

*Police Oversight in Post-Conflict Peace Agreements*

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Police violence and abuse occurs throughout the world but these problems are particularly acute in post-conflict countries characterized by weak state institutions and legacies of violence. In these environments, police abuse runs a high risk for (re-)igniting polarization and violence. International actors have recognized the importance of police reform as part of peace processes and post-conflict security sector reforms (SSR).<sup>1</sup> While police reform can involve many different types of policies, one of the principal ways that most democracies address the problem of police misconduct is with oversight institutions, which facilitate reporting and investigation of misconduct. These institutional solutions to the management of post-conflict police are essential because it was often human rights abuses by state security forces – including police – that constituted one of the causes of conflict in the first place. The implication is that capacity-building programs for them can raise fears about strengthening their repressive capabilities if not coupled with mechanisms for civilian oversight. Without creating institutions that facilitate feedback loops from citizens to decision-makers, governments risk becoming blind to citizen grievances about the police.

Research on police misconduct oversight is an emerging field in which there is a growing literature dominated largely by criminologists and legal scholars. Much of this work is purely conceptual, and aims to describe variation in institutional oversight and theorize about the sources and implications of this variation. Empirically, this field is still in its infancy; previous research has focused on providing narratives of individual cases, drawn heavily from Western democracies. Meanwhile, there is a growing literature on police reform more generally that focuses on post-conflict countries, but this literature typically addresses other aspects of policing (such as training or recruitment) rather than the institutions which are meant to create durable solutions to the problem of oversight. Despite the fact that the police are a core security actor according to the DAC Guidelines on SSR, there has been no cross-national research which aims to provide the academic and policy communities with the data necessary to understand when police oversight institutions emerge from SSR processes.<sup>2</sup> This is not surprising when taking into consideration that researchers have rarely engaged in cross-national analysis of these institutions even in Western democracies (Eck 2018). As a consequence, existing research has rarely considered whether such institutions are created in post-conflict settings as part of peace processes.

In this paper, I tackle this lacuna by mapping the landscape of police misconduct oversight in the context of post-conflict peace agreements. I focus on whether police misconduct oversight is institutionalized in the peace agreement – as opposed to through post-conflict SSR processes – because the inclusion of such bodies in a peace agreement signals a stronger commitment to action than does reform accomplished through regular political processes, which are more easily rolled back, and which are more likely to be superficial and contingent on donor aid.

I present new data collected for all post-peace agreement countries for the period 1975-2011, examining two facets: (1) whether the peace agreement stipulated the creation of police oversight mechanisms as part of security sector reform; and (2) whether these institutions were *de facto*

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<sup>1</sup> The UN defines the security sector as the collective “structures, institutions, and personnel responsible for the management and oversight of security” (Bayley and Perito 2010: 127).

<sup>2</sup> Countries regularly reform their security sectors, but the term SSR is typically used in the context of post-conflict reconstruction, and the special needs of this environment is the overwhelming concern of the SSR literature.

created. I also distinguish whether the oversight provisions provide for rigorous oversight, partial oversight, or temporary international monitoring. This latter category – temporary international monitoring – allows for an examination of whether there is a gap in local ownership over law and order processes.

The empirical analysis shows that police oversight reform is rarely stipulated in peace agreements, occurring in only 23% of the cases, across all types over oversight. Rigorous oversight provisions were specified in only 6% of cases. In terms of implementation, only 11% of those countries with oversight provisions mandated in a peace agreement text actually created oversight bodies.<sup>3</sup> The police play a critical role in regulating society, so it matters whether the public view them as public servants or as repressive agents. They have a major influence on citizens' ability and willingness to perform rights that are part and parcel of democratic life, such as voting, expression, and assembly, all of which police play a role in facilitating or impeding. Even more seriously, when people's physical safety is under threat from the police (i.e. in the form of torture, illegal detention, or extrajudicial killings), not only are individual rights violated, but the risk for a return to contentious political violence is heightened.

The paper concludes that post-conflict police reform tends toward a short-term perspective, focusing on manpower issues rather than the institutions in which those individuals operate. From a long-term perspective, the paper recommends that donor countries and other international actors involved in the peace process should place greater emphasis on creating institutions which allow citizens to the opportunity to influence the regulation of the police.

## **State of the Field**

The topic of police misconduct oversight is an emerging field in which there is a growing literature dominated largely by criminologists and legal scholars. Much of this work is purely conceptual, and aims to describe variation in institutional oversight and theorize about the sources and implications of this variation (Dai et al. 2011; de Maillard and Roché 2018; Dean et al. 2010; Parnaby and Leyden 2011; Prenzler and Ronken 2001; Skogan 2008; Smith 2004; Smith 2009; Stone and Ward 2000; Torrible 2018). In particular, theories of police oversight institutions pay considerable attention to the question of the appropriate level of civilian involvement in complaint systems (Bayley 1996). Empirically, the field is still in its infancy: previous research in criminology has primarily focused on providing narratives of individual cases and, with few exceptions (Osse 2016; Prateppornnarong and Young 2017), is heavily empirically-focused on economically well-developed democracies.

Little of this work maps on to post-conflict contexts and the special needs of fragile and developing institutional landscapes. There, however, is a growing literature concerning security sector reform that addresses police reform. Bayley (2006), for example, describes how the international community has attempted to reform, or in some cases recreate, police forces in Bosnia-

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<sup>3</sup> There is some uncertainty on this point due to our inability to verify claims made on government websites or otherwise obtain sufficiently detailed data to validate the functioning of police oversight institutions.

Herzegovina, Cambodia, East Timor, El Salvador, Guatemala, Haiti, Kosovo, Mozambique, Namibia, Nicaragua, Panama, Sierra Leone, Somalia, and South Africa, often as part of peacekeeping operations by the United Nations. But much of this work centers on either questions of staffing and recruitment into the police, in order to address representation in divided societies, or the training of police officers (Arriola et al. 2021; Bayley 2006; Blair et al 2019; Curtice and Behlendorf 2021; Eck et al. 2021; Karim 2020; Karim and Gorman 2016; Neild 2001). Despite the fact that the literature on post-conflict police reform is often framed within a larger paradigm of “democratic policing,” the focus of international police assistance training has largely centered on enhancing capacity to combat crime more effectively (Bayley 2006) and the literature consequently reflects that focus. For policing to be democratic, however, requires more than adequate capacity; it also requires civilian influence over policing practices. But there is a paucity of literature which centers policing bodies as institutional entities which can constrain and enable behavior through systems of oversight in post-conflict settings.

The same problems that are discussed in the context of rich democracies, such as how to balance effective policing with respect for human rights, are also relevant in post-conflict contexts. Indeed, they are arguably of even greater import given the heightened social tensions that typically exist in post-conflict zones, such that acts of state violence can ignite new rounds of contentious politics and even organized violence. The police have historically been involved as combatants in a large number of armed conflicts (Eck 2022) and so the question of how citizens can influence constraints on their behavior in post-conflict eras is of accentuated importance. To date, the field has not conducted any comprehensive census of when peace processes have stipulated the creation of police oversight bodies, nor any investigation into whether these bodies were indeed created in the post-conflict period. As a consequence, scholars lack the data necessary to answer important questions such as, why is police oversight included in some peace treaties and not others? When are police oversight bodies actually created after peace processes and when are they not? What effect do police oversight bodies have on citizen perceptions of trust and legitimacy in the police and the state? How should these institutions be designed in post-conflict contexts? These questions are indicative of a research field that needs urgent attention. This paper is a first step to generating data that may be helpful in this endeavor.

### **Data Collection on Police Oversight in Security Sector Reform**

There are many possible bodies which may address the police misconduct, for example, local and international human rights organizations often take a leading role in investigating and publicizing certain incidents of police misconduct. From the perspective of a citizen with a complaint, however, these bodies may or may not take interest in their situation, since activist organizations are typically resource-poor and must focus their activities on the most egregious cases. Typically, it is also in the interest of the organization to concentrate on events which will garner media attention and which have a good chance of leading to policy change. So governmental institutions are important because they should facilitate the submission of complaints from all citizens. Thus, for the purposes of this paper, a police oversight misconduct institution is defined as a governmental body which is mandated with processing complaints against the police. These may take different names of forms, for example, an ombudsman, internal affairs, or an independent

oversight board which is organizationally placed outside of the police. There can also be considerable variation in the mandate and design of an oversight body; some have the power and capacity to investigate complaints, while others must refer investigations to the police. Some can apply administrative sanctions or criminal prosecution to officers implicated by the investigations, while others may only make recommendations. I consider these different facets to be attributes of an oversight institution.

To identify the empirical domain, I begin with Ansorg et al.'s (2016) Police Reform in Peace Agreements (PRPA) dataset to identify the population of interest. The PRPA provides data on peace agreements from 1975 to 2011, and it includes a variable denoting "accountability" which it defines as "formal governmental control over the national police force, including provisions that determine the authority to which the police force must answer and that takes responsibility for overseeing officers' conduct." Ansorg et al.'s (2016) definition of accountability is thus broader than police oversight more narrowly understood here.

Post-conflict police oversight bodies need not be created as part of a peace agreement, of course. They may arise later in the context of domestic political reforms, or under pressure from donor bodies desirous of increasing transparency and accountability. For example, there are no oversight provisions in the Dayton agreement, but the Independent Selection and Review Boards (ISRB) were created as part of the UN Mission in Bosnia Herzegovina's (UNMIBH) Police Commissioner project (Hansen 2008) and Public Complaints Bureaux were facilitated by the EU Police Mission in Bosnia and Herzegovina (EUPM), working to support the implementation of 2008 police laws (Padurariu 2014). While these cases are central to understanding the full scope of post-conflict SSR, oversight bodies which are regulated in a peace agreement are arguably more institutionally stable insofar as it is more difficult to dismantle bodies created through a peace treaty than through a development aid program or domestic political processes; agreements contained within a peace agreement are more likely to be respected than ordinary political legislation due to the strong commitments they signal, and the value placed on adhering to them by both domestic and international actors. Thus, oversight bodies created in peace agreements constitute an excellent starting point for inquiry.

The empirical domain consists of armed conflicts ended through peace agreements which are recorded by the PIRA dataset as including accountability measures.<sup>4</sup> This pool of cases was then assessed to determine whether they stipulate the creation of police misconduct oversight mechanisms in the agreement. I distinguish between three possible types of police misconduct oversight:

- 1) *Rigorous Oversight Provisions*: an oversight body for police misconduct is laid out in detail or a commission to create an institution is specifically mandated;
- 2) *Partial Oversight Provisions*: police oversight is mentioned either in a temporary or an indirect manner.

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<sup>4</sup>A peace process can involve multiple documents regulating the agreements between the parties. PRPA data include 196 peace agreement provisions in 52 cases where peace agreements were signed. Only 19% of these peace accords include accountability provisions.

- 3) *Temporary International Monitoring*: international monitors are given mandate to oversee the conduct of the police, but no detailed long-term oversight is outlined

Two types of data were collected. The first is whether any of the peace accords for a given case include *de jure* provisions. To do this, the texts of the peace agreements were assessed to determine which of these categories Ansorg et al.’s (2016) “accountability” provision fell under. The second is whether the monitoring provisions specified in the agreement was *de facto* implemented.<sup>5</sup> To do so, a diverse and ad hoc set of sources were consulted for each case, which included government webpages, correspondence with embassies, I/NGO reports, news media, academic articles, and websites. It is worth noting that detailed investigations into both the initial implementation of peace agreement provisions and the current *de facto* reality for many of these cases is stymied by a lack of access to information and by language barriers.

## Results

The findings show that of the 52 cases of conflicts concluding peace agreements during the period 1975-2011, only 28 contain accountability measures as defined by the PIRA dataset. In terms of the different categories of oversight, Table I shows that only 3 peace agreement cases feature Rigorous Oversight Provisions, which is 6% of all conflicts concluded by peace agreement, 1975-2011. Six feature Partial Oversight Provisions (12%); and 3 feature Temporary International Monitoring<sup>6</sup> (6%). Sixteen of the cases recorded by the PRPA as featuring accountability provisions contain no reference to police oversight and were not examined further. Table 1 lists the initial pool of cases and their coding with regard to police oversight provisions in peace agreement texts.

Table 1: PRPA Accountability Cases & PA Provisions for Police Oversight

Case	Incompatibility	No. of Treaties <sup>7</sup>	Oversight Category
Angola	Governmental	2	II: Temporary Intl. Monitoring
Angola: Cabinda	Territorial	1	IV: No Oversight Provisions
Bangladesh: Chittagong Hill Tracts	Territorial	1	IV: No Oversight Provisions
Bosnia and Herzegovina: Croat	Territorial	1	IV: No Oversight Provisions
Bosnia and Herzegovina: Serb	Territorial	1	IV: No Oversight Provisions
Burundi	Governmental	3	III: Partial Oversight Provisions
Cambodia (Kampuchea)	Governmental	1	II: Temporary Intl. Monitoring

<sup>5</sup> To be clear, this paper expands on Ansorg et al. (2016), who are interested in a broader array of police reform provisions specified in peace agreements, and who restrict their investigation to *de jure* provisions. I identify a more narrow set of cases that address police oversight specifically, and investigate *de jure* provisions as well as *de facto* implementation. I also gather additional information on three different types of oversight provisions.

<sup>6</sup> This is measured separately in PRPA. Because I depart from the pool of cases the PRPA identifies as including accountability, some of the cases they coded for international monitoring are absent here when they do not include any accountability component.

<sup>7</sup> No. of Treaties is the number of treaties coded for accountability reforms in the PRPA dataset; this is not reflective of the overall number of treaties for each conflict.

Comoros: Anjouan	Territorial	1	IV: No Oversight Provisions
Croatia: Serb	Territorial	1	IV: No Oversight Provisions
DR Congo (Zaire)	Governmental	2	IV: No Oversight Provisions
El Salvador	Governmental	2	I: Rigorous Oversight Provisions
Guatemala	Governmental	2	IV: No Oversight Provisions
Haiti	Governmental	1	IV: No Oversight Provisions
India: Tripura	Territorial	1	IV: No Oversight Provisions
Indonesia: Aceh	Territorial	1	III: Partial Oversight Provisions
Ivory Coast	Governmental	1	IV: No Oversight Provisions
Macedonia, FYR	Governmental	1	IV: No Oversight Provisions
Mali: Azawad	Territorial	1	III: Partial Oversight Provisions
Mozambique	Governmental	1	I: Rigorous Oversight Provisions
Papua New Guinea: Bougainville	Territorial	1	IV: No Oversight Provisions
Philippines: Mindanao	Territorial	1	IV: No Oversight Provisions
Rwanda	Governmental	2	IV: No Oversight Provisions
Somalia	Governmental	1	IV: No Oversight Provisions
South Africa	Governmental	1	III: Partial Oversight Provisions
South Africa: Namibia	Territorial	1	II: Temporary Intl. Monitoring
Sudan	Governmental	4	III: Partial Oversight Provisions
United Kingdom: Northern Ireland	Territorial	1	I: Rigorous Oversight Provisions
Zimbabwe (Rhodesia)	Governmental	1	III: Partial Oversight Provisions

### *Rigorous Oversight Provisions*

Three agreements were coded as containing rigorous oversight provisions: El Salvador, Mozambique, and Northern Ireland.

The Good Friday Agreement regulating Northern Ireland does not contain a comprehensive blueprint for police oversight, but is nonetheless included because the provisions specifically mandate for the creation of a commission to recommend such a body. This agreement is considered rigorous due to its specific concern with the police and its clearly outlined objectives.<sup>8</sup> The Patten Commission was established by June of 1998 and by 1999 had submitted its recommendations, including an independent ombudsman for police oversight. Its recommendations were fully implemented by around 2003 (Joshi et al. 2015). At present, police

<sup>8</sup> Specifically, the Good Friday Agreement (10 April 1998) clarifies in the section on Policing and Justice that “An independent Commission will be established to make recommendations for future policing arrangements in Northern Ireland including means of encouraging widespread community support for these arrangements within the agreed framework of principles reflected in the paragraphs above and in accordance with the terms of reference at Annex A.” ANNEX A specifies the Terms of Reference for a COMMISSION ON POLICING FOR NORTHERN IRELAND: “Its proposals should also be designed to ensure that: the police operate within a clear framework of accountability to the law and the community they serve, so they are constrained by, accountable to and act only within the law; their powers and procedures, like the law they enforce, are clearly established and publicly available; there are open, accessible and independent means of investigating and adjudicating upon complaints against the police.

oversight in Northern Ireland is carried out independently from the rest of the UK by the Police Ombudsman for Northern Ireland (PONI), which is civilian-led and independent of the police.<sup>9</sup> Complaints can be sent to PONI or to the police, both in person and online. The Ombudsman can forward evidence of criminal conduct to the public prosecutor and/or compel the police to bring disciplinary proceedings.

Of the agreements examined for El Salvador, only one contains rigorous provisions of police oversight as understood by this project: the 1992 Chapultepec Peace Agreement of 16 January 1992, which dictated that the police should be under civilian control, with a presidentially appointed Director-General. In terms of oversight, details are outlined for a General Inspectorate subordinate to the Director-General, who “shall be responsible for monitoring and supervising the activities of the operational services of the force...The General Inspectorate shall comprise a Monitoring Division, which shall have the function of monitoring all police services, and a Disciplinary Investigation Division, which shall have the function of investigating breaches of discipline by police officers.” (Page 11, Chapter II). The full transfer from the old National Police to the new National Civil Police, however, was not completed until 1997 (Joshi et al. 2015). The National Council on Public Security created in 1996 as an external oversight body reportedly never performed but as intended but rather became an advisory body to government on social crime prevention (Bayley 2006: 53). The failure to implement police reform is sometimes attributed rising crime rates, which resulted in a demand for a more hard-line approach (Bayley 2006: 97). Currently, the Inspector General has oversight of the national civil police (PNC) for both violations of human rights and the terms of the Peace Accords. Additionally, the Disciplinary Investigation Unit, the Control Unit, and the Internal Affairs Unit all have powers to hold members of the PNC accountable. These units are supposed to be led by civilians.<sup>10</sup>

The only entry for Mozambique coded by PRPA, the General Peace Accord, lays out fairly detailed provisions for the establishment of a police oversight body. The wording in the agreement indicates that the organization should be civilian-led, though with a degree of political influence in the selection process.<sup>11</sup> COMPOL was established by presidential decree in 1993 (Joshi et al. 2015), though reportedly was ineffective at carrying out its duties. In terms of de facto functioning, it has

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<sup>9</sup> <https://www.policeombudsman.org/Complaints/English>

<sup>10</sup> “Organizational Structure of the National Civil Police,” Policia Nacional Civil, [http://www.pnc.gob.sv/portal/page/portal/informativo/institucion/estructura\\_organizativa](http://www.pnc.gob.sv/portal/page/portal/informativo/institucion/estructura_organizativa) [link currently down].

<sup>11</sup> Chapter 7 of the Accord specifies: (a) For purposes of verifying that the actions of the PRM do not violate the legal order or result in violation of the political rights of citizens, a National Police Affairs Commission (COMPOL) shall be established; (b) COMPOL shall be composed of 21 members whose professional and personal qualities and past record afford guarantees of balance, effectiveness and independence vis-a-vis all political parties; (c) COMPOL shall be established by the President of the Republic of Mozambique within 15 days following the entry into force of the General Peace Agreement and shall be composed of six citizens nominated by RENAMO, six nominated by the Government, and nine selected as a result of consultations to be held by the President of the Republic with the political forces in the country from among citizens meeting the requirements specified in subparagraph (b); (d) COMPOL shall have full powers to investigate any matter relating to the activity of PRM that is held to be contrary to the legal order and to the principles specified in paragraphs 1, 2, 4 and 5. On being apprised of a matter, the Commission shall conduct a preliminary internal analysis in order to determine whether it falls within the sphere of police activities. The Commission shall decide to proceed with the investigations if more than half of its members so agree; (e) COMPOL shall submit systematic reports on its activities to CSC; (f) COMPOL shall inform the competent State authorities of any irregularities detected, in order that they may take the appropriate judicial or disciplinary measures (The Acordo Geral de Paz, 4 October 1992, Protocol IV.V. Depoliticisation and restructuring of the police forces).



since then been abolished and its function incorporated into the constitution.<sup>12</sup> According to one source, there is a system of Public Complaints Books in place at stations.<sup>13</sup> Official oversight is thus internal, though it is hard to determine specifically which body within the Ministry of Interior is responsible for it. The Attorney-General, judiciary, and the Legal Affairs and Human Rights Committee of the National Assembly have been known to exercise oversight in the past.

### *Partial Oversight Provisions*

There are six cases which included partial police oversight provisions, that is, when police oversight is mentioned either in a temporary or an indirect manner: Burundi, Indonesia (Aceh), Mali (Azawad), South Africa, Sudan (Darfur), and Zimbabwe.

The Arusha Agreement<sup>14</sup> and the Comprehensive Ceasefire Agreement<sup>15</sup> concluded in Burundi include the creation of an Ombudsman to oversee the administration and judiciary. However, no concrete regulations specifically relate to police. The Ombudsman outlined in the Arusha Agreement was finally implemented in 2010 (Joshi et al. 2015). It is unclear at what point parliamentary oversight was initiated; there were elements in the 2005 constitution matching this provision but by 2010 they had yet to be implemented.<sup>16</sup> According to APCOF, oversight of the police is currently handled largely by the Inspectorate General of Public Security, which is theoretically independent. The aforementioned Ombudsman also still exists as does a parliamentary committee, The Defense and Security Commission, with oversight powers.<sup>17</sup>

The closing peace agreements in Aceh's secessionist conflict with Indonesia established a degree of autonomy for the region, and provisioned for a temporary Joint Security Committee to oversee security measures during the transition to peace.<sup>18</sup> This body was given responsibility for ensuring

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<sup>12</sup> Information provided by Embassy of Mozambique in Stockholm

<sup>13</sup> <https://apcof.org/country-data/mozambique/>

<sup>14</sup> Arusha Peace and Reconciliation Agreement for Burundi (28/08/2000) Page 37, Protocol II: Democracy and Good Governance for All, CHAPTER I: CONSTITUTIONAL PRINCIPLES OF THE POST-TRANSITION CONSTITUTION, Article 10 – The Administration: 7. An independent Ombudsperson shall be created by the Constitution. The organization and functioning of her/his service shall be determined by law. 8. The Ombudsperson shall hear complaints and conduct inquiries relating to mismanagement and infringements of citizens' rights committed by members of the public administration and the judiciary, and shall make recommendations thereon to the appropriate authorities. She/he shall also mediate between the administration and citizens and between administrative departments, and shall act as an observer of the functioning of the public administration.

<sup>15</sup> Comprehensive Ceasefire Agreement between the Government of Burundi and the Palipehutu-FNL (07/09/2006) Page 16, ANNEXURE III TO THE COMPREHENSIVE CEASE-FIRE AGREEMENT THE DEFENCE AND SECURITY FORCES, 1. Transformation and modernization: Pursuant to the Dar es Salaam Agreement of Principles signed by the Parties on 18 June 2006, the ongoing transformation and modernization of the Defense and Security Forces shall be: b. The current mechanism for the oversight of the Defense and Security forces shall be strengthened.

<sup>16</sup> [https://www.cigionline.org/sites/default/files/ssrm\\_burundi\\_v3\\_0.pdf](https://www.cigionline.org/sites/default/files/ssrm_burundi_v3_0.pdf)

<sup>17</sup> <https://apcof.org/country-data/burundi/>

<sup>18</sup> Cessation of Hostilities Framework Agreement (09/12/2002). Page2, PREAMBLE. The JSC will be the point of reference for all complaints regarding police functions and action that are deemed to be in contravention of the spirit and letter of the Cessation of Hostilities (COH) Agreement. As such, the JSC will be responsible for defining, identifying and investigating when and if the police have breached their mandate. Page 3, Article 3: Joint Security Committee (JSC), b) The functions of JSC are: (ii) to monitor the security situation in Aceh; (iii) to undertake full investigation of any security violations

the police did not breach their mandate during the peace process. Because it was only intended as a temporary measure it is coded as a partial oversight mechanism. It should be noted that this agreement did not end the conflict. Oversight for both national and local police organizations appears to be largely internal. Indonesia has a National Police Commission which is mandated to receive public complaints against the police, but its lack of investigatory power undermines its ability to respond to public concerns.<sup>19</sup>

The provisions in the peace agreement for Mali's Azawad region outline a separation of the responsibility for the police in Azawad from the central government due to a devolved administration.<sup>20</sup> There is, however, not a rigorous provision for actual oversight and this provision could be seen to relate more to executive control. According to the Peace Accords Matrix, decentralization was achieved by 2000.<sup>21</sup> Presumably this covers the provisions relating to the police but this has been challenging to establish. There is currently no independent external police oversight body in Mali, but the internal the Police General Inspectorate (Inspection Generale de la Police) is reportedly charged with oversight of police action.<sup>22</sup>

The interim constitution for South Africa contains numerous amendments relating to the structure and conduct of the police. The most pertinent amendment relates to the formation of an independent complaints mechanism for oversight of the police, but no specific institution is named, nor are any specific functions outlined in detail.<sup>23</sup> Currently, the Civilian Secretariat of Police (CSP) is mandated to conduct civilian oversight of the police, while the Interdependent Police Investigative Directorate (IPID) is mandated to investigate complaints involving the police as well as any deaths that occur as a result of police action or while a person is in police custody.<sup>24</sup>

The Darfur Agreement concluded with the government of Sudan includes numerous provisions relating to the structure and responsibilities of the police, but little in the way of oversight reform.<sup>25</sup> The most pertinent article relates to a comprehensive review intended to examine, among other things, the accountability of the police. We were unable to determine if this review was carried out or submitted, but it seems that if any recommendations were indeed submitted, they were ignored

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<sup>19</sup> <https://www.policinglaw.info/country/indonesia>

<sup>20</sup> Acordo Geral de Paz, SECTION III: SPECIFIC STATUS OF NORTHERN MALI, CHAPTER II: THE REGIONAL LEVEL: 31. Through its President, the regional assembly shall supply sufficient numbers of personnel for the interior security units. It shall monitor the police force and maintain civil order at the regional level.

<sup>21</sup> <https://peaceaccords.nd.edu/accord/national-pact>

<sup>22</sup> <https://www.policinglaw.info/country/mali>

<sup>23</sup> Interim Constitution of South Africa (1993): Section 222 Independent complaints mechanism: There shall be established and regulated by an Act of Parliament an independent mechanism under civilian control, with the object of ensuring that complaints in respect of offenses and misconduct allegedly committed by members of the Service are investigated in an effective and efficient manner.

<sup>24</sup> <https://apcof.org/country-data/south-africa/>

<sup>25</sup> Darfur Peace Agreement (05/05/2006) CHAPTER THREE: COMPREHENSIVE CEASEFIRE AND FINAL SECURITY ARRANGEMENTS, SECTION B: FINAL SECURITY ARRANGEMENTS FOR DARFUR, ARTICLE 29, Police Capacity Building: 451. Within 60 days of the signing of this Agreement, the DSAIC shall initiate a comprehensive review of policing in Darfur, with the aim of making specific recommendations to the TDRA to improve the effectiveness and professionalism of the police, in particular their ability to respond to, take into account, and address the special needs of women. 452. The comprehensive review shall address police organizational structures, management, command and control, selection, recruitment, training, professional development, human rights issues, accountability and the relationship between police and communities. Recommendations from this review shall be submitted to the TDRA and State governments for action.

as there is no civilian oversight body for the police in Sudan. Sudanese police also enjoy de jure immunity from prosecution for acts committed on duty.<sup>26</sup> There is a general complaints form on the government website, but this does not specifically relate to the police.<sup>27</sup>

The 1979 Lancaster House Agreement outlines some partial provisions for oversight of the police in Zimbabwe, including a Police Service Commissioner able to investigate grievances from within the police and potentially dismiss members.<sup>28</sup> It has no provisions for civilian oversight or access to complaints and the public ombudsman does not have authority over the police. The Police Service Commission still exists to handle complaints from within the police force. Citizens cannot make complaints this way, though the Zimbabwe Republic Police claims to have a complaints desk available to the public.<sup>29</sup> The Zimbabwe Human Rights Commission also allegedly has the power to investigate human rights abuses.<sup>30</sup>

### *Temporary International Monitoring*

There are three cases of peace agreement provisions creating temporary international monitoring, in which monitors were given the mandate to oversee the conduct of the police, but no detailed long-term oversight was outlined: Angola, Cambodia, and Namibia.

In Angola, both the Bicesse Agreement (Protocol of Estoril)<sup>31</sup> and the Lusaka Protocol<sup>32</sup> contain elements of international monitoring. In both cases, however, the war restarted within a few years

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<sup>26</sup> <https://www.policinglaw.info/country/sudan>

<sup>27</sup> The date of establishment for this process is uncertain.

<sup>28</sup> Lancaster House Agreement (1979) ANNEX C, SUMMARY OF THE INDEPENDENCE CONSTITUTION, D. THE EXECUTIVE, iv. The Police Force. 4. There will be a Police Service Commission which will consist of a chairman (who will be the Chairman of the Public Service Commission) and not less than two and not more than four other members appointed by the President on the advice of the Prime Minister. The persons to be appointed as members of the Commission will be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment as members. At least one member will have held senior rank in the Police Service. 5. The functions of the Police Service Commission will be to consider grievances by members of the Police Force, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than two years' service and to make regulations for the general well-being, good administration and conditions of service of the Police Force.

<sup>29</sup> [http://www.zrp.gov.zw/index.php?option=com\\_content&view=article&id=148:client-service-charter&catid=26&limitstart=3&Itemid=728](http://www.zrp.gov.zw/index.php?option=com_content&view=article&id=148:client-service-charter&catid=26&limitstart=3&Itemid=728)

<sup>30</sup> <https://apcof.org/country-data/zimbabwe/>

<sup>31</sup> The Protocol of Estoril (31/05/1991) specifies that, "Page 3, III. PRINCIPLES RELATING TO THE ISSUE OF INTERNAL SECURITY DURING THE PERIOD BETWEEN THE ENTRY INTO FORCE OF THE CEASE-FIRE AND THE HOLDING OF ELECTIONS: 2.1 The neutrality of the police, whose functions and activities are the responsibility of the Government of the People's Republic of Angola, shall be the object of verification and monitoring by teams of monitors composed of two members designated by the Government of the People's Republic of Angola, two members designated by UNITA and one expert in police affairs to be designated by and subordinate to the United Nations command structure. 2.2 Within the sphere of their authority, the monitoring teams shall have as their specific mandate the duty to visit police facilities, examine their activities, and investigate possible violations of political rights committed by the police. These teams may move freely throughout the entire territory of Angola."

<sup>32</sup> Lusaka Protocol (20/11/1994) specifies that (Page 53) ANNEX 8, II.3 THE UNITED NATIONS MANDATE, THE ROLE OF THE OBSERVERS OF THE "ACORDOZ DE PAZ" AND THE JOINT COMMISSION, II. SPECIFIC PRINCIPLES. 2) Police Activities (Agenda Item 11.2) 2.6 Verification and monitoring of the neutrality of the activities of the Angolan National Police relating to the commitments made in matters of security arrangements guaranteed for the UNITA leaders (Document relating to the special security arrangement guaranteed for leaders of UNITA, pursuant to article 3 of the modalities of National Reconciliation). 2.7 Verification and monitoring of the neutrality of the activity of the Angolan Police in their task of protecting the Polling Station Officers and the candidate agents of the participating candidates (Specific Principle no. 6. Completion of the Electoral Process).

of the agreements being signed. While international monitoring was established by UNAVEM,<sup>33</sup> no long term oversight mechanisms were provisioned in either agreement. Currently, oversight is conducted internally by the police and externally by the Judicial Proctorate (Ombudsman).<sup>34</sup> Complaints can be made directly to the police (online<sup>35</sup> and in person) and supposedly also directly to the Judicial Proctorate, although we were able to confirm the existence of this institution.

The only mention of police oversight in the Paris Agreement on Cambodia references the responsibility for UNTAC (UN Transitional Authority in Cambodia) to have oversight of civil police.<sup>36</sup> Following the agreement, UNTAC deployed nearly 3,500 police officers who were present in the country until 1993 to monitor local policing.<sup>37</sup> While language barriers and lack of access to information presented empirical challenges, we could not identify any official channel by which the public can file complaints about the police<sup>38</sup> and the policing website also lack a complaints directory. Several human rights organizations, however, have mandates to investigate the police and handle public complaints, including the Cambodian Human Rights Committee (CHRC), the National Assembly Commission on Human Rights, and the Senate Commission on Human Rights.<sup>39</sup>

The 1978 agreement on Namibia is the oldest in the dataset and also one of the most limited. While it has a provision for the temporary monitoring of the police throughout the transition period, there is no further discussion of long term policing oversight. The UN did not deploy in Namibia – then South West Africa – until 1989 when UNTAG was established. It ran until Namibia’s independence, and the provisions outlined above formed part of the mission’s mandate<sup>40</sup> Currently, an Ombudsman whose mandate is to investigate complaints of violations of human rights, abuse of power and unfair, and harsh or insensitive treatment can refer assault by police to the Namibian Police Complaints and Discipline Unit (NPCDU), which is internal to the police command structure. The NPCDU’s mandate includes the investigation of deaths in police custody, and as a result of police action and complaints against the police.<sup>41</sup> The Anti- Corruption Commission, the Auditor General, the Prosecutor-General, the Courts, Parliamentary Standing Committees and Civil Society Organizations also have oversight over the police.

## Discussion

This paper provides a first cut at assessing the extent to which post-conflict peace agreements for the period 1975-2011 contained provisions for the creation of a governmental police oversight

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<sup>33</sup> <https://peacekeeping.un.org/sites/default/files/past/Unavem2/UnavemIIB.htm>

<sup>34</sup> <https://apcof.org/country-data/angola/>

<sup>35</sup> <https://pna.gov.ao/>

<sup>36</sup> Agreement on a Comprehensive Political Settlement of the Cambodia Conflict (1991) Annex 1: UNTAC Mandate, Section B: Civil Administration: 5b. All civil police will operate under UNTAC supervision or control, in order to ensure that law and order are maintained effectively and impartially, and that human rights and fundamental freedoms are fully protected. In consultation with the SNC, UNTAC will supervise other law enforcement and judicial processes throughout Cambodia to the extent necessary to ensure the attainment of these objectives

<sup>37</sup> <https://peacekeeping.un.org/sites/default/files/past/untacfacts.html>

<sup>38</sup> [https://asef.org/wp-content/uploads/2020/10/1270-Police\\_Oversight\\_Mechanisms\\_in\\_Asia.pdf](https://asef.org/wp-content/uploads/2020/10/1270-Police_Oversight_Mechanisms_in_Asia.pdf)

<sup>39</sup> <https://www.policinglaw.info/country/cambodia>

<sup>40</sup> <https://peacekeeping.un.org/sites/default/files/past/untagFT.htm>

<sup>41</sup> <https://apcof.org/country-data/namibia/>

body. It also assesses not only whether the bodies existed *de jure* but whether they were *de facto* created. The data collected paint a dismal picture: police oversight reform is stipulated in peace agreements in only 23% of the cases, and only 11% of those countries actually created oversight bodies. These results suggest that the regulation of security forces in peace agreements often fails to acknowledge the police, which is particularly worrisome when the police have been engaged in conflict violence. Even when they police have not been deployed to combat insurgents, they are the state agents that citizens are most likely to interact with, given their presence in daily public life. Thus, the fact that they often engage in repressive behavior that violates the rights of citizens makes the question of the regulation of their violence central to not only human rights protection, but also the practice of democracy in transitioning states.

Surprisingly, the extant scholarship on democratic policing and post-conflict policing rarely centers citizens' perspectives in their analyses. Instead, focus often rests on technocratic capacity-building, recruitment of "the right sort of people" to police forces, and legal foundations, rather than on protections from abuse and provisions for citizen input.<sup>42</sup> Bayley and Perito (2010) outline the challenges to post-conflict security – echoing most policy and research documents – as follows: "there are many challenges to the democratic reform of ministerial operations and police practice. The most important is the persistence and even increase in violence from insurgents, rebels, terrorists, kidnappers, narcotics peddles, and criminals in post-conflict environments" (154). It is notable that this perspective ignores the dyadic nature of armed conflict in its exclusive focus on the behavior of non-state actors. For genuine democratic police reform, it is essential to also acknowledge that state security forces were implicated in conflict violence and that they may continue to constitute a threat to security in the post-conflict space through repressive or corrupt practices. The police are inherently political; their actions support certain agendas and priorities in society. Security sector reform has the potential to shape existing power relations and impact on vested interests, but this cannot be accomplished as long as citizen influence on policing is stymied by a lack of opportunities for influence.

There are important limitations to the data collected here, the most important being that the data are circumscribed to police oversight institutions created through a peace agreement. It is important for the field to extend these data to examine to what extent police oversight institutions have been created as part of post-conflict security sector reform outside of peace agreements and the extent to which those bodies actually came into existence and performed meaningful work. Complementing the data presented here with such data would allow us to inquire into the relative durability of these bodies – are there more or less stable paths to oversight institutions? Which processes are more likely to lead to consolidated and institutionalized oversight practices, and which are likely to be window-dressing? Without a better understanding of the institutional solutions to the management of post-conflict police, scholars and policymakers are ill-equipped to advise on best practices for ensuring the protection of people's civil rights and their opportunities to engage in democratic processes.

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<sup>42</sup> Note that the policing literature finds that respect for human rights facilitates the fight on crime by ensuring citizen buy-in and engagement with police, countering common discourses which suggest that rights must be sacrificed in order for the police to successfully be "tough on crime" (Bayley 2006).

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