significant information and decision-making power which undermined Parliament's capacity to monitor and influence decisions.

This created a moral hazard where the Executive acted in ways that prioritised political or economic interests over public welfare (Makahamadze and Sibanda, 2022).

Based on the foregoing, the Principal Agent theory offers a helpful lens through which to understand the necessity of oversight mechanisms in reducing the information asymmetry between Parliament and the Executive. The basic premise is that the increased executive overreach during emergencies require Parliament to be a proactive principal that will use oversight tools to hold the agent (the Executive) accountable. The proposed Emergency Oversight Model will therefore include specific mechanisms that will empower Parliament to shift from a passive to an active principal during emergencies by holding the Executive accountable for its actions.

### **2.3.1 Case application of the Principal Agent theory**

Although there was a limited explicit use of the Principal Agent theory in literature that analysed governance approach during the COVID-19 pandemic, the relationship between legislatures and the executive was extensively studied (Chiru, 2023; Griglio, 2020; Värttö, 2024; Bromo, Gambacciani and Improtta, 2024). The prevailing consensus is that legislatures that managed to optimally exercise their principal agent role, from a western world point of view, were favoured by ‘...the quality of democracy, role of constitutional and procedural rules on legislative oversight, type of government, pre-pandemic legislature-executive relations and the balance of power between them’ (Chiru, 2023). Still, the approach used by these legislatures offers key lessons to improving legislative oversight in other jurisdictions because the emphasis that they placed on improving oversight instruments in an emergency environment.

Legislatures do not operate independent of their legal context, as such the legal framework should provide them with a structure to be effective principal agents during an emergency. For example, in Luxemborg the automatic expiration of the state of emergency in 10 days if it is not extended by Parliament has a potentially self-restraining effect on the executive (Bentzen et al., 2020). From an institutional dimension, foreseeable parliamentary rules of procedure that guaranteed the rights of opposition parties and brought operational clarity to the parliamentary process allowed the setting up of inquiry committees to oversee the COVID-19 emergency response actions of the executive in countries such as Denmark and the UK (Chiru, 2023). Special parliamentary committees ensured institutional resilience and provided legislatures with enough capacity to maintain legislative continuity.

Perhaps the most effective use of the principal agent role by some legislatures during COVID-19 was that they mandated members of the Executive to report regularly on government decisions in response to the pandemic (Gordon and Cheeseman, 2023; Dan-Azumi and

Abubakar, 2020). In Canada, the Minister of Finance was required to report every two weeks on the emergency financial powers to the Canadian Parliament while in the Netherlands, the Minister of Health provided monthly 'reasoned overview' updates on the emergency measures that had been put in place (Brock, 2022; Adams, Janse, Daniels, Herrenberg and van Schaik, 2022). The establishment of special oversight committees ensured that some legislatures were able to effectively oversee and validate emergency regulatory actions by the Executive and guaranteed legislative continuity during the crisis.

### **2.3.2 The Principal Agent Theory and legislative autonomy? – the case of Nigeria**

This section will use Nigeria as a case study to show how the Principal Agent theory was upended when the National Assembly was sidelined and had limited authority to hold the executive to account over its response to the pandemic. A systematic review of secondary data on the government of Nigeria's response to the pandemic revealed that "...the limited legislative oversight of government's emergency declarations for dealing with the pandemic ... perpetuated executive dominance in the governance process of Nigeria" (Oni and Dele-Dada, 2022). Executive aggrandisement, which entails the deliberate accrual of power by the executive beyond the checks and balances provided by the legislature or judiciary, manifested itself through the Quarantine Act of 1929 which essentially became an instrument to subvert powers of the legislature and exert executive dominance (Dan-Azumi and Abubakar, 2020; Oni and Dele-Dada, 2022). By opting for the Quarantine Act of 1929, instead of Section 305 of the Constitution – which would have required an ex-post check on emergency powers through legislative endorsement, the executive bypassed Parliament and took decisions based on its own discretion.

The government's palliative distribution programme, which was meant to provide relief support to the poor, was marred by irregularities and carried out in an oversight vacuum because the National Assembly was essentially sidelined. Similarly – within this legislative vacuum, there was an escalation in human rights abuses by the security agencies with the National Human Rights Commission confirming the extrajudicial killing of more than 18 individuals (Oni and Dele-Dada, 2022). These violations were taking place in an environment where officials of the executive were either ignoring invitations to come and account before the legislature or were simply ignoring directives that were being issued by National Assembly committees.

Executive aggrandisement in Nigeria upended the principal-agent continuum and legislative autonomy by severely impacting the National Assembly's ability to exercise its oversight responsibility over the executive. Instead, the executive operated largely unchecked, resulting in governance abuses, irregularities in the palliative distribution programme, and widespread



human rights violations - all within the framework of a legislative vacuum created by the use of subsidiary legislation in the form of the Quarantine Act of 1929.

## **2.4 NEW INSTITUTIONALISM THEORY**

This research advocates for the institutionalisation of an emergency Parliament in Zimbabwe where the legislature is better equipped legally and from an operational perspective to maintain legislative continuity and sustained oversight over the executive during an emergency. The proposed Emergency Oversight Model which is designed to achieve this outcome, is premised on introducing a new approach to legislative processes as a way of capacitating the legislature to respond effectively to national emergencies. To this end, the New Institutionalism Theory provides a solid theoretical foundation from which the proposed institutional change in the Parliament of Zimbabwe can be effected. New Institutionalism is a social theory which focuses on the study of institutions, how they interact, their impact on society, how they shape the behaviour of individuals and produce change (Lecours, 2005). The theory emphasizes the importance of institutional design and how changes to institutional rules or procedures can lead to shifts in political power and behaviour.

For emergency parliaments to be institutionalised in anticipation of future emergencies and protected against executive aggrandisement, there should be a willingness to insulate the legislative oversight prerogative proactively. Institutional and oversight procedures must ensure that Parliaments are better prepared to respond effectively to future public emergencies. For this reason, the New Institutionalism theory reframes the importance of institutions by emphasising the point that institutions matter because they not only shape and determine human behaviour but they also give legitimacy to conduct that defines power relations (Koelble, 1995; Lecours, 2005). For institutions to remain relevant to the socio-political environment in which they operate, New Institutionalism suggests that they should be dynamic and evolve over time influenced by the behaviour of actors within them.

New Institutionalism is relevant in examining the evolution of Zimbabwe's parliamentary oversight mechanisms and how they can be adapted to respond more effectively to emergencies. During the COVID-19 pandemic, it became evident that existing Parliament operational procedures and the legal environment were ill-equipped to handle rapid decision making while maintaining robust oversight. This theory helps explain why the lack of a structured Emergency Oversight Model has allowed the Executive to dominate decision-making during crises, as Parliament has been institutionally constrained from performing its oversight role effectively.

The New Institutionalism theory also accounts for how institutional norms and practices may inhibit Parliament's ability to act decisively during emergencies. Institutional inertia—where

outdated rules or norms persist despite changing circumstances—may prevent the swift adaptation of oversight mechanisms. New Institutionalism therefore supports the argument that Zimbabwe’s Parliament requires not just new oversight tools but a rethinking of its institutional framework for emergency governance.

#### **2.4.1 Case application of the New Institutionalism theory**

From a legislative oversight perspective – using COVID-19 as a case study, the theory of New Institutionalism did not generate much scholarly interest despite the overwhelming evidence showing that there was an urgent need for institutional reform in legislatures to enable them to respond effectively to emergencies. For this reason, this section will review a paper by Sven Siefken (2023) titled *“Crises, Parliaments, and How They Relate”* in which he highlights the importance of understanding the role of parliaments in crisis situations, how they respond to crises, how they are affected by crises, and whether external crises can lead to a crisis of parliaments. The article provides a conceptual framework for understanding the role of parliaments in crisis situations, including the three perspectives of parliaments in crises – namely, crises in parliaments, and crises of parliaments. This theoretical framing is important because for as long as Parliaments do not a new institutional framework to function in crisis situations, they will struggle to assert their oversight prerogative over the executive.

Siefken makes the case that while it is not in the tradition of Parliaments in a political system to act fast, crisis situations demand swift action as slow responses “...can have adverse consequences, or even catastrophic results” (Siefken, 2023). Instead of standing idle and watch the executive pursue an absolutist response to an emergency, parliamentary actors can influence the ‘audience’ by adopting a strategy of going ‘public’ thereby exerting pressure on the executive during times of crisis. By platforming public sentiment and vocalising public opinion, Parliament can indirectly influence government decisions indirectly.

For Siefken (2023), parliaments should seek innovative ways to capacitate themselves so that they can influence government response during a crisis:

- Pursuing informal ways of parliamentary policy influence on decisions.
- Advocating for changes to the polity (legal framework) to codify who can declare a state of emergency, authorizes, and ends it.
- Explicitly defining the triangular relationship between experts, the executive and parliamentary actors to avoid blurring lines of accountability.
- Maintaining public perception of a proactive parliament.
- Use of symbolism in crisis management.

In order to achieve the aforementioned, Parliaments will need to change their formal and informal norms and practices to enable effective oversight. As a starting point, the culture of deference to executive authority during emergencies may need to be challenged in favor of a more assertive parliamentary role. For instance, during the COVID-19 crisis, some parliaments and legislatures adjusted their standing orders or rules of procedure to ensure legislative continuity (Siefken, 2023). This resulted in the establishment of special oversight committees or investigating committees to scrutinise the crisis response. Siefken concludes by noting that understanding the role of parliaments in crisis situations is crucial for ensuring the legitimacy of political action and for making institutions resilient for future crises.

## **2.5 CONCLUSION**

This chapter provided the theoretical framework underpinning this study by reviewing three theories, namely – Democratic Legitimacy, Principal Agent and New Institutionalism; and explaining how they fit into legislative oversight during emergencies. Real-world examples showed how each of the three theories helped to comprehend legislative oversight during the COVID-19 pandemic. Most importantly, an effort was made to show how the three theories will contribute to the framing and design of the Emergency Oversight Model for the Parliament of Zimbabwe.

In order to achieve democratic legitimacy, the analysis made the case that governments should ensure that their decision-making processes align with democratic principles of accountability. For this reason, a structured oversight mechanism – in the form of an Emergency Oversight Model, could potentially sustain the legitimacy of executive decisions during a national emergency.

Based on the Principal Agent paradigm, the Executive branch made all the crucial COVID-19 pandemic decisions while Parliament benefited. In crises, oversight measures must bridge the information gap between the executive branch and parliament. Principal Agent theory offers a relevant framework.

The New Institutionalism theory sustains the argument that if Parliaments are to play a pro-active role in future emergencies, they need to change their formal and informal norms and practices to enable effective oversight. The theory, together with the other two, provides a robust foundation for developing an Emergency Oversight Model that ensures accountability, transparency, and democratic legitimacy during national emergencies.

## CHAPTER THREE

### PARLIAMENTARY OVERSIGHT LEGISLATION AND THE EMERGENCY CONSTITUTION IN ZIMBABWE

#### 3.1 INTRODUCTION

Chapter 2 provided the theoretical framework informing the concept of legislative continuity and executive accountability during times of crisis. This chapter is a contextual analysis of the constitutional provisions that define legislative oversight and the emergency Constitution in Zimbabwe. It is a systematic review of literature designed to answer the research question on Zimbabwe's current constitutional and legal framework's influence on legislative oversight during national emergencies.

Scholarship on the adequacy of Zimbabwe's ordinary legislation in enabling legislative continuity during national emergencies is minimal and this chapter's detailed review of oversight and emergency legislation will be a critical first step in filling that gap. The chapter will shed light on the intersection between governance and oversight in national emergencies by mapping out the parameters of the Parliament of Zimbabwe's oversight model from an oversight legislation perspective.

While nation-states have a right and an obligation to protect themselves from emergencies that threaten their way of life, the exercise of emergency powers and the adequacy of the restraining influence of constitutional safeguards to prevent 'rule by the Executive' has always been a contested area among legal scholars (Hatchard, 1989; Tushnet, 2007; Scheuerman, 2012 and Ross, 2019). In his seminal work, *Emergencies and the Limits of Legality*, Victor Ramraj cautions that historical and contemporary events have provided ample evidence of the ever present danger that the Executive arm of government, even in well-meaning jurisdictions, can abuse emergency powers (Ramraj, 2012). Those who hold contrary views to Ramraj argue that Executive overreach during emergencies is inevitable because "emergency governance is Executive governance as the Executive is the only branch with the information, decisiveness and speed to respond to crises" (Ginsburg and Versteeg, 2020). However, according to Cormacain (2020), Executive use of emergency powers should not negate the principles of proportionality, time limits and limited application commensurate with the nature of the emergency. It is within the tension that this chapter seeks to analyse whether Zimbabwe's oversight legislation provides any *ex ante*<sup>1</sup> and *ex post*<sup>2</sup> safeguards to limit Executive abuse of emergency powers.

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<sup>1</sup> The term *ex-ante* is a phrase meaning 'before the event'

<sup>2</sup> The term *ex-post* is a phrase meaning 'after the event'

In addition, the chapter will use insights from emergency law theory to analyse Zimbabwe's constitutional law approaches to legislative oversight with a view to shedding light on legislative restraints to emergency power use. To this end, the thematic focus areas for this chapter include a general explainer on legislative oversight and Executive accountability; constitutional provisions for oversight and accountability, the Emergency Constitution and legislative oversight and comparative application of emergency laws during Covid-19.

### **3.2 GENERAL EXPLAINER ON PARLIAMENTARY OVERSIGHT AND EXECUTIVE ACCOUNTABILITY**

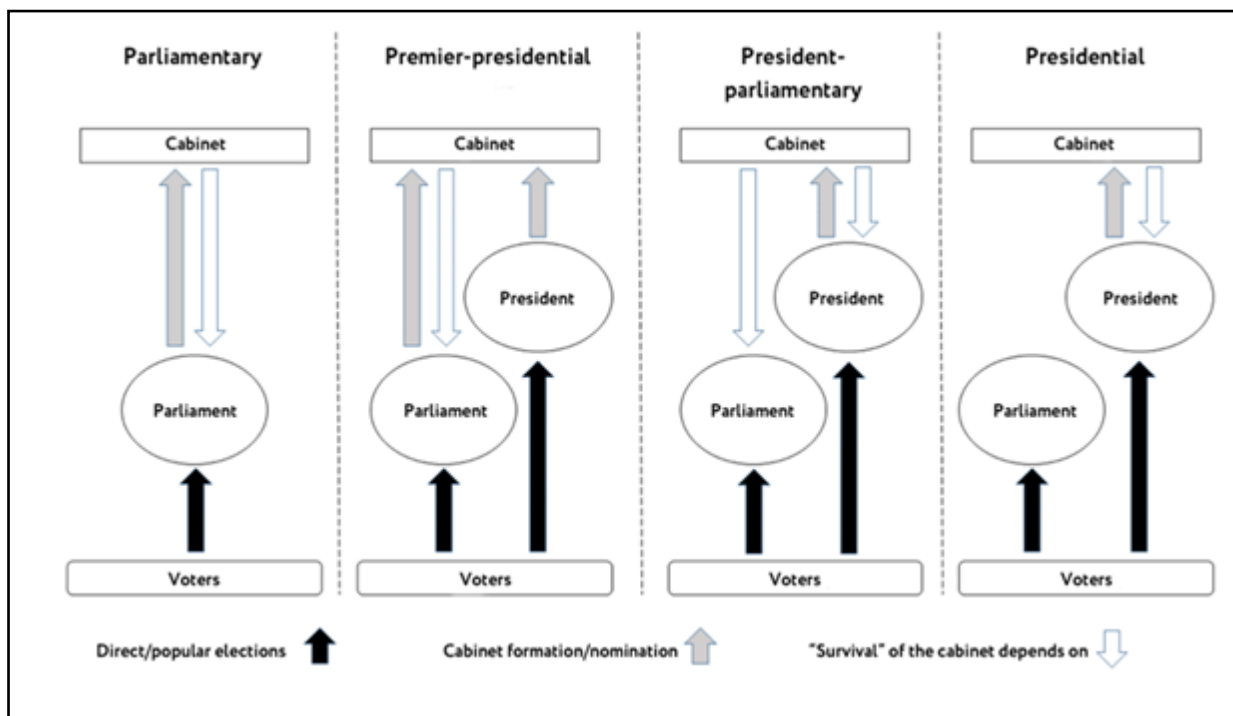
Legislative oversight is one of the primary mechanisms through which elected and appointed public office bearers are held to account for exercising their delegated authority and power. Oversight fosters democratic legitimacy on delegated authority by assuring citizens that public officials will act in the public interest, imposes restraints on their power and authority and creates incentives for accepted behaviours and actions (Brinkerhoff, 2001). It is, however important to note that the practice of legislative oversight and executive accountability differs across the world depending on the form of government being used (see Figure 3.1 below) which can either be parliamentary<sup>3</sup>, presidential<sup>4</sup> or semi-presidential<sup>5</sup> (Pelizzo, 2013). Still, in all these different forms of government, legislatures that effectively exercise oversight over the Executive are considered to be key enablers of responsive, accountable and transparent governance.

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<sup>3</sup> In parliamentary democracies, the party or coalition that wins the majority of parliamentary seats forms the Executive branch of the government.

<sup>4</sup> In presidential systems, the President is both the head of government and the head of state. Presidents are elected for a fixed term in office. Legislature is also elected for a fixed time in office.

<sup>5</sup> Executive power in semi-presidential systems is shared between the President and the Prime Minister. President is elected directly while the Prime Minister is the leader of the largest party in the legislature.



**Figure 3.1: Different forms of government and executive accountability.**

Source: (Sedelius and Linde, 2017)

### 3.2.1 Legislative Oversight

In democratic societies, where the system of checks and balances acts as a failsafe mechanism to prevent the abuse of delegated power by elected and appointed public officials, the functional purpose of parliamentary oversight is to ensure that the government remains transparent and accountable to the electorate. While the basic premise of oversight is the review and monitoring of actions that are taken by the Executive, Oleszek (2014) stresses that it involves the following:

*'exercise of constitutional powers by designated institutions with legitimate power to checkmate or control the exercise the powers of the state in a manner that would make the executive accountable and responsible to the electorate in between elections'.*

By holding the Executive accountable in the implementation of delegated authority, legislative oversight engenders answerability and enforceability in the use of state power while ensuring effective service delivery outcomes (Fagbadebo, 2018). At policy level, some scholars suggest that legislative oversight facilitates positive public policy outcomes through systematic supervision of policies and programmes introduced by the Executive (Schick, 1976). In fact, some posit that oversight is either pursued as an *ex post* or *ex ante* review of government policies and programmes with the sole objective of promoting the proper functioning of a democratic political system (Pelizzo, Stapenhurst, and Olson, 2006). The centrality of

oversight in a functional political system lies in the fact that it improves the quality of policies or programmes introduced by the Executive and fosters democratic legitimacy on the public policy process.

The oversight concept has a multi-dimensional focus which straddles governance strands such as administration, politics, law, finance, ethics and governing strategies. Its primary functions therefore include:

- *Protecting citizen liberties by preventing abuse and unconstitutional conduct on the part of government;*
- *Holding the government to account on public finance expenditure;*
- *Ensuring efficiency and effectiveness in policy in policy design and implementation;*
- *Promoting transparency in government conduct (Parliament of South Africa, 2013).*

At institutional level, the process of parliamentary oversight is dependent on the existence of specific variables that enable the legislature to effectively oversee the actions and activities of the Executive. In most jurisdictions, Constitutions explicitly confer oversight power to legislatures and enable them to establish institutional mechanisms to implement depoliticised oversight responsibilities for continuous Executive accountability (Fagbadebo, 2018). Part of these mechanisms include the use of oversight tools such as parliamentary questions, committee hearings, oral question time, parliamentary hearings and hearings in the plenary assembly (Pelizzo and Stapenhurst, 2008; Pennings, 2000). Without negating the importance of these tools, some scholars have cautioned that their presence is insufficient for effective oversight. They argue that complementary elements relating to the institutional characteristics of Parliaments themselves are needed for effective oversight and they include (Weller, 2005; Pelizzo, Stapenhurst, and Olson, 2006):

- provision of timeous and accurate information to parliamentarians;
- basic accountability relationship between the Executive and the legislature;
- legislative activism by opposition political parties.

Using the principal agent theory, other scholars make the case that variations in forms of government, with regard to principal–agent relations, can have a bearing on the quality of oversight outcomes (Sedelius and Linde, 2017 and Kinyondo, Pelizzo, and Umar, 2015). Their thesis is that the structure of oversight is not only comprised of the relationship between the Executive and the Legislature but is also influenced by the context in which that relationship exists, the country's governance culture and the level of communication between the two parties (Kinyondo, Pelizzo, and Umar, 2015). This is precisely why studies on oversight effectiveness have consistently found that democratic societies have, on average, more

oversight tools at their disposal than non-democratic and quasi-democratic countries (Pelizzo and Stapenhurst, 2008).

### **3.2.2 Executive Accountability**

At conceptual level, executive accountability is the practice done by elected and appointed public officials to provide answers on their use of delegated authority to public accounting bodies. Prioritisation of accountability ensures that public officials use their delegated power responsibly, within the confines of the law and for the benefit of the greater good. Accountability is key to good governance because it demands public officials to justify their actions (Mulgan, 2011). The obligatory requirement in accountability should be such that:

*'a social relationship has to exist in which an actor (an individual or an agency) feels an obligation to explain and justify his or her conduct to some significant other (the accountability forum, accounted, specific person or agency).'* (Gutto, 2007).

The *Oversight and Accountability Model* of the South African Parliament lists five accountability functions, namely:

- *enhancement of public governance integrity by limiting incidents of power abuse, nepotism and corruption;*
- *promoting democratic control through the use of accountability as an institutional tool;*
- *boosting government efficiency via training and services;*
- *build public confidence in government; and*
- *ensure public accountability of government* (Parliament of South Africa, 2013)

As a public accounting body, Parliament should have rules, methods, and instruments to promote responsible public authority usage to ensure executive accountability (Brinkerhoff, 2001). Public accounting bodies should have the capacity to impose sufficient sanctions in instances where there has been a failure by public officials to fulfil their public responsibilities or have abused their delegated power.

#### **3.2.2.1 Answerability and Enforceability**

The aforementioned definitive parameters of accountability confirm that its premise is built on fulfilling two requirements, answerability and enforceability. Answerability places an obligatory expectation on officials to explain and inform their conduct to members of the public. According to Schelder (1999), answerability has an informational dimension, explanatory focus, an element of enforcement and is able to impose consequence or sanctions on any negative



action taken. Fagbadebo (2018) suggests that public accounting bodies should punish and hold offenders accountable to prevent further offences.

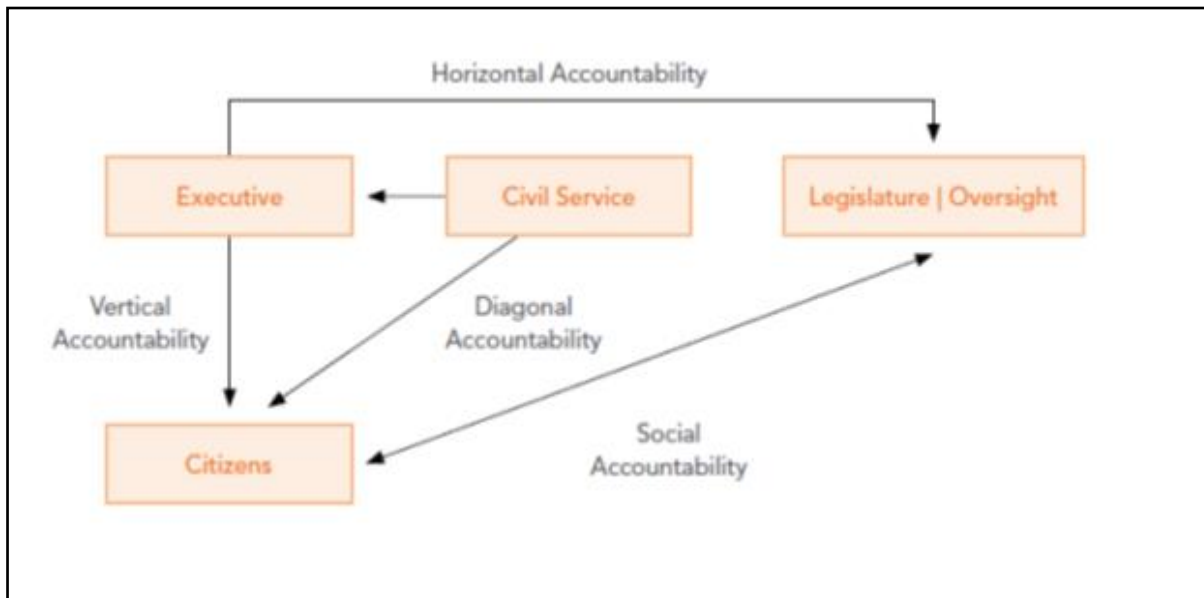
Enforceability, on the other hand, presupposes that answerability without consequences or sanctions is weak accountability (Brinkerhoff, 2001). Based on power equality and checks and balances, enforceability requires public accounting bodies to have powers to sanction public officials who abuse their delegated power. Brinkerhoff (2001:2) cautions that for sanctions to be effective, they have to go beyond the 'requirements, standards and penalties embodied in laws, statutes and regulations' but must also include the application of other enforcement tools such as professional codes of conduct. The currency that denotes the value of sanctions is the confidence that the public has in their enforceability. There should be demonstrable evidence that the sanctions imposed by a public accounting body are sufficiently able to endanger accountability, transparency and responsiveness in government.

### **3.2.2.2 Components of Accountability**

Accountability occurs at different levels within the body politic. Public accountability takes place at vertical, horizontal, social and diagonal levels (Pelizzo, 2013; Brinkerhoff, 2001 and Fagbadebo, 2018). Fig 3.2 below is a depiction of the various levels at which accountability occurs, including the location of the overseeing actors within the governance system. The four levels of public accountability are defined by public accountability scholars as follows:

- Vertical accountability – entails the use of electoral power by citizens, in competitive elections, to effect change in government (O'Donnell 2008).
- Horizontal accountability – involves the actions taken by public accountability bodies, such as legislatures and statutory oversight institutions, to hold government administrations accountable in-between elections (Mulgan 2011).
- Civil society organisations and individuals must actively hold government actors responsible to achieve social accountability (Pelizzo, 2013).
- Diagonal accountability – is the enforcement of horizontal accountability by citizens through legislatures or public pressure avenues such as protests (Adamolekun, 2010)

The importance of public accountability in legislative oversight is to reinforce public participation, involvement, transparency and co-operative government. Institutionalisation of accountability engenders trust and gives democratic legitimacy to the actions taken by the Executive on behalf of citizens.



**Fig. 3.2: Levels of Accountability.**

Source: (Pelizzo, 2013)

### **3.3 CONSTITUTIONAL PROVISIONS FOR OVERSIGHT AND ACCOUNTABILITY IN ZIMBABWE**

The Constitution of Zimbabwe (2013) provides the legal basis upon which the exercise of emergency power, including the applicable derogations and limitations, are pursued. In order to understand how accountability is achieved in the application of these emergency powers, this research's sub-question on the current constitutional provisions defining the parameters of the Parliament of Zimbabwe's oversight function was considered. Zimbabwe's constitutional guardrails on parliamentary oversight are primarily designed to provide the legal universe within which to regulate the exercise of power but their reach during national emergencies or their role in enabling legislative continuity remains an understudied area.

Zimbabwe has a presidential system, hence its president is also its leader. Government is based on a unitary state where norms of parliamentary process, formal recognition of the biggest minority party in Parliament, President-appointed Cabinet, majority party control of the Executive, and frequent elections are Westminster model traits (Strohmeier, 2015). Describing Zimbabwe's form of government is of paramount importance to this study because it helps to set the context within which to understand the genesis of Executive dominance and how it has shaped legislative oversight.

### 3.3.1 Anatomy of Constitutional Legislative Oversight

Section 117 of Zimbabwe's Constitution allows the National Assembly and Senate to legislate, as:

*“(1) The legislative authority of Zimbabwe is derived from the people and is vested in and exercised in accordance with this Constitution by the Legislature” (Constitution of Zimbabwe, 2013).*

This legislative role extends beyond passing legislation to hold all constitutional bodies accountable for their legal actions. Oversight includes reviewing executive branch decisions. The Constitution's Section 119 mandates parliament's oversight of the executive branch which states that:

*“(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” (ibid, 2013).*

The power that Parliament has to ensure adherence to the Constitution is a direct form of what legislative scholars refer to as an accountability enhancing mechanism (Fagbadebo, 2018). These are mechanisms that empower the legislature to sustain an institutional ability to make the Executive answerable for its actions, and in instances where it is found to have overstepped its Constitutional obligations, to prescribe and enforce the appropriate sanctions.

Parliament's Section 119(2) powers of answerability and enforcement are reinforced through additional clauses which set mandatory minimum requirements for Executive accountability at national government level. Section 107 (2) reaffirms the separation of powers and sets the parameters for Executive accountability by creating an obligatory requirement that:

*“2. Every Vice-President, Minister and Deputy Minister must attend Parliament and parliamentary committees in order to answer questions concerning matters for which he or she is collectively or individually responsible” (Constitution of Zimbabwe, 2013).*

Similarly, Section 140 seeks to provide opportunities for direct accountability by the President to Parliament by outlining various oversight mechanisms through which the head of state and government can be made answerable to the legislature:

*“1. The President may at any time address either House of Parliament or a joint sitting of both Houses. 3. The President may attend Parliament to answer questions on any issue as may be provided in Standing Orders. 4. At least once a year the President*

*must address a joint sitting of both Houses of Parliament on the state of the nation, and the Speaker and the President of the Senate must make the necessary arrangements for Parliament to receive such an address” (ibid, 2013).*

It must be noted, however, that the drafters of the Zimbabwe Constitution used different obligatory requirements for the President and the rest of his Executive on the answering of parliamentary questions. Section 107(2) requires the Vice President, Minister, and Deputy Minister to address questions in Parliament, whereas Section 140(3) allows the President to attend for the same purpose. Constitutional design theorists, who place emphasis on the text or wording of Constitutions, could invariably argue that the President can only present himself to answer questions in Parliament at his own discretion as there is no constitutional obligation for him to do so. This partly explains why, since the adoption of the new constitutional in 2013, no sitting Zimbabwe President has appeared before any of the houses of Parliament to answer questions from Members of Parliament, a situation which has limited oversight opportunities on the Presidency.

Despite this contradiction, the Constitution remains unambiguous on the distinctive checks and balances placed on Executive authority in different areas of state functionality. Even if the President may decide to forego answering questions in Parliament, at the level of national security services administration, he is still subject to parliamentary oversight under Section 207(2):

*“2. The security services are subject to the authority of this Constitution, the President and Cabinet and are subject to parliamentary oversight” (ibid, 2013).*

It is a provision that is consistent with Section 110(3)(b) which states that *“the Cabinet is responsible for conducting government business in Parliament”*. Researchers should carefully consider these caveats because they question how much Zimbabwe's law enforcement agencies enforced lockdown restrictions without proper parliamentary oversight due to parliamentary adjournment during the first wave of the COVID-19 pandemic. Outside the realm of the Executive, comprising the President and his Cabinet, the Constitution further accords Parliament the authority to exercise oversight on a wide range of state bodies. Under the purview of the Public Finance Management Act, section 299(1) enforces horizontal accountability by requiring that:

*“1. Parliament must monitor and oversee expenditure by the State and all Commissions and institutions and agencies of government at every level, including statutory bodies, government-controlled entities, provincial and metropolitan councils and local authorities...” (ibid, 2013).*

The expansive oversight powers accorded to Parliament by the Constitution is a recognition that, in a constitutional democracy, the Executive's considerable power has to be put in check and held to account by an organ of government distinct from it (Corder, Jagwanth and Soltau, 1999). Constitutions naturally include checks and balances, separation of powers, and the sovereignty of an elected legislature.

### **3.3.1.1 Comparative review of the legislative oversight function**

Zimbabwe's bicameral Parliament, which has the National Assembly as the Lower Chamber and the Senate as the Upper Chamber, is given equal legislative powers under Section 130(1) of the Constitution which reads, *"...in the exercise of their legislative authority both the Senate and the National Assembly have power to initiate, prepare, consider or reject any legislation"* (Constitution of Zimbabwe, 2013). As such, this means that in addition to passing legislation, both chambers carry an equal constitutional obligation to exercise oversight over the Executive.

The National Assembly and Senate ensure the Constitution's ideals are upheld by representing people, adopting legislation, fostering public interaction, and supervising. Multi-party democracy is anchored in Section 3 of the Founding Values and Principles of Zimbabwe. Responsiveness, transparency, justice, accountability, good governance, and separation of powers define it (ibid, 2013). As a representative body, Parliament gives full expression to these principles through its institutional instruments of oversight, internal rules of procedure and oversight compliance requirements.

In the Zimbabwean constitution, the National Assembly and Senate have legislative and oversight powers, however parliament's oversight duty is more delicately depicted than in other regional constitutions. The South African Constitution Section 55(2)(b)(i) obligates the National Assembly *"to maintain oversight of the exercise of national executive authority"* (Constitution of South Africa, 1996). Zimbabwe's Constitution does not make direct mention of oversight when describing the role of Parliament but enjoins the legislature to use its legislative authority to ensure accountability of the Executive.

In practice, Zimbabwe's National Assembly and Senate often do require parties that appear before its committees to provide the requisite documentary evidence to help Parliament with the expeditious conduct of its oversight work (Parlzim, 2021). However, when compared with South Africa, the sourcing of documentary evidence is not explicitly stated in the Constitution. The South African National Assembly and its committees may, under section 56(a) *"summon any person to appear before it to give evidence on oath or affirmation, or to produce documents"* (Constitution of South Africa, 1996). Zimbabwe follows a different constitutional

design technique than South Africa. Executive and other state entities are scrutinised in South Africa due to strict accountability laws.

The Nigerian federal constitution allows investigative organs to investigate the executive branch as part of their oversight function, unlike Zimbabwe. Under Section 88 (1)(b) of the Federal Republic of Nigeria, 1999, each house of parliament can investigate "*the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility*". To combat government ineptitude, corruption, and public money misuse, the two chambers of parliament should investigate (Fagbadebo, 2018). The institutionalisation of this investigative power to ensure fiscal transparency flows from an understanding that the legislature carries the disbursement of public funds through the division of revenue. In comparison, Zimbabwe's Parliament does not have such investigative powers as it is only charged, through Section 299(1), with the responsibility of monitoring and overseeing government expenditure at every level of government.

### **3.4 EMERGENCY LEGISLATION AND OVERSIGHT IN ZIMBABWE**

Zimbabwe is one of many countries that has written down emergency provisions within its constitutional framework. These emergency provisions collectively constitute what Constitutional scholars refer to as the 'emergency Constitution' (Bjørnskov and Voigt, 2018; Ackerman, 2004). Emergency constitutional provisions are legal rules which specify the assigned state authorities who must act in response to an emergency, the powers that they have and the parameters within which these powers should be applied. Emergency laws are used to restrict civil liberties and provide power to a state or federal leader (Tushnet, 2007; Ferejohn and Pasquino, 2004; Kotzé, 2020). What remains unknown, especially in Zimbabwe's case, is the nexus between the emergency constitution and legislative oversight continuity. The existing gap in knowledge pertains to the dearth of scholarly interest into how Zimbabwe's Parliament has historically approached its oversight role in instances where emergency laws were activated to respond to a regional or national crisis.

Zimbabwe's constitution and law allow to declare a state of emergency under section 113 of the State of Public Emergency clause and a disaster under the Civil Protection Act. The extent to which they enable parliamentary oversight differs in both instances, as sections 3.4.2 and 3.4.3 below will reveal. What is worth noting however is that Zimbabwe's emergency constitution raises a complex governance paradox on the need to strike a balance between individual liberties, separation of powers and the maintenance of adequate control measures to reduce abuse by power maximising politicians ((Bjørnskov and Voigt, 2018).

With no precedence in Zimbabwe's jurisprudence in determining the lawfulness of activated emergency restrictions, the obligation to answer the question about '*Who should monitor the*

*legality of the means used in the application of emergency laws and restrictions?’* falls on Parliament. From a legal point of view, declaration of an emergency through either of the two pieces of emergency legislation does not suspend the operation of the Constitution. As such, Section 119(2), which gives Parliament the power to ensure adherence to Constitutional provisions and compliance with its statutes at every level of government, creates an obligatory requirement on the legislature to preserve its ‘constitution guardianship’ role.

To retain democratic legitimacy during emergencies, Ferejohn and Pasquino (2004) propose a legislative model of emergency powers where the legislature monitors the legality of the approach taken to implement emergency provisions, investigates power abuse, extends the lifespan of the emergency where necessary and holds the brief to suspend the emergency when it has served its purpose. Prescriptive legislative control of emergency power usage overlooks each country's emergency constitution data. It outlines a framework for using MPs' power in split governments.

### **3.4.1 Conceptual framework of emergency Constitutions**

The parameters of conditions that must exist for an emergency to be declared differs across jurisdictions due to the differences in emergency constitution design in individual countries. Even so, the premise of what constitutes an emergency is an area of convergence in these divergent emergency constitutional designs. An emergency can be described as an exogenous or/and endogenous situation that emerges to pose a grave disturbance to a nation's health, socio-economic and/or constitutional order (Ferejohn and Pasquino, 2004; Nelson, Lurie, Wasserman and Zakowski, 2007). In order to prevent the possibility of a manufactured emergency by an Executive wanting to accumulate more power for itself, the occurrence of an emergency should be preceded by ‘a general agreement that a nation, in part or in whole, faces a sudden or unexpected rise in social costs with no certainty as to the length of time the costs will persist’ (Tushnet, 2007). The general consensus around Covid-19 was that, through its perceived scale and unpredictability, it had the potential to overwhelm health systems hence the need to declare a public health emergency.

Exogenous and endogenous emergency threats may overlap depending on the circumstances of their origin. However, for the purposes of classification, exogenous emergency threats originate from outside a country's borders and may include war or invasion while endogenous threats occur from within and can be triggered by economic and health/medical factors (Ferejohn and Pasquino, 2004). The Covid-19 pandemic was an endogenous health emergency threat in China that later spread to become an exogenous threat to individual countries across the world.

Regardless of the nature of the emergency threatening a country, an area of constant contestation is the application of emergency powers and the control measures needed to prevent the abuse of that power (Györy and Weinberg, 2020; Tushnet, 2007 and Ross, 2019). To minimise the scope of emergency power exploitation by the Executive, enhance certainty and predictability within the population, Ross (2019) promotes the necessity of *ex ante* and *post ante* procedural safeguards. *Ex ante* emergency limits were enacted to protect inalienable rights from the executive branch during crises. Zimbabwe's Section 113 and South Africa's Section 37, which give their legislatures the authority to determine the extension or lifespan of a national emergency, act as the primary *ex ante* checks to emergency power (Constitution of Zimbabwe, 2013; Constitution of South Africa, 1996). *Ex post* emergency controls, on the other hand, are applied after the fact and encompass a judicial review of the measures taken to address an emergency occurrence. Constitutional theorists argue that *ex ante* controls have more pronounced efficacy outcomes than *ex post* controls because they place constraints on what the Executive can or cannot do in promulgating emergency provisions, thereby limiting instances of power abuse (Pelizzo, Stapenhurst, and Olson, 2006; Ross, 2019 and Ferejohn, and Pasquino, 2004). In comparison, they point out that *ex post* controls cannot enforce real time executive accountability as they only come into effect after the emergency situation and apply sanctions retrospectively.

International and domestic laws place an obligation on countries to ensure that the activation of emergency legislation does not result in an infringement on the non-abrogable rights of all citizens under their jurisdiction. The African Charter on Human and People's Rights (1986) and the International Covenant on Civil and Political Rights (1976) codify states of emergency to safeguard civilians against governmental abuse:

- To restrict human rights during an emergency, Rodney (2018) and Kilpatrick (2020) recommend legitimate purposes appropriate to the proclaimed emergency.
- To address new public safety risks.

The requirement for proportionality in the exercise of Executive authority during emergencies is different from the absolute approach that Carl Schmitt, a German political philosopher, advocated for. Schmitt (2005) argued that considerations for the rule of law and a rights based approach to emergency response should not constrain emergencies and executive activity, further the constitutional restrictions cannot handle public emergencies due to their unpredictability and severity. In emergencies, he advocated unbridled presidential power. At the extreme opposite of Schmitt's approach was James Madison, an American philosopher, whose disdain for concentrated discretionary power (emergency power) in the Executive made him advocate for a 'legislative prerogative' in emergencies (Fatovic, 2016). Madison's



thesis, which aligns with the core foundational objective of this research, was that the legislature should be given an active prerogative and primacy during times of emergency. Madison argued that in emergencies of a sufficiently exigent nature:

*“...Executive sanction should flow from a supreme source; and that the first opportunity should be seized for communicating to the Legislature the measure pursued, with the reasons explaining the necessity of them. This early communication ...was the best evidence of the motives for assuming the extraordinary power; it was a respect manifestly due to the Legislative authority; and it was more particularly indispensable, as (it) would enable the Legislature, by a provident amendment of the law, to accommodate it to like emergencies in the future”* (United States of America, 1793).

To be clear, Madison did not advocate for an absolute adherence to ordinary law in emergencies. He acknowledged that emergencies of an extreme nature may arise requiring that the Executive be absolved from the inflexible provisions of the law. Still, his interest was that Executive action in emergencies should have legislative legitimacy through clear communication lines and immediate accounting to the legislature.

Based on the frequency by which modern emergencies are occurring, especially the admission by global health experts that the world is entering a pandemic era where pandemics will occur on a regular basis, there is a school of thought which advocates for an accountable and rights based emergency regime to operate alongside the normal ordinary law regime (Ferejohn and Pasquino, 2004; Kilpatrick, 2020 and Criddle, and Fox-Decent, 2012). Their philosophy is that that this permanent emergency regime should be a legal system which has rights, rules and rules, even if their application is somewhat limited. A fiduciary approach by Criddle and Fox-Decent (2012) balances emergency powers with legality. Despite the Executive branch's ability to deviate from human rights norms in emergencies, states must secure and defend their people's equal freedoms.

### **3.4.2 Legal framework on the State of Emergency in Zimbabwe**

An unexpected national disaster might prompt a democratic government to declare a state of emergency, which is legal and generally recognised. Under Section 113(1) of the constitution, the Zimbabwean president may declare a state of emergency, as: *‘The President may by proclamation in the Gazette declare that a state of public emergency exists in the whole or any part of Zimbabwe’* (Constitution of Zimbabwe, 2013)

Unlike South Africa's State of Emergency statute, Zimbabwe's does not identify which crises may be declared under Section 113 of the Constitution. South Africa's Section 37(1) allows the president to declare a state of emergency under the following conditions:

*(a) 'the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency'; and*

*(b) 'the declaration is necessary to restore peace and order' (Constitution of South Africa, 1996)*

Defining a state of emergency in advance is difficult because it is 'an elastic term' (International Law Association Paris Conference, 1984; Gross, 2011), which Zimbabwe's constitution drafters may have considered. Like them, American scholar Alexander Hamilton claimed that national crises cannot be defined or predicted since the number of risks to national security is infinite (Hamilton, 2009). While these concerns are valid, they fail to meet the most crucial need for a strong system of checks and balances to avoid executive power abuse in emergencies: several constitutional categories of emergency. Some emergency powers must be employed in cases of foreign invasion or natural disaster (Gross, 2011). Emergency constitutions categorise crises to limit government powers under particular circumstances.

The Zimbabwean constitution's requirement that Parliament vote on presidential state of emergency proclamations limits executive authority. Per Sections 113 (1)(2)(5), this emergency may last or end: *1. 'The President may by proclamation in the Gazette declare that a state of public emergency exists in the whole or any part of Zimbabwe.'*

*2. 'A declaration of a state of public emergency ceases to have effect after fourteen days beginning with the day of publication of the proclamation in the Gazette unless, before the end of that period, the declaration is approved by at least two-thirds of the total membership of Parliament at a joint sitting of the Senate and the National Assembly.'*

*5. 'If a declaration of a state of public emergency is not approved after consideration by Parliament, or if for any reason it is not considered by Parliament within the period specified in this section, the President must, within seven days, by proclamation in the Gazette, revoke the declaration.'*

Since Parliament declared and managed Zimbabwe's state of emergency, the emergency power regime is best understood as a legislative power paradigm. Fombad and Abdulrauf (2020) state that the legislative power model assumes a democratically elected legislature legitimises the executive branch's harsh emergency responses. Presumption: The legislative will protect the administration from violating people's human rights, limiting emergency power use. According to Sections 113(6) and 113(7) of the emergency constitution of Zimbabwe, Parliament may extend or limit the emergency to a specified territory and declare a state of emergency.

Proponents of the legislative approach to emergency power use argue that its strength is predicated on keeping emergency interventions temporary and separate from ordinary law or

the formal constitutional system (Fombad and Abdulrauf, 2020; Ferejohn and Pasquino, 2004). It is assumed that the legislature has the authority to override Executive action concerning the continued existence of an emergency declaration. On closer review, however, a major weakness of the legislative power model is that it assumes that all countries have strong democracies and independent legislatures. In most African countries, where Executive dominance and party based whip systems define governance systems, the Executive can easily have its way on declaring a state of emergency and can make legislative participation in emergency power application a mere formality (Sebudubudu, Maripe, Botlhomilwe and Malila, 2017; Rotberg and Salahub, 2013).

A case in point is Zimbabwe which had a semi-permanent state of emergency that lasted for 25 years. It started in 1965 when the then colonial government used emergency powers to enforce provisions of its Unilateral Declaration of Independence, manage an economy which was under international sanctions and counter the struggle for freedom by African nationalists (Hatchard, 1989). Upon the attainment of universal suffrage and independence in 1980, the newly inaugurated Prime Minister, Robert Mugabe, chose to continue with the state of emergency citing civil unrest in the Matabeleland region, need for economic stability and the threat of guerrilla attacks from Mozambique. When the Home Affairs Minister finally lifted the state of emergency in July 1990, the government had used it to enforce price controls, intervene in key sectors of the economy and seize assets owned by 'enemies of the state' (Associated Press, 1990). While the 25 year state of emergency had straddled two different constitutional dispensations, its time-bound renewal by parliament was almost always guaranteed because of the deference that Parliament had towards the Executive.

Independent Zimbabwe's second state of emergency, declared in December 2008, was triggered by an outbreak of cholera in the country's major cities and is estimated to have resulted in 98,585 reported cases and 4000 deaths (Balakrishnan, 2008). A seminal study of the crisis by an international panel of public health experts noted that the *"2008–2009 Zimbabwean cholera epidemic was exacerbated by a series of human rights abuses, including the politicization of water, health care, aid, and information"* (Cuneo, Sollom and Beyrer, 2017). At the centre of this crisis, they add, was the nationalisation of water by the ruling ZANU-PF which overturned the Water Act to place all municipal water authorities under a state agency called the Zimbabwe National Water Authority. This deprived opposition controlled city councils of an important source of revenue to maintain infrastructure, leading to dilapidation and the emergence of water borne diseases (Cuneo, Sollom and Beyrer, 2017). The third state of emergency, which was declared in 2018, was also triggered by a cholera outbreak, serve for the fact that the scope of this declaration was only restricted to the capital city, Harare (Mavhunga, 2018). A key lesson that emerged, especially from the 2008-2009 crisis, was that

the state has a penchant for undermining the country's rights-based emergency constitution due to limited horizontal accountability and a partisan political culture in oversight institutions (Youde, 2010). Despite Zimbabwe's well documented history of politically motivated abuses against vulnerable populations (Howard-Hassmann, 2010; Nyathi and Ncube, 2020; and Chiduzo, 2016), despite several demands, the national Parliament has not initiated a targeted inquiry into these abuses, instead relying on ineffective in-committee evaluations.

### **3.4.3 Legal framework on the State of Disaster in Zimbabwe**

On 17 March 2021, before Zimbabwe was yet to register its first Covid-19 case, the President invoked his authority in terms of the Civil Protection Act to declare a State of Disaster (VeritasZim, 2021). Section 27(1) of the Act stipulates that:

*"If at any time it appears to the President that any disaster is of such a nature and extent that extraordinary measures are necessary to assist and protect the persons affected or likely to be affected by the disaster in any area within Zimbabwe, or that circumstances are likely to arise making such measures necessary, the President may in such manner as he considers fit declare that, with effect from a date specified by him in the declaration, a state of disaster exists within an area defined by him in the declaration"* (Civil Protection Act, 2001).

When compared to a State of Emergency, Section 27(1) of the Civil Protection Act provides the President with a wide berth within which he can use his discretion to decide what constitutes a disaster and the course of action which should be taken to address it. After declaring a state of disaster, the President's decision does not need the review of any accounting body, such as Parliament, other its publication in a Statutory Instrument, as further expressed in Section 27(1):

*"... Provided that where such declaration has been made in any manner other than by statutory instrument, the President shall, as soon as possible after making it, cause it to be published in a statutory instrument"* (ibid, 2001)

The President must have two-thirds of parliament's consent within 14 days to keep a State of Emergency in force, although he might 'take extraordinary steps to protect the affected population' without waiting. (ibid, 2001). Not only is the President able to act unilaterally to either extend, curtail or terminate the State of Disaster using a Statutory Instrument, he can do so without Parliamentary oversight except to fulfil the administrative requirement of informing the legislature. Section 28 of the Act holds that:

*'Where a state of disaster has been declared in terms of section twenty-seven, the Minister (Minister of Home Affairs) shall communicate such declaration to Parliament on the day that it next sits after the declaration is made.'* (ibid, 2001)

Parliament is informed about a state of disaster declaration only as a courtesy and not as an act of accountability to the emergency measures being proposed. With the curtailment of civil liberties and abrogation of power to the Executive that often comes with emergency declarations, the Civil Protection Act falls short on providing adequate control measures to reduce abuse through potential power maximisation by the Executive. In fact, the Act has a democratic legitimacy deficit in that it excludes Parliament from monitoring the legality of the approach taken by the Executive to manage an emergency, the application of emergency powers and length of time by which a State of Disaster shall continue to exist.

#### **3.4.4 COVID-19 Emergency: Critique on emergency power application**

From a legislative continuity point of view, the *ex-ante* and *ex-post* procedural safeguards that are meant to prevent emergency power exploitation by the Executive were significantly compromised due to inactive Parliament. Prompted by the declaration of the State of Disaster The Statutory Instrument that was issued by the Executive placed severe restrictions on public gatherings and the movement of people while authorising emergency public spending and the deployment of personnel from various segments of the security sector (Statutory Instrument 76 of 2020). Without adequate oversight over how money appropriated from the National Revenue Fund to purchase emergency PPE for the health sector was spent, it later resulted in a multi-million-dollar corruption scandal that led to the dismissal of the Minister of Health after public pressure. Similarly, reports of the health system's ill-preparedness to handle COVID-19 cases, policy and military heavy handedness in enforcing lockdown regulations, water unavailability in some communities to maintain hygiene of living spaces and growing instances of hunger, all occurred in an environment characterised by lack of accountability and legislative oversight (Mutambasere, 2020). The absence of legislative oversight was made possible by the adjourning of Parliament a week earlier, on the 18<sup>th</sup> of March 2020, due to COVID-19. When Parliament reconvened on the 5<sup>th</sup> of May, it was immediately adjourned until the 19<sup>th</sup> of May.

The intermittent functionality of Parliament was to continue until July 2020 when on 28 July the legislature was adjourned to 25 August after Members of Parliament and staff members tested positive for the virus (National Assembly Hansard, 28 July 2020). When Parliament reconvened on 25 August 2020, Parliamentary records show that it only sat for 20 minutes to swear in a new Member of Parliament after which it was further adjourned to 1 September (National Assembly Hansard, 25 August 2020). The Executive, through the use Statutory Instruments (SIs) and executive orders, apportioned itself extensive authority to govern without the constraint of parliamentary oversight, a situation which created a top-down governance approach to the pandemic response (Muorwel and Vincent, 2020). As a

consequence, the weakening of constitutional checks and balances, Bar-Siman-Tov et al. (2021) felt the COVID-19 pandemic response was not adequately scrutinised. Parliament essentially ceded its constitutionally enshrined role of scrutinising the policies of the executive and holding it to account for its actions.

Five months after declaring a State of Disaster, Parliament of Zimbabwe's default preference for ex-post emergency measures was reaffirmed in the first session of the eight Corona Virus outbreak committees on June 1, 2020. However, in view of the aforementioned infractions that occurred in the enforcement of lockdown regulations, the weakness in ex-post emergency controls is that Parliamentarians were unable to enforce executive accountability in real time (Pelizzo, Stapenhurst, and Olson, 2006). The absence of immediate accountability, which is often found in ex-ante emergency controls, means that in a legislative environment with an ex-post bias on oversight, the Executive adopts an indifferent approach on what it can or cannot do in the application of emergency powers (Ross, 2019; Ferejohn and Pasquino, 2004).

Under the Civil Protection Act, legislative monitoring was weak, which may have resulted to executive branch criticism being repressed to restrict the COVID-19 epidemic. When the army and police monitored the streets to enforce the lockdown, excessive force was used. As Mutambasere (2020) notes:

*“...it quickly became clear that the preferred method of enforcing the lockdown was through the use of unnecessary and unproportionate force. Within two days of the announcement of the lockdown, the police had reportedly assaulted ten people in different parts of the country... between 31 March and 5 May, 215 cases of assaults were reported, as well as two cases of malicious injury to property...”*

Zimbabwe violated its constitutional and legal obligation to protect human rights, even in an emergency. Bill of Rights rights are inalienable under Section 86 of the Constitution. Universal laws may only constrain them:

*“...fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom...”* (Constitution of Zimbabwe, 2013)

According to regional and international treaties like the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights, Zimbabwe's emergency constitution codifies this rights-based approach to emergency legislation. Zimbabwe's constitutional framework for crisis protection protects people's rights to life, dignity, and freedom from torture and other harsh, humiliating, or illegal penalties (Mutambasere, 2020). Therefore, constitutionalist ideas need institutions of accountability like parliament to

build procedures to defend fundamental human rights and a legally obligated government that follows the law in times of national emergency.

### **3.5 COMPARATIVE APPLICATION OF EMERGENCY CONSTITUTIONS DURING COVID-19**

The COVID-19 pandemic revealed that emergency Constitutions in African countries have markedly different approaches to the role that Parliament plays in the formulation and application of measures to address an emergency threat. Even so, the emergent theme in COVID-19 emergency governance systems for majority African countries was that the effectiveness of parliamentary oversight was almost always affected by Executive dominance over Parliaments and deference to political party positions brought about by party caucusing and the whip system (Fombad and Abdulrauf, 2020). These shortcomings often resulted in a rubber stamp approval of Executive actions in response to the pandemic.

However, the aforementioned shortcomings notwithstanding, several African emergency Constitutions provide some key lessons that can help Zimbabwe achieve optimal functionality on legislative continuity and Executive accountability during emergencies. Constitutions from Gambia, Ghana, Swaziland and Lesotho, at different variations, have enabling provisions which allow legislative oversight over Executive power during emergencies by prescribing the submission of reports to Parliament at regular intervals, for as long as the emergency continues to subsist (Constitution of the Gambia, 1996; Constitution of Ghana, 1992, Constitution of Swaziland, 2005 and the Constitution of Uganda, 1996).

South Africa's emergency constitution's COVID-19 responses and Parliament's legislative oversight of the executive branch will be examined next. This comparative analysis will show how the devolved powers in South Africa's emergency Constitution enabled or hindered the continued functionality of the legislature during the course of the COVID-19 pandemic.

#### **3.5.1 COVID-19 and the emergency Constitution in South Africa**

On March 5, 2020, South Africa's National Institute of Communicable Diseases reported its first COVID-19 case. According to the Department of Health, 2,848,925 cases and 84,608 fatalities have been verified as of September 11, 2021. According to clause 37.1 of the constitution, the president of South Africa declared a catastrophe under the catastrophe Management Act to end the outbreak. Minister of Cooperative Governance and Traditional Affairs may proclaim a three-month emergency state of disaster and extend it for one month. To solve the COVID-19 "medical emergency," the president ordered "urgent and drastic measures" (South African Government, 2021).

Similar to Zimbabwe, South Africa's emergency constitution allows a State of Disaster or State of Emergency to declare an emergency. The Disaster Management Act allowed partial suspension of the constitutional normative order, unlike the State of Emergency Act of 1997, which reduced civil liberties guaranteed by the Bill of liberties (Kotzé 2020:394). A state of calamity was declared in response to the COVID-19 pandemic, restricting trade, information, assembly, and travel (Labuschaigne and Staunton, 2020). Enforcement of lockdown restrictions, which entailed the expansion of power and authority to law enforcement agencies, raised concern on the disproportionate use of force and infringement on people's rights (Langa and Leopeng, 2021; Labuschaigne and Staunton, 2020).

Unlike Zimbabwe, the South African Constitution does specify the nature of emergencies that can be declared under a State of Disaster. Section 1(a)(b) of the Disaster Management Act specifies that for an emergency to be declared a disaster under the Act, it should be a:

*'...human-caused occurrence which causes or threatens to cause death, injury or disease; damage to property, infrastructure or the environment; or disruption of the life of a community...'* (Disaster Management Act, 2002).

An emergency is more defined than a disaster by the South African Parliament. Post-State of Disaster declaration, legislative monitoring became a political issue. Because of this, opposition parties called the Disaster Management Act unlawful (Khumalo, 2020). The Democratic Alliance (DA) moved directly to the Constitutional Court to challenge the Act's separation of powers, but the highest court denied their request. Based on Steenhuisen (2020), the DA argued that the Act breached the Constitution by giving the executive branch jurisdiction generally reserved for parliament, establishing a state of emergency without democratic protections. This fits the research's main premise. With no provision for parliamentary oversight, the National Coronavirus Command Council (NCCC), which was formed to coordinate the government's response to the pandemic, assumed unchecked control over the executive and legislative functions of the state. The immediate impact of this anomaly was that the Minister of Cooperative Governance and Traditionally Affairs, under whose authority the implementation of the Act's provisions fell, issued directives and extended the duration of the State of Disaster without parliamentary oversight (Steenhuisen, 2020). In retrospect, the DA's Constitutional court challenge was valid to the extent that it sought to have the same parliamentary oversight mechanisms that are found in the State of Emergency Act read into the Disaster Management Act.

The Disaster Management Act created state-centered government by law and order, according to Klaus Kotze (2020), a constitutional law specialist who has written extensively on emergency legislation and constitutionalism. Due to its additional exemption, the Act's



regulatory power for the executive branch contradicts constitutional order. The Act's significant limitations on freedom of movement and assembly prompted the South African Human Rights Commission to compare it to a state of emergency (Staunton, Swanepoel and Labuschaigne, M. 2020). Because of the Executive's overreach, the High Court had to remind them that while the Disaster Management Act allowed the suspension of certain rights and freedoms, the constitutional norm could not be overridden; individuals were still sovereign, and the disaster's sole purpose was to return things to normal. Thus, Parliament must establish oversight mechanisms in advance to ensure that the separation of powers between the various branches of government can continue to function during an emergency, even if the exact nature of the disaster cannot be predicted.

### **3.5.1.1 Disaster Management Amendment Bill**

After losing a separate court challenge launched at the High Court to contest the constitutionality and lack of parliamentary oversight under the Disaster Management Act, the Freedom Front Plus (FF+), one of the parties represented in the South African Parliament, submitted a Private Members Bill (Disaster Management Bill) in Parliament to amend the Act (Besent, M. 2020). The significance of this Bill and its proposed amendments offer key lessons for increasing the threshold for parliamentary oversight in Zimbabwe's Civil Protection Act.

The explanatory note of the Bill posits that the premise of the amendment was informed by the realisation that *'The Disaster Management Act does not currently provide adequate legislative accountability and oversight over the regulations published in terms of it, the duration of a state of disaster, nor in respect of the extension of a state of disaster.'* (Parliament of South Africa, 2021). FF+ underlined the necessity for stronger legislative accountability and supervision of legislation that provide the executive branch vast authority to violate human rights as they explained the amendment. In accordance with Ferejohn and Pasquino (2014), the measure seeks to provide the legislature the jurisdiction to monitor emergency powers and their application. Key amendment bill points:

- *'amend the Disaster Management Act for the purposes of amending the duration of the State of Disaster';*
- *'give exclusive authority to extend and determine the duration of a national, provincial and local State of Disaster to the National Assembly, Provincial Legislature and Municipal Council respectively';*
- *'provide the requisite majorities needed in the National Assembly, Provincial Legislature and Municipal Council to extend a State of Disaster';*
- *'provide for a resolution that the extension of a national, provincial or local State of Disaster be adopted after a public debate';*

- *'advocate for increased oversight over the implementation of the provisions of a State of Disaster depending on the sphere of government in which it falls under'* (Parliament of South Africa, 2021).

The amendments proposed by the FF+ to Section 27 of the Disaster Management Act are significant to the extent that they not only minimise the arbitrariness of absolute Executive authority during an emergency but they create opportunities for increased legislative oversight and continuity. Their premise is consistent with the James Madison school of thought which prioritizes the legislative prerogative in emergencies (Fatovic, 2016). In fact, by seeking to align Section 27 of the Act with the key functionalities of parliamentary oversight, the Bill addresses the key arguments contained in the Democratic Alliance's failed Constitutional Court challenge on the constitutionality of the Act, Section 27 of the Act which points out that:

- *Confers broad powers on the Minister designated by the President to issue regulations without the constraints of parliamentary oversight;*
- *The absence of parliamentary oversight manifests in the incursions on the fundamental human rights of citizens without recourse as to their legality;*
- *Parliament is essentially reduced to a spectator role with much of its oversight function delegated to the Executive;*
- *Creates a defacto State of Emergency but without the safeguards, checks and oversight measures applicable in a state of emergency;*
- *Section 27 fails to enable Parliament to scrutinise and oversee executive action, as the Constitution requires in s 42(3) and s 55(2) (Anchored in Law, 2020).*

Increased parliamentary scrutiny is constitutionally required. Under Sections 42(3) and 55(2), the South African Parliament must carefully monitor and regulate executive activities. The legislature must also keep "...all executive organs of state in the national sphere of government accountable to it..." by closely monitoring "...national executive authority, including the implementation of legislation..." (Constitution of South Africa, 1996). Courts have not declared the catastrophe Management Act unconstitutional, and the Constitution is not suspended during a catastrophe. However, it may violate Section 55(2) of the Constitution, which requires Parliament to monitor legislation.

### **3.6 CONCLUSION**

Researchers of legislation believe that parliamentary supervision is the best way to keep the executive branch accountable for delegated authority. It helps to foster democratic legitimacy by giving assurance to citizens that elected officials will act in the public interest. While this may be true from a constitutional norm perspective, the power dynamics change during a state

of exception brought about by a national emergency. Emergency powers and constitutional protections to avoid "rule by the Executive" have long been disputed.

When Zimbabwe was declared a State of Disaster under the Civil Protection Act, several challenging governance problems emerged, including how to keep the virus from spreading further while also ensuring that appropriate checks and balances are in place to prevent the executive branch from going too far. What became clear is that under the Act, the President able to act unilaterally to either extend, curtail or terminate the State of Disaster using a Statutory Instrument without Parliamentary oversight except to fulfil the administrative requirement of informing the legislature.

Without continuous legislative oversight, as a result of the accountability gap in the Civil Protection Act and the intermittent meeting of Parliament necessitated by the pandemic, the Executive used Statutory Instruments and Executive orders to govern without the constraints of oversight. This led to inadequate COVID-19 response monitoring, weakening the constitutional system of checks and balances.

South Africa's Disaster Management Act 2000, which the president used to declare a state of disaster in response to COVID-19, and Zimbabwe's Civil Protection Act had similar lack of parliamentary oversight. The only difference is, a Disaster Management Bill has been introduced in Parliament to not only minimise the arbitrariness of absolute Executive authority during an emergency but also create opportunities for increased legislative oversight and continuity. The Bill offers key lessons for Zimbabwe's emergency constitution, especially how to increase the threshold for parliamentary oversight in the country's Civil Protection Act. In emergencies, the Legislative Model and James Madison's school of thought support heightened parliamentary oversight to ensure the constitutionality of emergency powers, especially during the emergency.

## **CHAPTER FOUR**

### **THE POLITICAL ECONOMY OF PARLIAMENTARY OVERSIGHT AND EXECUTIVE ACCOUNTABILITY IN ZIMBABWE**

#### **4.1 INTRODUCTION**

Chapter 3 was a contextual analysis of the constitutional provisions that define legislative oversight and the emergency Constitution in Zimbabwe. This chapter is an analysis of the political economy of parliamentary oversight in Zimbabwe through a historical lens. Scholarly output on parliamentary oversight and Executive accountability during the COVID-19 pandemic is almost exclusively focused on the disruptive impact of the public health environment on legislative continuity. While this is important, it has created a notable gap in current published research on the influence that existing governance structures – at country level, had on the pandemic response. It is this chapters' considered view that the correlation between pre-existing political economies and the nature of oversight recovery from the initial disruptions brought about by the emergency regulations has not been adequately studied. The corresponding research question is whether, in holding the Executive to account during a national emergency, authoritarian or democratic countries handle public emergencies better, especially from a legislative oversight perspective and cognisant of the varying degrees of success registered during COVID-19. In order to provide a concise response to this question, it is imperative that the fundamental structure of pre-existing political economies is carefully analysed in order to obtain intellectual insight into the influence of governance systems on oversight response during emergencies.

The purpose of this chapter, therefore, is to critically examine how Zimbabwe's pre-existing power relations between the Executive and Parliament influenced the conduct of public oversight during the COVID-19 period. A seminal article written on the response of the Zimbabwe government to the pandemic concluded that "...the ruling executive-military alliance... weaponised the fight against the coronavirus pandemic through deploying state security services backed by a battery of legal and extra-legal instruments as weapons used for neutering political dissent, sidelining of parliament..." (Moyo and Phulu, 2021). The securitisation of the pandemic response and the apparent side-lining of Parliament appeared to confirm the long-held view that Zimbabwe's Parliament is "...little more than a rubber stamp of whatever the executive and ruling political party wish to do. Indeed, to the executive, parliament is more of a necessary nuisance than an essential partner in the governance of Zimbabwe" (Makumbe, 2004). What is not acknowledged from these summative conclusions is that the Executive/Parliament nexus is interwoven with Zimbabwe's storied political and economic history.

While Parliaments are central pillars in democratic governance, the evolution of Executive/Parliament relations in Zimbabwe has been a complex process due to the country's chequered constitution-reform history - from the crisis of legitimacy brought about by the Lancaster House Constitution, the failure of the 1999 Constitutional Commission process, non-inclusivity of the Kariba draft Constitution and the compromise 2013 Constitution Parliamentary Select Committee (COPAC) Constitution (Ndulo, 2010; Dzinesa, 2012).

This chapter examined Zimbabwe's political history from its 1980 declaration of independence from British colonial rule to the Constitution reform, Zanu-PF's dominance, theoretical concepts of legislative oversight in authoritarian regimes, and scholarly debates about the government's COVID-19 pandemic response. The motivation for pursuing this analysis was that it helped to explain why the Executive and Parliament responded the way they did to the pandemic, including the impact that this response had on horizontal accountability.

## **4.2 SYSTEM OF GOVERNMENT IN ZIMBABWE**

The Constitution of Zimbabwe identifies Zimbabwe as a centralised unitary state with an Executive President who exercises executive authority through a cabinet (Constitution of Zimbabwe, 2013). According to Zimbabwe's constitution, the president is the head of state and its government.

According to the Constitution, both the President and Parliament may enact legislation, unlike most other governments. "The Legislature of Zimbabwe consists of Parliament and the President..." (Constitution of Zimbabwe, 2013). Although Parliament exhibits a structure modelled along the Westminster type of parliamentary oversight, the President also holds power to enact legislation through the Presidential Powers (Temporary Measures) Act and override existing laws through Statutory Instruments<sup>6</sup>. The few restraints on Executive power and the concentration of authority in the Presidency, is a consequence of a systematic process of executive aggrandisement that began in 1980, when Zimbabwe became an independent state.

## **4.3 HISTORY OF ZIMBABWE'S CONSTITUTIONAL ENGINEERING AND PARLIAMENT EXCLUSION**

The justification for one party dominance in most post-independent African countries, including Zimbabwe where ZANU-PF<sup>7</sup> holds sway, was that the pursuit of economic development and the attainment of national unity required a strong state with a singular authority to define the

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<sup>6</sup> *Statutory instruments are the principal form through which delegated legislation is made by the Executive and has the effect of a law*

<sup>7</sup> *The governing ZANU-PF party has ruled Zimbabwe since 1980.*

national agenda. This often meant moving away from multi-party competition and entrenching Executive power in the hands of an Executive President (Williamson and Magaloni, 2020). For convenience, and even with the advent of strong multi-party competition in the early 2000s, the Zimbabwean Parliament enabled this power concentration by choosing to defer to a dominant Executive.

#### **4.3.1 Lancaster House Constitution**

The Lancaster House Conference in London in 1979 produced Zimbabwe's post-independence Constitution, which was negotiated by liberation leaders, wealthy whites, and international capital (Kagoro, 2004). Lancaster House Constitution (LHC), which allowed elites to grab power and exclude the colonised, may be Zimbabwe's original sin. The public did not legitimise the LHC since they did not participate, even though constitutions are compromises between competing interests (Sachikonye, 2002). This alienation from the broader governance process, including the resultant overbearing bent of ZANU-PF, partly explains the culture of apathy among Zimbabweans when it comes to participation in political and civic processes.

Despite its adoption as post-independent Zimbabwe's first Constitution, the reality is that the LHC was set up to fail from the onset because ZANU-PF's ideological preferences meant that it could not conform to the liberal notions of constitutionalism that were being espoused by this Constitution. The basis of this disconnect stemmed from the fact that, from the outset, 'it was Robert Mugabe and ZANU-PF's intention to establish a one party state. In fact, the institutionalization of a one party state has always been the basic tenet of ZANU-PF...' (Britz and Tshuma, 2013). As such, LHC provisions for an independent judiciary, separation of powers, an Executive accountable to Parliament, a neutral bureaucracy and accountable government were anathema to ZANU-PF's vision of statehood.

At the expiry of the 10 year amendment moratorium protecting the LHC clauses that guaranteed fundamental rights and freedoms, ZANU-PF immediately started amending the Constitution to ensure that it not only reflected its political philosophy for a one party state but also concentrated state power in the Executive. A ZANU-PF-dominated parliament removed the prime minister and installed an executive president with sweeping powers to pardon human rights violations and distribute patronage in Amendment No. 7 to the Zimbabwean Constitution (Britz and Tshuma, 2013). Zimbabwe's short independence saw the first lifting of presidential restrictions. Robert Mugabe ruled for 37 years until a military revolution in November 2017. An executive presidency provided the president rule-making powers like parliament, raised him above the court, and removed him from parliament's oversight (Booyesen, 2003). It marked the genesis of judiciary and legislature marginalisation, leaving

the Constitution at the mercy of ZANU-PF to be used as a tool to manipulate the constitutional process and entrench the party's stay in power (Britz and Tshuma, 2013). The ruling ZANU-PF party changed the LHC seventeen times, reducing democratic rights and strengthening its political dominance.

#### **4.3.2 Constitutional Commission Draft Constitution**

From the 1990s, the general consensus in Zimbabwe, except for ZANU-PF, was that the LHC had become grossly deficient as the country's constitutional law 'because of its compromised, undemocratic origins and because of the governmental imbalance that had resulted from frequent amendments' (ZLHR, 2011). Churches, opposition political parties, human rights groups, labour unions, women's groups, student groups, and youth organisations all banded together in 1997 to establish the National Constitutional Assembly (NCA), acknowledging this. A citizen-driven constitution for Zimbabwe that would uphold democratic principles in both form and substance was the aim of the NCA (Dzinesa, 2012). Just as the more authoritarian executive presidency brought upon by constitutional revisions since 1987 was a driving force for the NCA, so too was the lobbying for the LHC's removal. After the NCA process gained widespread support, the ZANU-PF administration formed a Constitutional Commission (the "Commission") in April 1999 to investigate potential avenues for constitutional revision in response.

According to constitutional law experts, the Commission's proposed new constitution was flawed from the start since it sought to retain and increase presidential power. According to Hatcher (2001), President Mugabe utilised his Commissions of Inquiry Act powers to choose the Commission's size and membership to "...maintain control over both the review process and the contents of the new constitution..." With ZANU-PF members or sympathisers, President Mugabe established the Commission to propose a new constitution, which he did not have to accept. Three of 150 parliamentarians on the Commission were opposition (Dzinesa, 2012). During the public consultation process, public reservations regarding the 1987 LHC constitutional revisions, which created a powerful executive president without protecting individual rights, were predicted.

When the Commission presented the first draft of the Constitution to President Mugabe in November 1999, it did recommend the introduction of two five year term limits for the Presidency but still retained the dominant role of the executive presidency (Hatchard, 2001). The draft still empowered the President to dissolve Parliament, unilaterally declare a state of emergency, appoint and dismiss public officials – including commissioners for Zimbabwe's electoral body. In a subsequent Government Gazette titled 'Draft Constitution for Zimbabwe: Corrections and Clarifications', President Mugabe made unilateral amendments to the draft

Constitution to include military service and the compulsory acquisition of farmland from white farmers for resettlement (GoZ, 1999). An partnership between the NCA and the newly created opposition party, the Movement for Democratic Change (MDC), lobbied for a "No" vote in the February 2000 countrywide Constitution referendum. Opponents of the proposed constitution stated it would create an authoritarian government with a weak parliament, an unaccountable president, and insufficient personal freedoms and rights (Dorman. 2003). Therefore, 54.31 percent of voters rejected the constitution. This meant that the LHC, with all its shortcomings, remained in force and was subsequently amended by the ZANU-PF majority in Parliament to compulsorily acquire land without compensation.

#### **4.3.3 Kariba Draft Constitution**

The wide civil society coalition supported by the NCA, worried about the lack of a people-driven approach, opted out of the government-sponsored Constitutional Commission. To keep the need for an inclusive and democratic constitution firmly on the national agenda, the NCA delivered its own constitutional draft in December 2001 after an exhaustive public consultation process. The NCA draft gave the prime minister and cabinet executive power, limited the president's ability to dissolve parliament or declare a state of emergency, and gave Parliament the power to make important public appointments, according to Dzinesa (2012). Not surprisingly, the ZANU-PF government ignored the NCA draft constitution but the NCA was broadly credited for the effort to keep the debate for a new constitution alive.

It was not after 2008 when it emerged that ZANU-PF, working with the two formations of the opposition MDC political party, 'met in secret at Lake Kariba in 2007 and unilaterally negotiated and drafted a new constitutional proposal which came to be known as the Kariba Draft Constitution' (NCA, 2009). After a disputed 2008 national election, ZANU-PF and the MDC signed the Global Political Agreement (GPA) to form a unity government, revealing this draft constitution. In GPA article 6, the Kariba Draft Constitution was mentioned throughout the 16-month constitution-making process. The public and civil society organisations agreed that the Kariba draft was too exclusive for the constitution-making process. Thus, those opposed to the proposal believed that, like the LHC, it was an attempt by powerful politicians to appease each other by combining elements from the now-discredited LHC and the rejected Constitutional Commission charter. It was from this controversial foundation that Zimbabwe embarked on yet another constitution reform process that culminated in the repeal of the LHC and the adoption of the 2013 COPAC Constitution.



#### **4.3.4 COPAC Constitution**

A new constitution-making process was agreed upon by GPA members ZANU-PF and the MDC to replace the LHC and allow Zimbabweans to write a document that puts them at the centre of governance (GPA, 2008). The introduction of this clause, especially from an opposition party perspective, was a realisation that the LHC had become inadequate in fulfilling Zimbabwe's democratic aspirations. Zimbabwe needed to move away from a deeply entrenched culture of electoral violence, an elite dominated governance system and start laying the foundations for a democratic society.

After 20 months, ZANU-PF and the MDC had to form a COPAC committee to develop a new constitution under Article 6 of the GPA (GPA, 2008). Compared to previous failed constitutional reform attempts in Zimbabwe, the COPAC process was unique in that it was driven by Parliament and not dominated by the President (Zembe and Masunda, 2015). However, the ZANU-PF-deployed Minister of Constitutional and Parliamentary Affairs sought to influence COPAC. Aggression like these hindered the GPA agreement's dissemination and COPAC's constitutional reform timeline. The COPAC team was only inaugurated a year later, in April 2009, when the Speaker of House of Assembly appointed 25 members of Parliament representing the three political parties to constitute COPAC (Dzinesa, 2012). Not only was COPAC composed of Parliamentarians, it could establish committees chaired by parliamentarians, appoint members of civil society to assist with its work and most importantly report to Parliament on its recommendations for a new Constitution in Zimbabwe.

Civil society activists concerned that GPA parties were stealing the show and placing their own political goals before of the people's when Parliament was significantly engaged in creating the constitution (Zembe and Masunda, 2015). A July 2009 All-stakeholders meeting was the latest of COPAC's intensive engagements to quell these concerns. Constituted by delegates from a broad section of society, the purpose of the conference was to allay civil society fears that the constitution making process was being spearhead from above. Despite the semblance of a good working relationship among members of COPAC, when the public consultation process began, it was marred by violence between ZANU-PF and MDC supporters (Dzinesa, 2012; Human Rights Watch 2011 and CISOMM, 2011). ZANU-PF used public hearings to encourage its supporters to defend the party's preference for the entrenchment of the Executive Presidency, abolition of the Prime Ministers' post that was established under the GPA and push against reforms of the security sector.

Of all the contentious issues discussed during the public engagement phase, calls for the reform of the security sector were particularly strong among the opposition political parties and civil society. Their contention was that the sector had pursued a violent and partisan approach

in the 2008 elections, which had influenced the outcome of the election. However, cognisant of the status of the security sector as a powerful political constituency in Zimbabwe, and motivated by the need to avoid derailing the constitution making process, the clamour for security sector reform was left out of the 17 themes that were to form the basis of the new constitution.

COPAC formally adopted the new draft Constitution in February 2013 and when it was put to a referendum in March, 94.5% of participants voted for its adoption. Compared to the LHC, the new Constitution seeks to limit unchecked Executive authority by limiting presidential tenure to two five year terms, exercise of presidential authority through the constitution and legislation, appointment of judges through the Judicial Service Commission, devolution of power to provinces, a Bill of Rights and devolution of powers to Provinces (Mavedzenge, 2012). However, by delaying legislation reform, the ZANU-PF government has weakened the Constitution.

#### **4.4 ELECTORAL SYSTEM AND ELUSIVE LEGITIMACY**

Zimbabwe's electoral system uses a hybrid model that combines the First-Past-The-Post system and the Proportional Representation System to elect Members of Parliament and councillors at local government level. ZANU-PF has been able to dominate elections since 1980 through violence, intimidation and fraudulent practices which has led some to conclude that Zimbabwe is a 'militarized form of electoral authoritarianism' (Bratton and Masunungure, 2008). Political science scholars repeatedly concur that the ZANU-PF regime conducts elections to seem legitimate and obtain popular support (Britz and Tshuma, 2013). ZANU-PF may have enjoyed popular support soon after the country gained its independence in 1980, but when its support started to wane, especially after the emergence of the MDC in the early 2000s, draconian laws have been passed to constrain liberties and state security machinery has been used to intimidate the opposition. This biased voting method has given ZANU-PF a stable majority in parliament, leaving MPs unable to control the executive branch (Makumbe, 2004).

Scholarly perspectives on the reasons why electoral legitimacy has continued to elude Zimbabwe since the emergence of the MDC as a strong opposition party, point to the fact that According to Booysen and Toulou (2009), Zimbabwe has not had free and fair elections since 1980. Electoral authoritarianism has helped ZANU-PF consolidate power and shrink democracy, they say. ZANU-PF favouritism has plagued the Zimbabwe Electoral Commission notwithstanding its constitutional independence. Opposition parties accuse ZEC of gerrymandering boundaries for urban constituencies, which are opposition strongholds, to rural areas where ZANU-PF enjoys more support (Britz and Tshuma, 2013). Since the

President appoints and holds the ZEC Chairperson and Commissioners, ZANU-PF has constantly controlled the electoral body. Therefore, ZANU-PF has managed the electoral environment to its favour while marginalising its political opponents.

The reform of Zimbabwe's skewed electoral system was the centrepiece of contestation during the GPA era and the COPAC constitution making process, with ZANU-PF angling to retain the status quo and opposition parties for a more enabling electoral environment to promote civic participation. Due to the sudden collapse of the Zimbabwe economy, brought about by the chaotic land reform programme, most Zimbabweans had migrated to countries in the SADC region and overseas. In response to this economic displacement, opposition parties in the GPA proposed that the diaspora vote be included as part of electoral reforms and before the 2013 elections. Fully cognisant of the electoral threat that a diaspora vote will pose to its electoral hegemony, ZANU-PF refused to agree for its inclusion in electoral reforms claiming that 'there was a limitation to the right to vote as envisaged under section 86 which reiterates the limitation' (Nyabeze, 2015). Furthermore, they made the argument that the state could not afford to carry the financial cost of running elections outside the country's borders.

#### **4.5 ZANU-PF HEGEMONY**

As previously noted, Zimbabwe's post-colonial constitutional history has been a struggle between two forces: the ZANU-PF's desire to maintain its hegemonic control over the state through weak or nonexistent parliamentary accountability and opposition political parties and civil society organisations' early attempts to implement the constitution's democratic principles. Though Zimbabwe's constitution is liberal and provides many individual liberties, constitutional law scholars say ZANU-PF rules autocratically (Britz and Tshuma, 2013). Due to its belief that it is the sole legitimate representative of the people and nation, ZANU-PF has ruled since 1980 and quickly became hegemonic. Any opposition was viewed as a direct threat to the 'people's revolution' and a 'betrayal of the liberation struggle' that freed Zimbabwe from colonial yoke (Sithole and Makumbe, 1997).

The tragedy for Zimbabwe is that Parliament has mirrored ZANU-PF hegemonism through a docile approach to executive accountability and the passing of legislation that is at odds with constitutional values. Before the August 2023 elections, Parliament passed the Criminal Law (Codification and Reform) Amendment Bill 2022, commonly known as the Patriotic Bill, which criminalises damaging the national interest of the country or critique of the Government of Zimbabwe (Criminal Law Codification and Reform Act, 2023). While the government argues that it seeks to hold to account anyone who jeopardises the national interest, civil society organisations are concerned that it will erode civil and political liberties as gives the government the authority to monitor and suppress political organisations and journalists who

are critical of the government. The Act carries harsh sentences and anyone convicted under the law may be sentenced to death.

In January 2023, Parliament approved the Private Voluntary Organizations Amendment Bill (PVO Bill), which if assented to by the President, will give the registrar of Private Voluntary Organisations (PVO) discretionary power to refuse registration for PVOs or bar them from political involvement (Jeremani, 2023). Opponents of the Bill reason that it will further constrain the civil society space by using the legislation's ambiguous provisions to target PVOs suspected of pursuing a political agenda against the ZANU-PF government. One of the clauses reads:

*“When any PVO that supports or opposes any political party or candidate in a presidential, parliamentary or local government election, or is a party to any breach under section 7 under part iii of the Political Parties (Finance) Act [Chapter 2:12] as a contributor of funds to any political candidate or otherwise, shall be guilty of an offence and liable to a fine of level 12 or to imprisonment for a period not exceeding one year, or both such fine or such imprisonment.”*  
(Private Voluntary Organizations Amendment Bill, 2021)

Rights to free expression and assembly collide with the Bill of Rights' criminalisation of dissent. Upon passage, the measure it would make it difficult for PVOs to criticise government on human rights abuses, empower government to crackdown on organisations involved in voter education and cut off funding for local organisations dependent on foreign donor funding.

The efficiency with which ZANU-PF has managed to close down democratic space with little to accountability can be traced to the post-colonial period where it inherited security apparatus of the authoritarian settler colonial state. Retention of colonial and military-orientated state structures enabled ZANU-PF to ‘...entrench itself as Zimbabwe’s dominant ruling party and strengthen its hold on power’ (Britz and Tshuma, 2013). As such, one can conclusively summarise that Zimbabwe’s colonial legacy has been a key factor that has enabled the entrenchment of a dominant and hegemonic party system in Zimbabwe.

#### **4.6 OPPOSITION PARTIES IN ZIMBABWE’S HEGEMONIC PARTY SYSTEM**

Hegemonic party systems use a combination of democratic institutions and autocratic practices to support the dominant party in power, while simultaneously allowing a controlled level of competitive politics (Bertrand, 2021). Through this controlled democracy, opposition parties are allowed to exist even though they face constraints which force them to function in an uneven playing field. This has been the reality of opposition party politics in Zimbabwe in general and has shaped how they approach in enforcing Executive accountability through their presence in Parliament. Still, the role of opposition parties in promoting public accountability

in hegemonic party systems should not be underestimated. Through denunciation and mobilisation of dissent, they organically reduce the incumbent party's dominance and raise the cost of the system's survival even if this does not lead to the dominant party's defeat or lead to a democratic transition (Bertrand, 2021). This partly explains why ZANU-PF, in its quest to retain political dominance, has always viewed opposition political parties as enemies rather than political opponents.

Soon after independence in 1980, liberation war leader, Joshua Nkomo's ZAPU party was the political nemesis to Mugabe's ZANU-PF. Mugabe was of the view that ZAPU's political dominance in the Matabeleland region undermined his vision of a government of national unity (Masunungure, 2004). The disdain for ZAPU was so strong that in 1983 Mugabe was quoted saying "ZAPU and its leader Dr Joshua Nkomo are like a cobra in the house. The only way to deal effectively with a snake is to strike and destroy its head" (Britz and Tshuma, 2013). It was not long before ZAPU supporters were designated as dissidents and a campaign called Gukurahundi<sup>8</sup> launched against them by the ZANU-PF government. The campaign led to an ethnic massacre in Matabeleland between 1982 and 1987 (Bratton and Masunungure, 2008). After using violent suppression and ethnic massacre to get its way, ZANU-PF entered into a Unity Accord with ZAPU in December 1987 which led to the merger of the two parties - an arrangement which some historians characterise as the swallowing of the former by the ruling party.

Political consolidation and the neutralisation of political opponents meant that parliamentary opposition was contained. As highlighted in previous sections of this analysis, Mugabe made "...a series of drastic constitutional reforms that changed the way Zimbabwe would be governed, afforded him greater power and essentially destroyed parliamentary opposition" (Blair, 2002). Although it was not prescribed in law, by the beginning of 1990s Zimbabwe had become a de-facto one party state. During this period, any opposition parties that emerged were sabotaged through either violent repression or restrictive legislation.

The formation of the Movement for Democratic Change (MDC) political party in the late 1990s, a loose coalition of the trade union movement and civil society organisations, presented the first real threat to ZANU-PF's hegemonic dominance. In fact, the MDC's emergence was momentous to such an extent that it was labelled as "...the first opposition party since 1980 to truly threaten ZANU-PF's grip on power and attract widespread popular support" (Britz and Tshuma, 2013). MDC's political impact was immediate after it led a successful 'No-vote' campaign in the 2000 constitutional referendum, handing ZANU-PF its first major electoral

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<sup>8</sup> *Gukurahundi in Shona means the 'storm that destroys everything' (Sithole, 1993: 37). It was a policy of annihilation, a policy of destroying any opposition (black and white) that stood in ZANU's way. This approach to opposition forces was carried over into the post-liberation period.*

defeat since 1980. Predictably, ZANU-PF responded to this new political threat through violence, intimidation, punitive arrests and state sponsored repression. Since 2002, ZANU-PF has only been able to emerge victorious in every election cycle through intimidation and manipulation of the electoral process. The MDC entered into a government of national unity with ZANU-PF after the disputed elections in 2008, an outcome that some political scientists as responsible for severely compromising the MDC as an effective opposition party (Lloyd, 2010). Although the opposition has been severely weakened over the years by factional splits and state sponsored degradation, the presence of a large contingents of opposition party MPs in Parliament, after each election cycle since 2002, has brought vibrancy to the legislature and revived a fairly decent culture for executive accountability.

#### **4.7. NOVEMBER 2017 COUP – EMERGENCE OF THE EXECUTIVE MILITARY ALLIANCE**

Literature on Zimbabwe's civilian/military relations have underscored the incestuous relationship that exists between the military hierarchy and ZANU-PF (Williamson, 2010; Moyo, 2014). They posit that the military is highly politicized institution which does not hide its direct participation in civilian affairs, notwithstanding the clear constitutional guardrails that delineate civilian/military relations. Since 2002, this conflation became more pronounced and visible after the formation of the MDC and their embrace by voters as an alternative to ZANU-PF. Most Zimbabwean army generals call themselves "guardians of Zimbabwean sovereignty and refuse to countenance the defeat of ZANU-PF, the deliverer of Zimbabwean independence" because they are devoted to their past leadership in the country's independence from colonial rule (N. Cheeseman and Tendi, 2010). Beginning Zimbabwe 2002, the Joint Operations Command (JOC) has publicly favoured Robert Mugabe and ZANU-PF (Tendi, 2013). Due to its composition, the JOC includes the ZDF, prisons, police, air force and intelligence.

Many Zimbabwean military veterans have worked in government institutions, the economy, and Parliament, garnering them the label "securocrats." They run as Zimbabwean National Party members or former military officers. Active and retired high-ranking military personnel are appointed to key governmental positions, demonstrating state militarisation. Thus, the army's growing authority and ZANU-PF supremacy are maintained. In March 2008, following the general elections, JOC advised Mugabe not to accept even though he had lost to Tsvangirai (Tendi, 2013) and delayed the election results. Government needed this deployment then. In a June 2008 runoff election when results were altered, JOC's violence and intimidation ensured Mugabe's win (Masunungure, 2009). Using targeted executions, intimidation, relocation, and false allegations resulting to incarceration, JOC destroyed opposition party organisations in the run-off. Tsvangirai boycotted the run-off election and

accused Mugabe of staging a coup d'état, which some scholars have called a clandestine takeover (Bratton and Masunungure, 2008). SADC negotiated a power-sharing agreement for a unity government after the disputed election ruined Zimbabwe's credibility. After the disputed 2013 national elections, the government of national unity collapsed. Because of Mugabe's age, ambitious individuals started positioning themselves to succeed him, indicating that ZANU-PF was in transition. Those who had fought for Zimbabwe's independence established a close clique, while fresh graduates formed the opposite group (Tendi, 2013). Emmerson Mnangagwa's dismissal by Mugabe started a chain of events. Following these events, the army placed Mugabe under house arrest and took over national television. Under the name of "Operation restore legacy," army generals purportedly overthrew ZANU-PF to reinstate its liberation war principles and participants. Mnangagwa's appointment following Mugabe's forced resignation marked a new era of military-civilian cooperation.

#### **4.8 THEORETICAL CONCEPTS ON LEGISLATIVE OVERSIGHT IN AUTHORITARIAN REGIMES**

The initial one-party dominance of ZANU-PF after 1980 when Zimbabwe obtained its political independence from British colonial rule and the November 2017 military coup have obscured the proper functioning of the arms of state due to the dominant power by the President and the party. The emergent question is why then study political institutions when there is clear domination of the government system by individuals or a group of people. Political theory underscores the point that, even in neopatrimonial regimes, legislatures matter because:

Lawmakers can influence big policy decisions and hold government officials accountable and shape public perceptions of who is to blame when they fail to meet expectations by openly debating delegated policy issues with executive branch officials.

This applies even more in contested dictatorships like Zimbabwe in which state institutions do sometimes exert some form of oversight over the Executive. Besides being important pillars for stability in authoritarian regimes, legislatures are essential institutions for the formalisation of the opposition and provision of institutional solutions to legally prescribed constitutional conflicts (Wilson and Woldense, 2019). Viewed within the context of political elite relations, legislatures function as platforms for policy competition between the authoritarian leader, executive branch elites and the government bureaucracy (Williamson and Magaloni, 2020). Through the instruments of debate and policy contestation between the competing elites, legislatures end up playing important roles in defining policy direction even though the executive actors retain an outsized influence. In other words, political elites in authoritarian regimes prefer the formal rules and procedures of legislatures to formalise their legislation and policy proposals.

Since legislatures in authoritarian regimes are organised and resemble their counterparts in democratic states - in terms of committees, alternative policy proposals and agenda setting, they often do use latent oversight instruments to keep the executive accountable through motions, questions and debates (Gandhi, Noble and Svolik, 2020). This is especially true for opposition party legislators who often have to navigate the authoritarian environment while confronting the complexities of holding to account a partisan bureaucracy. For this reason, some scholars have made the submission that legislatures in dictatorships enhance stability by facilitating power-sharing and reducing the moral hazard impediments in authoritarian governance (Boix and Svolik, 2013). The desire for parliamentary legitimation by the ruling elites in authoritarian regimes often elicits the use of direct accountability mechanisms such as the regular invitation of government Ministers to come and answer parliamentary questions, convening of public hearings, national budget processing and adoption, promulgation of parliamentary investigations and confirmation of appointments to state bodies (Whitmore, 2010). These clearly defined activities of oversight is precisely why some scholars view legitimation as a key function of legislatures, especially in authoritarian regimes where Parliaments play a minimal or marginal role in influencing policy or articulating different interests to those of the Executive.

#### **4.9 HISTORY OF NATIONAL EMERGENCIES AND LEGISLATIVE OVERSIGHT IN ZIMBABWE**

Research has shown how ZANU-PF's longstanding preference for political supremacy via a subservient Executive Presidency and obedient state institutions has affected Zimbabwe's political climate. Parliament has not been spared from this systematic capture of constitutional bodies by ZANU-PF, with the legislature often choosing to forego its oversight responsibility to defer to the Executive. The empirical question that arises, in view of this political praxis, is how Zimbabwe's governance system has influenced the country's response to national emergencies, especially on legislative oversight? In order to answer this question, this section will consider two major public emergencies that have occurred before in Zimbabwe – namely the 2008 – 2009 Cholera Epidemic and Cyclone Idai in 2019, and the role, if any, that Parliament played in exercising oversight over the government's response.

##### **4.9.1 Cholera Epidemic (2008 – 2009)**

Two months after the violent 2008 elections in Zimbabwe, in which Robert Mugabe was declared a winner in controversial circumstances, there was a cholera outbreak which resulted in 95 531 infections and led to 4 282 deaths (Ahmed, Bardhan, Iqbal, Mazumder, Khan, Islam, Siddique and Cravioto, 2011). The outbreak was largely concentrated in urban areas, whose municipalities were under the control of the opposition party, the MDC.



Epidemiologists who studied the outbreak, especially the role of political institutions in mediating cholera outbreaks, concluded that there was a “series of human rights abuses, including the politicization of water, health care, aid, and information” by ZANU-PF (Cuneo and Beyrer, 2017).

Anecdotal evidence suggests that, after losing the 2005 elections, the ZANU-PF government withheld municipal funding for cities where it had lost – especially Harare, which was the epicentre of the cholera outbreak. The immediate outcome of this municipal defunding policy was that it prompted a cessation of water purification in the city of Harare and the redirection of raw sewage into the city’s main water reservoir. The summative conclusion from health professionals who studied the cholera outbreak through a human rights frame was that, human rights abuses by ZANU-PF were mostly to blame for the political and social determinants of the epidemic (Cuneo and Beyrer, 2017). Politicization of water and sanitation infrastructure essentially became the foundational causes of the cholera outbreak.

The public health emergency was further exacerbated by the unilateral use of Executive power to review national legislation as a means of punishment to opposition controlled urban municipalities. Soon after the parliamentary elections in 2005, in which the opposition MDC had made a strong showing, the ZANU-PF government overturned the Water Act of 1976 to bring all water authorities under the state owned Zimbabwe National Water Authority (Mtisi, 2011). The decision had far reaching implications for the opposition controlled urban councils, namely (Cuneo and Beyrer, 2017):

- MDC controlled city councils were deprived of revenue which they had previously used to bankroll civic projects and infrastructure maintenance;
- The revenue that was due to municipal authorities now became a major source of revenue for the ZANU-PF government;
- Based on ZANU-PF’s history of politicizing essential elements of life, such as food – water became a new avenue to propagate its vision of political hegemony.

The nationalization of water resources resulted in high water tariffs and the diversion of revenue to non-infrastructure related expenditure. As a consequence there were widespread water service disruptions and a rise in water borne diseases, especially in Harare. The water authority failed to heed warnings of a cholera outbreak, with allegations emerging that it was pumping raw sewage into Lake Chivero – a major source of water for Harare (Cuneo and Beyrer, 2017). As with all other episodes of public emergencies in Zimbabwe, parliamentary leadership and accountability was severely lacking. There was no proactive legislative intervention to hold the Executive to account on the deterioration in water and sanitation

infrastructure and the struggling public health system as cholera cases started to increase. Predictably, the accountability vacuum gave the Zimbabwean government free reign to initially deny the existence of the cholera outbreak, suppress health information and failure to capacitate health centres to deal with the outbreak.

#### **4.9.2 Cyclone Idai natural disaster (2019)**

Heavy rains and high gusts from Cyclone Idai caused floods and landslides in east Zimbabwe on 15–17 March 2019. Oxfam, an international NGO (Chatiza, 2019), described the destruction:

*“Cyclone Idai resulted in loss of life, damage to homes, fields, schools and roads, and disruption to livelihoods...270 000 people were affected, 51 000 were displaced and 340 individuals lost their lives. The human cost was extensive such that it left many children orphaned with female survivors facing gender based violence. 1,500km of the road network was rendered unusable for months, affecting market access. Livelihoods were disrupted and 140 schools were affected. Housing, health, irrigation and other agriculture facilities were damaged, as were forests and protected areas. Arable land was rendered unusable and livestock was lost”*

Post-Cyclone Idai parliamentary participation in Zimbabwe was unprecedented, creating a pattern for future disasters. To hold the Executive responsible for catastrophe mitigation, this was done. Parliamentary committees interviewed Ministry of Health, CPU, Defence, and Police officials about the programs' disaster response operations (Maipisi, 2021). They briefed parliamentarians on the challenges faced and these briefings helped legislators to advocate for incremental budgetary allocations to improve the effectiveness of disaster intervention programmes that were being rolled out in the affected areas. Outside Parliament, legislators took a proactive approach where they took oversight visits to affected areas to liaise with disaster response teams and non-governmental organisations that were active on the ground.

According to Chatiza (2019), the Parliament Portfolio Committee on Local Government, which oversaw the disaster response, advocated for more CPU funding, local government participation, and developed-nation disaster risk management and reduction laws. It was through the parliament oversight mechanism that it was established that the inadequate readiness of key institutions of the state to effectively respond to public emergencies – such as the police, education and health sectors, army and the Meteorological Services Department was exposed. An argument can therefore be made to the effect that, the work of Parliament during the Cyclone Idai pandemic generated key evidence that could be used to help the country respond effectively to future emergencies, especially on localized disaster preparedness and strengthening of institutional capacity in disaster response institutions.

#### **4.10 SCHOLARLY DEBATES ON GOVERNANCE RESPONSE TO COVID-19**

The central theme that has emerged thus far from this analysis is that there is a strong correlation between a country's political economy and how it responds to public emergencies. In the aforementioned cases, namely the Cholera outbreak and Cyclone Idai, the conclusive outcome was that ZANU-PF's scorched earth approach to political pluralism had a direct bearing into the effectiveness of Zimbabwe's response to public emergencies. Even in instances where Parliament assumes a pro-active approach, as was the case with Cyclone Idai, the effectiveness of horizontal accountability is often reliant on the extent to which the Executive is willing to cede authority to the legislature. Within the frame of this context, and Zimbabwe's political economy, this section will consider the scholarly output on the governance response to COVID-19. This will help to shed light on how the existing social, economic and political dynamics shaped the country's response to the pandemics and the role that Parliament played in shaping that response.

##### **4.10.1 Weaponisation of the COVID-19 crisis in Zimbabwe**

"The Weaponization of the Coronavirus Crisis in Zimbabwe: Legal and Extra-Legal Instruments" argues that the dominant executive-military coalition used COVID-19 as a weapon for purposes unrelated to public health. According to Moyo and Phulu (2021), this argument is rooted in the fact that since the 2017 coup that removed Robert Mugabe from power, the military's role in Zimbabwe's politics and administration has only grown. Using the pretext of implementing lockdown procedures to contain the epidemic, the authors argue that the governing executive-military alliance seized control of the legislature, the courts, and the media while simultaneously silencing critical voices within the government. To de-securitize and de-weaponize the virus, the authors proposed a people-centered response approach to the pandemic in a 2021 publication, when COVID-19 constraints were at their worst, instead of a policy that would give the government and state security apparatus more authority.

In order to reverse the crisis of legitimacy, the military-dominated post-coup government of President Emmerson Mnangagwa used the COVID-19 pandemic to strengthen the state security apparatus and alleviate popular discontent (Moyo and Phulu, 2021). Over and above the established legal framework, the executive-military alliance became increasingly reliant on Statutory Instruments under the guise that they were part of the pandemic containment measures. What was curious, however, was that these statutory instruments were exclusively issued by the Executive without parliamentary input. Moyo and Phulu (2021) concluded that the Mnangagwa administration had weakened separation of powers by claiming the authority

to legislate by pronouncements. Statutory instruments gave Parliament vast authority to respond to the public health emergency without limitations or responsibilities.

The absence of Parliament checks and balances in the exercise of Executive power during COVID-19 in Zimbabwe, led constitutional scholars to summarise that the Mnangagwa administration was essentially conducting itself like a government in a state of emergency rather than the State of Disaster that had been declared (Magaisa, 2020). This absolutist approach to pandemic governance meant that Parliament, opposition party politicians were targeted for arbitrary arrests and journalists were effectively gagged.

Parliament closed without "putting in place any regulations or standing orders to allow for its operations during the lock down period..." (Moyo and Phulu, 2021), preventing MPs from overseeing the lockdown. The sustained argument was that the Executive took advantage of this legislative vacuum to overreach on its powers. On the rare occasions that Parliament convened, it was not to deliberate on the substantive issues of the pandemic but to expel opposition Members of Parliament who had been recalled by their party as a result of intra-party divisions. Instead of focusing on developing oversight mechanisms to monitor the response to COVID-19, the ZANU-PF dominated Parliament was acting at the behest of the ZANU-PF Executive to weaken the opposition through interference with opposition intra-political party conflicts.

#### **4.10.2 Politicisation of COVID-19 by Zanu-PF**

In "Politicising 'COVID-19': an analysis of selected ZANU-PF officials' 2020-2021 media statements on the pandemic in Zimbabwe" (Mutekwe and Vanyoro, 2021), Foucault's theory of biopower was used to examine the changing relationship between citizens and the state. The authors claim that ZANU-PF officials used COVID-19 restrictions to advance the party's goal and eliminate opponents. During the pandemic, certain political groups passed laws to silence their opponents, while others selectively instituted lockdowns. Political atmosphere and pandemic restrictions led to arbitrary detention of opposition politicians, prohibition of opposition demonstrations, and portrayal of opposition leaders as regime change agents.

Based on the premise of expanded Executive powers during public emergencies, and using Foucault's theory, Mutekwe and Vanyoro (2021) make the observation that pandemics are used as justification for expanding surveillance, centralisation and consolidation of power. In Zimbabwe, biopower – the reinforcement of sovereign power with regulatory power, was used to mobilise the country's legal framework to consolidate class political interests. Viewed within the context of Zimbabwe's pre-existing authoritarian political system, the lockdown measures were characterised as 'a carnival for the playing out of partisan and class politics' (Mutekwe and Vanyoro, 2021). The country's pandemic economy gave authorities the excuse they

needed to limit citizen's agency and deprivation of prescribed economic benefits – an outcome which compounded the contours of class and partisanship.

With the article's focus centred on evaluating media statements/comments made by ZANU-PF politicians during the COVID-19 lockdown, the authors used discourse analysis to review media texts within the political, economic and social contexts in which they were generated. Under the pretext of enforcing lockdown regulations, President Mnangagwa is said to have effectively implemented a state of emergency where the army was deployed in residential areas to deal with dissent and ensure autocratic consolidation. Political Science scholars describe this extreme securitisation of pandemic response as an overt process by the government to act against dissenting voices that were protesting against escalating government COVID-19 corruption (Moyo and Kingsley, 2020). Zanu-PF functionaries dissuaded civil society groupings from spearheading public demonstrations arguing that that protests could become COVID-19 super spreaders. In essence, they used the discourse of infection to weaponise the pandemic against opposition parties and civil society organisations (Mutekwe and Vanyoro, 2021).

On the extreme end, Zanu-PF officials sought to internationalise their demonization of the opposition by claiming that their protests against the extreme lockdown measures and corruption was sponsored by the West. One official accused the US ambassador of funding public demonstrations against the government and called for his expulsion. Mutekwe and Vanyoro (2021) surmise that this is the clearest example of Zanu-PF denialism of the existence of a grassroots driven movement against a collapsed economy, corruption and relentless state repression. They argue that during COVID-19, the Zanu-PF regime used popular anger over official inefficiency as Western-sponsored sabotage for political gain. The entanglement of pandemic and political ideologies had the effect of delegitimising grievance protest action while elevating Zanu-PF's nationalistic hubris of sovereignty and legitimization of authoritarian power.

#### **4.10.3 COVID-19 and challenges of human security in Zimbabwe**

The lack of human security infrastructure, as explored in the paper '*Challenges and opportunities for Zimbabwe's responses to COVID-19*', is cited as one of the reasons why countries such as Zimbabwe experienced elevated levels of negative impact – at socio-economic and political dimensions, on the rate of infection, loss of livelihoods and service delivery (Mutanda, 2022). In its abstract form, human security denotes a new dimension in defining individual safety where emphasis is placed on affording people "freedom from fear" and "freedom from want" (Steiner, 2019). It advances the philosophy that the security of people

should be placed ahead of other security considerations such as military capabilities, threats from external aggression and violent conflict.

Zimbabwe, and consistent with trends in low income countries, failed to achieve optimal human security outcomes because of poor service delivery by municipalities, insignificant government social protection for vulnerable communities and the disproportionate reliance on the informal economy by the majority of the populace (Mutanda, 2022). The inability to provide water, shelter, regular refuse collection and adequate health services meant that lockdown measures could not be implemented effectively. People were forced to go and queue at boreholes, COVID-19 patients were left unattended as health professionals had gone on strike due to incapacitation and there was a critical shortage of medicines and personal protective equipment. These deficiencies support the assumption that human security issues make public health catastrophes like the COVID-19 epidemic worse.

Due to an underperforming economy, commodity shortages made the government's COVID-19 lockdown ineffective. Fuel and basic food shortages prompted individuals to stand in long queues, in the process disregarding the social distancing regulations (Mutanda, 2022). The situation was made worse by the government's woefully inadequate provision of economic relief to the vulnerable, except for the sparse assistance given to some rural communities. In contrast, other countries such as South Africa rolled out an expansive programme of social support to its citizens and businesses. Zimbabweans, on the other hand, were essentially left to fend for themselves under one of the most extreme lockdown measures in the SADC region, which were enforced in a highly securitised environments.

With a 60% informal economy, the motivation to preserve livelihoods trumped the state sanctioned requirement to comply with lockdown restrictions (Mutanda, 2022). The anomaly re-affirmed the view that in order to establish cordial relationships between the state and its citizens during a public emergency, there should be a sustained investment in human security by state actors. When socio-economic conditions threaten livelihoods, any measures introduced to reduce the impact of an emergency become a burden and an element of threat to human security. For a health public emergency such as COVID-19, Zimbabwe's collapsed public health system added to the sense of insecurity among members of the public. In fact, Mutanda (2022), posits that what is left of Zimbabwe's public healthcare system are buildings and demotivated staff who have to work under the harshest conditions with no medicine and medical equipment. The author sums up the health system deficit as structural violence against the public, as it denies the public the public decent opportunities to access basic health care.

#### **4.11 CONCLUSION**

This chapter has shed light on a critical yet often overlooked aspect of parliamentary oversight and executive accountability during the COVID-19 pandemic. While existing scholarly work has predominantly focused on the disruptions caused by the public health crisis on legislative continuity, this chapter has made a compelling case for examining the influence of pre-existing governance structures in shaping the response to such emergencies.

The central thesis of this chapter, namely, how authoritarian and democratic countries differ in handling public emergencies from a legislative oversight perspective, holds great significance. As the COVID-19 pandemic indicates, investigating this topic may reveal how governance systems handle crises. To address this question effectively, it is imperative to delve into the nuanced dynamics of pre-existing political economies and their impact on oversight recovery.

Through a specific case study of Zimbabwe, this chapter highlighted how historical power relations between the Executive and Parliament play a pivotal role in influencing the conduct of public oversight during emergencies. The securitization of the pandemic response and the sidelining of Parliament in Zimbabwe exemplify the intricate interplay of political and economic history in shaping governance responses.

Zimbabwe's political journey, from its post-colonial independence in 1980 to the complexities of constitutional reforms, has provided a rich context for understanding the Executive/Parliament nexus in the country. The chapter has underscored how this historical backdrop, marked by constitutional crises and the dominance of a single political party, has contributed to the observed responses to the pandemic.

By examining these key political milestones and theoretical concepts on legislative oversight in authoritarian regimes, this chapter has contributed to a deeper understanding of governance dynamics during the COVID-19 pandemic. It has underscored the need to consider historical and structural factors when evaluating the effectiveness of oversight mechanisms during crises.

In essence, this analysis offers a valuable foundation for comprehending why the Executive and Parliament in Zimbabwe, and by extension in other countries with similar historical and governance dynamics, respond as they do during public emergencies. Understanding these responses is crucial for assessing the impact on horizontal accountability and, ultimately, for improving governance structures to better handle future crises. As the world continues to navigate the complex landscape of global challenges, this chapter is a reminder that history and context matter significantly in shaping governance responses during public emergencies.

## **CHAPTER FIVE**

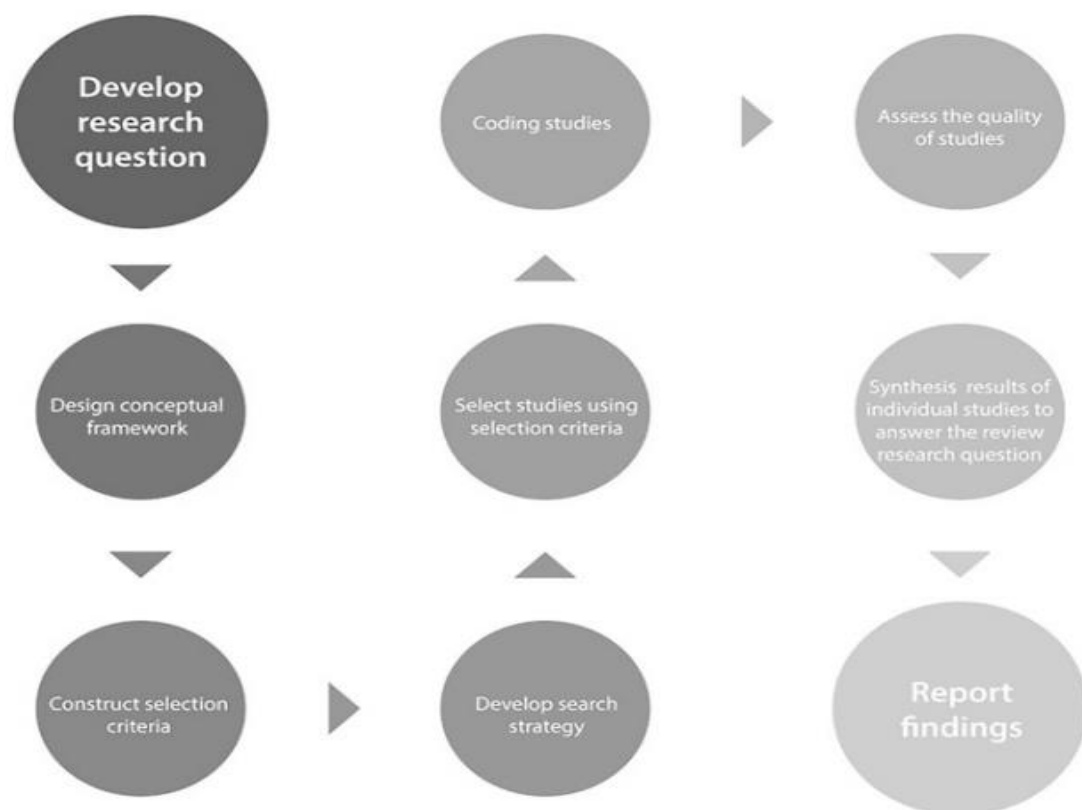
### **RESEARCH DESIGN AND METHODOLOGY**

#### **5.1 INTRODUCTION**

Chapter four offered an analysis of the political economy of parliamentary oversight in Zimbabwe through a historical lens. This chapter is a detailed outline of the research methodology that was used to achieve the objectives of the research. The objective of this research, after reviewing the efficacy of the Parliament of Zimbabwe's oversight response to Executive action during the Covid-19 pandemic, was to develop a legislative oversight model to guide Parliament in future national emergencies. To achieve this, it is necessary to identify the key distinguishing features between legislatures that managed to pro-actively regain their oversight mandate in a relatively short space of time soon after adjourning in response to Covid-19 emergency laws and those that did not. For this reason, a systematic review methodology – using a qualitative research design approach, was chosen to gather empirical evidence on legislatures that adapted their procedural functions to ensure legislative continuity during Covid-19.

The research leveraged on the systematic review methodology's in-built knowledge synthesis framework, as depicted in Figure 5.1 below, to generate a meta-analysis of evidence on effective legislative oversight during national emergencies using the Covid-19 experience as a case study. Chapter four is subdivided into the following sections: overview of the systematic review methodology; systematic review process; clarification of the research problem; research questions; objectives of the research; justification for the research methodology; search strategy; selection criteria, synthesis methods.





**Fig 5.1: The Systematic Review Process**

Source: (Newman and Gough (2020)

## 5.2 REVIEW OF THE SYSTEMATIC REVIEW METHODOLOGY

Unlike conventional literature reviews, systematic reviews synthesise primary data to answer a research issue using transparent, accountable, and rigorous research methods (Newman and Gough, 2020). It is thus an important methodological requirement that a systematic review responds to a clearly formulated research question, identifies relevant studies using a pre-specified search methodology, appraises the quality of the identified studies and summarises the evidence through a clear protocol (Khan, Kunz, Kleijnen and Antes, 2003; Ngcobo, 2021). Since this is a qualitative study, the use of the systematic review methodology enabled the researcher to establish ‘a reliable and meaningful summary of evidence and a bigger picture of what is known about the research question’ (Ngcobo, 2021). With key standardised emphasis on methodology, comprehensiveness, transparency and replicability – systematic reviews is premised on minimising bias and subjectivity in the identification, selection and appraisal of published and unpublished work.

Systematic review falls within the broader family of knowledge synthesis methodologies (as shown in Table 5.1 below) which identify and review evidence to produce a synthesis to inform best practice. Knowledge synthesis denotes the scientific summarisation of relevant studies,

guided by a specific research question, in order to improve understanding of inconsistencies in evidence, identify gaps and define future research trajectories (Kastner, *et al.* 2012).

While review methodologies share a common defining logic, the empirical focus of a research question guides decision making on which knowledge synthesis to use in a review study. Based on the methodologies that they use, reviews fall into two broad categories, namely, the configurative synthesis logic and aggregative synthesis logic – although it is important to note that some review have both elements (Sandelowski, Voils, Leeman, and Crandell, 2012). Configurative synthesis logic reviews use explorative and iterative review methods like interviews and observations to gain a deeper understanding of phenomena, while aggregative reviews investigate impact and effect research questions by specifying methods a priori and applying them without deviation (Newman and Gough, 2020). Systematic reviews are aggregative synthesis since they utilise a bias-free reasoning to find a complete group of homogeneous studies to answer the research issue.

**Table 5.1: Types of Knowledge Synthesis**

Review Type	Description	Search	Appraisal	Synthesis	Analysis
<b>Literature review</b>	Generic term: published materials that provide an examination of recent or current literature. Can cover a wide range of subjects at various levels of completeness and comprehensiveness. May include research findings	May or may not include comprehensive searching	May or may not include quality assessment	Typically narrative	Analysis may be chronological, conceptual, thematic, etc.
<b>Systematic review</b>	Seeks to systematically search for, appraise and synthesize research evidence, often adhering to guidelines on the conduct of a review	Aims for exhaustive, Comprehensive searching	Quality assessment may determine inclusion/exclusion	Typically narrative with tabular accompaniment	What is known; recommendations for practice. What remains unknown; uncertainty around findings, recommendations for future research
<b>Meta-analysis</b>	Technique that statistically combines the results of quantitative studies to provide a more precise effect of the results	Aims for exhaustive searching. May use funnel plot to assess completeness	Quality assessment may determine inclusion/exclusion and/or sensitivity analyses	Graphical and tabular with narrative commentary	Numerical analysis of measures of effect assuming absence of heterogeneity
<b>Scoping review</b>	Preliminary assessment of potential size and scope of available research literature. Aims to identify the nature and extent of research evidence (usually including ongoing research)	Completeness of searching determined by time/scope constraints. May include research in progress	No formal quality assessment	Typically tabular with some narrative commentary	Characterizes quantity and quality of literature, perhaps by study design and other key features. Attempts to specify a viable review
<b>Mixed studies review/mixed methods review</b>	Refers to any combination of methods where one significant component is a literature review (usually systematic). Within a review context, it refers to a combination of review approaches for example combining quantitative with qualitative research or outcome with process studies	Requires either very sensitive search to retrieve all studies or separately conceived quantitative and qualitative strategies	Requires either a generic appraisal instrument or separate appraisal processes with corresponding checklists	Typically both components will be presented as narrative and in tables. May also employ graphical means of integrating quantitative and qualitative studies	Analysis may characterize both works of literature and look for correlations between characteristics or use gap analysis to identify aspects absent in one literature but missing in the other
<b>Umbrella review</b>	Specifically refers to review compiling evidence from multiple reviews into one accessible and usable document. Focuses on a broad condition or problem for which there are competing interventions and highlights reviews that address these interventions and their results	Identification of component reviews, but no search for primary studies	Quality assessment of studies within component reviews and/or of reviews themselves	Graphical and tabular with narrative commentary	What is known; recommendations for practice. What remains unknown; recommendations for future research

Source: (Adephi University, 2024)

Systematic reviews offer a ‘rigorous, transparent, reliable and comprehensive statement about what works through an identification, synthesis and assessment of available evidence for the purposes of generating an empirically derived answer to a focused research question’ (Van der Knaap, Leeuw, Bogaerts and Nijssen, 2008). Compared to a qualitative primary research methodology, the systematic review approach is appropriate for this study because it uses a scientific approach or protocol to minimise bias and ensure future replicability. For example,

had this research opted to interview Members of Parliament for the purposes of gathering data to answer the research question, it's possible that biased responses could have been recorded due to the high partisan nature of Zimbabwe politics where the views of elected public representatives are shaped by party politics.

Qualitative systematic reviews help to reduce implicit researcher bias. The "adoption of broad search strategies, predefined search strings and uniform inclusion and exclusion criteria" of systematic reviews require researchers to search across disciplines for relevant studies (Mallett, Hagen-Zanker, Slater and Duvendack, 2012). Since causality, evidence, effect, and validity are related, data will be more dependable. Using uniform review criteria, meta-analyses and cross-study comparisons may provide evidence-based policymaking insights. Systematic reviews motivate critical research interaction more than any other method. Empiricist reviews are preferred over superficial literature surveys.

Using descriptive, narrative and exploratory lens – this study's use of the systematic review approach helped to fill the existing knowledge gap on comparative studies focused on legislative oversight during national emergencies.

### **5.2.1 Systematic review process**

A reliable systematic review requires a process or roadmap to identify, analyse, and assemble evidence. Protocols help make review research transparent, bias-free, and verifiable, including the method utilised to answer review questions. As such, the framework of a systematic review protocol should include 'the conceptual background, the research question or questions, objectives, the scope or extent of the review, the methods for searching (including the resources and the search strategies), screening processes specifying the inclusion and exclusion criteria, data extraction, quality appraisal, and synthesis' (Booth, Noyes, Flemming, Moore, Tunçalp and Shakibazadeh, 2019).

### **5.2.2 Review questions and objectives**

The main research question in a systematic review is the most important foundational step because it helps to shape decision making on:

- Framing the research process
- Establishing the scope of the review
- Providing focus on selected search criteria
- Guiding the selection of papers
- Procedure for quality assurance
- Format for presenting the results.

Research questions have explicit and implicit assumptions about the phenomena under study and, taken together, they provide the basis for a conceptual framework that outlines the research questions, review approach and methods (Newman and Gough, 2020). A research question can only be presumed to be responsive to the systematic review methodology only if it is underpinned by clear and specific research objectives.

Systematic review topics may be developed using the SPICE framework, according to social science knowledge synthesis researchers (Noyes, et al., 2023). The SPICE framework (see Table 5.2) may aid qualitative research on intervention, service, or outcome efficacy:

**Table 5.2: SPICE framework for formulating systematic review research questions**

<b>SPICE</b>	<b>Definition</b>
<b>Setting</b>	Answering "where?" is "setting."
<b>Perspective</b>	Customers, prospects, and other service stakeholders share their opinions.
<b>Intervention/Interest/Exposure</b>	Intervening for customers, potential users, or stakeholders is intervention.
<b>Comparison</b>	A comparison might be made between various actions or consequences.
<b>Evaluation</b>	Evaluating the intervention is required to determine its success.

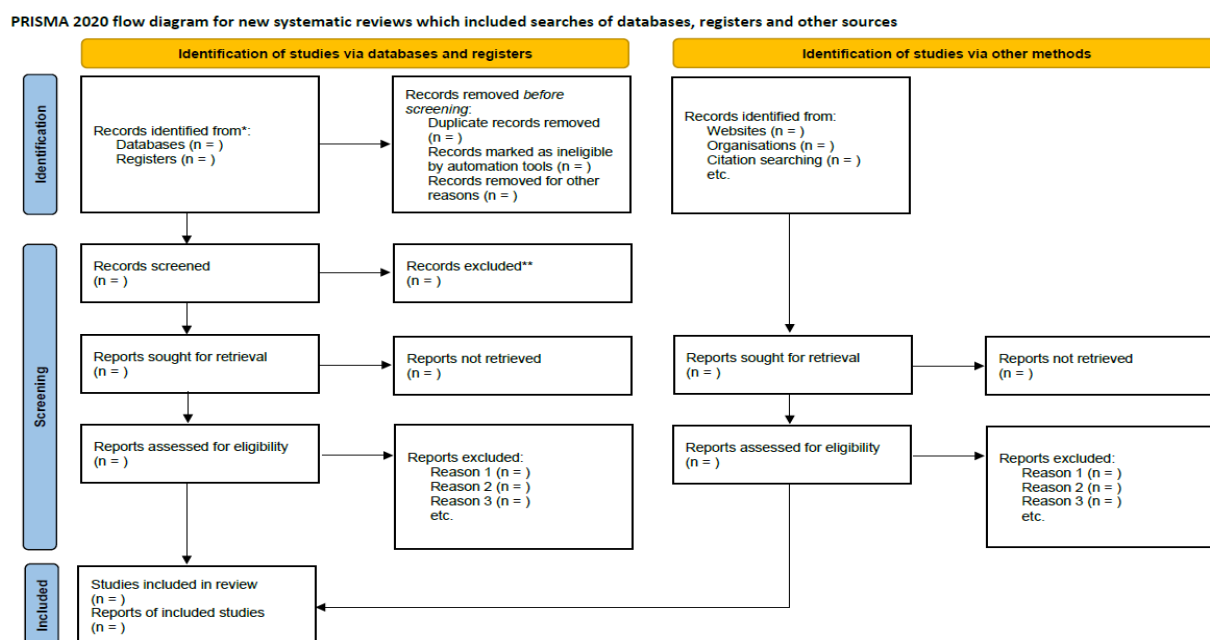
Source: (Medical University of South Carolina, 2024)

### **5.2.3 Inclusion and exclusion criteria for studies**

In order to avoid introducing bias into the process of selecting studies to consider for the review, the researcher has to develop systematic and transparent rules that will guide the selection process. Often referred to as the inclusion and exclusion criteria, these rules guide the selection of studies that will help to specifically answer the research question and define the boundaries of the review (Siddaway, Wood and Hedges, 2019). The topic of the systematic review determines the selection criteria to be used, especially it relates to considerations relating to the theoretical, empirical and methodological issues characterising the studies under review. It is for this reason that best practice in systematic review recommends formulating the selection criteria based on the research questions to ensure consistency throughout the review process (Siddaway, Wood and Hedges, 2019). For the purposes of scientific rigour, reasons advanced for including and excluding studies should be based on theoretical and empirically defensible motivations.

Cognisant of the amount of time needed to conduct a credible systematic review, the number of studies selected should be kept within the boundaries of a manageable synthesis by maintaining rigour in the enforcement of the pre-determined selection criteria. For qualitative studies, the selection criteria should be 'sufficiently broad to account for the diversity of studies, and sufficiently narrow to ensure that a meaningful result can be obtained' (McKenzie, Brennan, Ryan, Thomson, Johnston and Thomas, 2023).

The pre-specified selection criteria provides an unambiguous basis to determine the scope of studies to be included in a systematic review, either through abstract or full text reading in order to produce accurate, objective, and meaningful results. The health sciences have standardised this process through the Preferred Reporting Items for Systematic Reviews and Meta-Analysis (PRISMA) which is a checklist which uses 27 identifiers to ensure that the methods and systematic reviews are reported in sufficient detail to prepare a holistic account of why the review was conducted, how the studies were selected and their findings (Page, McKenzie, Bossuyt, *et al.* 2021). A four phase PRISMA Flow Diagram is then used to illustrate the flow of information through the various stages of the review process, listing the number of records identified, either included or excluded, and the reasons for the exclusion (See Fig 5.2 below). The PRISMA selection and search protocol can be refined for use in the Social Sciences for the study selection process as it provides a structure to the review process and the subsequent reporting of the evidence synthesis findings.



**Figure 5.2: PRISMA Flow Diagram**

Source: (PRISMA, 2020)

### 5.2.4 Search strategy

After setting eligibility criteria, a systematic review begins with a comprehensive literature search. Review questions and conceptual frameworks aid search. The selection criterion outlines which articles to include, which guides the search technique.

The purpose of the investigation is to find published and unpublished work, operationalised through the search terms, that answers the review questions (Siddaway, Wood and Hedges, 2019). A basic rule of the thumb for systematic reviews, when trying to find relevant studies, is to abide by the principles of sensitivity and specificity. These principles provide that a search with a high sensitivity threshold retrieves relevant studies while returning a low proportion of irrelevant studies (Petticrew and Roberts, 2008). The search process can include a whole range of sources, from electronic databases, grey literature, citation databases, published journal articles and bibliographies among others.

To achieve a high sensitivity threshold in electronic database searches, the search strategy should be tailored to each source but the most common search parameters include (Siddaway, Wood and Hedges, 2019):

- Selecting databases that are relevant to the research topic
- Determining parts of the articles to be searched (abstract, full text, title)
- Selecting the article type (journal articles, review articles, grey literature etc)
- Using boolean search operators to search databases (AND or OR; AND; NOT)
- Using of truncation, wildcard and parenthesis symbols to search databases (\$, #, \*, “ ”)
- Publication year (determining the time period for the search)

While electronic databases offer a substantive baseline search parameter to delineate the scope of the review, there is a chance that work relevant to the review search parameters may be missed. For this reason, to find any published and unpublished work, it is essential to broaden the scope of the search to include the following search determinants:

- Using references from the journal articles identified through the electronic database search, (1) identify potential relevant work (2) journal articles relevant to the review.
- Manual search of journal and other grey literature databases.
- Identification of book chapters and related referenced work.

Preventing publishing bias by including previously unpublished content that meets selection criteria. Academic publication bias favours research with statistically significant conclusions (Siddaway, Wood and Hedges, 2019). The inherent shortcoming of literature with an inflated

impression is that it leads to inappropriate conclusions with significant practical policy implications for public policy. In recognition of this shortcoming, a grey literature search strategy should include reports from government department, research briefs from non-governmental organisations, doctoral dissertations and conference proceedings.

### **5.2.5 Appraisal of studies**

Through the PRISMA flow diagram, the systematic review process should keep track of identified studies by collating them and screening them to ensure that they meet the selection criteria. Maintaining a robust record of review during the search process is critical for keeping track of all the literature generated. Record-keeping systems track reviewers' selections during systematic reviews. Any systematic record preservation approach must document search details and decisions.

Tracking how many research titles and abstracts were rejected during screening:

- Listing the excluded studies and their reasons in a table.
- The publication type, study methodology, measures, and participants may be excluded.
- Creating a table with research factors evaluated.

An initial evaluation of titles and abstracts is followed by a full paper review to evaluate whether more inquiry is needed (Zawacki-Richter, Kerres, Bedenlier, Bond and Buntins, 2020). Whether to go to the second stage or eliminate an identified research in the first, Siddaway, Wood, and Hedges (2019) recommend considering the following questions:

- Can it be inferred from the search results that the inclusion and exclusion criteria are reliable and effective in discovering relevant articles while balancing sensitivity and specificity?
- Should the search terms or inclusion/exclusion criteria be adjusted?
- Are any additional search phrases beneficial to add to the existing terms?

Further screening of the collated studies for inclusion, especially for those generated from electronic databases, entails using a citation manager like EndNote to save, identify and delete duplicate records. The citation manager carries the added benefit of helping a researcher to aggregate the full text version of the identified journal articles. This quality assurance process is designed to ensure that a high sensitivity and specificity threshold has been reached to include all potentially relevant published and unpublished work.



### **5.2.6 Coding studies**

The coding process involves the systematic identification of the characteristics defining the selected studies, namely (Newman and Gough, 2020):

- Details of the studies for the purposes of mapping out research that has been conducted.
- To address the review question, each study was researched to determine its quality and relevance.
- Use research findings to answer review questions.

In order to limit study quality bias, it may be necessary to carefully review the elements of each identified study on the research approach used to address objectives, measurement of study variables, quality of reporting and intervention. This process is referred to as Critical Appraisal and is anchored on three elements which include appropriateness, logical connection and relevance to the research question (Petticrew and Roberts, 2008). While the selection criteria remains the primary determinant of study relevance, assessing the degree of relevance may depend on the way that the study variables were measured. Reviewers must assess study quality related to the research design.

### **5.2.7 Review Synthesis**

Far from being a list of findings from selected studies, a review synthesis is a scientific integration of individual studies to generate a comprehensive answer to the review question (Newman and Gough, 2020). This is precisely why the review matrix, the interlinking components that comprise every stage of the review process, configures text in individual studies – and their results, to produce patterns in data, explore the different configurations in the data and generates synthetic narratives of the phenomena under investigation.

It should take into account the data transformation decisions taken during the process to understand patterns in the data, quality of the synthesis and the integration of data to answer the review question. The objective is to cross reference results from individual studies to establish areas of commonality and refutation (Newman and Gough, 2020). Tools used for minute analysis include reading and re-reading, descriptive and analytical coding, thematic development, regular comparative analysis and case analysis.

### **5.2.8 Reporting review results**

A credible systematic review adheres to the goals of the review and the methodology's best practice guidelines to generate results that are systematic and comprehensive, while drawing conclusions that are robust, reasonable and convincing (Siddaway, Wood and Hedges, 2019).

This involves establishing a rigorous logic framework for summarising, evaluating, and integrating research strategy results. Methodical, clear, and impartial review results are necessary. Results of the review and the synthesis reporting should answer the following appraisal questions:

**Table 5.3: Appraisal questions for systematic reviews**

1. How credible are the findings?
2. How has knowledge or understanding been extended by the research?
3. How well does the evaluation address its original aims and purpose?
4. How well is the scope for drawing wider inference explained?
5. How clear is the basis of evaluative appraisal?
6. How defensible is the research design?
7. How well defended are the sample design/target selection of cases/documents?
8. How well is the eventual sample composition and coverage described?
9. How well was the data collection carried out?
10. How well has the approach to, and formulation of, analysis been conveyed?
11. How well are the contexts of data sources retained and portrayed?
12. How well has diversity of perspective and content been explored?
13. How well have detail, depth, and complexity (i.e. richness) of the data been conveyed?
14. How clear are the links between data, interpretation and conclusions – i.e., how well can the route to any conclusions be seen?
15. How clear and coherent is the reporting?
16. How clear are the assumptions/theoretical perspectives/values that have shaped the form and output of the evaluation?
17. What evidence is there of attention to ethical issues?
18. How adequately has the research process been documented?

Source: (Spencer, Ritchie, Lewis and Dillon, 2003)

### 5.3 CLARIFICATION OF THE RESEARCH PROBLEM

Before formulating the review question in a systematic review, the study should provide the context or research problem. Context is defined as location in time, in an organisational level or within a geographical space (Booth, Moore, Flemming, Garside, Rollins, Tunçalp and Noyes, 2019).

Zimbabwe and other nations' COVID-19 emergency measures disrupted legislative continuity, creating a governance deficit. Executive dominance, autocratic technocracy and the opportunistic exploitation of the health crisis to diminish horizontal accountability led to a creeping loss of parliamentary power.

For countries like Zimbabwe, whose legislatures failed to adapt their institutional mechanisms to respond to the expanded use of emergency legislation, regular Executive functions such as

public expenditure, deployment of law enforcement agencies to enforce lockdown restrictions, social interventions to assist the vulnerable and the implementation of emergency laws were suddenly being rolled out in an oversight vacuum.

Parliamentary inactivity coincided with a period of increased Executive action, chief among which was the passing of a multi-billion Zimbabwean dollar COVID-19 stimulus package and the enforcement of stringent lockdown regulations. Without parliamentary oversight, the democratic failsafe mechanisms to monitor public expenditure and law enforcement were removed from Zimbabwe's governance response to the pandemic.

Tellingly, there was no discernible effort at institutional level by the Parliament of Zimbabwe to adapt parliamentary business in order to ensure adequate oversight in the implementation of Covi-19 emergency intervention by the Executive. In fact, in the last sitting held on the 18<sup>th</sup> of March 2020, before Parliament adjourned following the announcement of the State of Disaster, the Speaker notified Members of Parliament that all committee meetings and public hearings were to be cancelled with immediate effect (Parliament of Zimbabwe, 2020). The proclamation was a confirmation that Parliament did not have an institutionalised framework in place to support oversight and legislative continuity in emergency situations despite clear evidence that the use of emergency powers by the Executive had raised concerns on the rule of law and human rights.

In view of the foregoing, the researcher finds the research problem to be:

***Zimbabwe's national Parliament does not have a structured framework in place to hold the Executive arm of government to account and ensure continuous legislative oversight during a national emergency.***

### **5.3.1 Main review question**

A systematic review uses existing studies to solve review difficulties, unlike original research. For this reason, systematic reviews address clear and answerable questions that fill important gaps in knowledge (Thomas, Kneale, McKenzie, Brennan and Bhaumik, 2023). Review questions fall into specific categories, key among which include:

- **Needs** – These types of review questions address what people want.
- **Impact or effectiveness** – relates to the balance of benefit from an intervention.
- **Process or explanation** – answers requirements on what works and what does not work.
- **Correlation** – identification of relationships between phenomena under review.
- **Views/perspectives** – reviews people's experiences.

- **Service implementation** – relates to the implementation context of interventions.

Based on the context/research problem for this study, the main review/research question should fall under the process or explanation category because it must seek to find answers on ‘what works and what doesn’t’ in the context of maintaining legislative continuity during a national emergency. Relatedly, using the SPICE framework, the main research question will address the following research context:

**Table 5.4: SPICE context for the main review question**

<b>SPICE</b>	<b>Definition</b>
<b>Setting</b>	Parliament of Zimbabwe
<b>Perspective</b>	Prospective beneficiaries include Members of Parliament, their constituents (members of the public) and policymakers
<b>Intervention/Interest/Exposure</b>	Institutional interventions to ensure legislative oversight during national emergencies
<b>Comparison</b>	What can the Parliament of Zimbabwe learn from legislatures that managed to maintain legislative continuity during COVID-19?
<b>Evaluation</b>	A framework to guide the Parliament of Zimbabwe to exercise legislative oversight during national emergencies.

The main review/research question for this study was premised on finding answers that will help the Parliament of Zimbabwe to retain its oversight function during emergencies and its effective use through an enabling institutional and legal framework. That said, the main review/research question for this study was:

***How can the Parliament of Zimbabwe ensure continuous legislative oversight over the Executive arm of government during national emergencies?***

### **5.3.2 Review sub-questions**

Since this was a qualitative systematic review, the evidence sought to answer the main research question should be specific and comprehensive. It is for this reason that the following sub-questions were developed to answer the main research question:

- What institutional, constitutional and legal provisions currently define legislative oversight during emergencies in Zimbabwe?
- How can Parliament adapt its committee system to facilitate legislative oversight continuity during emergencies?
- What information sharing mechanisms can be implemented to ensure that Parliament receives timely and accurate information from the Executive during emergencies?

- What comparative evidence can be drawn from other countries on emergency legislative oversight, and what lessons can be drawn for the Parliament of Zimbabwe?
- How can Parliament balance prompt reaction during emergencies with the need for legislative oversight and accountability continuity?
- What are the potential challenges to legislative oversight continuity during emergencies?
- How can civil society participation and public engagement be strengthened to support legislative oversight continuity in emergencies?
- What are the potential implications of a weak oversight role by Parliament during national emergencies?
- How does public accountability factor into the Parliament of Zimbabwe's oversight during national emergencies?
- What recommendations can be made to strengthen the legal framework, parliamentary procedures and institutional capacity to ensure continuous legislative oversight during emergencies?

## **5.4 OBJECTIVE OF THE STUDY**

The main purpose of this comprehensive research was to enable the Parliament of Zimbabwe monitor the executive branch during a national emergency. It is expected that application of the framework will assist Parliament to function with legal, institutional and procedural certainty in discharging its constitutional oversight function during a national emergency.

To achieve this outcome, the framework will empower stakeholders in the Parliament ecosystem to provide proactive parliamentary leadership upon the activation of disaster management legislation in Zimbabwe. The study assumes that executive accountability through parliamentary oversight reduces concentration of power in the Executive and the retention of the legislative prerogative.

### **5.4.1 Sub-objectives**

- The main purpose of this study is to investigate the constitutional framework and institutional procedures that enable the Zimbabwean Parliament to carry out its oversight job during national emergencies. By doing so, it hopes to provide solutions to the problem.
- Comparative evidence from countries with effective parliamentary systems to exercise legislative oversight during emergencies will be harnessed to develop the emergency oversight framework for the Parliament of Zimbabwe.

### **5.4.2 Main assumption**

In addition to providing answers the main review question, evidence from the selected review studies was used to test assumptions formulated for this study. The main assumption was that:

- A positive correlation exists between a structured legislative oversight framework and Parliament's ability to function with institutional, legal and procedural certainty during a national emergency in Zimbabwe.

### **5.4.3 Sub-assumptions**

The main assumption stated in 4.4.2 was further subdivided into sub-assumptions as outlined below:

- Institutional, procedural, and legal provisions defining legislative oversight during national emergencies are inadequate.
- Parliament's committee system is not equipped to effectively facilitate legislative oversight continuity during national emergencies.
- Parliament and the Executive do not have sufficient mechanisms in place to ensure timely and accurate information sharing during emergencies.
- Other countries with effective legislative oversight models during emergencies can offer lessons that can be relevant to Zimbabwe's Parliament.
- A potential conflict between the necessity for prompt reaction during emergencies and legislative oversight continuity.
- Zimbabwe currently has existing challenges that could impede legislative oversight continuity during emergencies, such as resource constraints or logistical difficulties.
- Civil society participation and public engagement are currently insufficient to effectively support legislative oversight during emergencies.
- A weak oversight role by Parliament of Zimbabwe during national emergencies could lead to adverse consequences for governance, accountability, and public trust.
- During national emergencies, prioritisation of public accountability by the Parliament of Zimbabwe has the potential to enhance transparency, responsiveness and trust in the government's response.
- Strengthening the legal framework, parliamentary procedures, and institutional capacity is necessary to ensure continuous legislative oversight during emergencies, indicating current deficiencies in these areas.

## 5.5 JUSTIFICATION FOR THE RESEARCH DESIGN

The use of the qualitative systematic review for this study was based on the fact that it is an invaluable methodology for bringing together research evidence to help inform best practice through uncovering new understandings, helping illuminate the 'why' and building theory (Seers, 2014). Guided by the review question, the research synthesis will provide evidence on:

- 'Why' the Parliament of Zimbabwe is not able to maintain effective legislative oversight during national emergencies
- 'What' needs to be done to strengthen the institutional, procedural and legal systems underpinning legislative oversight to ensure oversight certainty.
- 'How' can the Parliament of Zimbabwe strengthen its oversight role during emergencies using lessons from other countries.
- 'How' to build a structured legislative oversight framework that will help Parliament maintain oversight continuity and hold the Executive to account.

Systematic reviews offer a 'rigorous, transparent, reliable and comprehensive statement about what works through an identification, synthesis and assessment of available evidence for the purposes of generating an empirically derived answer to a focused research question' (Van der Knaap, Leeuw, Bogaerts and Nijssen, 2008). Compared to a qualitative primary research methodology, the systematic review approach was appropriate for this study because it uses a scientific approach or protocol to minimise bias and ensure future replicability. For example, had this research opted to interview Members of Parliament for the purposes of gathering data to answer the research question, it's possible that biased responses could have been recorded due to the high partisan nature of Zimbabwe politics where the views of elected public representatives are shaped by party politics.

Qualitative systematic reviews reduce implicit researcher bias. The "adoption of broad search strategies, predefined search strings and uniform inclusion and exclusion criteria" of systematic reviews require researchers to search across disciplines for relevant studies (Mallett, Hagen-Zanker, Slater and Duvendack, 2012). Since causality, evidence, effect, and validity are related, data is more dependable. Using uniform review criteria, meta-analyses and cross-study comparisons may provide evidence-based policymaking insights. Systematic reviews motivate critical research interaction more than any other method. Empiricist reviews are preferred over superficial literature surveys.

Using descriptive, narrative and exploratory lens – this study’s use of the systematic review approach helped to fill the existing knowledge gap on comparative studies focused on legislative oversight during national emergencies.

## 5.6 REVIEW PROTOCOL

The study made use of a systematic review protocol to define the review process, reduce instances of researcher bias and remove irrelevant or poor quality studies. A protocol is a plan that details the processes and procedures that a reviewer will follow to ‘identify, appraise, and synthesize the evidence, and disseminate the findings’ (Petticrew and Roberts, 2008). Systematic review theorists point out that developing a protocol prior to conducting the review guarantees that every methodological choice—from selecting search keywords to executing data extraction and synthesis procedures—is thoroughly thought out and supported, improving the accuracy and reliability of the findings (Moher, Shamseer, Clarke, Gherzi, Liberati and Petticrew, 2015).

To recap, this study is anchored on the following main review question and objective:

- **Main review question:** How can the Parliament of Zimbabwe ensure continuous legislative oversight over the Executive arm of government during national emergencies?
- **Objective of the review:** The main objective of the review is to develop an Emergency Oversight Model that would guide the Parliament of Zimbabwe in ensuring continuous legislative oversight over the Executive during a national emergency.

### 5.6.1 Adaptation of the PRISMA Checklist

The study will make use of the Preferred Reporting Items for Systematic Reviews and Meta-Analysis (PRISMA) guidelines to structure the systematic review process. The PRISMA guidelines were originally developed to evaluate the effects of health interventions in the health sciences but have since become widely used in systematic studies for the social sciences and humanities (see attached Annexure A). PRISMA guidelines are designed to ensure that systematic reviews are comprehensive, transparent and well documented to ensure reproducibility and minimise biases (Halling and Baekgaard, 2023). The guidelines comprise a 27-item checklist which a reviewer should use to structure the review – from the identification, screening, eligibility, and inclusion/exclusion of studies, to data extraction and synthesis.

However, since this is a qualitative systematic review, the PRISMA checklist will be adapted to mirror the review question and review objective (see adapted checklist in Table 5.5 below).



The adaptation was implemented to ensure that search strategies, study selection criteria, and synthesis methods were tailored to the qualitative data that the study will synthesise.

The rationale for the systematic review has already been provided in section 5.5 above. Chapters 1, 2 and 3 of this study provides an analysis of the literature as part of providing the contextual knowledge necessitating the need for a systematic review. The review question and objectives are covered in sections 5.3.1 and 5.4 respectively.

**Table 5.5: PRISMA Checklist adaptation for systematic review**

Section and Topic	Item #	Checklist item
<b>TITLE</b>		
Title	1	Identify the report as a systematic review.
<b>INTRODUCTION</b>		
Rationale	3	Describe the rationale for the review in the context of existing knowledge.
Objectives	4	Provide an explicit statement of the objective(s) or question(s) the review addresses.
<b>METHODS</b>		
Eligibility criteria	5	Specify the inclusion and exclusion criteria for the review and how studies were grouped for the syntheses.
Information sources	6	Specify all databases, registers, websites, organisations, reference lists and other sources searched or consulted to identify studies. Specify the date when each source was last searched or consulted.
Search strategy	7	Present the full search strategies for all databases, registers and websites, including any filters and limits used.
Selection process	8	Specify the methods used to decide whether a study met the inclusion criteria of the review, details of automation tools used in the process.
Data collection process	9	Specify the methods used to collect data from reports, details of automation tools used in the process.
Data items	10a	List and define all outcomes for which data were sought. Specify whether all results that were compatible with each outcome domain in each study were sought, and if not, the methods used to decide which results to collect.
	10b	List and define all other variables for which data were sought. Describe any assumptions made about any missing or unclear information.
Study risk of bias assessment	11	Specify the methods used to assess risk of bias in the included studies, including details of the tool(s) used, details of automation tools used in the process.
Effect measures	12	Specify for each outcome the effect measure(s) used in the synthesis or presentation of results.
Synthesis methods	13a	Describe the processes used to decide which studies were eligible for each synthesis
	13b	Describe any methods required to prepare the data for presentation or synthesis
	13c	Describe any methods used to tabulate or visually display results of individual studies and syntheses.
	13d	Describe any methods used to synthesize results and provide a rationale for the choice(s).
	13e	Describe any methods used to explore possible causes of heterogeneity among study results
	13f	Describe any sensitivity analyses conducted to assess robustness of the synthesized results.
Reporting bias assessment	14	Describe any methods used to assess risk of bias due to missing results in a synthesis (arising from reporting biases).
Certainty assessment	15	Describe any methods used to assess certainty (or confidence) in the body of evidence for an outcome.
<b>RESULTS</b>		
Study selection	16a	Describe the results of the search and selection process, from the number of records identified in the search to the number of studies included in the review, ideally using a flow diagram.
	16b	Cite studies that might appear to meet the inclusion criteria, but which were excluded, and explain why they were excluded.
Study characteristics	17	Cite each included study and present its characteristics.
Risk of bias in studies	18	Present assessments of risk of bias for each included study.
Results of individual studies	19	For all outcomes, present, for each study: (a) summary statistics for each group (where appropriate) and (b) an effect estimate and its precision (e.g. confidence/credible interval), ideally using structured tables or plots.
Results of syntheses	20a	For each synthesis, briefly summarise the characteristics and risk of bias among contributing studies.
	20c	Present results of all investigations of possible causes of heterogeneity among study results.
	20d	Present results of all sensitivity analyses conducted to assess the robustness of the synthesized results.
Reporting biases	21	Present assessments of risk of bias due to missing results (arising from reporting biases) for each synthesis assessed.
Certainty of evidence	22	Present assessments of certainty (or confidence) in the body of evidence for each outcome assessed.
<b>DISCUSSION</b>		
Discussion	23a	Provide a general interpretation of the results in the context of other evidence.
	23b	Discuss any limitations of the evidence included in the review.
	23c	Discuss any limitations of the review processes used.
	23d	Discuss implications of the results for practice, policy, and future research.

Source: (PRISMA, 2020)

### **5.6.2 Eligibility criteria**

Item 6 of the PRISMA 2020 expanded checklist, mandates that a reviewer should specify the eligibility criteria of the studies to be selected for inclusion in the review (Brennan and Munn, 2021). According to the review question, eligibility criteria, also known as inclusion and exclusion criteria, determine which research will be assessed in a systematic review. According to the PRISMA checklist, an exhaustive eligibility criteria guideline should:

- Specify study characteristics (for example, study design).
- Study characteristics (for example, year of dissemination, language, journal articles, think tank reports, book chapters)
- Ineligibility parameters (for example, outcomes of interest were not measured or outcomes of interest were not reported)
- Rationales for inclusion and exclusion criteria (Brennan and Munn, 2021).

#### **5.6.2.1 Inclusion criteria**

In selecting studies for inclusion, the guiding principle is that the studies should produce an evidence synthesis that will be used to develop an Emergency Oversight Model to guide the Parliament of Zimbabwe during emergencies. As such, only studies published between the period when COVID-19 was declared a pandemic by WHO on 11 March 2020 and COVID-19 restrictions were lifted by the government of Zimbabwe on 10 May 2023 were considered. A synopsis of the inclusion criteria and their justification are included in table 5.6 below:

**Table 5.6: Inclusion criteria for the systematic review**

Inclusion criteria	Justification
Studies conducted between 11 March and 10 May 2023	Since the COVID-19 pandemic is being used as a case study to obtain insight into Legislatures/Parliaments responded to the pandemic, it is important to keep the time period from when the pandemic was declared by WHO and COVID-19 restrictions were lifted by the Zimbabwe government.
Relates to Legislature/Parliament oversight during the period under review	In order to avoid leaving out important data and to ensure that the inclusion criteria is all encompassing, 'Parliament' and 'Legislature' will be used interchangeably to retrieve records.
Focused on national Parliaments/Legislatures	Only studies focused on national Parliaments or Legislatures will be included.
Writes about effective institutional, legal and procedural mechanisms for legislative oversight	Only studies that write about effective institutional, legal and procedural mechanisms that ensured legislative continuity during COVID-19 will be included. Studies that focus on how these elements were failing will be excluded.
Study design and type of studies	This systematic review will not exclude studies based on their methodology, data aggregation and geographical location. Studies with an interdisciplinary approach grounded in comparative analysis of legislative response to the COVID-19 pandemic were prioritised for inclusion in the analysis. Peer reviewed journal articles and think tank reports will be the only source documents considered for inclusion.
Published in English	Due to limited resources, especially on translation, the review will not include studies not written in English.

### 5.6.2.2 Exclusion criteria

While the review did not exclude studies based on their methodology and geographical location, any study that did not present the observation or experimentation methodology was excluded. The same applies to unstructured reports, essays and reflective write ups on meetings or workshops.

The review has a strict focus on national Parliaments/Legislatures and as such did not include studies on:

- Regional parliaments like the Pan African Parliament or European Union etc.
- Generalised studies on government response to the pandemic.
- Government data on legislature activity, internal policy analysis documents, benchmarking studies and performance reviews.

In order to maintain consistency on the empirical value of selected studies, any study that was not clear on whether any research evidence was considered or made recommendations based on perceived flaws in legislative oversight during the Covid-19 pandemic will not be included in the systematic review.

### **5.6.2.3 Limitations on the eligibility criteria**

Considering that countries differ based on socio-political contexts, Limiting the inclusion and exclusion criteria to countries with Zimbabwe's socio-political environment was more methodologically sound. However, doing so would increase instances of study bias and limit the scope for comparative data that can produce an evidence synthesis that is accurate, objective, and is anchored on meaningful results.

Legislative oversight is a generic function that defines the work of all legislative bodies around the world and as such, while contexts of how they exercise this function may differ, the underlying principles that define their work are almost the same. This will act as a mitigating factor on the decision to include studies regardless of their geographical location.

### **5.6.3 Information sources**

The review's operative focus on legislative oversight during emergencies, with a particular focus on the COVID-19 pandemic period, is specific and as such required that the selected information sources were reflective of the data specificity needed to return studies that are relevant to the review questions. Selecting inappropriate information sources may lead to inappropriate findings which will in turn, negatively impact the overall review findings (Butler, Hall and Copnell, 2016). With this caution in mind, the following information sources were used for this systematic review:

#### **5.6.3.1 Bibliographic databases**

- **International Bibliography of the Social Sciences (IBSS)** – Hosted by ProQuest, IBSS is an abstracting and index service for the social sciences and interdisciplinary research. The index contains two million bibliographic references to journal articles and books, book chapters, reviews and selected book chapters in several fields, among which include Political Science, Public Administration, Law and Social Sciences. The index was chosen for its interdisciplinary focus which would help the reviewer to generate studies on parliamentary oversight during Covi-19 that may have been published in different subject journals.
- **International Political Science Abstracts (IPSA)** – IPSA is an indexing service that is published bi-monthly by the International Political Science Association. It is an authoritative source of non-evaluative abstracts of articles in the field of political

science published in journals. This index was chosen because there is always an overlap between Parliament or Legislative issues and politics.

#### **5.6.3.2 Think tank data aggregation platforms**

Since the review will include studies from think tanks, the review made use of the following thinks tank data aggregation sites:

- **Think Tank Search** – Hosted by Harvard University's Kennedy School of government, Think Tank Search offers a custom Google search of over 670 think tank websites.
- **Policy Commons** – is a public policy database that was launched in 2020 and contains documents from international national governmental organisations, NGOs and research centres.

#### **5.6.3.3 Key journal publications**

Using the SCImago Journal Rank indicator, which measures the number citations received by a journal, indexed journals were used to find journal articles with content that addressed the review question:

- **Parliamentary Affairs** – is a peer reviewed journal which is published quarterly and covers all angles of government and politics as it relates parliament and parliamentary issues across the world.
- **The Journal of Legislative Studies** – is a quarterly peer reviewed journal that publishes research on legislative research and development, legislative theory and country-specific empirical research.

#### **5.6.3.4 Internet/Web sources**

- **Google scholar** – a web-based search engine that indexes academic literature from many publishers and subjects.

#### **5.6.4 Record keeping**

Before embarking on a comprehensive search and sifting of the literature, systematic review theorists point out that it is advisable to create a record keeping system that would record the decision making process during the various stages of the review process (Siddaway, Wood and Hedges, 2019). In addition to enforcing a consistent approach on the search process, recordkeeping is critical for '...transparency, accountability and reproducibility for internal documentation' (Stansfield, Dickson and Bangpan, 2016). It is for this reason that the Results/Findings chapter of this systematic review will contain the following information:

- A search phrase and result archive.

- A list of titles and abstracts deleted during screening.
- Based on inclusion/exclusion criteria, a table listing studies that were disqualified at prospective eligibility (after reading the whole texts) and why.
- A table listing study data from the review.

Record keeping tabulation is to record key elements quickly and efficiently through a noting down of elements such as date searched, search route followed, search terms used and name of database searched and number of records listed.

### **5.6.5 Search strategy**

The anchor purpose of the search strategy for this systematic review was to use the information sources listed in section 4.6.3 to find all available studies that address the research questions through the operationalisation of customised search terms. A focused search will use word frequency analysis-found search terms (Petticrew and Roberts, 2008). The use of four platforms to search for articles was to ensure that studies that were missed by any one of the platforms is picked up by the other. In all platforms, the search was restricted to articles written in English.

For the bibliographic databases and Think Tank data aggregation platforms, search strings contained in Table 5.7 below were used:

**Table 5.7 Search strings for information sources search**

Search	(COVID 19 era, Parliaments and Legislatures)
1	"COVID 19 AND Parliament", "COVID 19 AND Legislature", "COVID 19 OR Parliament", "COVID 19 OR Legislature"
Search	(Legislative or Parliamentary Oversight during COVID 19)
2	"COVID 19 AND Parliament Oversight", "COVID 19 AND Legislative Oversight", "COVID 19 OR Parliament Oversight", "COVID 19 OR Legislative Oversight"
Search	(COVID 19 Emergency and Parliament/Legislative Oversight)
3	"COVID 19 Emergency AND Parliament Oversight", "COVID 19 Emergency and Legislative Oversight", "COVID 19 Emergency OR Parliament Oversight", "COVID 19 Emergency OR Legislative Oversight"
Search	(Emergency Parliament and Legislature)
4	"COVID 19 Emergency Parliament", "COVID 19 Emergency Legislature"
Search	(Parliament or Legislative Leadership during COVID 19)
5	"COVID 19 Parliamentary Leadership", "COVID 19 AND Parliament Committee", "COVID 19 OR Parliament Committee", "COVID 19 AND Legislative Committee", "COVID 19 OR Legislative Committee"
Search	(Parliamentary/Legislative oversights over COVID 19 emergency procurement)
6	"COVID 19 AND emergency procurement", "COVID 19 OR Emergency Procurement"
Search	(COVID 19 and Parliament/Legislature rules)
7	"COVID 19 AND rules of Parliament", "COVID 19 OR rules of Parliament", "COVID 19 AND Legislative rules", "COVID 19 OR Legislative rules".

The search strings were specific and expansive enough to minimise the losses that could be caused by using a smaller number of search terms. It is important to note that the search strings were developed following a preliminary search of literature, across the listed bibliographic and think tank databases, on the subject under review. This step was essential to achieve an exhaustive level of specificity to guide the main search strategy.

Since electronic journals rely on exact database indexing and indexing mistakes are prevalent, the most significant articles were hand-searched (Petticrew and Roberts, 2008). Hand checking enabled the reviewer to check the content of individual articles from key journals for the purposes of making sure that all relevant studies are selected. In addition, the researcher used snowball citation and reference searching (usually referred to as snowballing) to ensure that all applicable studies were included into the review list. Snowballing refers "...to refers to



using the reference list of a paper or the citations to the paper to identify additional papers.” (Wohlin, 2014).

Since only “Google” and “Google scholar” were used as the internet/web sources, the search terms listed in Table 4.7 with two added strings, namely “- scholarly articles” or “- think tank reports”. This was a helpful for the iteration of results and the structuring of searches to enable comparison of the search results, especially when weeding out duplicate records. The inclusion and exclusion criteria was applied to each Google and Google Scholar research to determine its inclusion in the final list. All research was assessed across platforms to ensure eligibility. Two phases made up the screening process. Firstly, a review of the study titles and abstracts to see if any were relevant.

Second, the full length copies of studies that would have gone past the title and abstract screening stage were considered. Using pre-defined categories, articles that met the inclusion criteria, were separated from the rest and put into a folder for further processing.

#### **5.6.6. Coding and quality assessment**

After selecting appropriate publications, the reviewer extracted key information markers to answer the review question. This coding exercise provided a summary map of the study's quality and relevance, including the results, to answer the review question.

While the review/research method used in studies will not one of the exclusion criteria for this review, it is still important that the quality of the execution of the study method is verifiable to ensure rigour and trustworthiness in the selected study (Newman and Gough, 2020). The reviewer will therefore ensure that any selected study is authentic and reflects the meaning of the data for which it purports to provide scientific insight to.

#### **5.6.7 Synthesis methods**

As a narrative systematic review, this study used thematic analysis to group the selected studies into deductive themes using the qualitative data aggregation method. Thematic analysis was chosen as a synthesis method because it identifies key similarities in the text of literature that have used different methodologies or have examined a homogenous subject using ‘different theoretical conceptualizations, constructs, and/or relationships’ (Baumeister, 2013).

In legal studies, *ex ante* ('before the incident') and *ex post* ('after the event') categories are used to group topics while studying constitutional provisions during crises.

While an *ex post* review by legislatures of the Executive's response to the COVID-19 pandemic was critical, a major weakness for most of them is that they were caught ill-prepared

to exercise their oversight function in real time, through an ex ante prism. For both the ex-ante and ex-post categories, deductive thematic synthesis were used to extract text from selected studies and record the data in an excel spread sheet.

### **5.6.8 Reporting and communication of the review results**

Cognisant of the fact that the results will be shared with policy makers in Zimbabwe, especially in Parliament, this review endeavoured to move beyond cataloguing or summarising what already exists on legislative continuity during emergencies. The study integrated and critiqued the results of the review in order to “interpret the cumulative evidence from individual studies and provide a critical synthesis to advance the field’s theoretical understanding of the issue” (Baumeister 2013).

To frame the critical review, emphasis was placed on providing new insights into the oversight approach used by legislatures in response to the exercise of executive authority during the COVID-19 pandemic. While an ex post review by legislatures of the Executive’s response to the COVID-19 pandemic was critical, a major weakness for most of them is that they were caught ill-prepared to exercise their oversight function in real time, through an ex ante prism. The systematic review, therefore, provided an evidence synthesis on how to strengthen the ex-ante function, which relates to the use of legislative oversight during emergencies.

The reporting approach used for this study was based on the PRISMA guidelines and the reporting framework recommended for qualitative systematic review by Siddaway, Wood and Hedges (2019):

- Linking concepts or grouping functions;
- Critiquing the evidence;
- Highlighting the methodological and conceptual factors;
- Observing variations in results and the reasons thereto;
- Assessing the strength of the overall evidence based on the review question.

### **5.7 VALIDATING THE RESULTS OF THE STUDY**

In order to ensure that the results of the study and the resultant framework for legislative oversight during national emergencies were scientifically sound, they were validated through documentation and expert validation. Comprehensive documentation of the systematic review process enabled replicability and verification of the study results. Using expert validation, from heads of civic advocacy organisations, and stakeholder feedback, from Members of Parliament, the research incorporated the feedback to refine and validate the proposed legislative framework.

## **5.8 CONCLUSION**

This chapter provided a detailed insight into the qualitative systematic review methodology and how it fits with the primary objective of this study as provided for by the review question. The qualitative systematic review's focus on bringing together research evidence to help inform best practice was identified as the justification as the justification for using the methodology for this study. As part of a theory setting undertaking, on the use of systematic review in the social sciences, the review process was discussed in specific detail. The chapter then created a contextual picture for the systematic review by clarifying the research problem, providing the review question, objective of the study and the main assumption. Using the PRISMA framework, the design of the review protocol was revealed, where adaptation of the PRISMA checklist, selection criteria, information sources, search strategy and synthesis methods were discussed.

## **CHAPTER SIX**

### **RESULTS AND DISCUSSIONS**

#### **6.1 INTRODUCTION**

The previous chapter was a concise outline of the methodology that informed the systematic review process for this study. This chapter presents the review findings, as guided by the review protocol. In reporting this review, the study adhered to the framework of the widely used Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) to provide a descriptive analysis of the inclusion and exclusion criteria, literature search, study coding and analysis. Using *ex ante* (the term *ex-ante* is a phrase meaning ‘before the event’) and *ex post* (the term *ex-post* is a phrase meaning ‘after the event’) categorisations to group the identified themes from the thematic analysis, this chapter will conduct a qualitative analysis of the literature based on the following conceptual themes:

Ex ante:

- Emergency legislation – comparative analysis of best practice legislation that enables legislative oversight during emergencies.
- Parliamentary leadership – Operational steps taken by Parliaments during the Covid-19 health emergency to ensure legislative continuity.

Ex post:

- Executive accountability – legislative measures taken to hold the Executive to account during Covid 19 health emergency.
- Budget and procurement oversight – legislative measures taken to ensure emergency budget and procurement transparency.

The chapter will conclude by discussing key observations from the review and possible limitations.

#### **6.2 BRIEF OVERVIEW OF THE REVIEW PROTOCOL**

While the review protocol was extensively discussed in Chapter 5, it is important that its broad framework is summarized in this chapter satisfy the requirements of systematic review reproducibility. The process of identifying relevant publications in a standardized manner, extracting data from eligible studies and conducting the study synthesis has to prove that it adheres to the stated review protocol (Tummers, Bekkers, Vink and Musheno, 2015). That said, this study was anchored on the following main review question and objective:

- Main review question: How can the Parliament of Zimbabwe ensure continuous legislative oversight over the Executive arm of government during national emergencies?
- Objective of the review: The main objective of the review is to develop a framework that would guide the Parliament of Zimbabwe in ensuring continuous legislative oversight over the Executive during a national emergency.

The PRISMA checklist was adapted to ensure that search strategies, study selection criteria, and synthesis methods were tailored to the qualitative data that the study will synthesise. To be included in the review, studies had to fall within these parameters:

- Studies conducted between March and December 2023
- Relates to Legislature/Parliament oversight during the period under review
- Focused on national Parliaments/Legislatures
- Writes about effective institutional, legal and procedural mechanisms for legislative oversight
- Type of studies (journal articles, think tank reports and conference papers)
- Published in English

Similarly, a study was excluded from selection if its focus was on regional parliaments like the Pan African Parliament or European Union, generalised studies on government response to the Covid 19 pandemic, parliamentary hansards or records of meetings; and government data on legislature activity or internal policy analysis documents, benchmarking studies and performance reviews.

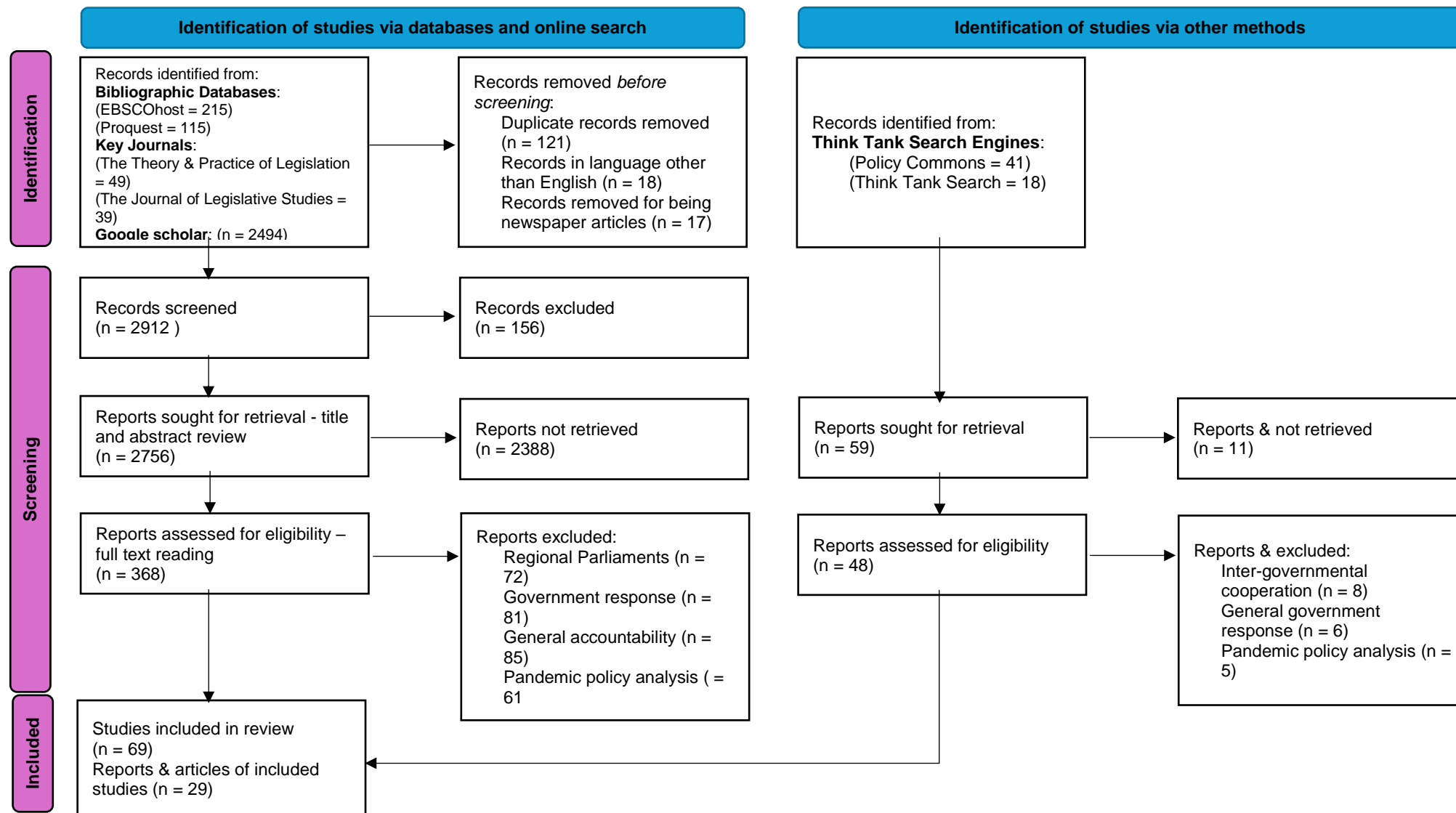
The information sources used for the literature search include bibliographic databases, think tank data aggregation platforms, key journal publications, internet and web sources (specifically Google Scholar).

### **6.3 PUBLICATION SEARCH PROCESS**

The objective of the qualitative synthesis conducted through the PRISMA methodology was to aggregate the key concepts and relationships contained in the selected studies on legislative oversight during emergencies, using COVID-19 as a case study. Empirical and conceptual studies were selected for the review to help identify prevailing legislative best practice in emergencies, across different legislative systems across the world. Essentially, the review of the selected studies provided the evidence needed to design an evidence-based legislative oversight model to be used in emergency situations. The review was conducted in three phases as depicted in the PRISMA flow diagram below (Figure 6.1).

During literature sensitisation and key word identification, saturation theory was carefully followed. Qualitative research requires saturation sampling for quality and diversity (Saunders, Sim, Kingstone, Baker, Waterfield, Bartlam, Burroughs and Jinks, 2018). Grounded theory underpins it. The systematic review's findings were described using pertinent data themes and codes to include all relevant studies. Used deductive thematic saturation.

Seven key word search strings (Table 5.7: Chapter 5) were used to search Bibliographic Databases (Proquest and EBSCOhost), key Journals (The Theory and Practice of Legislation and the Journal of Legislative Studies), Google Scholar and Think Tank search engines. The formulated search strings have an anchor word "COVID 19" which is then linked search terms such as "Parliament and/or Legislature", "Parliamentary and/or Legislative oversight", "Parliament and/or Legislative Leadership", "Parliament and/or Legislative Committee", "Parliament and/or Legislative Procurement oversight" and "Parliament and/or Legislative rules". In order to attain the exhaustive saturation threshold, the search strings were formulated around Parliament or Legislative oversights as the baseline criteria. The literature search was limited to English language Journal articles, Think Tank reports and Conference Proceedings published between March 2020 and December 2023.



**Fig. 6.1 PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) flow**

Source: (PRISMA, 2020)

### 6.3.1 Descriptive analysis

In the identification stage, 2971 records were retrieved from the specified information sources using the key word search strings. At 2494, Google Scholar had the highest number of records primarily because the search process considered output from the first 100 result pages. The reason for using a high 'result page' threshold for Google Scholar was a realization that the search engine tends to have a disproportionate bias towards the Global North scholarship (with special focus on Europe and North America). Global South scholarship (especially for Africa) gets relegated to the periphery of Google Scholar's result page aggregation algorithm.

All the identified records were exported to Excel for further processing using the inclusion and exclusion criteria. 156 records were removed before the screening stage as they were found to be either duplicates, in a language other than English or newspaper articles (the latter category formed part of the Google Scholar search results). 2399 records were excluded following a title and abstract review (for journal articles) and an executive summary review (for think tank reports). This screening process resulted in 416 records being retrieved for a full text article review. Following the full article review analysis, 98 records were included for the qualitative synthesis.

The 98 publications that were included for the review comprise 63% journal articles, 30% Think Tank reports, 6% book chapters and 1% conference proceedings as shown in Table 6.1 below.

**Table 6.1: Publications included in the review**

<b>Journal articles</b>	
<b>Publication</b>	<b>Count</b>
The Theory and Practice of Legislation	11
Parliamentarian	5
Taiwan Journal of Democracy	4
The Journal of Legislative Studies	5
International Journal of Parliamentary Studies	3
Canadian Journal of Political Science	1
European Journal of Law Reform	2
Interdisciplinary Political Studies	2
IALS Student Law Review (ISLRev)	2
Nordic Administrative Journal	1
Parliamentary Affairs	2



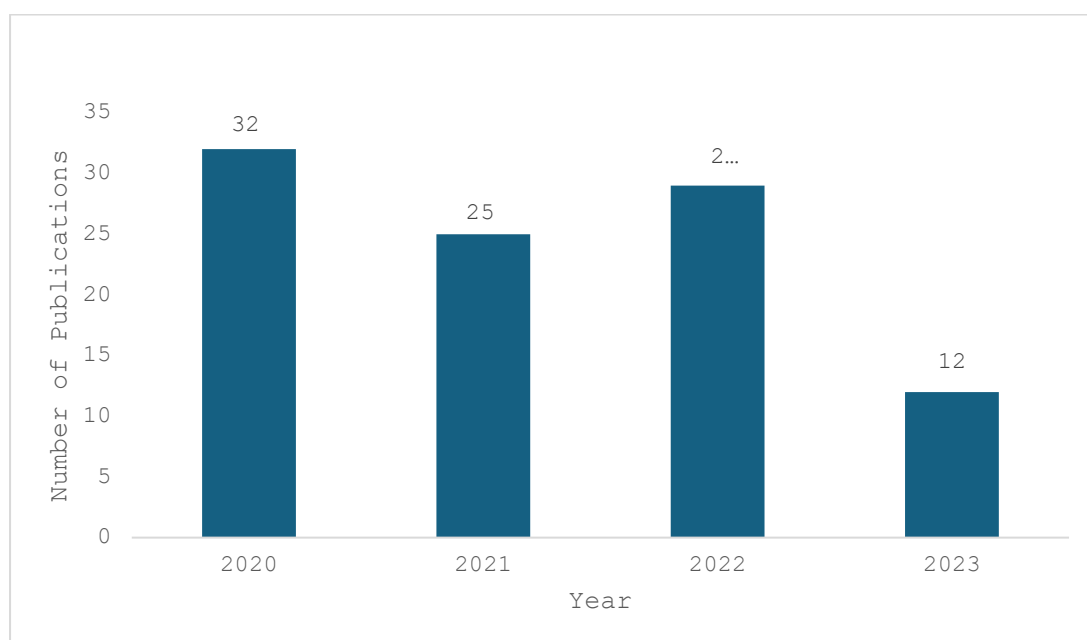
West European Politics	2
African Security Review	1
Alternative Law Journal	1
Accounting, Auditing and Accountability Journal	1
Canadian Parliamentary Review	1
Canadian Public Administration	1
Commonwealth Law Bulletin	1
European Policy Analysis	1
State and Law Journal	1
Government and Opposition	1
iBusiness	1
ICL Journal	1
International Journal of Intellectual Discourse	1
Czech Journal of International Relations	1
Modern Law Review	1
Policy Quarterly	1
Polish Political Science Yearbook	1
Public Law	1
Representation	1
Spanish Journal of Constitutional Law	1
Health in Debate	1
Singapore Journal of Legal Studies	1
UCC Law Journal	1
<b>Total</b>	<b>62</b>
<b>Think Tank Reports</b>	
<b>Organisation</b>	<b>Count</b>
European Parliamentary Research Service	2
Institute for Government	2
Institute of National Security Studies	1
Bar Ilan University Faculty of Law	1
Brennan Centre for Justice	1

Good Governance Initiative	1
National Democratic Institute	1
Melbourne School of Government, University of Melbourne	1
Westminster Foundation for Democracy	1
Robert Schuman Foundation	1
Macdonald-Laurier Institute	1
ParlAmericas	1
National Institute for Legislative and Democratic Studies	1
The Australia Institute	1
The Institute of Public Affairs	1
Transparency International	1
Institute of Democracy and Electoral Assistance	1
Institute of National Security Studies	1
John Smith Centre	1
British Institute of International and Comparative Law	1
Melbourne Law School	1
OECD	1
Oxford Constitutional Law	2
University College London - Faculty of Law	1
UNDP	1
International Commission of Jurists	1
<b>Total</b>	<b>29</b>
<b>Book Chapters</b>	
<b>Book</b>	<b>Chapters</b>
Pandemocracy in Europe: power, parliaments and people in Times of COVID-19	3
Parliaments in the COVID-19 Pandemic: Between Crisis Management, Civil Rights and Proportionality	1
Policy Evaluation in the Era of COVID-19	1
Good Governance in Sub-Saharan Africa: Opportunities and Lessons	1

<b>Total</b>	<b>6</b>
<b>Conference Proceedings</b>	
<b>Conference</b>	<b>Count</b>
2nd International Conference on Universal Wellbeing	1
<b>Total</b>	<b>1</b>
<b>TOTAL NUMBER OF RECORDS</b>	<b>98</b>

The review did not exclude studies based on their methodology, data aggregation and geographical location. Studies with an interdisciplinary approach grounded in comparative analysis of legislative response to the COVID-19 pandemic were prioritised for inclusion in the analysis. The highest number of journal articles came from the pre-identified key journal publications, namely, 'The Theory and Practice of Legislation' and the 'Parliamentarian'.

Figure 6.2 below is a bar graph showing the distribution of all the publications by year. The even distribution in the scholarship provides enough scope for qualitative synthesis on legislative oversight during COVID-19, especially as it relates to *ex ante* and *ex post* legislative analysis. This is particularly important as it will provide insight from the moment when the health emergency was declared an emergency to when governments began lifting emergency restrictions.



**Fig 6.2: Year of Publications**

Source: Compiled by Researcher

Legal oversight and accountability in South Africa and Zimbabwe during the COVID-19 epidemic are understudied, but this study would not have been complete without studies on government response. To this end, two articles were included to provide context on how the governance accountability manifested during this period and the existing oversight gaps (Makahamadze and Sibanda, 2022; Moyo and Phulu, 2021). The articles will act as a control baseline upon which instruments for the institutionalisation of an emergency Parliament in Zimbabwe are to be recommended.

The inclusion of comparative and single country studies was motivated by the need to enrich thematic insight into the concept of effective emergency Parliaments. For example, one of the studies explores the use of emergency legislation by the Hungarian government and whether it conformed with the international framework for legality, necessity and proportionality (International Commission of Jurists, 2022). It provides a wide perspective on emergency legislation, executive overreach and legislative accountability. Similarly, a study into executive dominance unpacked how the broadening of executive powers limited Parliament's capacity to scrutinise (Hidalgo, Londras and Lock, 2022).

Although methodological choice was not a criterion for inclusion, qualitative studies were preferred because of the wealth of detail they offered about the successful oversight mechanisms utilised by legislatures worldwide. Only Wassell-Manor et al. (2021) employed a cross-sectional quantitative approach to quantify legislative activity during the initial shock of COVID-19 and identify possible explanations.

The full text reading of the selected review records informed the identification of four conceptual themes that covered the COVID-19 legislative oversight continuum, namely, Emergency Legislation, Parliamentary Leadership, Executive Accountability and; Budget and Procurement Oversight. Within the framework of these four conceptual themes, each publication was coded based on the emphasis placed on statutory emergency frameworks, pro-active emergency legislative oversight, instruments of legislative oversight and fiscal oversight. During the coding stage, reflectivity checks were conducted per every five publications reviewed to eliminate bias. The final template for the theme classification is shown in Table 6.2. Appendix A lists the theme classification template together with their corresponding publications selected for this review.

**Table 6.2: Theme classification template**

<b>Ex-ante Legislative Oversight</b>		
<b>Conceptual Themes</b>	<b>Organizing Themes</b>	<b>Codes</b>
Emergency Legislation	Statutory emergency frameworks	<ul style="list-style-type: none"> <li>• Emergency legislation and oversight</li> <li>• Sunset and review clauses</li> <li>• Delegated legislation</li> <li>• Quasi law making</li> </ul>
Parliamentary leadership	Proactive emergency legislative oversight	<ul style="list-style-type: none"> <li>• Rules of procedure</li> <li>• Innovation and adaptability</li> <li>• Political party activity</li> <li>• Public participation</li> </ul>
<b>Ex-post Legislative Oversight</b>		
Executive accountability	Instruments of legislative oversight	<ul style="list-style-type: none"> <li>• Special parliamentary committees</li> <li>• Regular reporting (parliamentary questions)</li> <li>• Legislative inquiry</li> </ul>
Budget and Procurement oversight	Fiscal Oversight	<ul style="list-style-type: none"> <li>• Procurement reports</li> <li>• Parliament/audit body nexus</li> <li>• Budget oversight</li> </ul>

## 6.4 DEFINING EX ANTE AND EX POST CATEGORISATIONS

Often used in the field of legal studies to analyse constitutional safeguards in emergencies, this article will borrow the categorisations *ex ante* (meaning ‘before the event’) and *ex post* (meaning ‘after the event’) to group the identified themes and frame the oversight approach used by legislatures in response to the exercise of executive authority during the Covid-19 pandemic. While an *ex post* review by legislatures of the Executive’s response to the Covid-19 pandemic was critical, a major weakness for most of them is that they were caught ill-prepared to exercise their oversight function in real time, through an *ex ante* prism.

## 6.5 EX ANTE LEGISLATIVE OVERSIGHT

*Ex ante* emergency controls relate to the measures taken to protect non-derogable rights in exercising executive authority during emergencies. Constitutional theorists argue that *ex ante* controls have more pronounced efficacy because they constrain what the Executive can or cannot do in promulgating emergency provisions, thereby limiting instances of power abuse (Pelizzo and Stapenhurst, 2010). The executive arms of government, who temporarily assumed the responsibility of emergency authorities in response to COVID-19, were well within their constitutional mandate to enact measures to protect the public from the further spread of the virus. However, representative democracy still dictates that, even during times of crisis, legislative control should be retained to oversee emergency authorities’ actions

(Griglio, 2020). The question that needs to be answered from this conundrum is how other parliaments enforce ex-ante legislative controls to ensure real-time oversight over their governments during COVID-19, and how can these interventions be institutionalised into emergency Parliaments?

### 6.5.1 Emergency Legislation

Zimbabwe relied on its disaster response legislation, namely, the Civil Protection Act of 1989, to limit the rights and freedoms of its population through the promulgation of COVID-19 regulations. The Act has ‘no clear oversight role for Parliament’, and neither does it have provisions for Parliament to be consulted in exercising executive authority during the disaster declaratory period (Moyo and Phulu, 2021). A case can be made that limits to legislative oversight in Zimbabwe’s disaster management legislation helped to broaden executive powers and restricted individual freedoms to such an extent that they infringed on constitutionally guaranteed non-derogable human rights.

**Table 6.3: Emergency Legislation and legislative oversight**

Ex-ante Legislative Oversight			
Conceptual Theme	Organizing Theme	Code	References
Emergency Legislation	Statutory emergency frameworks	Emergency Legislation and legislative oversight	Moyo and Phulu, 2021; Vendaschi, 2022; Grogan, 2020; Addadzi-Koom, 2020; Adegbite, 2023; Bolleyer and Salát, 2021; Bröhmer, 2021; Cormacain, 2020; Chiru, 2023; Hidalgo, Londras and Lock, 2022; Sheng, 2023; Oni and Dele-Dada, 2022; Windholz, 2020; Leuprecht, 2020; Lee, 2020; Macdonald and Begg, 2020; Dey and Murphy, 2021; Hickman, 2020; International Commission of Jurists, 2022; Fombad and Abdulrauf, 2020; Chiru, 2023.

The review articles cited in Table 6.3 show that emergency legislation differs across countries, depending on the legal framework in use. Emergency legal frameworks used in response to the health emergency fell under provisions provided for by national Constitutions, executive orders or subordinate legislation (Chiru, 2023; International Commission of Jurists, 2022; Hickman, 2020). Constitutional law scholars have provided ample evidence revealing that oversight deficiencies in emergency legislation were a recurring theme across most

representative democracies in response to COVID-19 (Fombad and Abdulrauf, 2021; Grogan, 2020; Bolleyer and Salát, 2021; Leuprecht, 2020; Hickman, 2020). Even so, comparative best practice exists indicating that some countries do have a defined role for their legislatures during emergencies. Taiwan's legislature not only reviewed and passed bills on COVID-19 initiated by the Executive but they passed their own bills as part of the emergency response (Sheng, 2023).

Similarly, in Italy the Executive can issue decrees to respond to an emergency but Parliament must certify them so that they remain in effect. Although the introduction of Legislative Decree no 1/2018 by the Executive, the first legal tool used in response to COVID-19, came into force on the same day of its publication, it still had to be submitted to the Houses of Parliament to be converted into a law within 60 days or it lapsed (Vedaschi, 2022). In Africa, the Ghanaian Parliament had an opportunity to vote on the Imposition of Restrictions Act, 2020 (IRA) which was introduced by the President as part of the legal measures taken to respond to the pandemic (Addadzi-Koom, 2020). Even though voting on the Act was along partisan lines, the instructive lesson was that Parliament was given an opportunity to deliberate and vote on the emergency legislation before it came into force. A much more proactive approach to parliamentary sovereignty was taken by the Singapore legislature which adopted 'the legislative model' of emergency powers where ordinary legislation was used to confront the COVID-19 emergency by delegating temporary legislative power to the Executive (Lee, 2020).

Legal scholars are of the opinion that Parliaments failed to use their legislative authority to enact legislation that would act as a counterbalance to Executive aggrandizement during the COVID-19 health emergency (Hidalgo, Londras and Lock, 2022). A case in point is Nigeria where suggestions were made that the country's Parliament should have triggered relevant provisions of the Constitution to protect people's socio-economic rights which became severely restricted through the emergency regulations enacted by the Executive (Adegbite, 2023; Oni and Dele-Dada, 2022). Although Australia struggled with the marginalization of Parliament during COVID-19, the country has institutionalized parliamentary authority through the Legislative Act 2003 which protects the erosion of legislative authority over time and allows Parliament to exercise oversight over delegated legislation (Bröhmer, 2021; Windholz, 2020). The Australian Parliament used parliamentary committees, sunset clauses and disallowance mechanisms to provide a counterbalance to delegated legislation during COVID-19 (Macdonald and Begg, 2020; Dey and Murphy, 2021).

For the UK, the continued use of secondary legislation through statutory instruments prompted calls for a '...full and proper parliamentary scrutiny, by way of the draft affirmative procedure, of all lockdown rules' (Cormacain, 2020). Proactive use of legislative authority by Parliaments

during an emergency is key for the purposes of “...*prolongation of state of emergency, for opportunities for the parliament to review and terminate it, as well as the necessity of parliamentary scrutiny for the 'activation and application of emergency power and for the control of the 'legal regulations issued by the executive during such a state*” (Chiru, 2023). For this reason, it is important that emergency Parliaments are institutionalised through reforms to the emergency legislation framework, taking into account the need for sunset and review clauses to ensure continuous oversight during periods of shifts in power necessitated by emergencies.

#### 6.5.1.1 Sunset and Review Clauses

The recurring theme in the review articles listed in Table 6.4 is that emergency legislation should be amended to ensure Parliamentary concurrence on emergency declarations and the inclusion of sunset clauses in emergency regulations. This will ensure that any statutory provisions enacted to address an emergency are put in place for a limited time and can only be extended by Parliament.

**Table 6.4: Sunset and Review Clauses**

Ex-ante Legislative Oversight			
Conceptual Theme	Organizing Theme	Code	References
Emergency Legislation	Statutory emergency frameworks	Sunset and Review Clauses	International Commission of Jurists, 2022; Dey and Murphy, 2021; Hidalgo, Londras and Lock, 2022; Chiru, 2023; Eisma-Osorio, Grabow, Hefele, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Bolleyer and Salát, 2021.

The United Kingdom’s Coronavirus Act 2020 had set time limits and could only be extended in agreement with Parliament (Hidalgo, Londras and Lock, 2022). Introduced by the UK Parliament’s House of Commons, the sunset clause was included in the legislation to act as a safeguard to ensure parliamentary accountability. Time limits can also be extended to Executive decrees or Executive orders where ‘positive legislative approval should be sought to ensure that the validity of executive measures have a maximum duration’ (Bolleyer and Salát, 2021). As one of the accountability mechanisms on emergency legislation or regulations, sunset clauses are critical for the critical for the institutionalisation of emergency Parliaments.



Failure to embed accountability clauses in emergency legislation or regulations increases the risk of Executive aggrandisement and democratic erosion. In Hungary – in response to the COVID-19 health emergency, Parliament passed the Authorization Act which gave ‘government the authority to unilaterally adopt emergency measures in addition to its powers under the Disaster Management Act, without a sunset clause which would limit the application of the Authorization Act in time’ (International Commission of Jurists, 2022). This meant that the emergency measures introduced by the government could only be rescinded by the government at its own discretion. In comparison, the Philippines’ Bayanihan 2 Act had a sunset clause which effectively ended the laws’ existence in December 2020 (Eisma-Osorio, Grabow, Hefele, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias and Gao, 2021).

Sunset clauses provide a failsafe mechanism that guarantee emergency powers are continuously monitored and have a short life span (Dey and Murphy, 2021). They were widely used by countries in the global north which are widely viewed as mature democracies. The US, Canada, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Sweden, and Switzerland approved pandemic emergency measures, according to a European parliamentary oversight research (Chiru, 2013). Legislative bodies in these countries viewed sunset clauses as instruments necessary to ensure a prompt return to ordinary laws when the COVID-19 health emergency was over.

#### **6.5.1.2 Delegated legislation**

The executive branch of government in Zimbabwe relied exclusively on delegated legislation, which was promulgated through Statutory Instruments (SIs), to enact emergency measures in response to the pandemic (Moyo and Phulu, 2021). Delegated, subsidiary or secondary legislation allows the government to issue regulations and make changes to legislation without the need for a new Act of Parliament (UK Parliament, 2024; Lee, 2020). The downside of using SIs in Zimbabwe, just like the Philippines, was that they were arbitrarily issued and did not have oversight safeguards through which to hold the executive to account on their implementation (Moyo and Phulu, 2021; Eisma-Osorio, *et.al*, 2021. Review articles in Table 6.4 provide substantive evidence on enforcing legislative accountability during an emergency.

**Table 6.4: Oversight over subordinate and subsidiary legislation**

<b>Ex-ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Emergency Legislation	Statutory emergency frameworks	Delegated legislation	Hickman, 2020; Dey and Murphy, 2021; Macdonald and Begg, 2020; Lee, 2020; Leuprecht, 2020; Hidalgo, Londras and Lock, 2022; Cormacain, 2020; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Moyo and Phulu, 2021.

In order to promote transparency around SIs, the UK Parliament’s Joint Committee on Statutory Instruments (JCSI) observed that their tabling in Parliament was not a mere formality “...but an important part of access to justice and the rule of law” (Hickman, 2020). The prompt tabling of SIs, the JCSI added, carried the added advantage of providing enough lead time for parliamentarians to scrutinise SIs through a process called affirmative procedure – which promotes parliamentary scrutiny of SIs before their implementation. Following the extensive use of delegated legislation by the Australian government during COVID-19, the Melbourne School of Government and the Institute of Public Affairs made recommendations towards the improvement of oversight on delegated legislation through the capacitation of parliamentary committees, curtailment of oversight exemptions and incorporating the use of sunset clauses (Dey and Murphy, 2021; Macdonald and Begg, 2020). The overriding concern was that the lack of parliamentary scrutiny on delegated legislation was eroding democratic legitimacy and public faith in the rule of law.

Due to the nature of the COVID-19 health emergency, an emergent concern in Canada was that ‘...executive decision-making had been delegated to an unrepresentative, narrow, unelected subset of subject matter experts’ – composed mainly of the public health bureaucracy (Leuprecht, 2020). To this end, the Macdonald-Laurier Institute called on the Canadian government to refrain from deferring to unaccountable experts and restore parliamentary oversight on delegated authority through parliamentary debate (Leuprecht, 2020). The expansive use of delegated legislation is precisely why the UK made use of post legislative scrutiny to distil lessons learnt during the crisis governance period, considering that that delegated authority was now being used to determine criminal offences (Hidalgo, Londras and Lock, 2022; Cormacain, 2020).

### 6.5.1.3 Quasi law making

Legislative bodies have the constitutional responsibility to oversee the law-making process and the enactment of laws. However other state bodies or agencies, by virtue of an existing law and through the non-delegation doctrine, can make rules and regulations which can be enforced as law (Rabie and Smit, 1988; Eisma-Osorio, et.al, 2021). After the declaration of a State of National Disaster through the Civil Protection Act of 1989 – in response to the COVID-19 pandemic, Zimbabwe’s Minister of Health issued a Public Health Order under Statutory Instrument 83 of 2020 (Moyo and Phulu, 2021). The introduction of this order was made arbitrarily by bypassing the oversight authority of Parliament. The emergent question, therefore, is how can legislative accountability be enforced on quasi law-making during emergencies? Review articles in Table 6.5 show that some jurisdictions, especially those who use the Westminster system of government (similar to Zimbabwe) chose to rely on existing legislative oversight mechanisms to ensure accountability over quasi law making.

**Table 6.5: Quasi law making**

<b>Ex-ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Emergency Legislation	Statutory emergency frameworks	Quasi law making	Dey and Murphy, 2021; Addadzi-Koom, 2020; Eisma-Osorio, Grabow, Hefele, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Moyo and Phulu, 2021.

The New Zealand Parliament refused to cede their legislative authority to quasi legislative bodies and by so doing, chose to rely on a ‘legislative model’ which is an approach where a legislature creates a law that regulates measures taken by an executive authority during an emergency (Dey and Murphy, 2021; Ferejohn and Pasquino, 2004). Coronavirus Medical Treatment In New Zealand, 19 COVID-19 Public Health Response Act 2020 orders were issued. Regulations Review Committee monitored these directives, which Parliament had to ratify within 60 days after expiry. In New Zealand, the UK, and Australia, legislative regimes enforced disallowance, sunset clauses, and pre-existing and ad hoc parliamentary inspection committees (Dey and Murphy, 2021).

Quasi law making came into sharp focus in Ghana when the President an executive bill which was hastily passed by Parliament and came to be known as the Imposition of Restrictions Act.

Under the IRA Act, Parliament was accused of having ‘...ceded its oversight authority and given the President unbridled powers to impose restrictions for so long as he deems fit... to enact an emergency legislation that gives the President unrestrained powers is threatening to Ghana’s democracy as this extraordinary power given to the President under the IRA is susceptible to abuse by future presidents’ (Addadzi-Koom, 2020). Comparing the IRA Act to the UK’s Corona Virus Act, Addadzi-Koom (2020) suggested that the former could have passed constitutional muster if it had made provision for parliamentary oversight on executive instruments emanating from it and remained in force within a prescribed expiry date.

### **6.5.2 Parliamentary Leadership**

The failure to provide proactive parliamentary leadership upon the activation of disaster management legislation in Zimbabwe can be attributed to the executive dominance of Parliament and the institution’s lack of legislative independence (Moyo and Phulu, 2021). Similarly, the overriding challenge that other legislatures faced in response to the challenges posed by COVID-19 was how to continue operating in the face of crisis and maintain core constitutional responsibilities such as legislation, oversight of the executive and representation of citizens (Maciel, 2021; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Ouverney and Fernandes, 2022).

#### **6.5.2.1 Rules of procedure**

As shown by the review studies in Table 6.6, when compared to their global south counterparts, legislative oversight resilience was much more pronounced in Europe because of their relative independence from the executive, which enabled them to continue with socially distanced plenary debates, question time and written questions on actions taken by the executive during the pandemic (Diaz and Manko, 2022; Arsil, Ayuni and Mauleny, 2022; Rules of procedure or Standing orders (either in force as a law or written rules of Parliament) are the prescriptive internal regulations that describe how core parliamentary functions are implanted, including the rights and responsibilities of legislators (Deveaux, Švecová and Baker Hughes, 2021).

**Table 6.6: Rules of procedure**

<b>Ex ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Parliamentary Leadership	Proactive emergency legislative oversight	Rules of procedure	Maciel, 2021; Griglio, 2020; Deveau, Švecová and Baker Hughes, 2021; Diaz and Manko, 2022; Arsil, Ayuni and Mauleny, 2022; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; and Mortimer, 2020; Birla, 2022; Butković, 2021; Fitsilis and Pliakogianni, 2021; Borghetto, 2023; Bar-Siman-Tov, 2020(a); Mansfeldova, 2023; Pyschny, 2023; Serowanec and Witkowski, 2020; Bassetti and Weiner, 2020; Smith and Childs, 2021; Ammann and Uhlmann, 2022; Priddy, 2021; White, 2020; Chaplin, 2020(a); Londras and Lock, 2022; Petrov, 2020; Akirav, 2023; Mencarelli, 2022; Kouroutakis, 2021; Atienza, 2020; Ouverney and Fernandes, 2022.

Comparatively, legislatures that exhibited strong parliamentary leadership during the Covi-19 emergency did so by adapting their roles to the new reality by recalibrating their rules of procedure to sustain oversight over the Executive. New procedures and organisational interventions were implemented for the purposes of ensuring continuity of committee and plenary activities while guaranteeing the safety of parliamentarians (Griglio, 2020). Fig 6.3 provides a concise summary of Parliaments that adjusted their rules of procedure to enable legislative continuity:

### Rules of Procedure (ROP) amendments (select examples)

On March 17, 2020, ROP were amended by the Lithuanian Parliament to enable virtual committee and parliamentary board meetings.

- On March 24, 2020, the UK House of Commons adopted a temporary order to allow committee members to participate in proceedings by electronic means, subject to authorization from the Speaker. Subsequently, on April 21, 2020, the House unanimously approved temporary changes to Standing Orders to allow hybrid sittings of the House.
- On March 25, 2020, the German Bundestag approved ROP amendments to temporarily lower the quorum to 25 percent of MPs and to allow remote participation during committee meetings.
- On March 26, 2020, ROP were modified by the Belgian House of Representatives to enable hybrid meetings.
- In April 2020, the Slovenian National Assembly added a completely new article to its ROP to provide legal grounds for remote sessions in the event of natural or other serious disasters.
- On November 11, 2020, the Croatian Parliament changed ROP to allow all MPs to participate in plenary sessions via video link by staying in several meeting rooms in the parliament.

**Figure 6.3: Examples of Parliaments that adjusted Rules of Procedure**

Source: (Deveaux, Švecová and Baker Hughes, 2021)

Instead of suspending vital accountability instruments in response to the disruptions occasioned by COVID-19, some legislatures chose to adapt them to the new reality (Birla, 2022; Butković, 2021; Fitsilis and Pliakogianni, 2021; Borghetto, 2023). In India, after initially trying to suspend question hour in Parliament, government was forced to backtrack and allowed parliamentarians to ask unstarred questions and participate in Question Hour over a 30 minute duration (Eisma-Osorio, et.al, 2020). This flexibility on legislative operations was consistent with similar comparative jurisdictions where innovations such as reduced number of meetings, adaptation of the parliamentary agenda, prioritized focus on the health emergency and postponing less important issues (Bar-Siman-Tov, 2020(b); Mansfeldova, 2023; Pyschny, 2023). Perhaps the most notable change to procedure in legislative operations was the adoption of remote sittings where legislators used technology to conduct parliamentary business, facilitate remote and proxy voting (Serowanec and Witkowski, 2020; Bassetti and Weiner, 2020; Smith and Childs, 2021; Ammann and Uhlmann, 2022; White, 2020; Mencarelli, 2022).

In fashioning legislatures to respond to extra ordinary circumstances, legislative scholars caution that the adjustment of rules of procedure should only be pursued by Parliament and not government because of the inherent need to 'maintain notions of parliamentary confidence in government and ensure adequate opportunity for opposition review to ensure accountability' (Chaplin, 2020(b)). This protects democratic legitimacy by limiting state power and providing a pathway for sustained parliamentary scrutiny (Londras and Lock, 2022; Petrov, 2020; Akirav,

2023). The need to retain parliamentary sovereignty during an emergency helps to avoid the emergence of a situation where parliamentary scrutiny is restricted, ministerial accountability is compromised and opposition political parties are deplatformed from exercising oversight (Kouroutakis, 2021; Atienza, 2020).

### 6.5.2.2 Innovation and adaptability

A key distinguishing feature that separated Parliaments which regained their oversight prerogative in the shortest possible time and those that did not was that the former were quick to innovate and adapt by leveraging on technology (Eisma-Osorio, *et.al.*, 2021; Hughes and Mortimer, 2020; Birla, 2022; Fitsilis and Pliakogianni, 2021). Review articles in Table 6.7 provide substantive evidence showing that technological adoption not only helped to maintain legislative continuity but may also have permanently changed how parliamentary processes are conducted.

**Table 6.7: Innovation and adaptability**

Ex ante Legislative Oversight			
Conceptual Theme	Organizing Theme	Code	References
Parliamentary Leadership	Proactive emergency legislative oversight	Innovation and adaptability	Bassetti and Weiner, 2020; Deveaux, Švecová and Baker, 2021; Gordon and Cheeseman, 2023; Smith and Childs, 2021; Eisma-Osorio, Grabow, Hefele, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Hughes and Mortimer, 2020; Birla, 2022; Fitsilis and Pliakogianni, 2021; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Borghetto, 2023; White, 2020; Maciel, 2021; Priddy, 2021; Bar-Siman-Tov, 2020(a); Griglio, 2020; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021.

The alteration of rules of procedure to allow for virtual meetings and quorum thresholds were implemented in accordance with the need to maintain the legislature's representative focus, accountability in procedural functions and commitment towards open and accountable government (Bassetti and Weiner, 2020; Maciel, 2021). Cognizant of this emergent technological reality, low technology legislatures should consider investing in remote engagement technology to maintain legislative continuity in case of unforeseen disruptions – paying particular attention to cyber security and hardware compatibility (Deveaux, Švecová

and Baker, 2021). Digital communication technologies ‘...can facilitate consultative sessions with experts, civil society and citizens’ groups... boost the inclusivity of legislative processes, help politicians to reach out more and hear more voices during future health emergencies’ (Gordon and Cheeseman, 2023).

The UK’s hybrid Parliament, which allowed MPs to virtually participate during COVID-19, was a trendsetter in technology adoption as it allowed legislators to continue asking oral questions to Ministers and the Prime Minister, participation in committees and voting remotely on legislation (Smith and Childs, 2021; Priddy, 2021). Civil society organisations and Parliamentarians alike have proposed that the model be retained indefinitely due to its inherent benefits of affording MPs flexibility in their work and the potential to promote increased public participation (White, 2020).

Indices that tracked technology use in Parliaments during the COVID-19 pandemic showed a strong correlation between sustained legislative activity and technological diffusion in parliamentary processes. The World e-Parliament Report of 2020, Legislative Responses to COVID-19 Tracker, ParAct, ParITech and V-Dem’s Pandemic Backsliding Project indices all showed that consistency on the use of technology was a factor in a legislative institutions’ ability to continue sitting, exercising oversight and response to COVID-19 (Borghetto, 2023; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Gordon and Cheeseman, 2023; Bar-Siman-Tov, 2020(a)). Advocates of the permanent use of technological tools in parliamentary processes point to the positive impact that it made on legislative oversight, especially procedural flexibility and the strengthening of democratic legitimacy (Griglio, 2020).

### **6.5.2.3 Political party activity**

In addition to parliamentary oversight, political parties represented in the legislature can bring an added layer of executive accountability by publicly pointing out the shortcomings of government to influence public opinion. Shutting down Parliaments denies politicians, especially those occupying the opposition benches, an opportunity to scrutinize government policies, question executive actions and enforce accountability (Kouroutakis, 2021). The voice of the opposition is critical in times of crisis because it acts as a counterbalance to cross party consensus on oversight which inadvertently tends to dilute oversight outcomes (Butković, 2021; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Borghetto, 2023; Bar-Siman-Tov, 2020(b); Rydzewska, 2021).

During the COVID-19 period, Zimbabwe’s opposition politicians could not exercise horizontal accountability of the Executive because ‘...the government sought to use the lockdown measures to clamp down on political opposition...through the recall of opposition Members of



Parliament’ (Moyo and Phulu, 2021). Using evidence from the review articles in Table 6.8, the question becomes “What role do opposition political parties play in enforcing executive accountability during an emergency and what lessons can Zimbabwe draw from the evidence?”.

**Table 6.8: Political party activity**

<b>Ex ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Parliamentary Leadership	Proactive emergency legislative oversight	Political party activity	Akirav, 2023; Deveau, Švecová and Baker, 2021; Gordon and Cheeseman, 2023; Lokur, 2021; Hughes and Mortimer, 2020; Kouroutakis, 2021; Butković, 2021; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Borghetto, 2023; Ciolli and Luciani, 2020; Bar-Siman-Tov, 2020(a); Malloy, 2020; Rydzewska, 2021; Mansfeldova, 2023; Pyschny, 2023; Louwerse, Sieberer, Tuttnauer and Andeweg, 2021; Petrov, 2020.

While stable governments are a necessary requirement during both normal and during times of crisis, their significance is elevated the uncertainty that defines emergency environments. In order to ensure that the stringent measures introduced in response to an emergency have wide support, especially if they need to be ratified by Parliament, the government of the day should obtain the support of opposition parties represented in Parliament (Akirav, 2023; Hughes and Mortimer, 2020; Ciolli and Luciani, 2020; Rydzewska, 2021). The cornerstone of this collaborative engagement should be mirrored in parliamentary rules of procedure, where the rights of opposition MPs are explicitly recognised (Deveau, Švecová and Baker, 2021; Malloy, 2020). In New Zealand, a motion was adopted:

*‘...whereby the Opposition in particular, will be able to continue to scrutinise the Government and the actions that the Government is taking, even though the House will not be sitting. A special select committee is being established. It will have an Opposition majority, which recognises these extraordinary circumstances we are in. It will be chaired by the Leader of the Opposition. It will have the power to require people to appear before it — albeit digitally, rather than in person. They will be able to request and receive information about the use of the powers that the Government has been exercising, and I think those things are vitally, vitally important in our democratic system.’* (New Zealand Parliament, 2020)

For their part, opposition parties should take the initiative and use the parliamentary platform to create opportunities for continuous oversight during emergencies. In Nepal, the opposition formed a 35 member COVID-19 monitoring committee to demand accountability in the government's COVID-19 plans which culminated in the submission of a report that demanded a special session of the legislature to discuss the issue (Gordon and Cheeseman, 2023). Similarly, the Indian government had to reverse its decision to cancel the question hour in Parliament after it came under heavy criticism from opposition parties (Lokur, 2021).

There is a school of thought which posits, during a crisis, government-opposition relations can either foster consensus on crisis measures or it can act as a catalyst for public discourse through opposition criticism (Mansfeldova, 2023; Pyschny, 2023; Petrov, 2020). Czechoslovakia's bipartisan consensus on the pandemic swiftly collapsed when the opposition vetoed the government's state of emergency extension request (Mansfeldova, 2023). A comparative study of Germany, Israel, Netherlands, United Kingdom on opposition participation in parliamentary debates revealed that while the opposition expressed positive sentiment in the early stages of the pandemic, this changed when the health emergency evolved to '...to a mix of public health, social and economic crisis' (Louwerse, Sieberer, Tuttnauer and Andeweg, 2021). The common theme across the four countries is that as the pandemic progressed, and as soon as it became clear that their respective governments were attempting to apportion more powers to themselves, opposition parties stood their ground and acted as a bulwark against Executive aggrandisement.

#### **6.5.2.4 Public participation**

Public participation is a key component of the legislative process as it accords members of the public an opportunity to participate in legislation and policy formulation. During the COVID-19 period, however, public participation was one of the first activities to be suspended by legislatures in compliance with the social distancing requirements (Arsil, Ayuni and Mauleny, 2022). Even so, as shown in the review articles in Table 6.9, the suspension of public participation was counterproductive because it denied governments an opportunity to obtain public buy in on the emergency measures that were introduced.

**Table 6.9: Public Participation**

Conceptual Theme	Organizing Theme	Code	References
Parliamentary Leadership	Proactive emergency legislative oversight	Public Participation	Gordon and Cheeseman, 2023; Deveaux, Švecová and Baker, 2021; Bassetti and Weiner, 2020; Arsil, Ayuni and Mauleny, 2022

Reduction in public participation, due to the switch to virtual meetings in Brazil's Congress, is listed as the reason for the continued limited input on the executive's actions and the subsequent lack of accountability (Gordon and Cheeseman, 2023). It is for this reason that a recommendation was made to institutionalize the opening of legislative committee meetings to the public within the framework of the emergency environment (Deputatos, 2020). Subsequent to this, Brazil's Senate debated proposals submitted by members of the public through the e-Citizenship Portal on legislative responses to COVID-19.

According to legislative study practitioners *'...Public participation at all levels of decision-making in the context of the COVID-19 pandemic...ensures that governments and parliaments uphold the rule of law and strengthens legitimacy of the decision-making process and ownership of its outcomes. Thus, especially in the times of crisis it is important to carry out enhanced deliberations and provide mechanisms for citizens to (virtually) comment on issues debated in parliament'* (Deveaux, Švecová and Baker, 2021). In order to ensure a stream lined process for public participation during emergencies, it is essential that the public participation protocol is reformed to provide reasonable public notice for all meetings and make all recordings of proceedings publicly available (Bassetti and Weiner, 2020).

## 6.6. EX POST LEGISLATIVE OVERSIGHT

Ex post emergency controls are applied after the fact and encompass a review of the measures taken to address an emergency occurrence. They are often applied after the emergency and apply sanctions retrospectively. To restore democratic accountability, legislatures that did not oversee the epidemic in real time required post-legislative supervision. Particularly when quasi-government entities, which functioned alongside the Cabinet, openly sought power by decree.

President of South Africa assigned a few Cabinet members to the National Command Council (NCC) to supervise the government's epidemic response, but opposition parties disputed the NCC. The NCC was accused of being undemocratic and a risk to democracy as it took decisions without parliamentary oversight and other democratic checks on power (Steenhuisen, 2022).

In Zimbabwe's case, the government was accused of reacting to the emergence of the coronavirus by implementing a strongly securitized strategy supported by an array of legal and non-legal mechanisms outside of parliamentary scrutiny (Moyo and Phulu, 2021). It is therefore important to ascertain how ex-post review, through post-legislative scrutiny by parliamentary committees, assessed the effects of secondary laws passed in response to COVID-19 and resultant public expenditure to contain the virus's spread.

### **6.6.1 Instruments of Legislative Oversight**

UK parliamentary debates before and after legislation showed that accountability systems were insufficient to combat the pandemic (Grez Hidalgo, Londras and Lock, 2022). The authors say lawmakers missed oversight opportunities and executive decisions limited Parliament's monitoring.

The UK Executive's readiness to allow the legislature use its legislative supremacy prerogative controlled its accountability to parliament during COVID-19. The country's peculiar political characteristics, including a huge executive majority, were startlingly comparable to Zimbabwe. The government regularly utilised COVID-19 rules' tough talks before they expired to dictate the legislative agenda, ignoring accountability and other concerns. In 2020, the UK government limited debate time on the Corona Virus Act and thwarted attempts to alter it by controlling the legislative calendar. Lawmakers were generally quiet. To retain the oversight prerogative in rapidly evolving emergencies, it is recommended that there should be (Grez Hidalgo, Londras and Lock, 2022):

- Ex post facto sunset clauses, independent evaluations, and periodic reviews in secondary laws and regulations.
- Keep Parliament informed with urgent reports.
- Lawmakers must take advantage of review opportunities during and after the legislation process.

#### **6.6.1.1 Special parliamentary committees**

Review articles in Table 6.10 reveal that part of the interventions to institutionalize emergency Parliaments (legislatures that are operationally and structurally ready to ensure legislative continuity in emergencies), require a strategic use of the committee system to ensure continuous oversight over Executive action during emergencies (Hogarth, 2020). Parliaments that were quick to leverage on the committee system during COVID-19, through the establishment of special parliamentary committees, provided an immediate counterbalance to the emergency powers that the Executive had accrued to themselves and maintained democratic legitimacy to the emergency response (Bassetti and Weiner, 2020; Deveaux,

Švecová and Baker, 2021; Dey and Murphy, 2021; Adams, Janse, Daniels, Herrenberg and van Schaik, 2022; Moulds, 2020).

**Table 6.10: Special Parliamentary Committees**

<b>Ex ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Executive Accountability	Instruments of legislative oversight	Special parliamentary committees	Brock, 2022; Chugoshvili, Goguadze, Khulodavar, Pruidze and Rubanova, 2021; Chauvel and Walczack, 2020; Baruch and Mordechay, 2020; Bassetti and Weiner, 2020; Deveau, Švecová and Baker, 2021; Dey and Murphy, 2021; Gordon and Cheeseman, 2023; ; Chiru, 2023; Albin, Bar-Siman-Tov, Gross and Brandes, 2021; Knight, 2021; Bröhmer, 2022; Adams, Janse, Daniels, Herrenberg and van Schaik, 2022; Onoge, 2021; Hogarth, 2020; Dan-Azumi and Abubakar, 2020; Moulds, 2020; Wilkins, 2023; Hellyer, 2021.

Scheduled reporting by Ministers to regular legislature committees in France, Latvia, Slovenia and the US was supplemented by the creation of special parliamentary committees which were tasked with investigating:

*‘...the governments’ measures to contain the spread of COVID-19 and fiscal measures to sustain the economy. In Denmark, a newly established permanent Epidemics Committee was mandated with the same role. Temporary investigative committees with a specific focus on COVID-19-related procurement irregularities were set up in Bulgaria, Romania and the UK. (Chiru, 2023).*

Fashioned along the same design frame as special parliamentary committees, Georgia’s Parliament opted for a thematic committee to evaluate the impact of the COVID-19 pandemic and the adequacy of the response thereto (Chugoshvili, Goguadze, Khulodavar, Pruidze and Rubanova, 2021). Similarly, New Zealand’s cross party Emergency Response Committee, which was chaired by the Leader of the Opposition, met in public via video conference to hold Ministers and official accountable through questions aimed at interrogating the actions taken by the Executive under the emergency measures (Chauvel and Walczack, 2020; Knight, 2021; Hellyer, 2021). In Israel, based on their unique governance system, the country’s Supreme Court intervened to compel the Knesset (Parliament) to set up committees that were tasked with conducting hearings on the measures taken in response to COVID-19 and ensuring

general oversight over government actions (Baruch and Mordechay, 2020; Albin, Bar-Siman-Tov, Gross and Brandes, 2021).

As an alternative to special parliamentary committees, some jurisdictions chose to adapt their existing committees to exercise oversight over the government's response to the crisis (Dan-Azumi and Abubakar, 2020). Nepal's Legislation Management Committee debated the use of the country's Infectious Diseases Act to respond to COVID-19, in the process raising public awareness about its potential impact (Gordon and Cheeseman, 2023). Australia's Parliamentary Committee on Human Rights, which was established in 2012, published a special report on COVID-19 legislative scrutiny in 2020 where it observed that emergency measures introduced by the Federal government were restricting freedom of movement, especially among aboriginal communities (Bröhmer, 2022). This was in addition to the Australian Senate's Select Committee on COVID-19 which – similar to Canada's parliamentary committee on COVID-19, was established to review the government's response to the pandemic and to submit a final report thereto (Wilkins, 2023; Brock, 2022).

Constitutional scholars in Nigeria advised their Parliament to use existing standing committees and the post legislative scrutiny oversight tool to scrutinize the activation of COVID-19 emergency laws and the subsequent implementation of COVID-19 regulations (Onoge, 2021). Special parliamentary committees ensured institutional resilience and provided legislatures with enough capacity to absorb the disruptive shocks of COVID-19 and its corresponding impact on oversight continuity.

#### **6.6.1.2 Regular reporting**

To enhance transparency and accountability in the response to the COVID-19 emergency, review articles in Table 6.11 provide evidence showing that some legislatures mandated members of the Executive to report regularly on government decisions on lockdown regulations, economic relief regulations and public health interventions (Gordon and Cheeseman, 2023; Dan-Azumi and Abubakar, 2020; Wilkins, 2023; Hellyer, 2021). In contrast, the Zimbabwean government issued over a dozen Statutory Instruments as part of the COVID-19 containment measures but for which they never fully accounted to Parliament on their implementation (Moyo and Phulu, 2021). Ghana was caught in same frame of non-accountability as '...the Executives appeared to have overemphasised the exigencies of the pandemic by not providing sufficient accountability of the COVID-19 funds, which weakened Parliament's financial oversight role' (Asamoah and Nyadzi, 2022). Countries that failed to defer to robust parliamentary oversight through regular reporting, conveniently cited the need for expedited action in an emergency even though there was growing evidence that the accountability vacuum was compromising democratic legitimacy in the pandemic response.

**Table 6.11: Regular reporting**

<b>Ex ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Executive Accountability	Instruments of legislative oversight	Regular reporting	Brock, 2022; Asamoah and Nyadzi, 2022; Chugoshvili, Goguadze, Khulodavar, Pruidze, and Rubanova, 2021; Gordon and Cheeseman, 2023; Chiru, 2023; Adams, Janse, Daniels, Herrenberg and van Schaik, 2022; Atienza, 2020; Hogarth, 2020; Dan-Azumi and Abubakar, 2020; Wilkins, 2023; Hellyer, 2021.

The Canadian Parliament ensured that any regulations or subordinate legislation had provisions ‘...for parliamentary reviews at set time intervals in the emergency...[including] reporting requirements...’ (Brock, 2022). For example, under Canada’s COVID-19 subordinate legislation, the Finance Minister was required to report every two weeks on the emergency financial powers. In Georgia, Members of Parliament made use of parliamentary questions to ask accountable government agencies on COVID-19 and its ramifications (Chugoshvili, Goguadze, Khulodavar, Pruidze, and Rubanova, 2021). The reporting framework was further expanded through interpellation letters, mandatory attendance of parliamentary committees by sitting officials and thematic inquiries.

The use of regular reporting in European countries underscored the extent of variations in parliamentary scrutiny during the COVID-19 pandemic (Chiru, 2023). The Netherlands’ Minister of Health had a duty of information, under Article 58s(1) of the Public Health Act – which was used to effect emergency measures for COVID-19, “to provide a monthly, reasoned overview of the measures in force and indicate the expectations regarding the continuation of the measures to the lower and upper houses” (Adams, Janse, Daniels, Herrenberg and van Schaik, 2022). The UK’s Corona Virus Act had a similar provision where the government was required to report to Parliament every two months on the status of key provisions in the Act – whether they were still in force or had been suspended or extended (Hogarth, 2020).

In South East Asia, the Philippine Congress passed the Bayanihan Act which provided a legal framework to guide the government’s response and measures taken to combat the impact of the COVID-19 pandemic. Under the Act, the President and members of his Executive were required to account to Congress on all measures taken, with the President providing a weekly report to Congress on all action taken in the preceding week (Atienza, 2020).

### 6.6.1.3 Legislative inquiry

A legislative inquiry is a formal investigation conducted by a legislative body, on a specific issue, using its executive authority. Review articles in Table 6.12 indicate that legislative inquiries were one the most common ex post mechanisms used by legislatures to review the response and management of the pandemic by their respective governments (Knight, 2022; Adams, Janse, Daniels, Herrenberg and Van Schaik, 2022). The French ad hoc legislative body that oversaw the government's response to the COVID-19 epidemic became an investigative body that evaluated crisis management, according to Crego and Kotanidis (2020). The Joint Committee on Human Rights of the UK Parliament examined how the government's COVID-19 pandemic response affected human rights (Dan-Azumi and Abubakar, 2020).

**Table 6.12: Legislative Inquiry**

<b>Ex ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Executive Accountability	Instruments of legislative oversight	Legislative inquiry	Crego and Kotanidis, 2020; Chugoshvili, Gogvadze, Khulodavar, Pruidze, and Rubanova, 2021; Chauvel and Walczack, 2020; Deveaux, Švecová and Baker, 2021; Chiru, 2023; Knight, 2022; ; Adams, Janse, Daniels, Herrenberg and Van Schaik, 2022; Dan-Azumi and Abubakar, 2020; Moulds, 2020; Wilkins, 2023.

Georgia's Parliament used 5 thematic inquiries to investigate the management of COVID-19 and the its outcomes on social protection, health, tourism and the business sector (See Table 6.13). Thematic inquiries often result in recommendations to administrative bodies to either eradicate flaws exposed in the process or improve the policy of executive agencies (Chugoshvili, Gogvadze, Khulodavar, Pruidze, and Rubanova, 2021).



**Table 6.13: COVID-19 Thematic Inquiries by the Georgia Parliament**

Committee	Subject of Thematic Inquiry
Healthcare and Social Issues Committee	Study of the efficiency of the social protection system of Georgia in view of the impact of the COVID-19 Pandemic
Education and Science Committee	Influence of the COVID-19 pandemic on general education sector
Agrarian Issues Committee	Pandemic impact assessment on the field
Sector Economy and Economic Policy Committee	Revised strategy for tourism sector in post-crisis period and its economic outcomes
Sector Economy and Economic Policy Committee	The main challenges of the small and medium-sized businesses and stimulation mechanisms during the crisis and in the post-crisis period

Source: (Chugoshvili, Goguadze, Khulodavar, Pruidze, and Rubanova, 2021)

The value of legislative inquiries is that it helped legislatures, which used them, to institute post legislative scrutiny and retrospective review to the pandemic response, its fitness for purpose, impact and consequences (Chauvel and Walczack, 2020; Moulds, 2020; Wilkins, 2023). For this reason, an opposition party in the Georgian Parliament held an interpellation to inquire on the impact of the economy – whereupon a decision was taken ‘...to public health measures with the negative impact of the pandemic on the economy’ (Deveaux, Švecová and Baker, 2021).

After investigating the governments' pandemic responses, Latvian and French parliamentary investigation committees advocated new civil crisis management units in the prime minister's office and systematic reforms to public health ministries (Chiru, 2023). Even in an emergency, legislative studies specialists say the executive branch should keep its accountability duties, including its information sharing with legislators.

### 6.6.2 Fiscal Oversight

After the COVID-19 pandemic spread, lockdowns caused widespread economic damage. Governments were forced to adopt emergency fiscal measures through supplementary budgets, budget reprioritisations and contingency reserves to support the economy and procure personal protective equipment (PPEs). However, due to the temporary suspension of budget and procurement oversight, there was widespread corruption on emergency spending and public procurement (Oni and Dele-Dada, 2022). In South Africa, the President had to issue a proclamation authorising a special investigation into COVID-19 expenditure – which

led to disciplinary action against government employees, prosecutorial action against corrupt individuals and blacklisting of companies (Heywood, 2022).

### 6.6.2.1 Procurement oversight

In Zimbabwe, the absence of accountability in the allocation and dispersal of COVID-19 funding and equipment, as well as the improper reporting of donations, the granting of procurement contracts for PPEs, and the acquisition of medication without adhering to the appropriate procurement procedures, all served as clear manifestations of corruption (Moyo and Phulu, 2021). Therefore, the question that review articles in Table 6.14 seek to answer is, can Parliaments maintain oversight processes over budget expenditure and procurement during national emergencies?

**Table 6.14: Procurement Oversight**

Ex ante Legislative Oversight			
Conceptual Theme	Organizing Theme	Code	References
Budget and Procurement Oversight	Fiscal oversight	Procurement oversight	Chugoshvili, Goguadze, Khulodavar, Pruidze, and Rubanova, 2021; Chiru, 2023; Drake, 2020; OECD, 2020; Allen and Rahim, 2022; Oni and Dele-Dada, 2022

Recognising the challenges posed by emergency procurement and public expenditure during the COVID-19 emergency, the UNDP's COVID-19 accountability advisory recommended that governments prioritize "planning of emergency financing...through the monitoring of expenditure, procurement, reporting and public debt management" (Chauvel and Walczack, 2020). The Czech Republic's National Audit Service conducted an audit of all expenditure for the procurement of personal protection equipment and presented the findings to the country's parliamentary committee for budget control (Chugoshvili, Goguadze, Khulodavar, Pruidze, and Rubanova, 2021). Other jurisdictions such as Bulgaria, Romania and the UK set up temporary investigative committees to probe irregularities on COVID-19 related procurement (Chiru, 2023). What is clear from these review articles is that Parliaments need to adopt legislation that will increase transparency and accountability on emergency public procurement in times of crisis.

In advocating for procurement reform during emergencies, experts in the field advocate for the use of data and expenditure tracking to inform decision making at every stage of the financial management process to ensure optimal resource allocation (Drake, 2020; Allen and Rahim, 2022). For example, the US Congress included accountability mechanisms into the

Coronavirus Aid, Relief, and Economic Security (CARES) Act which included a ‘special congressional commission and two new inspector general arrangements to oversee the more than USD 2 trillion in relief’ (OECD. 2020). Screening of bids or tenders should not be discarded during an emergency as doing so compromises beneficial ownership, confidence in the process and the identification of irregularities.

#### 6.6.2.2 Parliament/audit body nexus

During emergencies, Parliaments are encouraged to lean on non-partisan offices, like Supreme Audit Institutions and Parliament Budget Offices, for vital independent information on programme expenditure (Chugoshvili, Gogvadze, Khulodavar, Pruidze, and Rubanova, 2021; Chauvel and Walczack, 2020; Drake, 2020). A common theme in review articles listed in Table 6.15 is that a symbiotic partnership between Parliaments and audit institutions, where live processes like real time audits are implemented, fostered a sustained oversight over public expenditure and minimise instances of corruption (Allen and Rahim, 2022). New Zealand’s audit institution kept the public informed on the evolving fiscal situation through weekly economic updates, monthly financial statements and a breakdown of government spending (Lozano, Atkinson and Mou, 2023).

**Table 6.15: Parliament/Audit body nexus**

Ex ante Legislative Oversight			
Conceptual Theme	Organizing Theme	Code	References
Budget and Procurement Oversight	Fiscal oversight	Parliament and audit bodies nexus	Chugoshvili, Gogvadze, Khulodavar, Pruidze, and Rubanova, 2021; Chauvel and Walczack, 2020; Chiru, 2023; Drake, 2020; OECD, 2020; Lozano, Atkinson and Mou, 2023; Allen and Rahim, 2022.

Countries that prioritized cooperation between Parliaments, supreme audit institutions and independent fiscal bodies had better budgetary oversight outcomes:

*“In Czechia, Germany and the Netherlands, legislatures involved independent state auditors early on in assessing the costs and likely impact of the governments’ proposed pandemic relief and stimulus packages. The National Audit Office in the UK and the French Court of Accounts produced audit reports on public spending during the COVID-19 pandemic at the request of committees in the House of Commons and National Assembly. In Canada, Finland, Ireland, Italy, Latvia and the US, independent fiscal institutions (IFIs) responded to requests from parliaments to supply rapid analysis and commentary on pandemic-related issues.”* (Chiru, 2023).

After appointing a Special Inspector General for Pandemic Recovery, the US Treasury might "conduct, supervise, and coordinate audits and investigations" of all CARES Act initiatives and operations (OECD, 2020). The National Audit Office of Australia promised to report back to lawmakers every month on the progress of the "Advances to the Finance Minister" after an opposition lawmaker in Australia requested an audit of the government's COVID-19 response (Lozano, Atkinson and Mou, 2023). In COVID-19, supreme audit institutions were vital for supervision. Parallel audits of COVID-19 spending "aided in constructing the credibility of the public financial management systems and safeguarded the public interest in real time" (Chiru, 2023).

#### 6.6.2.4 Budget oversight

Supplementary budgets became necessary during the COVID-19 emergency as governments expanded social support to communities whose livelihoods had been disrupted. However, in Zimbabwe, the supplementary budget did not undergo the regular fiscal oversight process by Parliament due to the legislatures' limited functionality during the period. Based on the review articles in Table 6.16, in some jurisdictions, Parliament Budget Offices (PBOs) became essential bodies for the expeditious dissemination of economic and budgetary impact assessments of the pandemic through the implementation of autonomous evaluations of governmental planning assumptions, the formulation of self-generated briefing notes, the development of comprehensive economic and fiscal scenario analyses, the constant updating of real-time economic and public finance projections, and the fulfilment of requests for analysis from both committee bodies and individual lawmakers (OECD, 2020).

**Table 6.16: Budget Oversight**

<b>Ex ante Legislative Oversight</b>			
<b>Conceptual Theme</b>	<b>Organizing Theme</b>	<b>Code</b>	<b>References</b>
Budget and Procurement Oversight	Fiscal oversight	Budget oversight	OECD, 2020; Chugoshvili, Gogvadze, Khulodavar, Pruidze and Rubanova, 2021; Lozano, Atkinson and Mou, 2023; Chiru, 2023; Drake, 2020; Allen and Rahim, 2022; Chauvel and Walczack, 2020;

Despite the disruptions brought about by the pandemic, some parliaments were able to leverage their existing oversight tools or introduced new mechanisms to perform budget oversight. The Austrian Parliament established a special sub-committee to conduct oversight over COVID-19 measures as part of a budget review process while the Spanish Congress created a temporary ad hoc committee to review the COVID-19 social and economic recovery

measures (Chugoshvili, Goguadze, Khulodavar, Pruidze and Rubanova, 2021). From a Parliamentary Budget Office perspective, Australia's PBO provided a public information interface through the regular release of research on government finances and medium-term fiscal projections (Lozano, Atkinson and Mou, 2023). While the role of PBOs is important during a crisis, they should be complemented with effective systems to track the use of public funds through either web-based platform, audit reports or direct inquiries (Drake, 2020).

During COVID-19, some Parliaments still enforced direct accountability on their Ministers of Finance by requiring that they appear before them to account for the emergency public spending. A case in point is Luxembourg, whose Finance and Budget Committee and Budget Oversight Committee organized joint meetings where the finance minister was asked to come and account on state finances and provide on the money spent responding to the pandemic (Chiru, 2023). The UNDP is of the view that budgetary spending during an emergency should still be subject to parliamentary authorization, whether ex-ante or ex-post (Chauvel and Walczack, 2020). By scrutinizing spending proposals, legislatures can ensure compliancy and accountability on emergency spending through clarifying objectives, scale of spending and potential economic impact.

During a crisis, regular Public Finance Management Systems are often not suited to the rapid deployment of fiscal resources in response to an emergency. The use of programmatic budget frameworks in France and Armenia, specific COVID-19 codes to support tracking along the spending chain in Rwanda and the use of dedicated reports in COVID-19 in Uganda enabled expenditure tracking and impact assessments (Allen and Rahim, 2022). South Africa's Auditor General pioneered real time audits during COVID-19 where the financial management of the country's COVID-19 response was assessed on key metrics such as payments, procurements, and deliveries as they occurred (Allen and Rahim, 2022). The audit findings were presented to Parliament where key evidence of overpricing, unfair processes, and potential fraud were presented.

## **6.7 KEY OBSERVATIONS FROM THE REVIEW**

The evidence gathered from the analysis showed that for emergency parliaments to be institutionalised in anticipation of future emergencies and protect them against executive aggrandisement, there should be a willingness to protect the legislative oversight prerogative proactively. Institutional and oversight procedures must ensure that Parliaments are better prepared to respond effectively to future public emergencies.

The recurring theme in the reviewed literature is that emergency legislation should be amended to ensure Parliamentary concurrence on emergency declarations and the inclusion of sunset clauses in emergency regulations. This will ensure that any statutory provisions

enacted to address an emergency are put in place for a limited time and can only be extended by Parliament.

Additionally, the emergency framework should make it mandatory for the Executive to submit accountability reports to Parliaments at specified intervals during the entire period the emergency declaration continues to be active. These reports ensure that the Executive is kept honest and is compelled to account for every decision and regulation issued during the emergency.

A critical intervention which distinguished Parliaments that could retain parliamentary leadership during the COVID-19 period from those that did not was the establishment of special committees to oversee the emergency response measures implemented by the Executive. This ensured that they oversaw and validated emergency regulatory actions by the Executive and guaranteed legislative continuity during the crisis.

While consensus is often difficult to build among different political parties, especially in countries such as Zimbabwe, where adversarial majoritarian conflict is the preferred form of political engagement, scholars are of the view that government-opposition consensus in times of crisis helps to build legitimacy on the emergency response. They justify this approach by arguing that a non-partisan approach to a crisis makes it easier to ensure openness by the Executive when they are called upon to provide answers through oral questioning, government statements and oral evidence sessions.

In order to ensure sustained accountability on emergency spending, the reviewed literature showed that some OECD countries established special sub-committees to oversee the emergency budget. While this is a viable route, Zimbabwe can leverage their existing Standing Committees on Public Accounts to oversee real-time audits of emergency expenditures during public emergencies. To achieve this, these standing committees must work with their supreme audit institutions, such as the Auditor General and the Parliament Budget Offices for real time independent information on programme expenditure.

## **6.8 CONCLUSION**

The review results chapter mapped out the requisite institutional and legal parameters needed for effective emergency parliaments. From an ex ante point of view, while it is widely acknowledged that governments require executive powers as a legal obligation to address crises, there exists a potential peril when adequate measures are not in place to prevent the misuse of these powers by the executive branch. Central to the review of emergency legislation should be the inclusion of sunset clauses which will require that any statutory

provisions enacted to address an emergency is for a limited amount of time and is set to expire unless Parliament extends its validity.

On ex post accountability during emergencies, legislative scholars recommend using *ex post facto* mechanisms such as periodic reviews of executive action and the independent review of regulations. Prescribed provisions in parliamentary procedure for emergencies can compel the Executive to provide regular report backs to dedicated committees created in response to a declaration of emergency.

To maintain oversight processes over budget expenditure and emergency procurement during national emergencies, the reviewed literature confirmed that sub-committees focusing on budgetary measures are essential to minimise procurement corruption and abuse of the public expenditure process. Most importantly, Parliaments ought to strive to develop internal resilience to effectively endure and manage shocks resulting from emergencies without causing harm to the integrity of the system. To achieve institutional resilience, it is proposed that measures for fiscal oversight be reinforced for emergencies through formal and political accountability mechanisms. These mechanisms include but are not limited to limits on emergency spending, reporting, independent verification and analysis; political participation in parliament, political deliberation, political transparency, opposition oversight, and public communications. These interventions should be underlined by strengthening Parliament Budget Offices to expedite the dissemination of economic and budgetary impact assessments of emergency spending.

It is this chapter's considered view that further research opportunities exist to explore the efficacy of real time audit reviews during an emergency in order to minimise instances of corruption and wasteful spending. The COVID-19 pandemic made it clear that ex post audits have significant limitations during an emergency as public resources often had to be deployed quickly and with limited financial controls.

## **CHAPTER SEVEN**

### **DISCUSSION AND THE EMERGENCY OVERSIGHT MODEL**

#### **7.1 INTRODUCTION**

Chapter 6 presented the review findings through the lens of the systematic review protocol. This chapter is a critical reflection on the findings that emerged from the systematic review, especially the legal and institutional parameters required to constitute effective emergency Parliaments during national emergencies. The review results emphasised the importance of ex-ante and ex-post oversight mechanisms to counterbalance Executive aggrandisement in emergencies while fostering public transparency and accountability in the emergency response. At the core of a robust legislative model during emergencies is an oversight system that is grounded in:

- Fit for purpose emergency legislation – codified sunset/review clauses enforced by parliament/legislature; Systematic monitoring and oversight over delegated legislation.
- Parliamentary leadership – Adaptation of rules of procedure to respond to emergencies, proactive participation by political parties and emphasis on continuous innovation to ensure continuous oversight.
- Codification of emergency oversight instruments in parliaments/legislatures – Institutionalising special parliamentary committees, enforcing regular reporting and pursuing legislative inquiry on emergency responses.
- Institutionalised emergency fiscal oversight – strengthening procurement oversight, parliament/audit body nexus and real time budget/expenditure oversight.

This discussion will contextualize these findings within existing literature, explore their implications, and address potential limitations and avenues for further research. More importantly, this chapter will use the review results to develop the emergency oversight model that the Parliament of Zimbabwe can use during national emergencies. The model will strengthen the Parliament of Zimbabwe's institutional capacity to ensure continuous oversight during emergencies by establishing its role in emergency legislation, adapting its operational systems to respond to emergencies, codifying emergency oversight instruments and standardising the deployment of emergency fiscal oversight.

#### **7.2 FIT FOR PURPOSE EMERGENCY LEGISLATION**

Comparative evidence from the systematic review provided conclusive evidence to sustain the view that there are significant gaps in emergency legislation in many countries to allow for legislative continuity and oversight during emergencies. Zimbabwe's use of the Civil Protection Act of 1989, as noted by Moyo and Phulu (2021), exemplified this trend by curtailing



parliamentary oversight and expanding executive authority. The Executives' reliance on this Act for COVID-19 regulations, without a clear parliamentary oversight role, allowed the executive branch to broaden its powers, curtailing individual freedoms and potentially infringing on constitutionally guaranteed rights.

With no mandate for parliamentary consultation during the exercise of executive powers under the Civil Protection Act, significant emergency response decisions made by the Zimbabwean government went unchallenged by the legislative branch. This undermined the system of checks and balances, allowing for executive aggrandizement, which sometimes infringed on constitutionally guaranteed non-derogable rights. The absence of statutory provisions for parliamentary oversight during emergencies was not an isolated issue, as it was also observed in other countries like Nigeria and Hungary (Adegbite, 2023; Oni and Dele-Dada, 2022; International Commission of Jurists, 2022). In Hungary, for example, the Authorization Act granted the government unilateral powers to adopt emergency measures without a sunset clause, effectively bypassing parliamentary control.

In contrast, countries such as Taiwan and Italy demonstrated best practices in maintaining a degree of parliamentary involvement. In Taiwan, the legislature not only reviewed bills initiated by the executive but also passed its own measures as part of the COVID-19 response (Sheng, 2023). Italy similarly required parliamentary certification of executive decrees to ensure their continued validity, providing a necessary balance between executive actions and legislative oversight (Vedaschi, 2022). These examples show that, while some democracies faltered in upholding legislative sovereignty, others found ways to integrate parliamentary scrutiny into their emergency response strategies.

In crises, sunset clauses are essential to politicians' authority. These emergency powers time limits ensure that executive acts are temporary and reviewable by parliament. UK's Coronavirus Act 2020 has a sunset clause that needed parliamentary permission to continue emergency powers, according to Hidalgo, Londras, and Lock (2022). Eisma-Osorio et al. (2021) revealed that the Philippines' Bayanihan 2 Act would have been nullified in December 2020.

Additionally, numerous European governments included sunset provisions to ensure a return to normal governance following the health crisis. The sunset clauses in Austria, Germany, and Sweden's emergency legislation show their commitment to democracy and parliamentary authority, according to Chiru (2023). These laws prevented democratic backsliding by legislating against executive power development.

The study also noted the widespread usage of delegated legislation during the COVID-19 pandemic. Executive directives, such as statutory instruments (SIs) or other rules, rather than new laws were used to solve crises quickly, therefore parliamentary scrutiny was limited. Despite its importance in emergency response, Zimbabwe has no clear SI oversight processes (Moyo and Phulu, 2021). Due to extensive secondary legislation, the UK demanded more positive parliamentary scrutiny (Cormacain, 2020).

Canadian and Australian scholars worried that delegated legislation would undermine parliament and empower the executive branch. Research from Canada and Australia proposes strengthening parliamentary committees to supervise delegated legislation and emergency rules, according to Leuprecht (2020) and Macdonald and Begg (2020). For accountability, the Canadian Macdonald-Laurier Institute recommends parliamentary debates.

Second, quasi-lawmaking—state bodies or agencies making laws—complicated legislative examination. Using Statutory Instrument 83 of 2020, the Zimbabwean Minister of Health enacted the Public Health Order without consulting Parliament. Lack of accountability and transparency is challenged (Moyo and Phulu, 2021). In New Zealand, a 60-day legislative confirmation requirement required continual evaluation of health directives (Dey and Murphy, 2021). Already existing and new parliamentary scrutiny committees, disallowance rules, and sunset clauses helped achieve this.

### **7.3 PARLIAMENTARY LEADERSHIP**

The Parliament of Zimbabwe's failure to provide leadership during COVID-19 made it possible for an overbearing Executive to undermine legislative independence, hindering Parliament's ability to exercise effective oversight over executive actions during the crisis (Moyo and Phulu, 2021).

The review results confirmed that legislative resilience in times of crisis largely depends on the flexibility and adaptability of parliamentary rules of procedure. Comparative evidence from the review showed that European parliaments, which were more independent from their executives, were better able to adapt to the pandemic and retain their oversight prerogative. These parliaments recalibrated their rules to allow for remote plenary sessions, virtual question time, and written inquiries to maintain oversight (Diaz and Manko, 2022). By contrast, in many global south parliaments, such as those in Africa, legislative oversight was significantly diminished due to their weaker independence and slower adaptation to virtual proceedings (Arsil, Ayuni and Mauleny, 2022).

Innovation and the use of technology emerged as a decisive factor in determining which parliaments regained their oversight function swiftly. Legislatures that leveraged technology, such as the UK's hybrid Parliament, were able to maintain legislative operations and enhance their scrutiny of the executive (Smith and Childs, 2021). This innovation not only allowed for continued oversight during the pandemic but also set a precedent for how parliamentary processes might evolve in the future, with remote participation and voting becoming more prevalent (Eisma-Osorio et al., 2021).

The role of political parties, particularly opposition parties, in enforcing executive accountability was another crucial aspect of parliamentary leadership during emergencies. The pandemic saw attempts by governments to sideline opposition scrutiny under the guise of emergency measures. In Zimbabwe, opposition politicians were effectively silenced through recalls and suppression, which severely limited their ability to hold the government accountable (Moyo and Phulu, 2021). This reflects a broader trend seen in other countries where executive dominance intensified during the crisis.

However, in countries with a strong political culture that gives space to opposition parties to lead the public debate, emergency measures during COVID-19 were subjected to immense public scrutiny. A notable example in this regard was New Zealand which relied on a special select committee chaired by the Leader of the Opposition to oversee the government's pandemic response – ensuring a non-partisan approach to oversight. Zimbabwe could benefit immensely from such an approach as it provides the legislature with an opportunity to strengthen legislative engagement during a crisis.

The suspension of public participation in legislative processes during the pandemic was a notable shortcoming in many parliaments, including Zimbabwe. The reduction of public input, exacerbated by the shift to virtual meetings, limited the scope of accountability and transparency in decision-making (Gordon and Cheeseman, 2023). However, in countries like Brazil, there were efforts to institutionalize public participation through digital platforms, allowing for a degree of citizen engagement even during the pandemic (Arsil, Ayuni and Mauleny, 2022).

For this reason, reforming public participation protocols to ensure continued engagement, even in emergency situations, is vital for maintaining democratic legitimacy. As Deveau, Švecová and Baker (2021) suggest, governments and parliaments should integrate digital communication technologies to allow for virtual consultations and feedback from civil society and the public. Ensuring timely public notice of meetings and making recordings available can enhance transparency and public trust in the legislative process during crises.

## 7.4 CODIFICATION OF EMERGENCY OVERSIGHT INSTRUMENTS

Special parliamentary committees emerged as a critical tool to counterbalance the extensive powers accrued by the executive during the pandemic. These committees provided immediate oversight by investigating government responses to the pandemic and maintaining democratic legitimacy. For instance, countries like France, Latvia, Slovenia, and the U.S. implemented special parliamentary committees to monitor both public health and economic measures. Denmark took a more permanent approach by establishing an Epidemics Committee to oversee the government's pandemic response, ensuring ongoing scrutiny. The creation of thematic or cross-party committees, such as in Georgia and New Zealand, showcased the adaptability of legislatures in shaping tailored oversight mechanisms.

In contrast, countries that failed to establish such committees or fully utilize existing ones struggled with maintaining accountability. Zimbabwe, for instance, issued numerous statutory instruments without fully accounting for their implementation to Parliament, leading to a transparency gap. This highlights the importance of having agile oversight structures, like special committees, to respond quickly and effectively to emergencies. By institutionalizing such committees, legislatures can maintain continuity of oversight in any crisis, safeguarding democracy.

Regular reporting mechanisms also played a pivotal role in enhancing transparency and accountability during the pandemic. Legislatures that mandated routine updates from the executive ensured that governmental decisions related to lockdowns, economic relief, and public health interventions were scrutinized. Canada and the Philippines demonstrated strong adherence to this principle. In Canada, for example, the Finance Minister was required to report every two weeks on emergency financial powers, while the Philippines' Bayanihan Act mandated weekly reports to Congress from the President.

The failure to implement robust reporting frameworks, as seen in Zimbabwe and Ghana, hindered accountability and weakened parliamentary oversight. This lack of regular reporting contributed to a diminished role for parliament, as executives claimed the need for expedited action in emergencies, often sidestepping parliamentary scrutiny. The review underscored the necessity for time-bound reporting obligations during crises to ensure that parliaments can hold the executive accountable for actions that significantly impact public welfare.

Legislative inquiries were another key mechanism identified in the review as an ex-post oversight tool. These inquiries allowed legislatures to conduct formal investigations into the government's management of the pandemic. For example, France transformed its ad-hoc parliamentary committee into an inquiry committee, which eventually reviewed the overall

crisis management. Similarly, the UK's Joint Committee on Human Rights conducted an inquiry into the human rights implications of its government's COVID-19 response.

The use of thematic inquiries, as seen in Georgia, demonstrated the capacity of legislative bodies to investigate specific aspects of the pandemic response, such as health, tourism, and business sectors. These inquiries often culminated in recommendations aimed at reforming policy and ensuring that lessons learned during the crisis could inform future governance. The review highlighted how legislative inquiries facilitated post-legislative scrutiny, ensuring that emergency measures were fit for purpose and that governments remained accountable for their decisions.

## **7.5 INSTITUTIONALISED EMERGENCY FISCAL OVERSIGHT**

Governments were forced to respond to the pandemic with supplemental budgets, emergency procurement, and other economic measures, which presented issues for public finance management systems. But as the review results showed, in Zimbabwe and South Africa these acts, which were frequently carried out without regular inspection, created opportunities for corruption and inefficiency (Heywood, 2022; Moyo and Phulu, 2021). To mitigate these challenges, other jurisdictions – such as the Czech Republic, Romania and the UK, temporary investigative committees were set up to look into these inconsistencies, underscoring the significance of increased monitoring in times of emergency (Chiru, 2023).

Governments must institute procurement reforms that ensure data and expenditure tracking at every stage of the process to safeguard resource allocation (Drake, 2020; Allen and Rahim, 2022). The example of the US Congress embedding accountability mechanisms into the Coronavirus Aid, Relief, and Economic Security (CARES) Act illustrates how such measures can improve public trust and prevent abuse (OECD, 2020). Screening of bids and tenders, even during an emergency, is crucial to maintaining confidence in the procurement process and identifying potential irregularities.

The review showed that parliaments should engage with non-partisan offices like Parliament Budget Offices (PBOs) and Supreme Audit Institutions during national emergencies. These groups can provide parliaments with independent, real-time government spending data to analyse emergency expenses. UK, New Zealand, and Germany supported these collaborations to track COVID-19 expenditure, reducing waste and fraud (Chugoshvili et al., 2021; Lozano, 2023).

Parliamentarians need real-time audits during times of national crisis. Real-time audits of COVID-19 spending by the Auditor General of South Africa found significant fraud and overpricing (Allen and Rahim, 2022). This real-time feedback loop between audit bodies and

legislators significantly improved accountability in a period when regular oversight processes were not always feasible.

The COVID-19 pandemic exposed the need for stringent budget control to meet rising social spending. Zimbabwe is one of the few countries without substantial parliamentary monitoring of emergency budgets, resulting in wasteful spending and fiscal rule violations (OECD, 2020). However, Austria and Spain have revised their financial monitoring processes to assure legislative oversight of emergency funds. According to Chugoshvili *et al.* (2021), the Austrian Parliament created a COVID-19-related budgetary subcommittee.

Due to their timely government budget and budgetary projection information, PBOs in some countries were vital throughout the COVID-19 emergency. In Australia, politicians and members of the public were able to view monthly's updates on the government's medium-term budgetary estimate published by the country's PBO (Lozano *et al.*, 2023). Such measures demonstrated that the need for government transparency does not diminish during an emergency, rather it motivates the public to keep track of the measures that the government is taking to respond to the crisis.

## **7.6 PARLIAMENT EMERGENCY OVERSIGHT MODEL FOR ZIMBABWE**

The preceding chapters of this study and the brief discussion of the review results articulated above have provided a detailed analysis of the current legislative oversight gap that currently exist in Zimbabwe's emergency response architecture. As such, the parliament emergency oversight model detailed in this section is a direct answer to the research problem which posits that, "Zimbabwe's national Parliament does not have a structured framework in place to hold the Executive arm of government to account and ensure continuous legislative oversight during a national emergency". The successful implementation of the model will depend on a series of interventions and reforms both at institutional level (Parliament) and at inter-governmental level (between Parliament and other state institutions) in order to ensure a structured approach to emergency oversight in future public emergencies.

### **7.6.1 Validation of the Emergency Oversight Model**

Model validation in social science research is a key requirement in model design as it provides the evidence needed for assessing the credibility and accuracy of a model (Hahn, 2013). It is recognised as a crucial scientific step for ensuring that the model provides a precise representation of the real world system under review. For these reasons, the validation of the Parliament of Zimbabwe's Emergency Oversight Model was essential to ensure that it met its stated objective of achieving legislative continuity and oversight during national emergencies.

The validation process was anchored on a three pronged approach, namely - theoretical assessment and stakeholder engagement.

#### **7.6.1.1 Theoretical assessment**

The recommended structure and processes of the emergency oversight model aligns with the outcomes of the systematic review. Using evidence from the review, the model made use of and emphasised the necessity for sunset clauses in emergency legislation, regular report backs by members of the Executive, a functional relationship with Supreme Audit Institutions and dedicated committees to exercise oversight of the declared emergency.

From New Zealand's approach where Health and COVID-19 orders issued under New Zealand's COVID-19 Public Health Response Act 2020 had to be confirmed by Parliament within 60 days before they lapsed and were constantly scrutinized by the Regulations Review Committee (Dey and Murphy, 2021), the emergency oversight model recommends that a Parliament Special Oversight Committee should have procedural power to review temporary legislation (such as Statutory Instruments) enacted by the Executive during the emergency. Similarly, the requirement under the UK's Corona Virus Act that government reports to Parliament every two months on the status of key provisions in the Act (Hogarth, 2020), has found expression in the emergency oversight model where key Ministers involved in disaster response will be required to submit regular reports to the special oversight committee/s.

By aligning the emergency model with international best practice, as articulated in the systematic review results, the validation process confirmed that it aligned with the key pillars of oversight: legislative scrutiny, fiscal monitoring, and executive accountability.

#### **7.6.1.2 Stakeholder engagement**

For the stakeholder validation process of the Parliament of Zimbabwe's Emergency Oversight Model, I engaged 10 Members of Parliament (MPs) and representatives from three civic advocacy non-governmental organisations that are focused on parliamentary advocacy in Zimbabwe, namely - Southern African Parliamentary Support Trust (SAPST), Veritas, and Open Parly ZW. The MPs were equally divided between the ruling party ZANU-PF and the opposition party Citizens Coalition for Change (CCC).

The input of all the listed stakeholders was gathered through a structured survey questionnaire (see attached Annexure B). In the email accompanying the questionnaire, I explained the objectives of the Parliament Emergency Oversight Model, its core components and outlined the importance of their feedback for refining and improving the model.

The survey questionnaire was aimed at assessing their perceptions of how effectively the model could address the real-world challenges of legislative continuity and oversight during national emergencies, using COVID-19 as a reference point. Questions in the questionnaire covered the following:

- Feasibility of implementation
- Relevance of proposed oversight mechanisms
- Anticipated challenges and gaps in the current model

I actively engaged in email discussions with MPs and NGO representatives who wanted to dive deeper into areas where the survey responses highlighted concerns or ambiguities. This was an invaluable learning opportunity where the stakeholders managed to interact, challenge, and refine the model by discussing their experiences during past emergencies, including how the Parliament had performed and the gaps they identified. I also used this opportunity to explore specific areas of stakeholder expertise, including constitutional interpretations, legal processes during emergencies, and the procedural roles of Parliament.

## **7.6.2 Findings from stakeholder validation**

Contributions from the MPs and NGO representatives provided valuable insights that shaped the final iteration of the Emergency Oversight Model. The feedback highlighted the need for inclusivity, legal foundations, and public engagement, ensuring that the model became more comprehensive and practical for real-world emergencies in Zimbabwe.

### **7.6.2.1 Capacity Building**

A dedicated section was added to the model to provide for mandatory training for MPs and parliamentary staff on emergency procedures, virtual governance tools, and constitutional obligations during emergencies. This follows contributions made by the SAPST representative in which they observed that *“From our experience, the model should include provisions for building capacity among MPs. A lot of the time, MPs are unfamiliar with emergency legislation, which reduces their ability to scrutinize Executive decisions effectively.”* This is consistent with the view of **MP6** who pointed out that *“What is missing here is clear guidance on how Parliament holds the Executive accountable during national emergencies. There should be a fast-track system to review Executive decisions made under emergency powers.”* The protocol for implementing the emergency oversight model explained in section 6.6.2 provides a system of how Parliament can fast track the review of Executive decisions during an emergency.



### 7.6.2.2 Constitutional safeguards

MPs from the opposition benches and representatives from NGOs highlighted the need for more robust oversight mechanisms during emergencies, especially given the tendency for the Executive to centralize power. According to the Veritas representative *“The constitutional basis of the model is crucial. We need to ensure that everything Parliament does during emergencies is backed by solid legal foundations. There are gaps in the current laws that make it difficult to act swiftly in emergencies. The model should recommend constitutional amendments where necessary”*. Agreeing with this notion was **MP2** who admitted that *“One of the biggest challenges is accountability during these emergencies. How do we make sure that the Executive does not misuse its emergency powers? This model should include stronger clauses on Executive accountability.”* Based on these contributions, the Theory of Change for the model discussed in Section 6.6.1 makes a strong case for the amendment of the Civil Protection Act of 1989 to make the role of Parliament clear, especially on the ratification of a declared state of disaster and the introduction of sunset clauses in subordinate legislation.

### 7.6.2.3 Oversight of the Executive

While MPs from the ruling party expressed confidence in the adequacy of oversight mechanisms during a national state of disaster, opposition MPs called for more robust oversight mechanisms during emergencies, especially given the tendency for the Executive to centralize power. They expressed their concerns as follows:

**MP1:** *“During the [COVID-19] pandemic, we struggled to even convene meetings. This model needs to ensure that the Parliament cannot be sidelined again. There must be clear provisions for virtual sittings, with legally binding outcomes.”*

**MP7:** *“In a health emergency ....Parliament’s role was essential. However, we faced many delays in obtaining vital information from the Ministry of Health. We must ensure quicker access to relevant information during a crisis.”*

**MP8:** *“One key issue we faced was that some Executive orders were contradictory, especially at the local government level. The model should address how national and local authorities work together during emergencies.”*

Based on these inputs, the model now includes clearer protocols for summoning the Executive and obtaining information during emergencies, even in cases of severe restrictions.

### 7.6.2.4 Public Engagement

After reviewing the model, the representative from Open Parly ZW *“The model lacks sufficient detail on how Parliament will engage the public. Citizen engagement should not*

*stop during emergencies. The model needs clear guidelines for virtual town halls and mechanisms for public input on key decisions.*” The view is consistent with the outcomes of the systematic review which showed that public participation in parliamentary process became one of the first causalities during the Covid-19 pandemic. It is for this reason that the model not only recommends the adoption of virtual or hybrid sessions that are open to the public but also places greater emphasis on the release of public updates by the special parliament oversight committee tasked with overseeing the emergency response.

### **7.6.3 Theory of Change for the Emergency Oversight Model**

The theory of change for the Emergency Oversight Model is anchored on the argument that without a formal structured approach to emergency, Zimbabwe’s Executive arm of government will continue to act with impunity during emergencies resulting in abuse of power in critical areas like public expenditure, law enforcement, and the implementation of emergency measures. For this reason, the goal of the emergency oversight model, as captured in the theory of change framework below, is to ensure effective legislative continuity and oversight during national emergencies.

#### **7.6.3.1 Explanatory notes for the Theory of Change**

In order to achieve the emergency oversight model’s objective for legislative continuity and oversight, the Parliament of Zimbabwe needs to pursue four strategic reforms or interventions at operational and institutional level.

##### **7.6.3.1.1 Amending emergency legislation**

Members of Zimbabwe’s Parliament should consider introducing a bipartisan Private Members Bill (PMB) that would seek to amend the Civil Protection Act of 1989 to allow for legislated parliamentary oversight upon the declaration of a State of Disaster by the Executive. The PMB should prescribe that Parliament be given the authority to confirm the declaration of a State of Disaster ‘in a reasonable time’ and any extension should be similarly concurred to by the legislature. Of particular importance is that the amendments proposed by the PMB should include the introduction of sunset clauses in the Act which will require that any statutory provisions enacted to address an emergency are put in place for a limited amount of time and set to expire unless their validity is extended by Parliament. The aforementioned amendments proposed through the PMB will be consistent with Sections 107(2) and 119(3) not only enjoin the Zimbabwean Parliament to scrutinize and oversee Executive action, but also ‘...*the power to oversee all institutions and agencies of the government, including ministries and parastatals*’. Since the Constitution is not suspended during a State of Disaster, the

implementation of the Civil Protection Act of 1989 should be brought in alignment with Parliament's constitutional obligation to maintain oversight over executive action.

#### **7.6.3.1.2 Adapting parliamentary processes**

As highlighted in Chapter 1 of this research, the Parliament of Zimbabwe struggled to fully adapt to changed operational circumstances, necessitated by COVID-19, choosing instead to remain adjourned for weeks soon after the declaration of the State of Disaster. With no discernible effort at the institutional level to adapt the parliamentary business in order to ensure adequate oversight in the implementation of COVID-19 emergency interventions by the Executive, the democratic failsafe mechanisms to monitor public expenditure and law enforcement were removed from Zimbabwe's governance response to the pandemic.

To mitigate this shortcoming, the Parliament Committee on Standing Rules and Orders should consider a review of the rules and orders in order to ensure that the institution is ready and prepared to exercise its oversight function during a national emergency. Key to the amendment of these standing rules and orders is that they should align with the amendment proposed above for the Civil Protection Act of 1989. This means that as soon as the President declares a national state of disaster through the Act, Parliament should immediately constitute either special disaster committees or employ existing committees to exercise oversight over the proclaimed emergency. The review results showed that legislatures that exhibited strong parliamentary leadership during the Covi-19 emergency did so by adapting their roles to the new reality by passing secondary legislation protecting their oversight function, recalibrating their rules of procedure to sustain oversight over the Executive and introducing special committees to oversee Executive emergency response.

#### **7.6.3.1.3 Codifying emergency oversight instruments**

Following the parliamentary procedural changes described previously, the new standing rules and regulations must formalise special committees in the case of a national emergency. The amendment/s need to specify how these committee/s will be constituted and their terms of reference in relation to the declared disaster. Codifying the role of special committees in the standing rules and orders will ensure that Parliament wastes no time in putting the necessary oversight infrastructure in place to oversee the implementation of the emergency response.

For the special oversight committees to be effective, opposition political parties should be adequately represented. The review results showed that opposition political parties represented in the legislature bring an added layer of executive accountability as their voice acts as a counterbalance to cross party consensus on oversight and can act as a catalyst for public discourse through criticism of executive action.

The codification of oversight instruments in the standing rules and orders should also require that government Ministers that are actively involved in the emergency response make regular reports to Parliament through the special committees. In this instance, it is equally important to outline a clear timetable for the delivery of reports and updates from the Executive to the committees. This would include a mandatory frequency for appearances by key ministers involved in the disaster response, ensuring that Parliament remains continuously informed and can provide timely feedback on the unfolding situation. Regular reporting would also increase transparency, allowing Parliament to swiftly identify any areas of concern, delays, or inefficiencies in the implementation of the emergency measures.

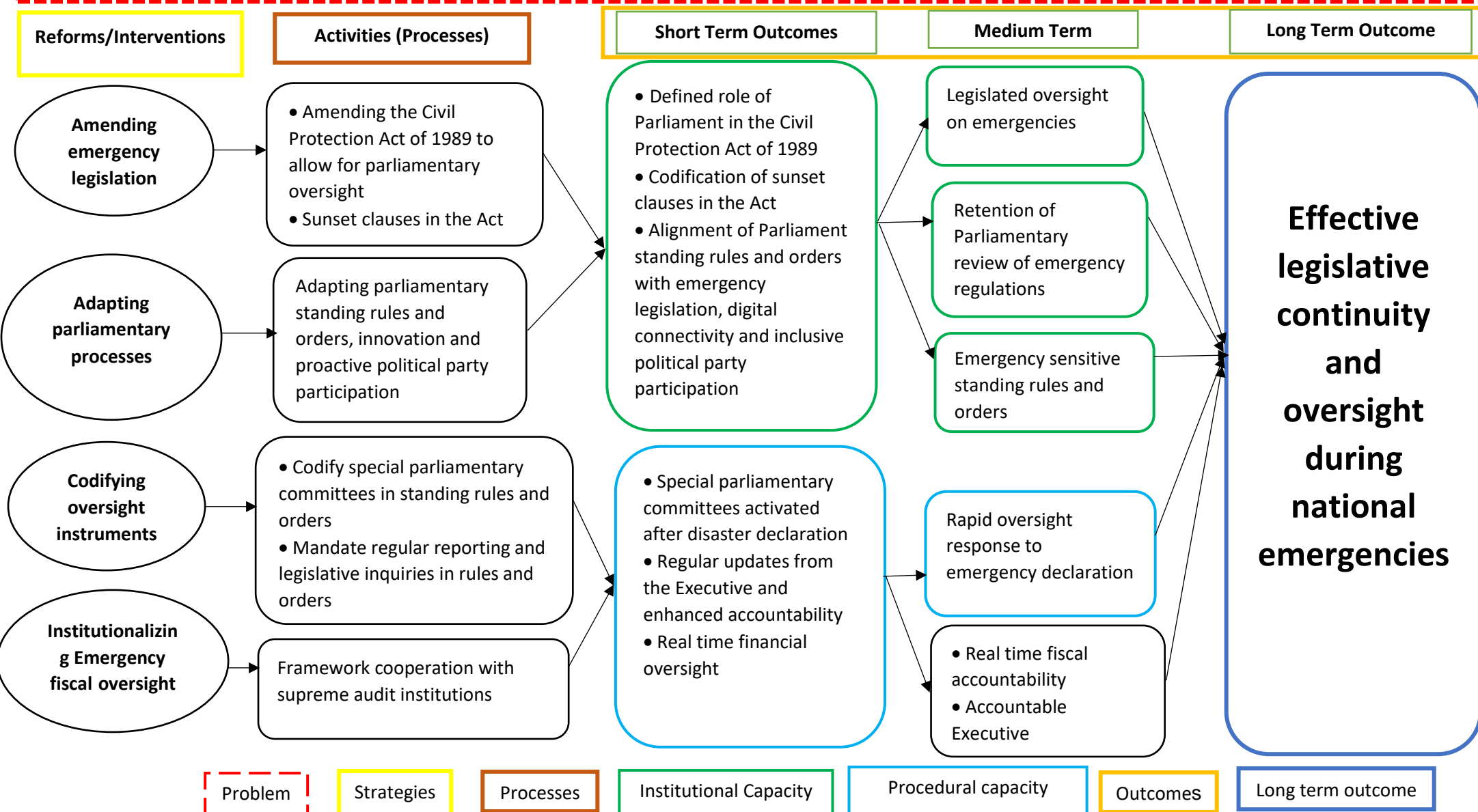
Given that national emergencies often necessitate rapid decision-making, it is essential that Parliament has the ability to convene virtually or in hybrid formats. This flexibility would ensure that oversight activities continue uninterrupted, even under circumstances that may prevent physical meetings, such as lockdowns or natural disasters. Codifying this adaptability would empower Parliament to perform its oversight function regardless of external disruptions, thereby reinforcing the continuity of government accountability in times of crisis.

#### **7.6.3.1.4 Institutionalising emergency fiscal oversight**

The Parliament of Zimbabwe should become adept at real time expenditure monitoring during national emergencies. Review results confirmed that this can only be possible through information sharing partnerships with supreme Audit Institutions and the Parliament Budget Office, which are key institutions for obtaining vital independent information on programme expenditure. Parliament should have a written down working arrangement with the Auditor General and the PBO to publish expenditure data regularly for as long as the disaster declaration continues to subsist. During COVID-19, countries that used real time audit information retained public confidence and protected the public interest in real time.

**Figure 7.1: Theory of Change for the Parliament of Zimbabwe Emergency Oversight Model**

**Problem:** Zimbabwe's national Parliament does not have a structured framework in place to hold the Executive arm of government to account and ensure continuous legislative oversight during a national emergency



## **7.7 IMPLEMENTATION AND ACTIVATION OF THE PARLIAMENT EMERGENCY OVERSIGHT MODEL**

The framework and structure of the Parliament Emergency Oversight Model will be dependent on the timely implementation of reforms/interventions listed in the Theory of Change above, namely: amending emergency legislation, adapting parliamentary processes, codifying oversight instruments and institutionalising emergency fiscal oversight. Once this has been accomplished, Parliament must adopt an implementation protocol which should guide the legislatures' response in a situation where a State of Disaster has been declared.

In the event that a State of Disaster is declared, the Protocol for the Parliament Emergency Oversight Model will follow a systematic, phased response to ensure effective oversight of the Executive's actions during the emergency. Figure 7.2 shows a step by step guide of the protocol detailing how the oversight model will be utilised by Parliament once a national state of disaster has been declared.

### **7.7.1 Activation of Legislative Oversight**

- **Confirmation of the State of Disaster Declaration** – With the role of Parliament clearly articulated in the amended Civil Protection Act of 1989, Parliament has to convene within a prescribed time limit to either confirm, amend or reject a declaration for a national state of disaster. All emergency measures introduced as a result of a disaster declaration have to be ratified by Parliament before they can be implemented.
- **Formation of Special Oversight Committee/s** – Soon after the confirmation of the declared national State of Disaster by Parliament, the amended Standing Rules and Orders will mandate the formation of a Special Oversight Committee or mandate existing committees to oversee the emergency response. It is important that the emergency oversight committee has representation from opposition parties to maintain balanced scrutiny and avoid a concentration of power. The special oversight committee should be constituted with a defined mandate to oversee executive actions throughout the emergency.

### **7.7.2 Executive Accountability**

- **Regular Reporting by Key Ministers** – Based on the amended Standing Rules and Orders, key Ministers directly involved in the disaster response should submit regular reports of their respective departmental responses to the a Special Oversight Committee. Ministers must provide detailed updates on public expenditure, emergency measures, resource allocations, and law enforcement activities.

- **Continuous Monitoring of Expenditure** - In partnership with Supreme Audit Institutions such as the Auditor General and the Parliament Budget Office, Parliament must monitor real-time expenditure data to minimise instances of wasteful expenditure and corruption. This process will ensure that funds allocated for emergency relief are used effectively and transparently. Steps should also be taken to publish regular audits in order to maintain public confidence in the integrity of the government's spending during the disaster.

### 7.7.3 Adjustment to Legislative Procedures

- **Virtual or Hybrid Sessions** – The amended Standing Rules and Orders should have provisions allowing Parliament to hold either virtual or hybrid sessions should physical meetings be restricted due to the nature of the declared national disaster (e.g. health risks or natural disasters). This will ensure that Parliament continues to exercise its oversight function seamlessly without interruption due to the external circumstances.
- **Introduction of Temporary Legislation** – The Special Oversight Committee should have procedural power to review temporary legislation (such as Statutory Instruments) enacted during the emergency, while ensuring their compliance to the sunset clause in the amended Civil Protection Act of 1989. This is necessary for the purposes of providing a legal guarantee that the temporary legislation and the emergency measures introduced by the Executive are proportional, necessary, and time bound.

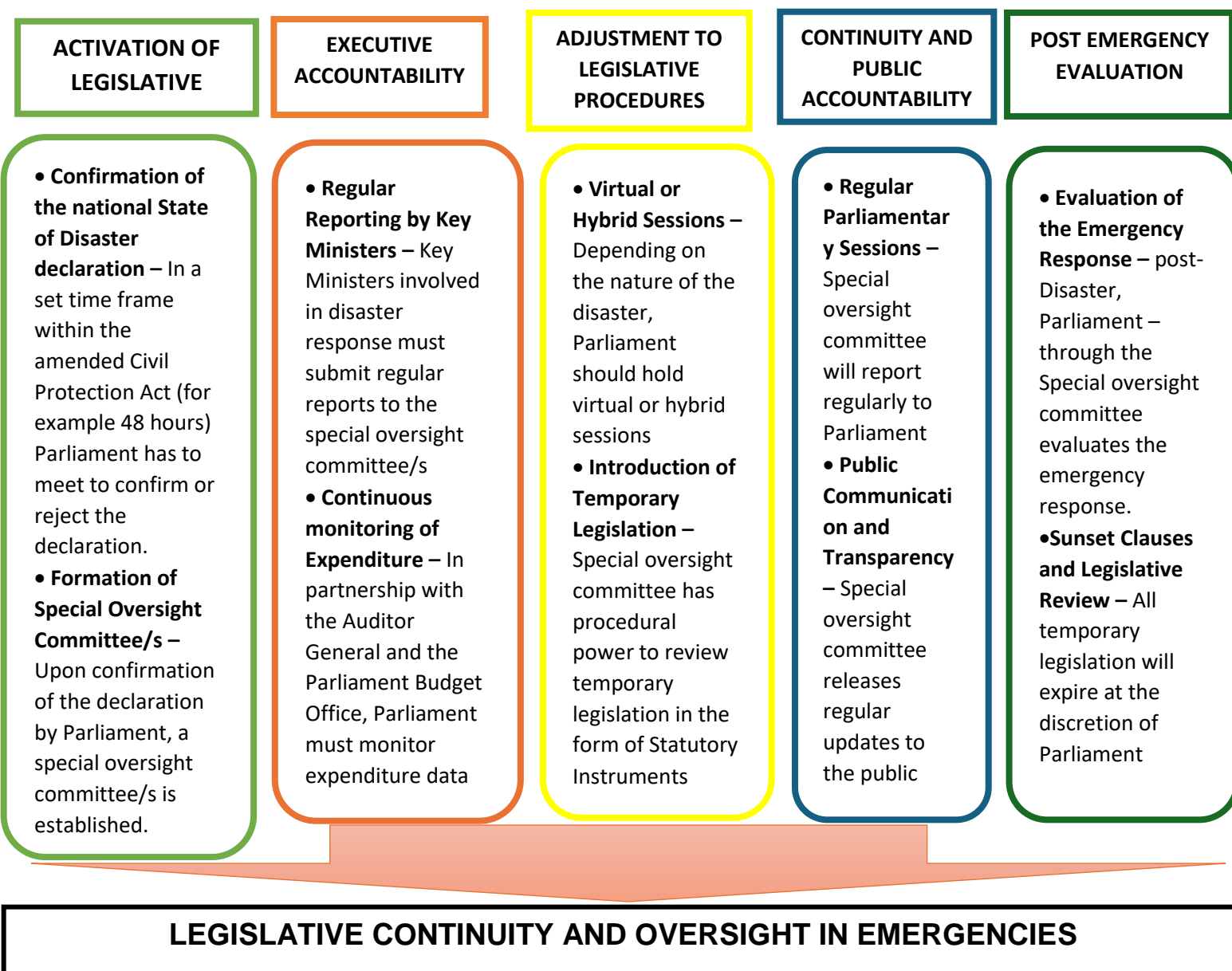
### 7.7.4 Continuous Oversight and Public Accountability

- **Regular Parliamentary Sessions** - The amended Standing Rules and Orders should mandate the Special Oversight Committee to report regularly to Parliament for the duration of the declared emergency on issues relating to the emergency response and any challenges or issues identified by the committee. Parliamentarians will have more precise data to debate and vote on State of Disaster modifications and extensions.
- **Public Communication and Transparency** – In order to promote public accountability and transparency, the special oversight committee should release regular updates on the emergency response to the public and the status of oversight activities. This is necessary to bolster public confidence in the government's response and ensures that citizens are informed of how their representatives are holding the Executive to account.

### 7.7.5 Post Emergency Evaluation

- **Evaluation of the Emergency Response** – In the post-Disaster phase, Parliament – through the special oversight committee, must conduct a full evaluation the emergency response, focusing on government’s handling of the disaster. This evaluation will include assessments of public expenditure, the effectiveness of emergency measures, and how well the Executive adhered to parliamentary oversight. Lessons are learned from this exercise will inform future responses to national emergencies.
- **Sunset Clauses and Legislative Review** - All temporary legislation and emergency measures will expire unless formally extended by Parliament. This process ensures that the extraordinary powers granted to the Executive are returned to normal once the disaster is over.





*Fig. 7.2: Implementation of the Parliament Emergency Oversight Model*

Source: Compiled by Researcher

#### 7.6.2.1 Immediate activation of parliamentary oversight

The practicality and viability of the emergency oversight model is found in the simple fact that from the moment a disaster is declared, Parliament steps in with structured oversight mechanisms. Through regular reporting by the Executive, real time fiscal audits and a procedurally adapted parliamentary procedures, Zimbabwe's Parliament can confidently fulfil its constitutional oversight duties in times of national crisis.

## 7.7 CONCLUSION

This chapter was divided into two sections. The first section was a discussion of the findings of the systematic review in Chapter 5. Review results showed that in order to strengthen legislative oversight gaps during national emergencies there is need to develop a robust legislative framework that is supported by fit for purpose emergency legislation, pro-active parliamentary leadership, codification of emergency oversight instruments and institutionalised emergency fiscal oversight.

The second section of the chapter presented the development process and structure of the proposed Emergency Oversight Model for the Parliament of Zimbabwe. Cognisant of the country's unique institutional and governance structure, the model was first validated through theoretical assessment and stakeholder engagement before it was designed and finalised. Findings from the validation process emphasised the importance of strengthening the role of Parliament during emergencies and, promoting accountability and transparency during times of national crisis.

The theory of change underpinning the model suggests that in order for the Parliament of Zimbabwe to strengthen its oversight function during emergencies, there is need for urgent amendment to the Civil Protection Act of 1989, adaptation of parliamentary processes and codification of emergency oversight instruments. Implementing these reforms will ensure that Parliament is able to effectively scrutinize executive actions, exercise real-time fiscal oversight, and provide legislative continuity during times of crisis.

The chapter concluded by offering a protocol of how the model will be implemented in practice should a state of disaster be declared (assuming that the recommended reforms in the Theory of Change have been implemented). A systematic process of parliamentary leadership will immediately ensure incorporating the activation of internal legislative actions, the procedure for executive accountability to adaptation of legislative procedures – which will all culminate in post emergency evaluation. By institutionalizing these oversight mechanisms, Zimbabwe's Parliament will not only fortify its role in upholding democratic checks and balances but also enhance public trust in governance during national emergencies.

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## APPENDICES

### Appendix A - Theme Classification and Systematic Review Sources

Ex-ante Legislative Oversight			
Conceptual Themes	Organizing Themes	Codes	Sources
Emergency Legislation	Statutory emergency frameworks	Emergency legislation and oversight	Moyo and Phulu, 2021; Vendaschi, 2022; Grogan, 2020; Addadzi-Koom, 2020; Adegbite, 2023; Bolleyer and Salát, 2021; Bröhmer, 2021; Cormacain, 2020; Chiru, 2023; Hidalgo, Londras and Lock, 2022; Sheng, 2023; Oni and Dele-Dada, 2022; Windholz, 2020; Leuprecht, 2020; Lee, 2020; Macdonald & Begg, 2020; Dey & Murphy, 2021; Hickman, 2020; International Commission of Jurists, 2022; Fombad and Abdulrauf, 2020; Chiru, 2023.
		Sunset and review clauses	International Commission of Jurists, 2022; Dey & Murphy, 2021; Hidalgo, Londras and Lock, 2022; Chiru, 2023; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Bolleyer and Salát, 2021.
		Delegated legislation	Hickman, 2020; Dey and Murphy, 2021; Macdonald & Begg, 2020; Lee, 2020; Leuprecht, 2020; Hidalgo, Londras and Lock, 2022; Cormacain, 2020; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Moyo and Phulu, 2021.
		Quasi law making	Dey and Murphy, 2021; Addadzi-Koom, 2020; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Moyo and Phulu, 2021.

Parliamentary leadership	Proactive emergency legislative oversight	Rules of procedure	Maciel, 2021; Griglio, 2020; Deveau, Švecová & Baker Hughes, 2021; Diaz & Manko, 2022; Arsil, Ayuni and Mauleny, 2022; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; and Mortimer, 2020; Birla, 2022; Butković, 2021; Fitsilis and Pliakogianni, 2021; Borghetto, 2023; Bar-Siman-Tov, 2020; Mansfeldova, 2023; Pyschny, 2023; Serowanec and Witkowski, 2020; Bassetti & Weiner, 2020; Smith & Childs, 2021; Ammann and Uhlmann, 2022; Priddy, 2021; White, 2020; Chaplin, 2020(a); Londras and Lock, 2022; Petrov, 2020; Akirav, 2023; Mencarelli, 2022; Kouroutakis, 2021; Atienza, 2020; Ouverney and Fernandes, 2022.
		Innovation and adaptability	Bassetti & Weiner, 2020; Deveau, Švecová & Baker, 2021; Gordon & Cheeseman, 2023; Smith & Childs, 2021; Eisma-Osorio, Grabow, Hefe, Samse, Bröhmer, Lokur, Sulistiawati, Ejima, Rhee, Mönkhceceg, McLay, Pampilo, Oquias, Gao, 2021; Hughes and Mortimer, 2020; Birla, 2022; Fitsilis and Pliakogianni, 2021; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Borghetto, 2023; White, 2020; Maciel, 2021; Priddy, 2021; Bar-Siman-Tov, 2020; Griglio, 2020; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021.
		Political party activity	Akirav, 2023; Deveau, Švecová & Baker, 2021; Gordon & Cheeseman, 2023; Lokur, 2021; Hughes and Mortimer, 2020; Kouroutakis, 2021; Butković, 2021; Bar-Siman-Tov, Rozenberg, Benoît, Waismel-Manor and Levanon, 2021; Borghetto, 2023; Ciolli and Luciani, 2020; Bar-Siman-Tov, 2020; Malloy, 2020; Rydzewska,

			2021; Mansfeldova, 2023; Pyschny, 2023; Louwerse, Sieberer, Tuttnauer and Andeweg, 2021; Petrov, 2020.
		Public participation	Gordon & Cheeseman, 2023; Deveau, Švecová & Baker, 2021; Bassetti & Weiner, 2020; Arsil, Ayuni and Mauleny, 2022
Ex-post Legislative Oversight			
Executive accountability	Instruments of legislative oversight	Special parliamentary committees	Brock, 2022; Chugoshvili, Goguadze, Khulodavar, Pruidze & Rubanova, 2021; Chauvel & Walczack, 2020; Baruch & Mordechay, 2020; Bassetti & Weiner, 2020; Deveau, Švecová & Baker, 2021; Dey & Murphy, 2021; Gordon & Cheeseman, 2023; ; Chiru, 2023; Albin, Bar-Siman-Tov, Gross and Brandes, 2021; Knight, 2021; Bröhmer, 2022; Adams, Janse, Daniels, Herrenberg & van Schaik, 2022; Onoge, 2021; Hogarth, 2020; Dan-Azumi and Abubakar, 2020; Moulds, 2020; Wilkins, 2023; Hellyer, 2021.
		Regular reporting (parliamentary questions)	Brock, 2022; Asamoah and Nyadzi, 2022; Chugoshvili, Goguadze, Khulodavar, Pruidze, & Rubanova, 2021; Gordon & Cheeseman, 2023; Chiru, 2023; Adams, Janse, Daniels, Herrenberg & van Schaik, 2022; Atienza, 2020; Hogarth, 2020; Dan-Azumi and Abubakar, 2020; Wilkins, 2023; Hellyer, 2021.
		Legislative inquiry	Crego and Kotanidis, 2020; Chugoshvili, Goguadze, Khulodavar, Pruidze, & Rubanova, 2021; Chauvel & Walczack, 2020; Deveau, Švecová & Baker, 2021; Chiru, 2023; Knight, 2022; ; Adams, Janse, Daniels, Herrenberg and

			Van Schaik, 2022; Dan-Azumi and Abubakar, 2020; Moulds, 2020; Wilkins, 2023.
Budget and Procurement oversight	Fiscal Oversight	Procurement reports	Chugoshvili, Gogvadze, Khulodavar, Pruidze, & Rubanova, 2021; Chiru, 2023; Drake, 2020; OECD, 2020; Allen and Rahim, 2022; Oni and Dele-Dada, 2022.
		Parliament/audit body nexus	Chugoshvili, Gogvadze, Khulodavar, Pruidze, & Rubanova, 2021; Chauvel & Walczack, 2020; Chiru, 2023; Drake, 2020; OECD, 2020; Lozano, Atkinson and Mou, 2023; Allen and Rahim, 2022.
		Budget oversight	OECD, 2020; Chugoshvili, Gogvadze, Khulodavar, Pruidze & Rubanova, 2021; Lozano, Atkinson and Mou, 2023; Chiru, 2023; Drake, 2020; Allen and Rahim, 2022; Chauvel & Walczack, 2020.

## **Appendix B- Review Questionnaire for the Emergency Oversight Model**

### **INVITATION TO PARTICIPATE IN A REVIEW OF A PARLIAMENT OF ZIMBABWE EMERGENCY OVERSIGHT MODEL**

**Dear Participant/Respondent**

**enemuramba@gmail.com**

You are invited to participate in an open-ended questionnaire to review a Parliament of Zimbabwe Emergency Oversight Model that was designed in partial fulfillment of a PhD research project titled: “A legislative framework for parliamentary oversight during national emergencies in Zimbabwe”.

The purpose of the research project is to analyse the efficacy of the Parliament of Zimbabwe’s oversight function in holding the Executive arm of government to account during national emergencies using lessons from the COVID-19 pandemic and to propose an emergency oversight model to guide Parliament in future national emergencies.

The brief for the research was that ‘Zimbabwe’s national Parliament does not have a structured framework in place to hold the Executive arm of government to account and ensure continuous legislative oversight during a national emergency’. This became evident during the COVID-19 pandemic when the activation of the Civil Protection Act of 1989 to declare a State of Disaster resulted in the broadening of Executive Powers and the sidelining of Parliament.

The proposed Emergency Oversight Model seeks to address this challenge by institutionalising sustained emergency oversight and Executive accountability during emergencies through:

- Fit-for-purpose emergency legislation – codified sunset/review clauses enforced by parliament/legislature; Systematic monitoring and oversight over delegated legislation.
- Parliamentary leadership – Adaptation of standing rules and orders to respond to emergencies, proactive participation by political parties and emphasis on continuous innovation to ensure continuous oversight.
- Codification of emergency oversight instruments in parliaments/legislatures – Institutionalising special parliamentary committees, enforcing regular reporting and pursuing legislative inquiry on emergency responses.
- Institutionalised emergency fiscal oversight – strengthening procurement oversight, parliament/audit body nexus and real-time budget/expenditure oversight.

This study is being conducted by Enocent Nemuramba under the supervision of Professor Robertson Tengeh. Enocent is working towards the completion of a PhD in Public Administration in the Faculty of Business and Management Sciences, at the Cape Peninsula University of Technology (CPUT):

**Enocent Nemuramba**

PhD Research Student  
Faculty of Business and Management Sciences

Cape Peninsula University of Technology  
[enemuramba@gmail.com](mailto:enemuramba@gmail.com)

**0027710951806**

**Prof Robertson Tengeh**

Research Supervisor  
Department of Management and  
Entrepreneurship

University of the Western Cape  
[rtengeh@uwc.ac.za](mailto:rtengeh@uwc.ac.za)

**Informed Consent**

Your participation in the questionnaire will help in ensuring that the proposed Emergency Oversight Model is fit for purpose and can assist the Parliament of Zimbabwe in strengthening its oversight function during national emergencies. We estimate that it will assume 45 minutes of your time to complete the questionnaire. You are free to contact the research student/investigator at the above email address or cell number to discuss the questionnaire.

There are no risks and costs involved for participating.

Email addresses will be kept during the data collection phase for tracking purposes only. Information gathered will be stripped from the final data set.

Reasonable measures have been taken to protect your identity and responses. The questions in this survey do not ask you to reveal any personal information. Your participation in this questionnaire is voluntary. You may decline to answer any question and you have the right to withdraw from participation without penalty. If you wish to withdraw from the study or have any questions, contact the investigators.

This study has received ethics clearance from the CPUT, Faculty of Business and Management Sciences and the Clerk of the Parliament of Zimbabwe.

## **QUESTIONS**

1. How effective do you believe the Parliament of Zimbabwe's oversight has been in holding the Executive accountable during past national emergencies, such as the COVID-19 pandemic?
2. What challenges do you see in implementing a structured oversight framework to hold the Executive accountable during emergencies?
3. How important do you consider codified sunset/review clauses in emergency legislation (such as the Civil Protection Act of 1989) to be for ensuring balanced oversight during emergencies?
4. In your opinion, how could systematic monitoring of delegated legislation (use of Statutory Instruments) during emergencies be improved to prevent abuse of power?
5. How can parliamentary leadership and adaptation of standing rules and orders better support continuous oversight during emergencies?
6. What role do you believe political parties should play in ensuring proactive and innovative parliamentary oversight during emergencies?
7. What are your thoughts on establishing special parliamentary committees dedicated to overseeing emergency responses? How could these committees be made effective?

8. How important is it to have regular reporting and legislative inquiries during emergencies? What frequency would you suggest for such reporting?

9. How can Parliament strengthen fiscal oversight, especially in the areas of procurement and real-time expenditure tracking during a national emergency?

10. What additional measures or improvements would you suggest for the proposed Emergency Oversight Model to ensure it is fit for purpose in future emergencies?

**Thank you for taking part in this questionnaire**



## Appendix C - Ethics Clearance Certificate: Faculty of Business and Management Sciences



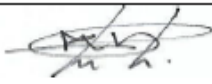
P.O. Box 1906 | Bellville 7535  
Symphony Road Bellville 7535  
South Africa  
Tel: +27 21 4603291  
Email: fbmsethics@cput.ac.za

Office of the Chairperson Research Ethics Committee	<b>FACULTY: BUSINESS AND MANAGEMENT SCIENCES</b>
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The Faculty's Research Ethics Committee (FREC) on 4 May 2021, ethics APPROVAL was granted to Enocent Nemuramba (216156777) for a research activity for Doctor of Public Administration at Cape Peninsula University of Technology.

Title of dissertation / thesis / project:	A legislative framework for parliamentary oversight during national emergencies in Zimbabwe  Lead Supervisor (s): Prof R K Tengeh
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Decision: **APPROVED**

	12 May 2021
Signed: Chairperson: Research Ethics Committee	Date

The proposed research may now commence with the provisions that:

1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the CPUT Policy on Research Ethics.
2. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study requires that the researcher stops the study and immediately informs the chairperson of the relevant Faculty Ethics Committee.
3. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
4. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards to the protection of participants' privacy and the confidentiality of the data, should be reported to the Committee in writing accompanied by a progress report.
5. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines, and scientific standards relevant to the specific field of study. Adherence to the following South African legislation is important, notably compliance with the Bill of Rights as provided for in the Constitution of the Republic of South Africa, 1996 (the Constitution) and where applicable: Protection of Personal Information Act, no 4 of 2013; Children's act no 38 of 2005 and the National Health Act, no 61 of 2003 and/or other legislations that is relevant.
6. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data requires additional ethics clearance.
7. No field work activities may continue after two (2) years for Masters and Doctorate research project from the date of issue of the Ethics Certificate. Submission of a completed research ethics progress report (REC 6) will constitute an application for renewal of Ethics Research Committee approval.

**Clearance Certificate No | 2021\_FBMSREC 028**

## Appendix D - Research Approval: Parliament of Zimbabwe

All communications should be addressed to:  
**CLERK OF PARLIAMENT**

Fax: 252935



**PARLIAMENT OF ZIMBABWE**  
P.O. Box CY 298  
Causeway  
Zimbabwe  
Telephone: 700181-8, 252931  
252936/7, 252940/2  
252945/6, 708923

Ref: 12

16 December 2020

Mr. Enocent Nemuramba  
Unit A8 St. James Complex  
Parklands Main Road  
Parklands  
Cape Town  
7441  
**SOUTH AFRICA**

Dear Mr. Nemuramba

### **REQUEST FOR PERMISSION TO CONDUCT RESEARCH FOR PhD IN PUBLIC ADMINISTRATION**

With reference to your letter dated 8 December 2020, requesting for permission to conduct research for a PhD in Public Administration at the Parliament of Zimbabwe, I am pleased to advise that authority has been granted for you to collect and analyze data related to your topic, ***"Evaluating Parliamentary Oversight in National Emergencies, with a special focus on the Parliament of Zimbabwe's response to COVID 19"***.

In this regard, you are advised to contact the Human Resources Department at your convenience and bring a copy of this letter for reference.

Yours faithfully

A handwritten signature in black ink, appearing to read 'H. Chingoma'.

**Henry Chingoma**  
Director Human Resources  
For: **Clerk of Parliament**



Cc : Deputy Clerk - Mrs. Sunga  
File 12

## Appendix E - Editors' Certificate

