



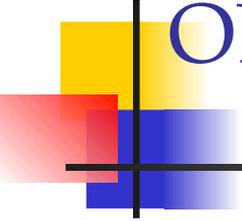
THE ROLE AND FUNCTION OF PARLIAMENT AND MANDATE OF COMMITTEES OF PARLIAMENT

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LCC/FRONT BENCH RETREAT, WILD GEESE LODGE,
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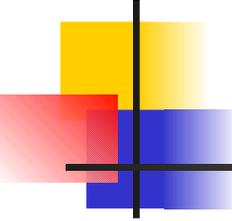
OBJECTIVES OF THE PRESENTATION

OVERALL OBJECTIVE:

- To provide Ministers/Deputy Ministers/Secretaries a forum to understand the role and function and the mandate of Committees of Parliament.

SPECIFIC OBJECTIVES:

- To outline the specific manner on how Parliament exercise its oversight functions
- To enhance interaction between backbenchers and front benchers.



LEGISLATIVE AUTHORITY

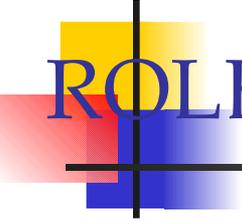
Section 32 of the Constitution provides that

- The Legislative authority of the country is vested in the Legislature consisting of the President and Parliament
- In terms of section 33 of the Constitution, Parliament consist of two Houses, the Senate and House of Assembly.

Mandate of Parliament

- The mandate of Parliament is provided for in Section 50 of the Constitution, which states

“Parliament shall make laws for the peace, order and good government of Zimbabwe”.



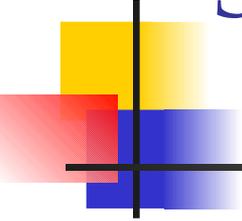
ROLES AND FUNCTIONS OF PARLIAMENT

The role of Parliament was aptly described by the Parliamentary Reform Committee (PRC), which stated in its Foundation Report (May 1998) that:

- The role of Parliament is to legislate, to scrutinize the policies and
- activities of the Executive, to hold the Executive to account for its
- actions and to act as a forum for democratic participation by all
- members of society.

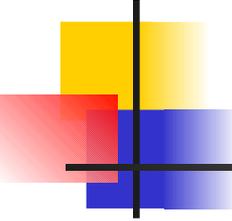
Embodied in the above statement are the three roles of legislatures that are universally recognised, namely;

- Legislative;
- Executive Oversight;and
- Representational.
- Forum for Public Debate;
- Acting as an electoral college in the election of the President in the event the office becomes vacant.



SOURCES OF PARLIAMENTARY AUTHORITY AND POWER

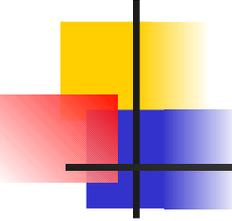
- Section 49 of the Constitution empowers Parliament to enact a statute to determine and regulate the privileges, immunities and powers of Parliament.
- Parliament enacted the Privileges, Immunities and Powers of Parliament Act Chapter 2.08.
- Parliamentary privilege refers to a special right by Parliament as a body, members as individuals as well as witnesses who appear before Parliament.
- That this privilege is part of our law in Zimbabwe is not subject to dispute as section 4 of the Privileges, Immunities and Powers of Parliament Act Chapter 2.08 provides that;-
 - ‘The privileges immunities and powers of Parliament and members and officers of Parliament shall be part of the general and public law and it shall not be necessary to plead them but they shall be judicially noticed in all courts’*



STANDING ORDERS

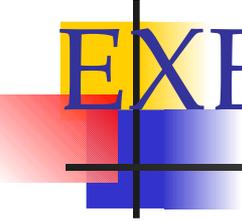
- Parliament derives its powers from the Standing Orders that are made in terms of section 57 of the Constitution.
- The oversight role is conferred on Parliament and codified by the House of Assembly Standing Order 159(2) and Senate Standing Order 149(2).
- In the case of *Biti and Another v the Minister of Justice, Legal and Parliamentary Affairs*,^[1] the Supreme Court drew attention to the fact that Schedule 4(1)(3) of the Constitution gives Standing Orders the status of law.

[1] 2002(1)ZLR 177(S)



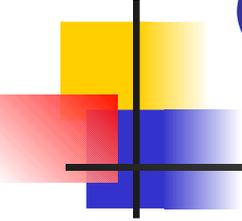
EXECUTIVE OVERSIGHT

- Oversight -the review, monitoring, and supervision of operations and activities takes a variety of forms and utilizes various techniques.
- These range from specialized investigations by select committees to annual appropriations hearings.
- Oversight is supported by a variety of authorities. The Constitution, public law, and chamber and committee rules-and it is an integral part of the system of checks and balances between the legislature and the executive



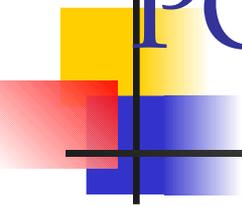
EXECUTIVE OVERSIGHT cont...

- Oversight, as an outgrowth of the system of checks and balances, ideally serves a number of overlapping objectives and purposes;-
 - ✓ Improve the efficiency, economy, and effectiveness of governmental operations;
 - ✓ Evaluate programs and performance
 - ✓ Detect and prevent poor administration, waste, abuse, arbitrary and capricious behavior, or illegal and unconstitutional conduct;
 - ✓ Protect civil liberties and constitutional rights;
 - ✓ Inform the general public and ensure that executive policies reflect public interest;
 - ✓ Gather information to develop new legislative proposals or amend existing statutes;
 - ✓ Ensure administrative compliance with legislative intent;
 - ✓ Prevent executive encroachment on legislative authority and prerogatives



OVERSIGHT TECHNIQUES

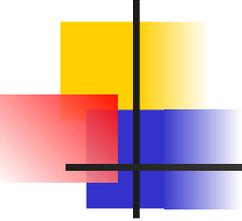
- Parliament performs Executive Oversight by scrutinizing government policies, programmes, and expenditure plans.
- This is done, among other things, by making inputs into, approving and monitoring the national budget.
- Parliament, through its system of Portfolio and the recently established Thematic Committees, monitors all government policies and programmes to ensure efficient use of national resources.
- In addition, individual members can raise questions or move motions that relate to government policies and programmes.



PORTFOLIO COMMITTEES

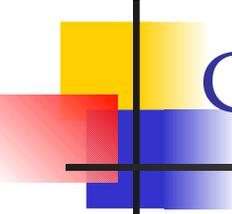
- The Parliamentary Reform Committee (PRC) in its Foundation Report (May 1998), observed that Parliament as a collective body cannot effectively carry out the executive oversight function.
- It recommended that Parliament delegates this function to Portfolio Committees.
- A functioning committee system could make public resource allocations and policy making more transparent and open.
- Portfolio Committees provide an avenue for citizens and civic organizations to contribute to the policy making process, through written submissions or by participating in public hearings.
- There are 19 Portfolio Committees named after the government departments they shadow.
- The Senate has 6 Thematic Committees. These cover broad concepts as opposed to Portfolio Committees.

TERMS OF REFERENCE OF COMMITTEES OF PARLIAMENT



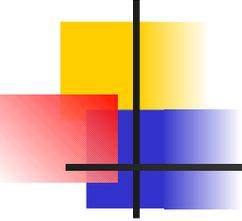
The terms of reference for Parliamentary Committees are derived from Parliamentary Standing Orders. More specifically, Standing Order 159 states that; Subject to these Standing Orders, a portfolio committee shall-

- a) Consider and deal with all bills and statutory instruments or other matters which are referred to it by or under a resolution of the House or by the Speaker;*
- b) Consider or deal with an appropriation or money bill or any aspect of an appropriation or money bill referred to it by these Standing Orders or by or under resolution of this House; and*
- c) Monitor, investigate, enquire into and make recommendations relating to any aspect of the legislative programme, budget, policy or any other matter it may consider relevant to the government department falling within the category of affairs assigned to it, and may for that purpose consult and liaise with such department;*
- d) Consider or deal with all international treaties, conventions and agreements relevant to it, which are from time to time negotiated, entered into or agreed upon*



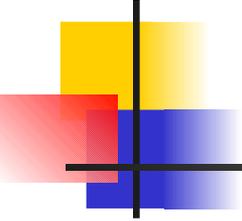
COMMITTEES OF PARLIAMENT

- Furthermore, Parliament, through the Public Accounts Committee conducts a post audit of funds granted for public expenditure in Ministries and Parastatals to ensure that the funds are spent for purposes intended.
- The PAC works closely with the Comptroller and Auditor General (C&AG), one of the oversight institutions in Zimbabwe, in executing executive oversight.
- The C&AG reports on accounts of statutory bodies that are laid before Parliament by the Minister responsible in terms of Part IV, Section 17 of the Audit and Exchequer Act.



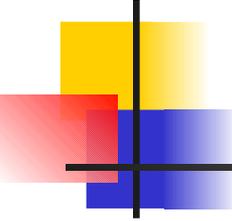
PARLIAMENTARY LEGAL COMMITTEE

- The appointment, composition and functions of the Parliamentary Legal Committee are provided for by Sections 40A and 40B of the Constitution.
- The Parliamentary Legal Committee is a Constitutional watchdog whose task is to examine every Bill other than a Constitutional Bill and report to Parliament whether the Bill contains any provisions, which, if enacted, would violate the Bill of Rights, or any provision of the Constitution.
- The Committee also examines every amendment to a Bill that has been proposed by either House. It also examines all the statutory instruments published in the Government Gazette.



EFFECTIVENESS OF THE COMMITTEE SYSTEM

- The Committee system has been very effective as it has enhanced governance systems by calling on the Executive to account for the manner it determines and executes public policy and programmes.
- It has strengthened citizen participation in legislative business
 - The Ministry of Finance (MOF) appreciates the role played by Portfolio Committees in the reengineered budget process. The MOF realized that the role of Parliament is to strengthen the Executive function and that there is a need to share with MPs, who are now more empowered because of the relationship between the MOF and Portfolio Committees.
 - The Public Finance Management bill owes most of its ideas from the re-engineered budget process, a product of Parliamentary reforms and the committee system.



COMPLIANCE MECHANISMS

- S. O. 159 provides for the Powers of Select Committees and parts (a, b) of the same Standing Order state that Select Committees have the power

'to summon any person to appear before it to give evidence on oath or affirmation and to produce any documents required by it'.

- These powers can be exercised on Vice Presidents, Ministers and Governors whose portfolio is covered by the committees.
- Failure to attend amounts to an offence of Contempt of Parliament in terms of item 2 of the schedule to the Privileges, Immunities and Powers of Parliament Act (Cap.2.08) as read with section 21 of the Act and this may result in Parliament exercising its powers in terms of section 16 of the Act.

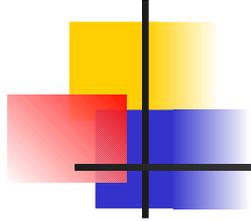
COMPLIANCE...

CONTEMPTS WHICH ARE ALSO OFFENCES AT LAW

Section 16 Jurisdiction of Parliament of PIPPA Cap 2:08

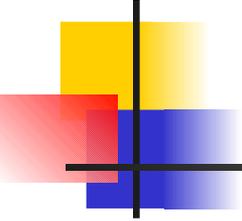
- (4) It is declared for the avoidance of doubt that Parliament has all such powers and jurisdiction as may be necessary for inquiring into, judging and pronouncing upon the commission of any act and matter
- (2) Parliament shall have power to award and execute the punishments provided by PIIPA
- (3) Parliament has power and jurisdiction to award and execute any punishment provided by this Part for the commission of that act, matter or thing.
- (4) Parliament sitting as a court shall have all such rights and privileges of a court of record as may be necessary for the purpose of summarily inquiring into and punishing the commission of any act, matter or thing which in this Part is declared to be an offence.

WARRANTS OF ARREST



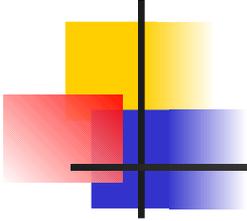
PART VI

- The Speaker may issue a warrant for the arrest and imprisonment of any person who—
 - (a) has been adjudged by Parliament to be guilty of contempt; and
 - (b) has been sentenced to imprisonment or has failed to pay a fine or
 - undergo some other punishment to which he has been sentenced.



Concluding Remarks

Parliament and the Executive have equal and coordinate roles. The doctrine of the separation of powers embodied in the constitution require that the Executive governs and Parliament call the Executive to account for its actions. Oversight strengthens rather than weakening the Executive.



I thank you

