



**ADDIS ABABA UNIVERSITY
GRADUATE STUDIES
COLEGE OF BUSINESS AND ECONOMICS
DEPARTMENT OF PUBLIC ADMINISTRATION AND DEVELOPMENTAL
MANAGEMENT**

*The Legislative Process in Ethiopia: Challenges and
Prospects*

By
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Declaration

I, the undersigned, have examined the thesis entitled “The Legislative Process in Ethiopia: Challenges and Prospects” presented by Kahsay Mehari; a candidate for the degree of Master of Arts in Public Administration & Management Policy, public policy specialization, and hereby certify that it is my original work and worthy of acceptance provided that all the sources of materials used for the thesis are duly acknowledged.

Declared by: Kahsay Mehari

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Date: _____

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Acronyms

FD: Federal Government

FDRE: The Federal Democratic Republic Ethiopia

HPR: The House Peoples' Representatives

HoF: The House of Federation

CoM: Council of Ministers

TGE: Transitional Government of Ethiopia

AAU: Addis Ababa University

LAASC: Legal and Administrative Affairs Standing Committee

MoJ: The Ministry of Justice

NPM: New Public Management

NPA: New Public Administration

PPM: Public Policy Making

PPA: Public Policy Analysis

MPs: Members of Parliament

PM: The Prime Minister

OPM: Office of Prime Minister

GB: Great Britain

EPRDF: The Ethiopian Peoples' Revolutionary Democratic Front

CUD: Coalition for Unity & Democracy

EDFU: The Ethiopian Democratic Forces Union

SAR: Republic of South Africa

UK: The United Kingdom

Abstract

The main purpose of this study is to critically evaluate the power and jurisdiction of the Ethiopian national legislature with a greater emphasis on public policy making process & practices of HPRs in Ethiopia. The level of data discussion, analysis and interpretation is made using descriptive analytical research methods through collecting relevant documents from the Ministry of Justice, the National Legislatures (the standing committee members of different affairs in the HPRs of FDRE) including some academia of Addis Ababa University by using open ended questionnaires and structured interviews which these, in turn, are indispensable to traverse the responses from the primary sources.

Based on the analysis and interpretation of data, findings of this research show that: the FDRE HPRs, experts from the MoJ and AAU senior educators during the draft policy legislation (lawmaking) process, the absolute power is being vested in the hands of the executive. The fragmented opposition parties & the independent MPs remain minority while the ruling party enjoyed absolute majority vote. All actors of public policy making in Ethiopia shared the need for all the public laws despite differences in key provisions of the constitutional balance among the three: the legislature, executive & the judiciary with the key areas of concern focusing on the major stakeholders or leading players that exercise the strongest leverage in the public policy making jurisdictions where legislative process by the HPRs of FDRE is materialized yet the key actors are believed to have involved from its formulation until ratification in the parliament.

*In essence, the government should continue to raise concerns about the draft policy legislation and design a system for reviewing the enforcement and impact of public policies with the aim to provide evidence on how their application is affecting all national priority areas of concern. The executive should make continuous reappraisal of the most contentious provisions and provide remedies for such legal & constitutional complexities. Therefore, as far as the power of the legislature and the executive is concerned, during the law making process in Ethiopia, the process has unbalanced power between the legislature and the executive. The judiciary hence, the Ministry of Justice, plays the major role (the highest power) during a given parliamentary law making process in the **HPRs** on reconciling some contradictory public issues/controversial provisions upon which balance of power between the legislative and executive could be maintained to the level of constitutional harmony.*

CHAPTER ONE

Introduction

1.1 Background of the Study

The *Constitution* of *FDRE* serves as a bridge of *Mega-Public Policy* or at the summit of all public policies, not only offers principles and the spirit to steer the policymaking process, but also patterns institutional and state-society relationships with respect to public policymaking. It is thus such a vital issue that it can only be of a fair game through critical values characterized by careful evaluation and judgment where people who live under it establish ownership over it. The constitution making process, therefore, must be able to bring all actors and stakeholders on board, regardless of creed, religion, sex, ethnicity, color and political views (Wessel, 2001).

Policy making process is merely vested to the process drafting legislations by the executive (prominently proposed by chief cabinet of a government) while constitutional making process is a highly wider perspective that it deserves the large involvement of the public for effectively producing the grand law of a land through mass representation by parliament or congress (ibid).

In any country of the world: poor or rich the need for citizen participation in any of the affairs of the nation is not questionable. Especially in developing countries like Ethiopia, *economic development and participatory democracy* cannot be fully achieved without popular public participation in all the socio economic and political life of the country (Mulugeta, 2005).

The *Constitution* of *FDRE* again depicts the *relationship* between *parliamentary decision making jurisdictions* and the government by defining the power of all the local, state and federal agencies. It also forms the very foundation of public life and regulates the relationship between those who govern and those who are governed, and the latter places the former in a position of trust and authority (ibid). This relationship, therefore, necessitates the participation of entire citizenry in the constitution (mega-policy) making process.

Parliamentary deliberations in the *House of people's representatives (HPRs)* of *FDRE* are tried to adhere the basic essence of participatory democracy, which is consultation, dialogue but debates are not yet healthy which is vividly observable (Getnet, 2010). The public at large and the relevant stakeholders of public policy making in particular are either not interested to participate in public policy issues or less attempt is made on the side of the government to make the public aware of significantly the power of the opposition for the role of *fundamental national priority public policy*

issues in Ethiopia yet they are probably in a pressing need for the immediate intervention of public involvement just they could be projected to the grass root level.

1.2 Statement of the Problem

Consistent with the provisions of the Ethiopian Constitution, in terms of the ***division of powers, the House of Peoples' Representatives is the highest authority of the Federal Government*** in which the major legislative making practices of Ethiopia are vested on as granted in the Ethiopian mega-public policy. The HPRs has the power of legislation, the power to question the Prime Minister and other top officials of government agencies, to examine both the executive's handling of its powers and discharge of its duties, taking measures should these have been misused (FDRE, 1995).

The Standing Committees in the HPRs have the duty to exercise oversight over the executive, each standing committee instructs a head of a respective ministry or government agency to deliver an annual report to committee members and the executive also initiates the policy agenda and drafts laws and refers it to the pertinent committee. The Standing Committee that the draft bill is referred to contacts the drafters, consults them and organizes a public gathering to elicit public opinions'. Standing committees are the ***key clearance points*** at which decisions are taken at each stage of the legislative process charged with legislative duties and oversight over the executive ministries and government institutions (ibid).

For instance, all others assigned to exercise supervision responsibilities over relevant executive agencies, the highest such organizations being fourteen government ministries and agencies are supervised by the Legal and Administrative Affairs Standing Committee. Not only are they empowered to scrutinize bills referred to them, but also are entrusted with the follow up of the implementation of national socio-economic policies and strategies, although their mandate to take measures of redress and/or take such 'necessary measures' should discrepancies materialize has always been dubious. In fact, statutory provisions make no specific references as to what measures, if any, that the HPRs or the standing committees should take in case of implementation failures and/or if the executive fails to account for its actions [FDRE, 2002; Mulugeta, 2005].

On the other extreme, among the three branches of government in the Ethiopia, there is very high power of influence over the legislature being dominated by the executive due to the following reasons: ***First***, executives are the ruling party affiliates; ***Second***, in Ethiopia the head of the executive is often the member of EPRDF and still member of the parliament then the executive, probably its head in the

parliament enjoys the majority vote. In other words, the executive is dominated by the party which dominates the legislature. It should be understood that, twenty members of the parliament can initiate a law and set agenda for discussion in the parliament, however, the fragmented opposition with different experiences and opinions have contributed a lot to the imbalance created between the legislature and the executive during the lawmaking process (Addis Press, 2010).

Whatever procedure a given parliament holds, there must be **checks and balances between** the three branches of the government: the executive, legislature and the judiciary. The main idea stemming from different actors of public policy (lawmaking) process reveals that the **checks and balances between the executive and the legislator are not fully maintained**.

In brief, within the competence of the federal government's *jurisdictions*, the *House of Peoples' Representatives* has the power of legislation as provided for under the 1995 Ethiopian constitution. Not only are the standing committees empowered to supervise the executive, at least nominally, they have also the power of initiating laws. However, contrary to what statutes stipulated, except the few laws that the office of the Speaker initiated, neither the fractious independent nor opposition members of the HPRs nor the standing committees have so far proposed legislation. The stark reality of policymaking process in Ethiopia, therefore, does not appear to have left little room for independent initiative, nor is there any space for citizens to have a say in the legislative process, too.

The researcher believes that whilst it is important to address public policy making issues of Ethiopia through all ways, as law-making is mainly political decision and economic indicators measure its outcome, it is high time to study the power & jurisdiction of the parliamentary law (legislative) making experiences in Ethiopia & the skeleton of the parliament with their impact on the public whether the current policy legislation & adoption hand in hand to the ultimate public policy outcomes could be the stimulating factors of this research gap in demand ahead of time.

1.2.1 Research Questions

This research tries to answer the following basic questions:

1. In what way can *the National legislatures (HPRs)* apply the *power of public decision making jurisdictions* with their prospects that strike into community experience at all levels of the legislative-making process in Ethiopia *in balance of the constitutional harmony*?
2. What are the challenges and *key areas of concern for the Ethiopian parliament* on *National and International Laws in Ethiopian legislative making process* in reference to the changing context of public policy?
3. Who are the major stakeholders or the leading players that exercise the strongest leverage in the *legislative making process* of Ethiopia?
4. Which *strategies* can be suggested to increase the *performance* of the *HPRs* in the FDRE Parliament in public policy making of the Ethiopian context?

1.3 Objectives of the Study

The general objective of the study is to critically assess the prospects, processes and power influence (leverage) during **the parliamentary sessions** /public decision making process in Ethiopia through an extensive review of literature and empirical evidence. The specific objectives of the study are to:

1. Disclose the major stakeholders or leading players that exercise the strongest leverage in the *power of decision making jurisdictions* in the *legislative process* of Ethiopia: The key actors who have dominated from its formulation until ratification in the parliament.
2. Examine the relationship between the executive, on the one hand, and the legislatures, on the other, the power that each has brought to put up on the public policy making process of Ethiopia;
3. Determine the key areas of concerns of the Ethiopian government & its parliament on the national & international laws and the reasons behind such concerns.
4. Evaluate the trends in the law-making process in Ethiopia and check (observe) that whether the legislative making processes are *participatory and balanced*.
5. Forward recommendations on the Ethiopian legal system & public decisions (policies) practices that could be helpful for both policy makers and further study by interested researchers.

1.4 Significance of the Study

The study under consideration proposes and creates a stage for discussion among different stakeholders of same or reciprocal interest in legislative development process especially on the fundamental democratic issue of public participation such that the political decision process of Ethiopian will equip other researchers conduct research of this type hopefully adding new knowledge in the law (public-policy) making process of the country than merely concentrating on analysis of the output or outcome alone.

From the legal point of view, the study provides insight into, legislature and the public with partial view of the executive on how much the major law maker (usually the government) was politically accountable to parliamentary authority (sovereignty) during the process of making major regulations & proclamations.

A research on ‘The Legislative Process in Ethiopia: The Challenges and Prospects’ in reference to lawmaking/legislative practices especially in Ethiopian laws (public policy relevant documents-the statutes) are not yet adequate for the researcher in the national library of the Ethiopian parliament. Specifically, *no research is made just quite firmly aligning* to the legislative process in Ethiopia: the challenges & prospects by the HPRs of FDRE. Thus, the research entitled as “The Legislative Process in Ethiopia: The Challenges and Prospects,” is *timely* and *relevant*.

The author also strongly argues that analysis does not have to wait until an actual law/ any public policy has been implemented, it can and does occur throughout the process. The significance of studying the role of actors and power of decision making jurisdictions by the FDRE HPRs during law making process outweighs studying prospects and challenges after implementation in the sense that proactive measurements shall be done first than reaction. At least input comes first to output and outcome.

By and the large, the study would also be able to enable public policy makers (prominently the legal legislatures) and development planners to either congratulate for what has been done or revisit the law by reconsidering the voices of the actors in the lawmaking process. Apart from this, proper assessment of the type and extent of participation among different actors in every proclamation making process helps the domestic and international community understand the political accountability of the FDRE government in relation to the Ethiopian context of public decision (policy) making processes & experiences.

1.5 Delimitation of the Study

This research is delimited by focusing on the inputs in the making of the public law but not all the different ways stated under the “statement of the problem”. The study is delimited mainly to assess the Public Policy Making and the Ethiopian Parliament: The Prospects, Processes and Power of Decision Making Jurisdictions by the HPRs of FDRE. Thus, the Ethiopian parliament that is mainly engaged in developing commentaries (legal bills) for the draft law, the Judiciary (Ministry of Justice in partial view), the legislature and some members of academia in AAU are the major actors / participants included in the study. Information related to the roles of parliament; the prospects, challenges and power of decision making jurisdictions by the *first chamber* during the law making process *from public policy formulation* until its ratification with a special emphasis by the HPRs will be gathered.

Finally, the paper never claims to be exhaustive in assessing all variables of legislative and 'contextual' factors. It only tries to consider major factors and to cast light on the direction of the public policy (legislative process) development of Ethiopia in light of constitutional balance of power within the Ethiopian parliament.

1.6 Limitation of the Study

This research would specifically address the **Ethiopian legislative making** practices for reasons no research was made on the topic thus getting past research outputs was difficult. Collecting the data especially on HPRs would be the most challenging task yet the researcher has just been coming up to endure. In fact, the researcher faced ample problems at times he availed himself there in the office of the HPRs building engaged in requesting preliminary data in designing & framing the first draft of his proposal but could fail to talk to the concerned bodies (chair persons) and there have been some very bureaucratic loads (norms) that made information scarce. Even the degree to which the researcher has been exposed to the parliament building was more frequently done than before for the second operation/round of my research data dispersion (questionnaire distribution & interview administration), the stagnant burdens were almost there although he managed to reduce as a result of his acquaintances was *slanting* with the reception staffs, secretaries, security personnel when coming to & fro of parliamentary observations for the plenary sessions of the HPRs. Beyond these all, there are no sufficient & relevant policy documents, journals, periodicals & recent parliamentary version books except some constitutional manuals in the national library of the Ethiopian parliament.

1.7 Methodology of the Study

1.7.1 Methodology

In this study descriptive and explanatory research methods were used. Descriptive method is used because the research aimed to describe, in detail, a situation or set of circumstances. It aims to answer questions like who does what? And what happened during the lawmaking process?

A qualitative research design is not based on a single, unified theoretical concept, nor does it follow a single methodological approach. Rather, a variety of theoretical approaches and methods are involved. ***Qualitative strategies of a research process are*** all of the approaches and methods that have one common underlying objective: understanding of the event, circumstance, or phenomenon under study. Hence, description is less important than the researcher's interpretation of the event, circumstances, or phenomenon. To achieve qualitative study objectives, researchers analyze the interaction of people with problems or issues. These interactions are studied in their context and then subjectively explained by the researcher (David, 2008).

And thus this research tried to interconnect the nature of the qualitative process among the national legislature, the Judges in the MoJ & AAU senior educators. In both these two approaches [*exploratory, descriptive*] several different techniques were employed for gathering data, including observation, participation and interviewing, and document analysis. In each, data were coded, placed in some intelligent order, interpreted, and used for explaining and/or predicting future interrelationships in similar circumstances. Finally, explanation and analysis was made based on the data collected here under way through.

1.7.2 Methods of Data Collection

This research is qualitative designed to collect subjective opinion from government and non-government actors about the roles and power that they exercised as a result of involvement in the public decision making process. Because of the qualitative nature of the study, the research would be relied on interviews, open-ended questionnaire and document review. An open-ended questionnaire response is used because more facts can be collected as it gives detail opinions of the respondents. Interview is used especially on their roles, power and procedures as well as actual practices during the law making process, it is appropriate for collecting data of this nature.

Whether the respondents are reliable are or not depends on the nature of qualitative data collected but the researcher could manage to settle the case of reliability through triangulating the data from the national legislature of HPRs were substantiated by the judges in the MoJ & AAU Senior educators on which the respondents in the national parliament might have been dominated by those people serving the interest of the government so that subjective views could not be inflated or would reduce to a greater extent.

Interviews and questionnaire responses are administered in English. Interviews were tape-recorded & this provides the researcher with opportunity to go through the tapes repeatedly and carefully transcribe them. Organized by respondents empirical evidences collected through questionnaire, interview and document review have been analyzed and summarized accordingly.

1.7.3 Sampling Technique and Frame

Because the research focuses on the whole process of lawmaking *from setting* what burning *public policy issues in their formulation until* ratification by the legislature, a qualitative study of a purposively selected group of government and non-government actors (like the academia of AAU) have been studied. Accordingly, this research used a purposive sampling technique to get all inclusive information from groups of different actors in the process; institutional actors relevant to the study that participated during the law making process were considered as respondents. Again, from each group a representative sample was taken purposively.

Therefore, the sampling frame of this study has basically incorporated: Ministry of Justice (the judiciary-judges take in relevance) & of course represented by the public prosecutors, the FDRE HPRs (the legislature), and the Ethiopian academia (senior educators of AAU).

1.7.4 Sample Size

From the public prosecutors, the researcher selected four lawyers to gather all the necessary information that are relevant documents required from the side of the Judiciary branch.

From the HPR FDRE House: Peoples Representatives (legislative body) the relevant respondents are members of the Legal and Administrative Affairs Standing Committee and leaders of veteran Parliament members. Thus, the researcher has taken 55 HPRs members from:

- 1) Legal, Justice and Administrative Affairs Standing Committee;
- 2) Social & Labor Affairs Standing Committee;
- 3) Foreign, Defense and Security Affairs Standing Committee;
- 4) Budget and Finance Affairs Standing Committee; and

- 5) Trade and Industry Affairs Standing Committee in the Parliament of FDRE who are permanently involved during the policy making process.

The written comments to the draft of major proclamations & regulations attending face to face discussion are held with Ministry of Justice, and with the members of HPRs House. Thus, they are highly representative of the members that have a common objective: creating an enabling environment for effective public policy making process in Ethiopia.

Finally, three Ethiopian academicians (AAU) are selected as respondents whose information is used to substantiate the data obtained from the major government and non-government stake holders.

Table-1 Below Shows the Number of Respondents from Each Frame.

<i>Table1. Respondents No.</i>	<i>Number</i>	<i>Sampling Frame</i>	<i>Sample Size</i>
1.		House of Peoples Representatives	55
2.		Academia	3
3.		Ministry of Justice	4

1.8 Organization of the Study

This research paper consists of **five** chapters. The first chapter is an introductory part, which provides the overall information about the background of the study, statement of the problem, research questions, and objectives of the study, significance of the study, scope and limitation of the study, research methodology and organization of the paper.

The second chapter summarizes the review of related literature on the Ethiopian public policy making context, public policy definitions, the recent changes of public policy, and the characteristics of policy process models for all public decisions with their relevance to the Ethiopian legislative making processes in the HPRs of FDRE parliament. The third chapter deals with the relevant legislative experience of some selected developed & developing parliamentary countries going thoroughly through: the Parliament of the United Kingdom, Parliament of India & Parliament of the South African Republic which again briefly takes a glance at the Legislative Process in the HPRs of Federal

Democratic Republic of Ethiopia for having better understanding of the Ethiopian public policy making.

Chapter four, which consists of the main theme of this research paper, assess the extent of the legislative autonomy (power) of FDRE's HPRs at the confrontation of its counter part of the executive dominance using the various approaches accompanied by rigorous discussion & interpretation upon which all the pertinent data accessed are projected for analysis. Any further, in the last fifth chapter; summary of base line findings, conclusions and recommendations are presented based on the research findings in line with the preceding analysis and discussions of the study.

CHAPTER-TWO

Review of Related Literature

Introduction

This literature review outlines the volatile nature of public policymaking in Ethiopia within the context of the frameworks for public policymaking practices in which an attempt is made to examine the real policymaking power resides in the policy system, explanatory variables and conceptual issues concentrate upon the role of major institutions (the legislatures) and their capacity (power or resources) to affect public policy.

It proffers an explanatory framework for an appraisal of the institutions, prospects, processes & power (leverage) of public decision making jurisdictions of the FDRE Parliament (i.e. the HPRs) in public policymaking. And hence, it explores a wide range of knowledge and experience that are essential for coming to terms with the multitude of policymaking problems in Ethiopia. The systems and structures of governance have not only widely involved socio-political and economic actors in the society; the state and its administrative structures in developing countries have not invariably been accountable to the civil society however. This study, therefore, addresses the contentious issue of forging the balance between state and society.

It is also important to have a glimpse on the changing context of public policy making to the extent of the recent occurrences in the field of public policy making too. Furthermore, this section clearly demonstrates who the prime movers, architects and players in public policymaking in Ethiopia are, and evaluates the stature of non-state actors in the policymaking process. Finally, it offers an exposition which points to potential instruments for dealing with the recurrent problems of policymaking in Ethiopia in reference to the partial view of the some global experiences & perspectives.

2.1 Factors and Considerations in Public Policy Development

A number of factors and considerations must be kept in mind during policy development. These factors will be used even by others to judge whether the policy, and the process of developing the policy, is or has been sound.

Public interest: What is in the best interest of society as a whole? How is the common good? Balanced against any private or special interests? Is the process fully inclusive, especially of those who are often overlooked or unable to participate?

Effectiveness: How well a policy achieves its stated goals?

Efficiency: How well resources are utilized in achieving goals and implementing policy.

Consistency: Degree of alignment with broader goals and strategies of government, with constitutional, legislative and regulatory regime.

Fairness and equity: Degree to which the policy increases equity of all members and sectors of society. This may link directly to consideration of public interest.

Reflective: Of other values of society and/or the community, such as freedom, security, diversity, communality, choice, and privacy. Furthermore, the following is a simple framework by which to assess policy. Good public policy must be.

Socially acceptable: Citizens and interest groups feel that the policy reflects their important values, e.g., fairness and equity, consistency, justice.

Politically viable: The policy has sufficient scope, depth, and consensus support that elected officials are comfortable with the decision.

Technically correct: The policy has to meet any scientific or technical criteria that have been established to guide or support the decision. (Bruce, 2003:20)

Values are the foundation of public policy with values of individuals, groups, and the society as a whole. The challenge of choosing and affirming some values and not others must be acknowledged and discussed openly in a democratic society:

It should be noted that regardless of whether policy is vertical or horizontal, it should be assigned to the group, agency or department with the most direct responsibility for the outcome. Membership should include groups or departments who own part of the issue; individuals with a range of knowledge and skills; individuals with process expertise and knowledge of stakeholders and the community; representatives of central agencies with a role in approval; and those who will be responsible for implementation.

2.2 Definitions of Public Policy

It is not possible to *define* public policy in any precise way. Students of government have long struggled over what is meant by ‘policy’ and ‘policymaking’. *Definitions of public policy found in the literature range from ‘declarations of intent and general rules covering future behavior to important government decisions, a selected line or course of action, the consequences of action or inaction, and even all government action’* (Lynn, 1987:28). The word ‘policy’ could refer to: the intentions declared

by parties in an election; a rather more precise program than an intention; general rules such as *'foreign policy'*; *government decisions in a policy document*; and to even larger things such as everything the government does (Hogwood and Gunn, 1984).

The systematic study of public policy has been argued that it is far from a new venture although it formally began nearly half a century ago (Bauer, 1968). The discipline of public policy emerged as an important field in the early 1950s with the pioneering works of Harold Lasswell. In the mid-60s the works of David Easton also provided an intellectual framework for understanding of the entire policy process (Sabtier, 1991). Howlett and Ramesh (1995) also noted that policy science is a relatively recent discipline, emerging in North America and Europe after World War II as students of politics groped for new understanding of the relationship between government and citizens. Pioneered by Harold Lasswell and others in the West, the focus of policy sciences was not so much on the structure of governments or the behavior of political actors, or what governments should or ought to do, but on what governments actually do (Mulugeta, 2005).

There are as many academic definitions of 'policy' as there are many everyday usages of the term (Hogwood and Gunn, 1984). Some scholars pointed out the difficulty of finding a single neat phrase to define the concept of public policy (Bauer, 1968 Saasa, 1985; Theodoulou, 1995).

- Public policy is what governments choose to do or not to do (Dye, 1995). Dye not only offers a definition too generalized to be useful; the formulation also tends to be too simple and fails to provide the means to conceptualize public policy. It would include every aspect of governmental behavior from purchasing or failing to purchase paper clips to waging or failing to wage nuclear war; it thus provides no means of separating the trivial from the significant aspects of government activities (Howlett and Ramesh, 1995). Dye's definition, however, states clearly that the agent of public policymaking is a government. Second, he highlights the fact that public policies involve a fundamental choice on the part of governments to do something or do nothing.
- Policy can even be viewed as change and goal oriented (Cloete, 1991:4). 'The policy of government can be defined as its program of action to give effect to selected normative and empirical goals in order to address perceived problems and needs in society in a specific way, and therefore to achieve desired changes in the society' (*ibid.*).
- Anderson (1997:9) offers a more generic definition. He describes public policy as 'a relatively stable, purposive course of action followed by an actor or set of actors in dealing with a problem

and matter of concern'. Anderson's formulation adds two important elements to those noted by Dye.

Primarily, it stresses that sets of actors, rather than a sole actor, within government, take policy decisions. Policies are also the result of not only multiple decisions, but also of multiple decisions taken by manifold actors. **Second**, it highlights the link between government action and the perception of the existence of a problem or concern requiring governmental action.

➤ Dror (1968:12) offers a more succinct and comprehensive definition of public policy. It is 'a more complex, dynamic and continuous process whose various components make different contributions to it. It decides major guidelines for action directed at the future mainly by governmental organs...' (*Op. cit.*). Dror's definition contains the essential elements of public policy.

First, it stresses that public policymaking involves structures (components), and is an ongoing process taking place within governmental institutions.

Second, depending on the nature of the structure of policy and policy system, the institutions in the public domain (such as the legislature, the executive, the judiciary and the administrative apparatus) make different contributions to public policymaking.

Third, it asserts that public policy decisions are legislative enactments that can be made by public institutions.

➤ Saasa (1985) introduces the idea that public policy is not only a conscious goal-selecting process undertaken by actors in the political system, but it also includes the identification of the means for achieving such public goals. Policy decisions should also appreciate the capabilities of the major actors' vis-à-vis policy objectives (*ibid.*). The assertion, implicitly or explicitly, signifies that policies are often far from achieving the originally established objectives mainly because of the gaps between power and resource capabilities of that policymaking and implementing institutions command, on the one hand, and the objectives accomplished gauged in terms of concrete goods and services, on the other.

Before winding up this section, it is necessary to distinguish between policymaking and decision-making. Decision-making involves discrete choices from among alternatives, and it is not a self-contained stage, but a specific stage rooted in the policy cycle (Anderson, 1997; Howlett and Ramesh, 1995). Policymaking, on the other hand, encompasses a flow and a pattern of action that extends over time and includes many decisions, some routine and some not.

Furthermore, policymaking is a highly political process where continuous conflict, bargaining and negotiation occur between groups and between state and non-state actors as well. Discrete and mundane decisions can, however, be made routinely by households and individuals.

2.3 The Changing Context of Public Policy

In the early 1980s, budget deficits were a major motive for public sector reforms in many parts of the world – reforms which covered both the content of public policy and the way in which public policy was made. However, *many governments*, at least in the oil exporting developing countries (OECD, 1990) countries, have achieved more favorable budget positions. Since then, other challenges have emerged to drive reforms in *public policy*. These new pressures on governments consist of a mixture of external factors (such as the ageing society, the information society and the tabloid society) and internal factors including the consequences, both planned and unplanned, arising from the ‘first generation’ of public sector reforms. These new pressures have emphasized the quality of life implications of public policies and the governance aspects of public sector organizations. They have typically pushed the governments in a different direction to the managerial reforms of the 1980s and early 1990s. In particular, they have re-emphasized the role of *politicians in the public policy arena*. (Bovaird and Loffler, 2003)

2.3.1 Recent Changes in the Context of Public Policy

Most policies have spending implications. If money becomes scarce, policy makers have less space to maneuver. However, financial crises also have an upside: they put pressure on public organizations to become more efficient. In particular, the fiscal crises in most OECD countries in the 1980s and 1990s were a key trigger for public sector reforms. As these crises receded in many OECD countries by the mid-1990s, the financial imperative for public sector reforms became weaker, although clearly it remained important that public services should be managed in an economic and efficient way.

From the early 1990s, other pressures on governments became more important, consisting of a mixture of external and internal factors. Many of the external factors have operated for several decades, but some have become significantly more important in recent years. A particularly powerful group of the external factors pushing for reform since the early 1990s has been associated with quality of life issues. The first of these to make a major impact were environmental factors, particularly since the Rio Summit in 1992. Since then, interest has grown in many countries around the world in the quality of health (not just healthcare), the quality of life of children, particularly the prevalence of child poverty (not just the quality of public services for children) and the quality of life of the elderly (not just the quality of social care) (Loffler, 2001).

2.3.2 The Politics of Public Policy

The role of politics in the public sector, which in theory may seem to be central, has for long been under pressure from *two* other major sources: the professional groups who tend to believe that they are uniquely well informed about which policies are most likely to work and the managerial cadres who tend to believe that they are uniquely expert in getting the various professional groupings to work together effectively. More recently, a *third* set of actors has tried to push its way on to this already crowded stage: the groups of citizens and other stakeholders who have been told that they alone know best what they want, at least in terms of services which directly affect their quality of life. So is there still room for politicians to play a role upon this stage?

First, it is important to recognize that politicians play a number of roles – leadership of their polity (at a variety of levels), *policy making for society: strategy making for the organization*, partnership building with other organizations and with other stakeholders (including other countries or other communities), *watch-dog* over the decisions made within their polity, lobbyist in relation to decisions made in other polities, and last but not least, representation of their constituents. Not all of these roles are equally supported by the bureaucratic structures of the public sector – in particular, constituency roles tend to be rather poorly supported by officials, being regarded largely as ‘political’ and therefore for political parties to support.

How does this role differ in different contexts? Not only do the fundamental roles of politicians alter as we move from the global to the local stage, but so do the relative priorities between the roles and the dominant stakeholders with whom politicians have to interact. *Furthermore, the political role varies depending on the balance in the polity between representational and participative democracy.* Starting at the global level, global politics is mainly about security, trade and environment, and is played out by heads of state and ministers. However, many of these decisions have major implications at national, regional, local and neighborhood levels – for example, the ‘*peace dividend*’ can be a bonus for national social program strategies (more funds are available from government budgets) but very bad for employment strategies in areas where army and naval bases are closed down. Again, global environmental strategy involves clashing national interests (‘*carbonguzzlers*’ vs. *therest?*), while global environmental improvement often entails ‘*think global, act local*’ approaches. Thus national and local politicians cannot ignore the global level in their policy making, even though their role may often be essentially one of lobbying for their interests.

National politics is often the most ideologically driven, as it is the main forum for the debate about ideas which determine election results and subsequent government legislation programs. Here, there are frequent clashes between ideological viewpoints, between national power groupings (which have variously been viewed through the lens of classes, ‘fractions of capital’, dominant coalitions of stakeholders, communities of interest and so on), and between the ‘political’ sensitivities of party politicians and the ‘technical’ recipes favored by the *‘technocracy’*. **Policymaking** at this level has a high emphasis on injecting political flavors into professionally designed strategies.

Regional politics is driven by different considerations in many countries. In Spain, there is a clear desire to allow expression within the autonomies to feelings of *national identity* as well as differing local priorities. This is clearly the case also with Scotland, Wales and Northern Ireland in the UK. In other cases, regional government has been formulated deliberately as a counterweight to central government (e.g. the role of the states in the US since 1776 and, nearly 200 years later, the role of the Lander in the post-1945 German constitution, largely fashioned in the US mould). In some cases, there is a mixture of motives – the slow movement towards some form of regional government in England may be seen as a partial recognition by central government of strong regional identities in some parts of the country, coupled with a desire to devolve some responsibility for unpopular transport and planning decisions away from Whitehall. At this regional level, politicians are in a halfway house between national and local politics. Where the region is strong (e.g. US states, some powerful Spanish autonomies such as Basque Country and Catalonia, some German Lander such as Bavaria and Baden-Wurttemberg), then regional politicians can have a national and even international significance. Where regions are weak (e.g. Spanish autonomies such as Murcia and Rioja, the regions in France and the regions created recently in Central and Eastern European countries), regional policies mainly play merely a ‘gap-filling’ role between policies set at the centre and in localities.

Local politics still usually has some ideological flavor but this is often idiosyncratic (local political parties often deviate quite far in their views from their national parties) and it is often less important than stances on local issues. Part of the role of the strategic politician in a local area is to lead the local community towards new goals, partly to help the local area compete against other areas (particularly in the same region) and partly to represent the community where policies (at all levels of government) are believed to have failed. Clearly, many local politicians are non-strategic, worried only about ‘patch politics’ and working on behalf of their constituents to improve the outcomes they experience from public services and from their dealings with other organizations. This means that many officials

experience local politics as an irritant in the policy implementation process rather than a contribution to the policy-making process, which may explain why many have such a negative view of it (Philip Cooper et al., 1998).

Clearly, there is still a major role for political input into policy making, even in this era of highly professionalized ‘new public management’ and highly networked ‘governance’ partnerships. However, *the autonomy of political decisions should not be exaggerated*. There are many different pressure points by means of which politicians may be driven down roads which they do not personally like very much. For example, policy networks often contain strong voices from all the main stakeholders, and politicians, by becoming involved in them, magnifying these voices (Bogason, 2000). Consequently, political platforms are usually designed to take on board the interests of a wide coalition of stake holders. At worst; this can mean that politicians seek to ‘please everyone, all the time’. In these circumstances, strategic policy making becomes next to impossible. Only if politicians are prepared to weather adverse comment when they follow strategic policies in which they believe can they claim to exercise political leadership and help their organizations and partnerships to manage strategically.

On the other hand, a far less rigid approach to looking at public policy is put forward by other scholars, such as Lynn (1987) and de Leon (1997). Policy (public) making is viewed in this approach as a political process rather than a narrowly technical one. Lynn sees **public policy** as the output of individuals in organizations. These people operate under a variety of influences and ‘to understand policy-making it is necessary to understand the behavior of and interactions among these structures: individuals holding particular positions, groups, organizations, the political system, and the wider society of which they are all a part’ (Lyn, 1987:17). Therefore, instead of involving particular methodologies, policy-making is a matter of adapting to and learning to influence political and organizational environments.

The focus understands how particular policies were formed, developed and work in practice; these are concerns broader than a focus on decision-making or mathematical models. Lynn argues that policy-making ‘encompasses not only goal setting, decision making, and formulation of political strategies, but also supervision of policy planning, resource allocation, operations management, program evaluation, and efforts at communication, argument, and persuasion’ (ibid).

Public policy in this perspective is a process, but one which is a political one above all other considerations; one in which those Lynn calls ‘managers of public policy’ – an interesting amalgam of

terms – use any means to achieve their goals. Instead of being a formal process, they are strictly limited, as ‘public executives pursue their goals within three kinds of limits: those imposed by their external political environments; those imposed by their organizations; and those imposed by their own personalities and cognitive styles. Rather than being technical experts, effective managers of public policy (ibid) should:

- Establish understandable premises for their organization’s activities;
- Attain an intellectual grasps of strategically important issues; identify and focus attention on those activities that give meaning to the organization’s employees;
- Remain alert to and exploit all opportunities, whether deliberately created or fortuitous, to further their purposes;
- Consciously employ the strong features of their personalities as instruments of leadership and influence;
- Manage within the framework of an economy of personal resources to govern how much they attempt to accomplish and how they go about it.

Managers work in this way because their own positions are on the line; they must achieve results or they will be in trouble, so any means of doing so must be considered.

Public policy-making viewed from this perspective becomes much more a political process. Hogwood and Gunn, who cross the two public policy perspectives, argue that analysis is seen as ‘supplementing the more overtly political aspects of the policy process rather than replacing them’ and ‘to treat politics as a residual is to doom analysis, not politics, to irrelevance’ (Hogwood and Gunn, 1984:267). They put forwarded the following step-based approach to the policy process, which they say is ‘mixed’, that can be used for both description and prescription.

Their approach includes:

- i. Deciding to the issue search (agenda-setting);
- ii. Issue definition;
- iii. Forecasting;
- iv. Setting;
- v. Objectives and priorities;
- vi. Options analysis;
- vii. Policy implementation, monitoring and control;
- viii. Evaluation and review; and,

ix. Policy maintenance, succession, or termination.

This model is ‘a typical’ while its roots may be in the rational model that later (in the subsequent sections) will be detailed; it does, to some extent, cross between the two kinds of policy set out earlier. Indeed, Hogwood and Gunn argue that their approach is concerned ‘both with the application of techniques and with political process. They argue for a *‘process-focused’* rather than a *‘technique-oriented’* approach to policy analyses. Analysis is primarily about ‘determining the characteristics of the issue being analyzed and the organizational and political setting of the issue, with the actual mechanics of particular techniques being secondary and consequential’ It is seen as ‘supplementing the more overtly political aspects of the policy process rather than replacing them’ (ibid). Their model may be more realistic and useful as a result.

The main difference between the two public policy perspectives is the role given to the political process is outlined below.

Policy analysis looks for one best answer from a set of alternatives and has a battery of statistical weapons at its disposal to do so. Political public policy sees information in an advocacy role; that is, it realizes that cogent cases will be made from many perspectives which then feed into the political process.

Herbert A. Simon goes somewhat further (Simon, 1983:97; Hogwood and Gunn, 1984:266): When an issue becomes highly controversial – when it is surrounded by uncertainties and conflicting values – then expertness is very hard to come by, and it is no longer easy to legitimate the experts. In the circumstances, we find that there are experts for the affirmative and experts for the negative. We cannot settle such issues by turning them over to particular groups of experts. At best we may convert the controversy into an adversary proceeding in which we, the laymen, listen to the experts but have to judge between them. There is no single best answer; there is only an answer that survives the political process in what is often a contest between policy experts on all sides of a public policy issue. More recent analysis of the policy process takes the political aspect somewhat further.

Public policy-making, as a distinct from its study, now seems to be an interesting amalgam of several perspectives, and managerialism may be able to combine them. Net benefit maximization is now the express aim of governments, but the methodology of managerialism is that of economics rather than of old-style policy analysis. At the same time, groups have been brought into policy-making to a greater extent than before. But rather than mediating between groups, public managers, or managers of public

policy to use Lynn's phrase, try to persuade groups that there are advantages for them in net benefit maximization.

All parties in the process realize what the nature of the game is: *politics*. The only problem with this rather sensible approach is how to classify it. It could be viewed as *political public policy, managing public policy, or as public management*.

2.4 The Policy Process Models

There are almost as many models of the policy process as there are public policy theorists, all deriving to some extent from Lass-well (1971). Anderson's model of the policy process has *five stages*: problem identification and agenda formation, formulation, adoption, implementation, and evaluation (Anderson, 1984:19). Quade (1982) also sees *five elements*: *problem formulation, searching for alternatives, forecasting the future environment, modeling the impacts of alternatives, and evaluating the alternatives*. Stokey and Zeckhauser (1978) also set out a *five-step process* in which the analyst is to: determine the underlying problem and objectives to be pursued, set out possible alternatives, predict the consequences of each, and determine the criteria for measuring the achievement of alternatives, and indicate the preferred choice of action. There are problems in using any model, not the least of which would be the temptation to simply follow a menu, rather than to really analyze what is happening. In order to look at this more closely, the next section considers in more detail one of the policy process models – reasonably representative of its ilk – to look at the advantages and shortcomings of models in general.

Patton and Sawicki (1986) put forward a *six-step process model*, and although, as they say, there is no single agreed-upon way of carrying out policy analysis, theirs remains one of the more helpful frameworks for looking at a particular policy problem. The basic aim of their approach is to assist someone who is required to analyze a given situation and to derive a policy to deal with it. They derive a list of headings under which particular parts of the policy process can be formulated.

Step 1: Verify, Define and Detail the Problem

Before starting to look at any policy problem, the first step is, of course, to specify what the problem actually is. This is not necessarily a straightforward point as public policies are often interrelated. It is often hard to define the problem in the public sector, where policy objectives may not be clear or aim to do several things at once. Public agencies often have several missions at once, and need to respond to differing interest groups.

It is particularly difficult to define problems in large areas of policy such as health or welfare. But without being able to define the problem it becomes impossible to design a policy. At this point of the policy process, the analyst should be able to set out the policy problem in a way that separates this particular problem into something discrete which can be tackled. After this the analyst should know ‘whether a problem exists which can be solved by the client, should be able to provide the first detailed statement of the problem, and should be able to estimate the time and resources the analysis would require’ (ibid).

This point is related to the ‘agenda-setting’ of some of the other models. It would be a mistake to see the agenda as being set only from the outside, or only by groups. Public servants themselves have policies they keep submitting to the political leadership, until they find a receptive audience.

Step 2: Establish Evaluation Criteria

One novel part of the Patton and Sawicki model is to establish evaluation criteria at an early stage. This step allows other evaluation criteria to be considered instead of always referring to cost. Other valued criteria could include effectiveness, political acceptability or even votes and equity. *The criteria may derive from the statement of the problem*, or from whom the analysis is being carried out for. Adding this stage in the policy process may reduce some of the criticisms of the rational policy analysis model. Any value may be maximized, but it does need to be stated at the outset.

Step 3: Identify Alternative Policies

Once the goals are known and evaluation criteria specified, it should be possible to develop a set of alternative ways of getting to the known goals. These may, perhaps even should, vary enormously, although there is no one way of finding the alternatives. Patton and Sawicki offer as possible ways of finding alternatives: ‘thinking hard may be the most profitable way to identify alternatives, especially when time is short’; alternatives may also be identified through ‘researched analysis and experiments, through brainstorming techniques, and by writing scenarios’; indeed ‘seemingly unconventional alternatives should not be overlooked’ (Patton and Sawicki, 1986:32). For the beginner analyst trying to solve a problem this may not be particularly helpful, and underlines, perhaps, one limitation of any model in a real political world in which art may be more helpful than science.

Step 4: Evaluate Alternative Policies

In this particular model of the policy process, this step is regarded as the most important. The idea is that once alternative policies are identified, each can be rigorously evaluated, by deciding the particular points in favor or against each of the alternative proposals. The authors do warn against being too rigid in how this evaluation is carried out (ibid):

The nature of the problem and the types of evaluation criteria will suggest the methods that can be used to evaluate the policies. *Avoid the tool-box approach of attacking every evaluation with your favorite method, whether that is decision analysis: linear programming, or cost–benefit analysis.* It has been said that when the only tool an analyst has is a hammer, then all problems will look like nails. Some problems will call for quantitative analysis.

Others will require qualitative analysis. Most problems will require both. The evaluation stage should identify those alternatives that are feasible and those that are not; those that will be expensive, or politically impossible. At this point more data may also have to be collected or the original problem redefined.

Step 5: Display and Select among Alternative Policies

The results of the evaluation may be presented to the client as a list of alternatives, or a preferred alternative rather than only one. No alternative is likely to be perfect, instead, all of the alternatives will have good points and bad points, particularly if the difference between ‘a technically superior alternative and a politically viable one’ is borne in mind (ibid).

Implementation of the program occurs at this point as well; tasks and responsibilities assigned and how the implemented policy is to be monitored.

Step 6: Monitor Policy Outcomes

No policy is complete at this point. There are often unintended consequences, possible difficulties in implementation or changes in circumstances. Monitoring or evaluation of progress is, or should be, fundamental to any policy no matter how it is derived. The nature of public policy programs is such that the results of any one policy analysis will probably be that the original problem evolves into others, so that rather than any one discrete analysis there will be much iteration.

Summary

This study commits itself to the explanation of the Ethiopian proclamation (legislation) making process to display the process by which the different of paradigms public policies discussed were made from the very reason how they could prompt the government to initiate the issue agenda until its adoption by the legislature. The exploration of research documents show that major areas of research by most researchers are public service reforms, education and economic policies, foreign relation, legal and governance, monetary and fiscal policies, and almost most of them focus on analyzing the challenges, prospects and outcomes of these policies yet these all constitute the lion's share burden to the Ethiopian national legislature i.e. HPRs. Whatever findings are brought up popular citizen participation during the lawmaking process is the most acceptable root to encourage participatory democracy in the hope of making the government more accountable.

Thus, law makers are in charge of developing laws in such a way that the outcome of which can bring a real benefit to the society. All these can happen when nationals have the right to participate in the national development and in particular to be consulted with respect to policies or laws affecting them. The researcher has dealt with different public policy perspectives of different scholars to critically assess the role of different actors. The views of these different scholars, in essence, could have significant contribution to the power leverage of government inducing during the Ethiopian legislation Proclamation making process and provide recommendations for policy makers and other concerned stakeholders where the greater emphasis is due in legislative process of the country.

CHAPTER-THREE

Relevant Legislative Experience of Some Selected Developed & Developing Parliamentary Countries

3.1 Parliament of the United Kingdom

The Parliament of the United Kingdom of Great Britain and Northern Ireland, commonly known as the British Parliament, is the supreme legislative body in the United Kingdom with the British Crown dependencies and British overseas territories. It is located in Westminster, London. Parliament alone possesses legislative supremacy and thereby ultimate power over all other political bodies in the UK and its territories. At its head is the Sovereign, Queen Elizabeth II. The parliament is bicameral, with an upper house, the House of Lords, and a lower house, the Commons. The Queen is the third component of the legislature. The House of Lords includes two different types of members: the Lords Spiritual (the senior bishops of the Church of England) and the Lords Temporal (members of the Peerage) whose members are not elected by the population at large, but are appointed by the Sovereign on the advice of the Prime Minister. Prior to the opening of the Supreme Court in October 2009 the House of Lords also performed a judicial role through the Law Lords (Parliament of the UK, 2007).

The House of Commons is a democratically elected chamber with elections to it held at least every five years. The two Houses meet in separate chambers in the Palace of Westminster (commonly known as the Houses of Parliament), in London. By constitutional convention, all government ministers, including the Prime Minister, are members of the House of Commons or, less often, the House of Lords, and are thereby accountable to the respective branches of the legislature. British parliament has been called "the mother of parliaments", its democratic institutions having set the standards for many democracies throughout the world, and the United Kingdom parliament is the largest Anglophone legislative body in the world. However, the originator of the expression "mother of parliaments", John Bright, used it in reference to England, and not to her parliament. In theory, supreme legislative power is vested in the Queen-in-Parliament; in practice in modern times, real power is vested in the House of Commons, as the Sovereign generally acts on the advice of the Prime Minister, and the powers of the House of Lords have been limited (ibid).

3.1.1 Composition and Powers

The legislative authority, the Crown-in-Parliament, has three separate elements: the Monarch, the House of Lords, and the House of Commons. No individual may be a member of both Houses, and members of the House of Lords are legally barred from voting in elections for members of the House of Commons. Royal assent of the Monarch is required for all Bills to become law, and certain Delegated Legislation must be made by the Monarch by Order in Council. The Crown also has executive powers which do not depend on Parliament, through prerogative powers, which include among others the ability to make treaties, declare war, award honors, and appoint officers and civil servants. In practice these are always exercised by the monarch on the advice of the Prime Minister and the other ministers of HM (Her Majesty's) Government. The Prime Minister and government are directly accountable to Parliament, through its control of public finances, and to the public, through election of Members of Parliament (Tanner, 2000).

The Commons, the last of the "estates" of the Kingdom, are represented in the House of Commons, which is formally styled by the Honorable Commons in Parliament Assembled (commons coming not from the term commoner, but from commune, the old French term for a district). The House currently consists of 650 members. Each "Member of Parliament" or "MP" is chosen by a single constituency according to the First-Past-the-Post electoral system. Universal adult suffrage exists for those 18 and over; citizens of the United Kingdom, and those of the Republic of Ireland and Commonwealth nations resident in the United Kingdom are qualified to vote, unless they are in prison at the time of the elections. The term of members of the House of Commons depends on the term of Parliament a maximum of five years; a general election during which all the seats are contested, occurs after each dissolution. All legislation must be passed by the House of Commons to become law and it controls taxation and the supply of money to the government. Government ministers (including the Prime Minister) must regularly answer questions in the House of Commons and there are a number of select committees that scrutinize particular issues and the workings of the government. There are also mechanisms that allow members of the House of Commons to bring to the attention of the government particular issues affecting their constituents (Parliament of the UK, 2007.).

3.1.2 Legislative Functions

Parliament meets in the Westminster. Laws can be made by Acts of the United Kingdom Parliament. While Acts can apply to the whole of the United Kingdom including Scotland, due to the continuing separation of Scots law many Acts do not apply to Scotland and are either matched by equivalent Acts that apply to Scotland alone or, since 1999, by legislation set by the Scottish Parliament relating to devolved matters. This has led to a paradox known as the West Lothian question. The existence of a devolved Scottish Parliament means that while Westminster MPs from Scotland may vote directly on matters that affect English constituencies, they may not have much power over their laws affecting their own constituency. While any Act of the Scottish Parliament may be overturned, amended or ignored by Westminster, in practice this has yet to happen. Furthermore, the existence of the Legislative Consent Motion enables English MPs to vote on issues nominally devolved to Scotland, as part of United Kingdom legislation. Since there is no devolved "English Parliament", the converse is not true (Erskine, 2004).

Laws, in draft form known as bills, may be introduced by any member of either House, but usually a bill is introduced by a Minister of the Crown. A bill introduced by a Minister is known as a "Government Bill"; one introduced by another member is called a "Private Member's Bill". A different way of categorizing bills involves the subject. Most bills, involving the general public, are called "Bills". A Public Bill which affects private rights (in the way a Private Bill would) is called a "Bill". Private Members' Bills make up the majority of bills, but are far less likely to be passed than government bills. There are three methods for a MP to introduce a Private Member's Bill. The Private Members' Ballot (once per Session) put names into a ballot, and those who win are given time to propose a bill. The Ten Minute Rule is another method, where MPs are granted ten minutes to outline the case for a new piece of legislation. Standing Order 57 is the third method, which allows a bill to be introduced without debate if a day's notice is given to the Table Office. Filibustering is a danger, as an opponent to a bill can waste much of the limited time allotted to it. Private Members' Bills have no chance of success if the current government opposes them, but they are used in moral issues: the bills to decriminalize homosexuality and abortion were Private Members' Bills, for example. Governments can sometimes attempt to use Private Members' Bills to pass things it would rather not be associated with. "Handout bills" are bills which a government hands to MPs who win Private Members' Ballots (ibid).

Each Bill goes through several stages in each House. The first stage, called the first reading, is a formality. At the second reading, the general principles of the bill are debated, and the House may vote to reject the bill, by not passing the motion "That the Bill be now read a second time". Defeats of Government Bills are extremely rare, the last being in 2005. Following the second reading, the bill is sent to a committee. In the House of Lords, the Committee of the Whole House or the Grand Committee is used. Each consists of all members of the House; the latter operates under special procedures, and is used only for uncontroversial bills. In the House of Commons, the bill is usually committed to a Public Bill Committee, consisting of between 16 and 50 members, but the Committee of the Whole House is used for important legislation. Several other types of committees, including Select Committees, may be used, but rarely. A committee considers the bill clause by clause, and reports the bill as amended to the House, where further detailed consideration ("consideration stage" or "report stage") occurs. However, a practice which used to be called the kangaroo (Standing Order 32) allows the Speaker to select which amendments are debated. This device is also used under Standing Order 89 by the committee chairman, to restrict debate in committee (ibid).

Once the House has considered the bill, the third reading follows. In the House of Commons, no further amendments may be made, and the passage of the motion "That the Bill be now read a third time" is passage of the whole bill. In the House of Lords further amendments to the bill may be moved. After the passage of the third reading motion, the House of Lords must vote on the motion "That the Bill does now pass." Following its passage in one House, the bill is sent to the other House. If passed in identical form by both Houses, it may be presented for the Sovereign's Assent. If one House passes amendments that the other will not agree to, and the two Houses cannot resolve their disagreements, the bill fails. However, since the passage of the Parliament Act 1911 the power of the House of Lords to reject bills passed by the House of Commons has been restricted, and further restrictions were placed by the Parliament Act 1949. If the House of Commons passes a public bill in two successive sessions, and the House of Lords rejects it both times, the Commons may direct that the bill be presented to the Sovereign for his or her Assent, disregarding the rejection of the Bill in the House of Lords. In each case, the bill must be passed by the House of Commons at least one calendar month before the end of the session (<http://www.parliament.uk/14/11/2012>).

The last stage of a bill involves the granting of the Royal Assent. Theoretically, the Sovereign may either grant the Royal Assent (that is, make the bill a law) or withhold it (that is, veto the bill). Under

modern conventions the Sovereign always grants the Royal Assent, in the Norman French words "La reyne le vault" (the Queen wishes it; "Leroy" instead in the case of a king). Thus, every bill obtains the assent of all three components of Parliament before it becomes law (except where the House of Lords are over-ridden under the Parliament Acts 1911 and 1949). The words "Be It Enacted by the Queen's [King's] most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: ", or, where the House of Lords' authority has been overridden by use of the Parliament Acts, the words "Be It Enacted by The Queen's [King's] most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Acts 1911 and 1949, and by the authority of the same, as follows: " appear near the beginning of each Act of Parliament. These words are known as the enacting formula. Prior to the creation of the Supreme Court of the United Kingdom in October 2009, however, Parliament also used to perform several judicial functions. The jurisdiction of Parliament arose from the ancient custom of petitioning the Houses to redress grievances and to do justice. The House of Commons ceased considering petitions to reverse the judgments of lower courts in 1399, effectively leaving the House of Lords as the court of last resort (ibid).

3.1.3 British Parliament's Relationship with the Government

The British Government is answerable to the House of Commons. However, neither the Prime Minister nor members of the Government are elected by the House of Commons. Instead, the Queen requests the person most likely to command the support of a majority in the House, normally the leader of the largest party in the House of Commons, to form a government. So that they may be accountable to the Lower House, the Prime Minister and most members of the Cabinet are, by convention, members of the House of Commons. Governments have a tendency to dominate the legislative functions of Parliament, by using their in-built majority in the House of Commons, and sometimes using their patronage power to appoint supportive peers in the Lords. In practice, governments can pass any legislation (within reason) in the Commons they wish, unless there is major dissent by MPs in the governing party. But even in these situations, it is highly unlikely a bill will be defeated, though dissenting MPs may be able to extract concessions from the government (<http://www.parliament.uk /22/11/2012>).

Parliament controls the executive by passing or rejecting its Bills and by forcing Ministers of the Crown to answer for their actions, either at "Question Time" or during meetings of the parliamentary committees. In both cases, Ministers are asked questions by members of their Houses, and are obliged to answer. Although the House of Lords may scrutinize the executive through Question Time and through its committees, it cannot bring down the Government. A ministry must always retain the confidence and support of the House of Commons. The Lower House may indicate its lack of support by rejecting a Motion of Confidence or by passing a Motion of No Confidence (ibid).

Confidence Motions are generally originated by the Government in order to reinforce its support in the House, whilst No Confidence Motions are introduced by the Opposition. The motions sometimes take the form "That this House has [no] confidence in Her Majesty's Government" but several other varieties, many referring to specific policies supported or opposed by Parliament, are used. For instance, a Confidence Motion of 1992 used the form, "That this House expresses the support for the economic policy of Her Majesty's Government." Such a motion may theoretically be introduced in the House of Lords, but, as the Government need not enjoy the confidence of that House, would not be of the same effect as a similar motion in the House of Commons; the only modern instance of such an occurrence involves the 'No Confidence' motion that was introduced in 1993 and subsequently defeated (ibid).

It is believed (ibid) that where a Government has lost the confidence of the House of Commons, the Prime Minister is obliged either to resign, or seek the dissolution of Parliament and a new general election. Where a Prime Minister has ceased to retain a majority in that vote and requests a dissolution, the Sovereign can in theory reject his request, forcing his resignation and allowing the Leader of the Opposition to be asked to form a new government. This power is used extremely rarely. The conditions that should be met to allow such a refusal are known as the Lascelles Principles. These conditions and principles are merely informal conventions; it is possible, though highly improbable, for the Sovereign to refuse dissolution for no reason at all. In practice, the House of Commons' scrutiny of the Government is very weak. Since the first-past-the-post electoral system is employed in elections, the governing party tends to enjoy a large majority in the Commons; there is often limited need to compromise with other parties. Modern British political parties are so tightly organized that they leave relatively little room for free action by their MPs. In many cases, MPs may be expelled

from their parties for voting against the instructions of party leaders. During the 20th century, the Government has lost confidence issues only three times—twice in 1924, and once in 1979.

3.1.4 Sovereignty of the British Parliament

Several different views have been taken of Parliament's sovereignty. According to the jurist Sir William Blackstone, "British Parliament has sovereign and uncontrollable authority in making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denominations, ecclesiastical, or temporal, civil, military, maritime, or criminal ... it can, in short, do everything that is not naturally impossible." A different view has been taken by the Scottish judge Lord Cooper of Culross, however, when he decided the 1953 case of *Mac Cormick v. Lord Advocate* as Lord President of the Court of Session, he stated, "The principle of unlimited sovereignty of Parliament is a distinctively English principle and has no counterpart in Scottish constitutional law." He continued, "Considering that the Union legislation extinguished the Parliaments of Scotland and England and replaced them by a new Parliament, I have difficulty in seeing why the new Parliament of Great Britain must inherit all the peculiar characteristics of the English Parliament but none of the Scottish." Nevertheless, he did not give a conclusive opinion on the subject (Brown and Tanner, 2004).

Thus, the question of Parliamentary sovereignty appears to remain unresolved. Parliament has not passed any Act defining its own sovereignty. Since the Parliament of the United Kingdom was set up in reliance on these promises, it may be that it has no power to make laws that break them. Parliament's power has often been eroded by its own Acts. Acts passed in 1921 and 1925 granted the Church of Scotland complete independence in ecclesiastical matters. More recently, its power has been restricted by membership of the European Union, which has the power to make laws enforceable in each member state. In the *Factor Tame* case, the European Court of Justice ruled that British courts could have powers to overturn British legislation contravening European law (ibid).

Parliament has also created national devolved parliaments and assemblies with differing degrees of legislative authority in Scotland, Wales and Northern Ireland. Parliament still has the power over areas for which responsibility lies with the devolved institutions, but would gain the agreement of those institutions to act on their behalf. Similarly, it has granted the power to make regulations to Ministers of the Crown, and the power to enact religious legislation to the General Synod of the Church of

England. Measures of the General Synod and, in some cases proposed statutory instruments made by ministers, must be approved by both Houses before they become law (Wasson and Stroud, 2000).

In every case of the aforementioned & Wasson and Stroud (2000), authority has been conceded by Act of Parliament and may be taken back in the same manner. It is entirely within the authority of Parliament, for example, to abolish the devolved governments in Scotland, Wales and Northern Ireland or to leave the EU. However, Parliament also revoked its legislative competence over Australia and Canada with the Australia and Canada Acts: although the Parliament of the United Kingdom could pass an Act reversing its action, it would not take effect in Australia or Canada as the competence of the Imperial Parliament is no longer recognized there in law. One well-recognized exception to Parliament's power involves binding future Parliaments (ibid).

In fact, the recent developments of recent years some judges and scholars in Britain have questioned the traditional view that parliament is sovereign. Others, however, have rejected these arguments. Various constitutional changes in the United Kingdom have influenced the renewed debate about parliamentary sovereignty: The devolution of power to regional assemblies in Scotland (Scottish Parliament), Wales (Welsh Assembly) and Northern Ireland (Northern Ireland Assembly). All these three assemblies can pass primary legislation within the areas that have been devolved to them, but their powers nevertheless all stem from the UK Parliament and can be withdrawn unilaterally. The Northern Ireland Assembly, in particular, has been suspended multiple times due to political deadlocks. However, Parliament may theoretically withdraw from commitments it has made or repeal any of the constraints it has imposed on its ability to legislate.

3.2 Parliament of India

The Parliament of India is the supreme legislative body in the country. The Parliament alone possesses legislative supremacy and thereby takes the ultimate power over all political bodies in India. The Parliament comprises the President of India and the two Houses—Lok Sabha (House of the People) and Rajya Sabha (Council of States). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha. India's Parliament is bicameral; Rajya Sabha is the upper house and Lok Sabha is the lower house. The two Houses meet in separate chambers in Sansad Bhavan (located on the Sansad Marg), New Delhi. Those elected or nominated (by the President) to either house of Parliament are referred to as Members of Parliament or MPs. The MPs of Lok Sabha

are directly elected by the Indian public and the MPs of RajyaSabha are elected by the members of the State Legislative Assemblies, in accordance with proportional representation. *The Parliament is composed of 790 MPs, who serve the largest democratic electorate in the world* (UNDP, 2008).

Legislative Functions in Brief

The main functions of parliament are:

- i. Legislation, within its jurisdiction;
- ii. Amendments of the constitution;
- iii. Approval of presidential ordinance and proclamation;
- iv. Consideration of president addresses and messages;
- v. Considerations of various resolutions & motions on social legislation.

3.2.1 Components

The Parliament consists of the President of Republic of India and both the Chambers.

3.2.1.1 President of India

Similar to most Commonwealth countries, India also includes the Head of State (the President of India in India's case) as a component of Parliament. The President of India is elected, from a group of nominees, by the elected members of the Parliament of India (LokSabha and RajyaSabha) as well as of the state legislatures (VidhanSabhas), and serves for a term of five years. Historically, ruling party (majority in the LokSabha) nominees have been elected and run largely uncontested. Incumbents are permitted to stand for re-election, but unlike the president of the United States, who can be elected just twice, incumbents can be elected for any number of terms. A formula is used to allocate votes so there is a balance between the population of each state and the number of votes assembly members from a state can cast, and to give an equal balance between State Assembly members and National Parliament members. If no candidate receives a majority of votes there is a system by which losing candidates are eliminated from the contest and votes for them transferred to other candidates, until one gains a majority (UNDP, 2008).

3.2.1.2 The Lok-Sabha

Lok Sabha is also known as the "House of the People" or the lower house. All of its members are directly elected by citizens of India on the basis of Universal Adult Franchise, except two who are appointed by the President of India. Every citizen of India who is over 18 years of age, irrespective of gender, caste, religion or race, who is otherwise not disqualified, is eligible to vote for the Lok Sabha. The Constitution provides that the maximum strength of the House be 552 members. It has a term of five years. To be eligible for membership in the Lok Sabha, a person must be a citizen of India and must be 25 years of age or older, mentally sound, should not be bankrupt and should not be criminally convicted. At present, the strength of the house is 545 members.

Up to 530 members represent of the territorial constituencies in States, and the remaining members represent the Union Territories but no more than two members from Anglo-Indian community can be nominated by the President of India if he or she feels that the community is not adequately represented. House seats are apportioned among the states by population. Several seats are reserved for representatives of Scheduled Castes and Scheduled Tribes as per Reservation in India is implemented. There is currently no quota in India's parliament for participation from women; however, the Women's Reservation Bill proposes to reserve 33% of the seats in Lok Sabha for women (ibid).

3.2.1.3 The Rajya-Sabha

The Rajya Sabha is also known as "Council of States" or the upper house. Rajya Sabha is a permanent body and is not subject to dissolution. However, one third of the members retires every second year, and is replaced by newly elected members. Each member is elected for a term of six years. Its members are indirectly elected by members of legislative bodies of the States. The Rajya Sabha can have a maximum of 250 members in all. Elections to RS are scheduled and the chamber cannot be dissolved. Each member has a term of 6 years and elections are held for one-third of the seats after every 2 years. 238 members are to be elected from States and Union Territories and 12 are to be nominated by President of India and shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely literature, science, art and social service.

Representatives of States are elected by the elected members of the Legislative Assembly of the State in accordance with system of proportional representation by means of single transferable vote. Representatives of Union Territories are indirectly elected by members of an electoral college for that territory in accordance with system of proportional representation.

The Council of States is designed to maintain the federal character of the country. The number of members from a state depends on the population of the state (e.g. 31 from Uttar Pradesh and one from Nagaland). The minimum age for a person to become a member of Rajya Sabha is 30 years (ibid).

3.2.1.4 Working Procedures and Committees in Power of the Legislative Process

The House and the Council are equal partners in the legislative process; however, the Constitution grants the House of Peoples some unique powers. Revenue-raising or “Money” bills must originate in the House of People. The Council of States can only make recommendations & suggestions over those bills to the House, within a period of fourteen days – lapse of which the bill is assumed to have been passed by both the Chambers.

3.2.1.4.1 Session of Parliament

The period during which the House meets to conduct its business is called a session. The Constitution empowers the President to summon each House at such intervals that there should not be more than 6 month's gap between the two sessions. Hence the Parliament must meet at least twice a year. In India, the parliament conducts three sessions each year: 1) Budget session: In the months of February to May, 2) Monsoon session: In the months of July to September, 3) Winter session: In the months of November to December in essence the sessions of the Indian parliament could be projected to the following structural patterns.

i. Lawmaking Procedures

Lawmaking procedures in India are modeled after, and are thus very similar to, those followed by the Parliament of the United Kingdom.

ii. Parliamentary Committees

Parliamentary committees play a vital role in the Parliamentary System. They are a vibrant link between the Parliament, the Executive and the general public. The need for Committees arises out of

two factors: The first one being the need for vigilance on the part of the Legislature over the actions of the Executive, while the second one is that the modern Legislature these days is over-burdened with heavy volume of work with limited time at its disposal. It thus becomes impossible that every matter should be thoroughly and systematically scrutinized and considered on the floor of the House. If the work is to be done with reasonable care, naturally some Parliamentary responsibility has to be entrusted to an agency in which the whole House has confidence. Entrusting certain functions of the House to the Committees has, therefore, become a normal practice. This has become all the more necessary, as a Committee provides the expertise on a matter which is referred to.

In a Committee, the matter is deliberated at length, views are expressed freely, and the matter is considered in depth, in a business-like manner and in a calm atmosphere. In most of the Committees, public is directly or indirectly associated when memoranda containing suggestions and are received, on-the-spot studies are conducted and oral evidence is taken which helps the Committees in arriving at the conclusions. Parliamentary Committees are of two kinds: Ad-hoc Committees and the Standing Committees most powerful of all is public accounts committee which is headed by the leader of the opposition.

iii. The Standing Committees

Each House of Parliament has standing committees like the Business Advisory Committee, the Committee on Petitions, the Committee of Privileges and the Rules Committee, etc. Standing committees are permanent and regular committees which are constituted from time to time in pursuance of the provisions of an Act of Parliament or Rules of Procedure and Conduct of Business in Parliament.

The work of these Committees is of continuous nature. The Financial Committees and some other Committees come under the category of Standing Committees. These are the Committees on Subordinate Legislation, the Committee on Government Assurances, the Committee on Estimates, the Committee on Public Accounts and the Committee on Public Undertakings and Departmentally Related Standing Committees.

iv. Ad-hoc committees

Ad-hoc committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report. The principal ad-hoc committees are the Select and Joint Committees on Bills. Others like the Railway Convention Committee, the Committees on the Draft Five Year Plans and the Hindi Equivalents Committee were appointed for specific purposes. Joint Committee on Food Management in Parliament House Complex etc. also comes under the category of ad-hoc committees.

3.3 Parliament of the South African Republic

3.3.1 The Parliament's Legislative Powers

According to the study done by Deon Rudman on South African Acts of Parliament, he noted in practice that in examining the Parliament's supervisory role including subordinate legislation is taken as a critical sample of this discourse/discussion with making just a few briefings for public reforms in light of the parliamentary legislature. The constitution and legislative power in dealing with the powers of delegation by Parliament, one can observe the role of South African parliamentary legislature in reference to its Grand Constitution. South Africa has moved from a system of Parliamentary sovereignty or supremacy to one of constitutional supremacy (<http://www.pmg.org.za/21/12/2012>).

Section 2 of the Constitution provides as follows: "This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled." Section 8(1) of the Constitution provides that the Bill of Rights applies to all law, and binds the legislature, the Executive and all organs of state. Parliament, which consists of the National Assembly and the National Council of Provinces, is the legislative authority in the national sphere of government. There are also nine provincial legislatures and a large number of municipal councils, all of which have legislative authority. The Constitution provides for the scope of the legislative powers of these legislative bodies which are all democratically elected and deliberative legislative bodies and their legislation is original as opposed to subordinate legislation. Since the Constitution is the supreme law in South Africa, these legislative bodies are all subject to the Constitution and, therefore, their legislation can be scrutinized by the Constitutional Court, the Supreme Head of the South African Department of Justice & Constitutional Development (ibid).

3.3.2 Parliamentary Supervision

Parliamentary supervision is extremely important as section 43 of the Constitution places an obligation on Parliament to enact, amend and repeal rules of law. The principle of representation is one of the essential elements of a democratic system. The following quote is relevant in this regard: “As only the second Parliament in our young democracy it is incumbent upon this Parliament to put in place measures that will promote the development of an institution worthy of the vision held by those who coined the phrase: ‘The People’s Parliament.’” In addition, the Constitution requires the National Assembly, which is one of the components of Parliament, to provide for mechanisms:

- (a) To ensure that all executive organs of state in the national sphere of government are accountable to it; and
- (b) To maintain oversight of: (i) The exercise of national executive authority, including the implementation of legislation; and (ii) Any organ of state (<http://www.opc.gov.au/14/12/2012>).

Legislative frameworks: What are the requirements or guidelines provided for in the South African Constitution, other legislation, the Parent Act or, more specifically that could be the enabling provision? At the practical level, how is this role being carried out to ensure effective supervision? The South African Constitution provides that proclamations, regulations and other instruments of subordinate legislation must be accessible to the public and that national legislation may specify the manner in which, and the extent to which, proclamations, regulations and other instruments of subordinate legislation must be tabled in Parliament and approved by Parliament (ibid).

Parliament has furthermore issued guidelines in respect of the tabling of papers in Parliament which require that particulars of the number, date and title of the Proclamation or Government Notice and the number and date of the Gazette in which they were published, must be provided. Tabling of subordinate legislation in Parliament is an important measure in order to foster and enhance Executive accountability and keep the legislature abreast of the subordinate legislation made under delegated legislative powers. Another way of ensuring accountability of the Executive in respect of subordinate legislation is to require in the Parent Act that the subordinate legislation be submitted to Parliament before its publication in the Gazette. It would appear as if this type of provision has been used increasingly by Parliament after 1994 (ibid).

However, most of the legislation requiring the submission of subordinate legislation to Parliament before publication, simply requires that the subordinate legislation be submitted but it contains no further directions regarding timeframes and the powers of Parliament in regard thereto. This creates some uncertainty. A proper process needs to be followed and sufficient time must be allowed for Parliament to consider the legislation in order to ensure that the tabling serves a purpose. To illustrate some of the difficulties experienced, one would refer to the following different formulations relating to submission: Firstly, where an Act empowers the Executive to make regulations by notice in the Gazette, for instance in section 92 of the Promotion of Access to Information Act, 2000, which also requires submission to Parliament, the following process is followed: The Executive approves the subordinate legislation, where after the regulations are submitted to Parliament. If no response is received from Parliament after a reasonable period, it is assumed that Parliament has no comments and the regulations are then published in the Gazette. In passing, it can be mentioned that the heading of the regulations in this example will read as follows: I... Minister for..... Hereby under section.....of the..... Act makes the regulations in the Schedule (first person) (<http://www.pmg.org.za/21/12/2012>).

The second example is somewhat more complex namely where the enabling provision only provides that the Executive may make regulations without requiring that this could be done by notice in the Gazette, for instance in section 30 of the Equality Act which claims to have:

The Equality Act, in turn, requires that any regulation made under the Act must be tabled in Parliament 30 days before publication thereof in the Gazette. In practice, the Department responsible for the administration of the Equality Act will submit proposed regulations to the Minister. The Minister, if satisfied, will make the regulations although they will only come into operation, at the earliest, on the date of publication in the Gazette (ibid).

After Ministerial approval but before publication in the Gazette, the regulations will be submitted to Parliament for the 30 day period. After the expiry of the 30 days, the regulations will be published in the Gazette. As already indicated, there is some uncertainty as to exactly what Parliament can do in these circumstances since the regulations have already been made. And in this example, the heading will read as follows: The Minister ofhas in terms of section.....made the regulations in the Schedule (third person). In the first example, the regulations are submitted to Parliament before they are made and in the second example, they are submitted to Parliament after they have been made. This is all very confusing (ibid).

The third measure used by Parliament to exercise control is to require that subordinate legislation must be approved by Parliament. Having regard to the different reasons why legislative powers are delegated, it seems counterproductive to use a measure of this nature unless special circumstances exist. The Parent Acts seldom prescribes procedures to be followed or the powers of Parliament, hence some sense of uncertainty as to what should be done. In respect of 29 Acts enacted during 2004—2006, it can be mentioned that—in 2 Acts it is required that the regulations be tabled after publication in the Gazette; and in 3 Acts it is required that the regulations be tabled before publication in the Gazette. Two of the three Acts relate to the 2010 FIFA World Cup legislation. This justifies a conclusion that Parliament uses these forms of scrutiny sparingly and only when appropriate (ibid).

Thus statutory provisions exist to ensure Parliamentary scrutiny. Nevertheless, reform is needed. One possibility is to ask the South African Law Reform Commission to include this matter in its review of the Interpretation Act. Having dealt with the legislative framework, it is better to look at the practical manner in which Parliament exercises its supervisory function. South Africa, unlike in some other Commonwealth countries, doesn't not have a permanent parliamentary mechanism; for example a standing committee to scrutinize subordinate legislation. This is done by the Portfolio Committees established by the Speaker of the National Assembly with the concurrence of the Rules Committee of the National Assembly. These Committees have become the engine room of Parliament since 1994 which may initiate and prepare legislation but must also analyze and consider bills submitted to them by Cabinet. They have very busy schedules and their time is limited. Consequently, scrutiny of subordinate legislation cannot always be done speedily. Furthermore, as far as could be ascertained, the portfolio committees do not have prescribed criteria, except for the Constitution and other relevant legislation, against which they measure or test the subordinate legislation (<http://www.opc.gov.au/14/12/2012>).

Scrutiny of subordinate legislation furthermore might in some cases require expertise which is not necessarily available in all portfolio committees. As far as it could be ascertained, there are also no procedures designed to facilitate reporting by the portfolio committees. It is true that there are various Subcommittees on Delegated Legislation. However, their functions are to investigate and make recommendations to the Rules Committee on possible mechanisms that could be used by legislators to maintain oversight of the exercise of legislative powers delegated to the Executive. They do not attend to the actual scrutinizing of subordinate legislation. They have, for example, considered the report of a

consultant appointed to conduct research relating to Parliaments oversight and accountability with a view to practically improving existing mechanisms of oversight and to identify areas where oversight mechanisms were required to be put in place. Having looked at the systems and mechanisms of other jurisdictions relating to Parliamentary scrutiny, it appears that the following is crucial for effective scrutiny:

- (a) Scrutiny must be done in a formal and structured manner;
- (b) Mechanisms or structures must be put in place;
- (c) Appropriate procedures must be established;
- (d) Proper record management is required;
- (e) Parliament requires sufficient capacity to carry out its supervisory task;
- (f) Guidelines or terms of reference for the structures involved in the scrutiny process (ibid).

Parliament is fully aware of the fact that the scrutiny process is in need of reform. Hence it mandates an investigation regarding Parliament's functions relating to oversight and accountability and requested that a Legislative Landscape Study be conducted. The Ad Hoc Joint Committee on Oversight and Accountability issues a final report which has been made available for comments. Having regard to the content of the report in general and the recommendations made, there is confirmation for the view that there is room for improvement.

3.3.3 The Policy and Law Making Process of SAR

This idea looks at the processes of making laws and policies in the different spheres of government. Opportunities for the public to participate in these processes are also identified. Making new laws and policies is usually a very slow process involving a number of stages during which key issues are debated and negotiated before being finalized as official government policy or before being passed as a law. It can take a few years before a proposed law or policy is implemented and before its impact is felt on the ground. It is important to understand the difference between a policy and a law. A policy outlines what a government ministry hopes to achieve and the methods and principles it will use to achieve them. It states the goals of the ministry. A policy document is not a law but it will often identify new laws needed to achieve its goals. Laws are set out standards, procedures and legal

principles that must be followed. If a law is not followed, those responsible for breaking them can be prosecuted in court. So, policy sets out the goals and planned activities of a ministry and department but it may be necessary to pass a law to enable government to put in place the necessary institutional and legal frameworks to achieve their aims. Laws must be guided by current government policy (<http://www.opc.gov.au/14/12/2012>).

3.3.4 Stages of Policy and Law Making in SA

Government and parliamentary structures as well as the different branches of government all play very important roles in the making of laws and policies. Below is an explanation of the stages of making policies and laws, using a specific example of compulsory education in the context of SAR.

- (i) **Stage One**– Ruling party conference gives vision, goals and direction. Stage one in the process takes place at the major conferences of the ruling party where policies are made. At these conferences particular issues are debated and discussed and the ruling party decides its overall vision, goals and direction on specific issues.

For example, the ruling party may decide at their national conference that the policy regarding access to education should be that all children under the age of 17 must be in school – compulsory education. It is now the role of the party’s members in the executive and legislative arms of government at national and provincial levels to initiate the processes that will lead to the implementation of this policy.

- (ii) **Stage Two** – Executive (Ministry) draws up policy on an issue. Stage two of the process takes place at national level where the ruling party attempts to convert its party policy in to official government policy or law following the procedures prescribed by the Constitution. It is clear therefore that there is a strong political link between key legislative and executive structures and the majority party. It is the responsibility of the executive branch of government to develop new policies and laws. It is the responsibility of the legislative branch (Parliament) to approve policies and pass new laws to give legal effect to the policies. But this is a long and slow process during which the policy or law proposed by the ruling party is debated and negotiated with various stakeholders, such as opposition parties, the public, non-government organizations, etc. This can take many years to complete (<http://www.opc.gov.au/14/12/2012>).

During this time, the government ministries will draft discussion documents, called Green Papers and White Papers on the policy or law to allow for debate and comment. Public Service Senior Management members are often used as resource people for this process. Various parliamentary and select committees in national Parliament and in the National Council of Provinces, as well as portfolio committees in Provincial Legislatures provide opportunities for public participation in debating the proposed policy or law. Stakeholders can use different opportunities for input, such as attending parliamentary committee hearings, setting up meetings with department heads or the minister, using the media to put pressure, etc. Example: The ruling party has stated its policy of compulsory education for all children under the age of 17. The national Minister of Education now informs his/her department of the need for a policy document to be produced on this issue. The first discussion document to be published will be a Green Paper. This will be drawn up by the Ministry and the Education Department with the help of advisors, experts' in education, advisory committees, etc. The Green paper identifies the key issues and suggested alternatives. It is then made public and invites comment from all stakeholders and the public (ibid).

(iii) **Stage Three** - Finalizing a policy

Stage three of the process is when the policy is finalized by the relevant Department and Ministry. Once a policy has been properly debated the Department and Ministry look at the issues and options and draw up a final policy which is published as a White Paper. The White Paper is a statement of intent and a detailed policy plan which often forms the basis of legislation. It is debated and adopted by Parliament and approved by Cabinet. Example: The Education Department looks at all the options and comments from stakeholders and the public regarding the policy of compulsory education for all children under the age of 17 years. For example, there may be input from Treasury saying that the government cannot afford to provide compulsory education immediately for all children less than 17 years, so the policy should be phased in over 5 years. If agreed to by the Portfolio Committee these changes will be included in the revised document which is called a White Paper. Cabinet then has to approve the final policy (ibid).

(iv) **Stage Four** - Passing a law

A White Paper often forms the basis of legislation. If the Minister or the Department decides that a new law is necessary to achieve its objectives and implement its policy, the Department will begin the

job of drafting the new law. In its early stages before a new law has been tabled in Parliament it is called a draft Bill. Once it has been tabled in Parliament it is called a Bill. Members of the Select Committee go to their own provinces to review the Bill. Each Provincial legislature gives a provincial mandate that recommends changes or leaves it as it stands. The National Council of Provinces (NCOP) considers the Bill and can either reject or propose changes that are recommended by the Select Committee. Each member of the NCOP votes according to their party. Provincial representatives report back to the NCOP Select Committee on their provincial decisions (ibid).

(v) ***Stage Five-*** Subordinate legislation and implementing the law and policy

Once National Parliament has passed a law, or a policy has been published, it is up to national and provincial ministries and departments to implement the law and/or policy. If it is necessary national and provincial legislatures and local authorities can pass subordinate legislation that gives more detail on matters contained in the original law. A provincial legislature can also make its own laws on areas that are defined in the Constitution. These laws will only apply to the province which has made the law. Local governments can also pass ordinances that have the same legal force as national and provincial parliaments (ibid).

3.4 A Glance at the Legislative Process in the HPRs: Federal Democratic Republic of Ethiopia

3.4.1 The Ethiopian Parliamentary System

The Ethiopian parliamentary system typically has clear differentiation between the head of government and the head of state, with the former being the Prime Minister and the latter, the President. The Prime Minister is the chief executive and, together with the Cabinet, exercises executive power or the authority to form and implement policies (the public ones) and programs. He/she is also usually the leader of the political party that wins the majority of votes in the legislature or parliament, either assuming the post automatically or gets elected by the legislature. The members of the Cabinet are chosen by the Prime Minister from the members of parliament and can come from the same party or from a coalition of parties (Abueva, 2002: 35)

[...] Green (1993) explains ***parliamentary government*** very broadly to mean a form of government which includes a systematic arrangement of obtaining the consent of the governed to the actions of the government. Parliamentary government in this broad sense need not be government by elected

officials. *Rather*, parliamentary government is government in which whoever holds power must describe publicly on how that power will be used, and the people affected by such use of power must give their permission for it. That is, parliamentary government is government that requires state action to be based on mutually voluntary, two-way communication between the ruler and the subjects (Green: 1993:2)

3.4.2 The Legislative Process by the HPRs of FDRE (The First Chamber)

The Ethiopian Legislative System is essentially parliamentary, where the political party or parties with the greatest number of seats in the HPRs shall form and lead the executive and approve the appointment of members for the executive Council of Ministers and the Prime Minister. The *HPRs* shall also nominate the candidate for the President, who will be accepted by a *two-thirds majority of both chambers of the legislature*. The President has *no real powers*, similar to other constitutional presidents and monarchs who formally sign all new laws coming from the HPRs. The Prime Minister has extensive powers, akin to those of presidents in the presidential systems (ibid).

Members of the *HPRs* are popularly elected for a *five year term* in a ***“first-past-the-post”*** electoral system. The most important function of the HPRs is to enact laws on matters assigned to *Federal jurisdiction* and *ratify national policy standards*. The HPRs also exercise other important functions including the appointment of federal judges, the *ratification of international agreements* and the investigation of the conduct of members of the executive.

Furthermore, a paper of Getnet Fantahun (Getnet, 2010:40-43) highlights the Legislative Process in HPRs with particular reference to Federal Democratic Republic of Ethiopia for the practices of parliamentary public policy making as below. Article 53 of the current Constitution of the Federal Democratic Republic of Ethiopia (FDRE) establishes a two-House Parliament for the Federal Government: the House of Peoples Representatives and the House of Federation. In fact, the FDRE Constitution establishes a two-house parliament; i.e. the Ethiopian parliament is bicameral like other parliamentary countries of the contemporary world in which the highest legislative body is vested in the House of Peoples’ Representatives (HPRs), for it is comparable to the first or lower chamber of a legislature, it normally serves the interest of the people in the federation as a whole. The members of the HPRs are elected by a plurality of the votes cast in general elections every five years (Girmachew, 2010:2).

It is obvious that the HPRs exercises very important functions including the appointment of federal judges, the ratification of international agreements and the investigation of the conduct of members of the executive other than its legislative power. The House of the Federation (HOF) is the second or upper chamber in the federal government of Ethiopia. In conventional federal systems, the second chamber serves as the representative institution for the regional units. In the Ethiopian system, the HOF has essentially the same function, but in the FDRE Constitution, this is formulated in a slightly different way: it is not composed of representatives from the federal units, but “of representatives of Nations, Nationalities and Peoples” (Alemayehu: 2001:3).

The FDRE constitution Article 77 stipulates the Powers and Functions of the Council of Ministers. Thus, the Council of Ministers ensures the implementation of laws and decisions adopted by the House of People’s Representatives (Sub article1), shall formulate and implement economic, social and development policies and strategies (Sub article 6), shall ensure the observance of law and order (Sub article 9) shall submit draft laws to the House of Peoples’ Representatives on any matter falling within its competence including draft laws on a declaration of war (Sub article11). The FDRE HPRs working procedure and members’ code of conduct (*Amendment Proclamation*) no. 470/2005 puts the legislative development procedures in the HPRs. Thus, according to article 6(2):

- a) The government,
- b) The Federal Supreme Court,
- c) Committees of the House,
- d) Members of the House
- e) The HOF,
- f) The Speaker,
- g) Other governmental institutions directly accountable to the House shall have powers to initiate draft law.

The following note, therefore, describes the law making processes/legislative practices followed when the members of the House present the draft law to the House. Any draft law presented in accordance with article 6(2)(f), i.e. by the Members of the House shall be in writing and supported by the signature of at least twenty members of the House including the initiator and should be submitted to the Speaker, then the first reading follows;

First Reading (Article 7)

The Speaker shall present the summary of the draft law and open the floor for deliberation on the content of the draft law in general:

- (a) Unless there is condition to enact the draft law as a law at this level, it shall be numbered and referred to the concerned committee(s) by the Speaker upon winding up the deliberation.
- (b) In case the draft law could not be distributed to members before 48 hours due to its urgency, it shall be deliberated upon after it is fully read to the House.
- (c) The pertinent committee inspecting the draft law referred to shall require at least 20 working days to submit its proposal on the draft law to the House, unless the draft law to be passed is urging for an immediate enactment (article 8).

Second Reading (Article 9)

The Speaker of the House shall cause the Standing committee read the report on the draft law referred to it after the first reading with its recommendations and suggestions through:

- (a) The Speaker opens the floor for discussions on the recommendations made.
- (b) Final decision shall be passed after thorough discussion on the draft law is completed. If the decision can not be reached, the draft law shall be referred to the pertinent committee for further scrutiny(c).

Third Reading (Article 10)

The committee that received the draft law for the second time shall read out the amended version and its final decision to the House:

- (a) The House, after a thorough discussion, shall decide on the final proposal (b).

Adoption of laws (Article 10)

Subject to article 57 of the constitution of FDRE (i.e. laws deliberated upon and passed by the House shall be submitted to the Nation's President for signature. The President shall sign a law submitted to him within fifteen days. If the President does not sign the law within fifteen days it shall take effect

without his signature), the Speaker of the House shall transmit the draft law to the President of the federal government for signature suggesting that the House has discussed and approved it.

The HPRs legislative procedure states that, representatives could present a bill on any issue to the House provided that they secure endorsement signatures of at least twenty representatives. Elaborating on the procedures, it says the bill should be presented in print to the House of Speaker through the Secretary of the Office. The Speaker of the House could either have that bill presented to the House for a first reading or distribute it to the representatives at an earlier date. Once the House deliberates on the bill, the House of Speaker channels it to the appropriate committee, which in turn reviews the case and presents its recommendations at one of the sessions. After deliberations are once again conducted on the bill, the Speaker of the House would make public the consensus reached by the representatives. The bill could become a law once the President signs it and is published in the Negarit Gazeta as stipulated in the HPR's statute. It is also stated in the HPRs legislative procedure that the Council of Ministers has the mandate of presenting bills to the HPRs.

As far as the legislative procedure is concerned, Fasil noted “a draft proclamation may be submitted by either a member of the HPRs or by the Council of Ministers. Where a member of the House of Peoples Representatives submits a draft proclamation, it has to be submitted in writing and has to be accompanied by the signature of the one who has submitted it and by the signatures of twenty other members. Once a draft proclamation is officially submitted, the Speaker of the House has the duty of making the substance and content known to the House and appointing the date for first reading. A first reading of a first draft proclamation may be waived due to the bulkiness of the draft, in which case copies would be distributed and a date appointed for commencement of discussion (Fasil, 1999:84)

He (ibid) added the House by a two-thirds majority vote may decide to bypass the sending of a draft to the appropriate committee. Otherwise all drafts, after plenary discussion on the broad spirit of the law in question, are numbered and passed on to the appropriate committee. Committees then submit their report detailing their investigations and decisions. The plenary on the appointed date considers the committee's proposals and, after debating it, votes to approve, amend, or disapprove the draft law. Within two working days, the Speaker of the House has to send the approved draft proclamation to the President of the Republic for signature. Once signed, or 15 days later irrespective of the signature by the President, the approved draft becomes law and is published in the Negarit Gazeta.

3.4.3 Overview of the Ethiopian Legal System

3.4.3.1 Law-Making Institutions beyond the Federal Legislature

(a) The Federal Executive

The Prime Minister

The power of government is granted to the majority party in the House of Peoples' Representatives (HPRs), and the highest executive powers of the federal government are vested in the Prime Minister and Council of Ministers, who are accountable to the HPRs. The Prime Minister is elected from among members of the HPRs and *is not subject to a term limit*. The Prime Minister has the following powers and functions:

The Prime Minister is the Chief Executive, the Chairman of the Council of Ministers, and the Commander-in-Chief of the national armed forces. The Prime Minister shall submit for approval to the House of Peoples' Representatives nominees for ministerial posts from among members of the two Houses or from among persons who are not members of either House and possess the required qualifications (Negarit Gazeta, 2010).

(b) The Council of Ministers

The Council of Ministers along with the Prime Minister is vested with the highest executive authority. The Council of Ministers comprises the Prime Minister, the Deputy Prime Minister, Ministers and other members as may be determined by law. The Council of Ministers has the following powers and functions: The Council of Ministers ensures the implementation of laws and decisions adopted by the House of Peoples' Representatives (Negarit Gazeta, 2010).

Summary

This chapter assessed and explored various analytical and conceptual perspectives on systems of government and the law making (legislative) process. It has set the stage for uncovering the actors, roles and power during the legislative making process in Ethiopia. The background information on the meaning/concept of political system, the systems of government such as parliamentary merely excluding presidential systems were included in consultation of different substantial data.

Discussions were also made about law making process in two purposively selected parliamentary government systems: United Kingdom, India & South Africa Republic primarily to help us understand the lawmaking process in the parliamentary systems of government as a ground to understand the lawmaking process in Ethiopia.

It can be deducted from the aforementioned constitutionally granted provisions that given the constitutional rights nationals are granted policies affecting their community too. On top of that, the FDRE government is also responsible to aid and facilitate the effective legislative system in the attempt to develop democratic parliamentary legislature among other things through fully participating them in all the process of transparent public decision making.

CHAPTER FOUR

Data Discussion, Interpretation & Analysis

4.1 The Power of Public Decision Making Jurisdictions by the National Parliament in Balance of the Constitutional Harmony

4.1.1 State Structure, Form of Government & States of the Federation: A Glimpse

According to article 45 of the Ethiopian Constitution, the form of government for ‘The Federal Democratic Republic of Ethiopia’ is claimed to have a parliamentary form of government putting the states of the federation at the center of public policy making practices through their representatives by the HPRs in proportional composition of the national legislature. It is substantially believed in the constitution that States of the Federation are a source of public power for all the decisions made in the country as they are sovereign & autonomous pillars of public authority paving the way for democratic good governance with accountable & transparent office holders.

The Federal Democratic Republic of Ethiopia comprises nine independent States & two administrative council cities which are delimited on the basis of the settlement patterns, language, identity and consent of the peoples concerned. Member States of the Federal Democratic Republic of Ethiopia include:

- 1) The State of Tigray
- 2) The State of Afar
- 3) The State of Amhara
- 4) The State of Oromia
- 5) The State of Somalia
- 6) The State of Benshangul/Gumuz
- 7) The State of the Southern Nations, Nationalities and Peoples
- 8) The State of the Gambela Peoples
- 9) The State of the Harari People, and
 - City government administration of Addis Ababa
 - City government administration of Dire Dawa.

In terms of the structure and *division of powers*, the House of Peoples’ Representatives is the highest authority of the Federal Government. The House is responsible to the People & in much the same

corollary the State Council is the highest organ of State authority which is responsible to the People of the State.

Consistent with the provisions of the Ethiopian Constitution, like that of **HPRs** in the notational (federal) legislature the state Council has power to draft, adopt and amend the state constitution and any other statutes, proclamations , laws etc. Federal and State powers are defined by this Constitution. The States shall respect the powers of the Federal Government. The Federal Government shall likewise respect the powers of the States.

The Federal Government may, when necessary, delegate to the States powers and functions granted to it by Article 51 of this Constitution. Powers and Functions of the Federal Government are detailed here to some extent for making emphasis on how the major public policy making practices of Ethiopia go parallel to the context of the country's objective realities as granted in the Ethiopian mega-public policy i.e. the constitution in the following manner.

- The FG shall formulate and implement the country's ***policies, strategies and plans*** in respect of overall economic, social and development matters.
- The FG shall establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies.
- The FG shall formulate and execute the country's financial, monetary and foreign investment ***policies and strategies***.
- The FG shall establish and administer national defense and public security forces as well as a federal police force.
- The FG shall administer the National Bank, print and borrow money, mint coins, regulate foreign exchange and money in circulation; it shall determine by law the conditions and terms under which States can borrow money from internal sources.
- The FG shall formulate and implement ***foreign policy***; it shall ***negotiate and ratify international agreements***.
- The FG shall be responsible for the development, administration and regulation of air, rail, waterways and sea transport and major roads linking two or more States, as well as for postal and telecommunication services.
- The FG shall levy taxes and collect duties on revenue sources reserved to the Federal Government; it shall draw up, approve and administer the Federal Government's budget.

- The FG shall determine and administer the utilization of the waters or rivers and lakes linking two or more States or crossing the boundaries of the national territorial jurisdiction.
- The FG shall enact, in order to give practical effect to *political rights* provided for in this Constitution, *all necessary laws governing political parties and elections*.
- The FG has the power to declare and to lift *national state of emergency* and states of emergencies limited to certain parts of the country.

All these powers & functions of the federal government are, to mention just a few, in this discussion for reasons the author have selected in their relevance to the power of decision making jurisdictions of the Ethiopian parliament in practice are concurrent/overlapping to the HPRs' routine dealings as can be observed in subsequent sections and in fact are of paramount importance to treat with yet they are the bases of hot national debates ever since coming critical public policy issues of Ethiopia according to the some documentary analysis of constitutional manuals & statutes of the researcher from national library of archives in Ethiopian parliament.

4.1.2 The Federal Houses and Political Power in Practice

4.1.2.1 The House of Peoples' Representatives

There are two Federal Houses: The House of Peoples' Representatives and the House of the Federation. For the House of Federation (the upper chamber) is not active in the legislative making process of Ethiopia other than interpreting the grand law of the land (i.e. the constitution), the discussion will proceed with the legislative powers & functions by HPRs-House of Peoples' Representatives of FDRE.

According to *Article 54* of the Ethiopian Constitution, Members of the House of Peoples' Representatives should fulfill the following criteria; such as:

- ✚ Members of the HPRs should be elected by the People for a term of five years on the basis of universal suffrage and by *direct, free and fair elections held by secret ballot*.
- ✚ Members of the House should be elected from candidates in each electoral district by a plurality of the votes cast and provisions be made by law for special representation for minority Nationalities and Peoples.
- ✚ Members of the House, on the basis of population and special representation of minority Nationalities and Peoples, *shall not exceed 550*; of these, minority Nationalities and Peoples shall have at least 20 seats. Particulars could be determined by law.

- ✚ No member of the House may be prosecuted on the account of any vote he casts or opinion he expresses in the House, nor shall any administrative action be taken against any member on such grounds.
- ✚ No member of the House may be arrested or prosecuted without the permission of the House except in the case of *flagrante delicto*.
- ✚ Members of the House are representatives of the Ethiopian People as a whole and are expected to be governed by the following *three core values*: 1) *The Constitution*; 2) *The will of the people*; and 3) *Their Conscience*.

And, some of the Powers and Functions of the House of Peoples' Representatives; in accordance with *Article 55* of the constitution could be briefed as below:

- The House of Peoples' Representatives shall have the power of legislation in all matters assigned by this Constitution to Federal jurisdiction.
- The HPRs shall enact a labor code, commercial code and penal code. The States may, however, enact penal laws on matters that are not specifically covered by Federal penal legislation.
- The HPRs shall enact. It shall enact *civil laws* which the *House of the Federation deems* necessary to establish and sustain one economic community.
- The HPRs can determine the organization of national defense, public security, and a national police force. If the conduct of these forces infringes upon human rights and the nation's security, it shall carry out investigations and take necessary measures.
- In conformity with Article 93 of the Constitution it shall declare state of emergency; it shall consider and resolve on a decree of a state of emergency declared by the executive.
- *On the basis of a draft law submitted to the HPRs by the Council of Ministers it shall proclaim a state of war.*
- The HPRs shall approve general *policies and strategies* of economic, social and development, and fiscal and monetary policy of the country. It shall enact laws on matters relating to the local currency, the administration of the National Bank, and foreign exchange.
- The HPRs *shall ratify international agreements concluded by the executive.*
- The HPRs shall approve the appointment of Federal judges, members of the Council of Ministers, commissioners, the Auditor General, and of other officials whose appointment is required by law to be approved by it.

- The HPRs shall establish a Human Rights Commission and determine by law its powers and functions.
- The HPRs shall establish the institution of the Ombudsman, and select and appoint its members & determine by law the powers and functions of the institution.
- The HPRs shall, on its own initiative, request a joint session of the House of the Federation and of the House of Peoples' Representatives to take appropriate measures when State authorities are unable to arrest violations of human rights within their jurisdiction. It shall, on the basis of the joint decision of the House, give directives to the concerned State authorities.
- The HPRs has the power to call and to question the Prime Minister and other Federal officials and to investigate the Executive's conduct and discharge of its responsibilities.
- The HPRs shall, at the request of one-third of its members, discuss any matter pertaining to the powers of the executive. It has, in such cases, the power to take decisions or measures it deems necessary.
- The HPRs shall elect the Speaker and Deputy Speaker of the House. It shall establish standing and ad hoc committees, as it deems necessary to accomplish its work.

Consistent with the provision of Sub-Article 1 of this Article, the House of Peoples' Representatives shall enact specific laws on the following matters too:

- a) Utilization of land and other natural resources, of rivers and lakes crossing the boundaries of the national territorial jurisdiction or linking two or more States;
- b) Inter-State commerce and foreign trade;
- c) Air, rail, water and sea transport, major roads linking two or more States, postal and telecommunication services;
- d) Enforcement of the political rights established by the Constitution and electoral laws and procedures;
- e) Nationality, immigration, passport, exit from and entry into the country, the rights of refugees and of asylum;
- f) Uniform standards of measurement and calendar, Patents and copyrights, & the possession and bearing of arms.

4.1.2.2 Political Power and Dissolution of the House

With regard to the exercise of political power in practice, the Ethiopian constitution states in Article 56 as: *A political party or a coalition of political parties that has the greatest number of seats in the*

House of Peoples' Representatives shall form the Executive and lead it. Laws deliberated upon and passed by the House shall be submitted to the Nation's President for signature. The President shall sign a law submitted to him within fifteen days. If the President does not sign the law within fifteen days it shall take effect without his signature.

The decisions and rules of procedure of the House are held in the following manner.

- Unless otherwise provided in the Constitution, all decisions of the House shall be by a majority vote of the members present and voting.
- The House shall adopt rules and procedures regarding the organization of its work and of its legislative process.

Finally, according to Article 60 of the Ethiopian Constitution the House gets dissolved for reason of such kinds as:

- With the consent of the House, the Prime Minister may cause the dissolution of the House before the expiry of its term in order to hold new elections.
- The President may invite political parties to form a coalition government within one week, if the Council of Ministers of a previous coalition is dissolved because of the loss of its majority in the House. The House shall be dissolved and new elections shall be held if the political parties cannot agree to the continuation of the previous coalition or to form a new majority coalition.
- If the House is dissolved pursuant to sub-Article 1 or 2 of this Article, new elections shall be held within six months of its dissolution.
- The new House shall convene within thirty days of the conclusion of the elections.
- Following the dissolution of the House, the previous governing party or coalition of parties shall continue as a caretaker government. Beyond conducting the day to day affairs of government and organizing new elections, it may not enact new proclamations, regulations or decrees, nor may it repeal or amend any existing law.

4.2 The Standing Committees and their Legislative Power in HPRs

The HPRs has the power of legislation, the power to question the Prime Minister and other top officials of government agencies, to examine both the executive's handling of its powers and discharge of its duties, taking measures should these have been misused (FDRE, 1995). However, party discipline and structure combined with a lack of competence among the bulk of the MPs, militated

against the exercise of their legislative duties detailed in the constitution and other laws. In any case, calling the executive to account for its behavior and actions, and investigating its performances, are the responsibility of the HPRs. The Chief Executive (the Prime Minister), for instance, annually presents himself twice before the House, in October to map out his plans for the year and in early July for the assessment of his government's performances during the year.

Nevertheless, in essentially substantive sense of the word-debate (vivacious debate, as such) - in the HPRs takes place, and in some cases acrimonious debate often flares up between him and the opposition, each time the Prime Minister appears before the House to deliver reports. Likewise, the head of each ministry or government agency annually delivers reports outlining action plans for the year, and presents budget appropriations. [According to *the author's observation* sessions and talks with minute recorders, interviews with MPs and questionnaire responses from the standing committee coordinators, and the minutes of the HPRs].

Standing committees are the key clearance points at which decisions are taken at each stage of the legislative process. Charged with legislative duties and oversight over the executive ministries and government institutions, the following *five* standing committees have been selected according to their role & relevance to the discussion of public policy making and the Ethiopian parliament. These are:

- 1) Legal and Administrative Affairs Standing Committee
- 2) Social Affairs Standing Committee
- 3) Foreign, Defense and Security Affairs Standing Committee
- 4) Budget and Finance Affairs Standing Committee
- 5) Trade and Industry Affairs Standing Committee.

On average, each committee consists of 13 MPs, and elects a chairperson, deputy chairperson and a secretary. A proclamation has also empowered committees to subpoena and exercise oversight over more than eighty ministries and government establishments (FDRE, 2002). For instance, all others assigned to exercise supervision responsibilities over relevant executive agencies, the highest such organizations being fourteen government ministries and agencies are supervised by the Legal and Administrative Affairs Standing Committee. Not only are they empowered to scrutinize bills referred to them, but also are entrusted with the follow up of the implementation of national socio-economic policies and strategies, although their mandate to take measures of redress and/or take such 'necessary measures' should discrepancies materialize has always been dubious. In fact, statutory provisions make no specific references as to what measures, if any, that the HPRs or the standing committees

should take in case of implementation failures and/or if the executive fails to account for its actions. On the recommendation of the chairman of the party having the majority seats in the HPRs (i.e. EPRDF) at the first session of every term, not only do the Speaker and his deputy preside over all the sessions, but they also coordinate the work of the various committees in the HPRs (FDRE, 2002). Nevertheless, the election of the Speaker and his deputy as recommended is a foregone conclusion, for the EPRDF has well over 85 percent of the seats. The Speaker and his deputy, both of whom are members of the ruling party, assume the HPR's leadership. Members of EPRDF run all committees and their leadership. Additionally, a committee comprising of the Speaker, Deputy Speaker, chairpersons and secretaries of the standing committees coordinates the supervision exercise. The latter appears to have wielded major leadership responsibilities on matters concerning a review of the action plans of committees, the harmonization of workflow in the HPRs, and even deliberating issues that the Speaker wishes discussed which might well include the agenda for the plenary sessions. As part of the duty to exercise oversight over the executive, each standing committee instructs a head of a pertinent ministry or government agency to deliver an annual report to committee members, although other MPs may well attend such hearings. Furthermore, between 1995 and 2003, the HPRs had 333 Plenary Sessions and approved 377 proclamations, despite the fact that the executive sent a preponderant number of the bills, and none has so far been rejected (Mulugeta, 2005:154).

In brief, within the competence of the federal government's jurisdictions, the *House of Peoples' Representatives* has the power of legislation as provided for under the 1995 Ethiopian constitution. Not only are the standing committees empowered to supervise the executive, at least nominally, they have also the power of initiating laws. However, contrary to what statutes stipulated, except the few laws that the office of the Speaker initiated, neither the fractious independent nor opposition members of the HPRs nor the standing committees have so far proposed legislation. The stark reality of policymaking process in Ethiopia, therefore, does not appear to have left little room for independent initiative, nor is there any space for citizens to have a say in the legislative process.

4.3 Power Leverages of Government and the Ethiopian Parliament

With regard to the roles and power of Ethiopian parliament in the legislative making process for producing speedy legislative practices as a means of effecting core democratic principles & values, member of the HPR respondent through the questionnaire noted that:

“The MPs in the HPRs discuss and take a stand of a given policy/legislation to endorse it at the plenary session by discussing exhaustively on each & every agenda (issue). For example, if there

is a given proclamation to be adopted or in need of further discussion, every member is free to contribute or share his/her idea so that we triangulate the policy, legislation or proclamation from different points of views across the Hall/House for clash of ideas observable in any democratic system then soon after the plenary session of the House decides for the final version of the policy....at hand in its minutes of the day for endorsement as draft law.”

By implication, the system is procedural & formal following the necessary steps of **policy processes** just have been discussed in literature review of this study (see in chapter two) and this in turn brings about the system of **public policy making models** to the level of producing significant policies for the public (society). Several comments of the HPRs target respondents have been accepted by the researcher and there could bring a lot of improvements in the legislation making processes that would be inferred for all the **public policy making process model** being applied was **legitimate** in the House (Ethiopian parliament) where it is a good opportunity of institutionalizing some democratic values & systems in the legislative development of the country in to consideration (questionnaire response from Legal and Administrative Affairs Standing Committee HPRs target respondent).

Beyond the aforementioned ideas the target respondent comes again to say:

The power influence of the Ethiopian government seems to have restrained through in accordance with harmony of the constitutional balance by exclaiming the national legislature’s jurisdiction of producing (crafting) essential legal bills, laws & proclamations well assuring the degree of transparency & accountability to the Ethiopian parliament believing it is the ultimate source of power & authority symbolizing & representing the people the land in the making of the major (all) public policies as per the will of their respective societies across the country.

And again, the review of archival documents in the national library of the Ethiopian Parliament also depict that the roles and powers of the Ethiopian parliament (i.e. the HPRs) exerts a relatively better influence on the government compared to other governmental & nongovernment actors but usually inadequate for the successful completion of legal endorsement of proclamations, laws, regulations & major public policies in light of the constitutional balance of power among the executive & the judiciary (particularly the absolute power of the executive & its un restricted intervention on the parliaments’ legislative jurisdiction).

As can be noted from the above, the Ethiopian parliament (i.e. HPRs) is given a very short time to submit their comments and this has made consultations among the legal professionals difficult, which entails the lesser attention given by the government to ultimately affecting the power & ability to

propose persuasive arguments against draft legislation & *policies*. It also signifies the effort the government exerted to accommodate stakeholder's opinion in to the law, as well as the *absolute power of the executive* has an overall intervention upon the Ethiopian parliament for any (the majority of) lawmaking / legislative exercises in Ethiopia.

A public prosecutor in MOJ through the questionnaire, however, explains the roles of the Ethiopian public policy stakeholders as follows:

The role of different actors in the making of proclamation, laws & policies is fair, legitimate and adequate. It is not the recent occasion/phenomenon in Ethiopia that lawmaking process with different interest groups and stakeholders by which these all discuss exhaustively on any draft law. One of the evidences for this was the two times discussion of parliamentary archives in the Ethiopian national parliaments library with the Prime Minister of the country (questionnaire response from the public prosecutor in the MOJ).

He then comes again to say:

Public policy making process cannot be free from political platform of ruling party. Since there is an ideological difference, it is not wise to expect opposition members fully support any initiated policy. So, I don't think so that this is a legal limitation to do so, but opposition members of parliament are few in number & sometimes oppose for the sake of opposition.

A two times discussion between the Prime Minister (PM) & the Ethiopian parliament (the national legislature) notify a lot claiming: it should be noted that in poor countries like Ethiopia the contribution of producing legal documents by the HPRs is highly tremendous. Nongovernmental organizations have been assisting the people of Ethiopia with charitable, relief and development activities, especially since the major famine of 1983/85. So, because poverty reducing projects undergoing in Ethiopia by a range of NGOs, international and national should not be closed, the Prime Minister's effort shall be cherished.

4.3.1 Roles and Power of Opposition and EPRDF MPs during the Law Making Process

Interview notes and questionnaire responses as well as documents reviewed on the opinions of the *Old Opposition MPs* show that, their comments and suggestions are not taken in to account and their ideas are rejected by the government. A typical example strengthening this idea could be the following case on Charities and Societies Draft proclamation.

1. The Prime Minister (the late Prime Minister Meles) of the country & the HPRs had a face to face communication with the drafters of Charities and Societies Draft proclamation (Charities and Societies Draft proclamation, Meskerem 2001, MOJ).
2. The HPRs delivered comments during all the public hearing session in HPRs better than other participants do (25 per cent of the legal, justice & administrative affairs standing committee of the Ethiopian parliament raised their comments).
3. Preparing written comments for each phase of the draft proclamations, laws & public policies was one of the major roles of the HPRs.

Mere participation of HPRs in any discussion points or preparation of written comments by itself does not necessarily mean their comments are taken into account, what matters is whether the stakeholders brought substantial changes or if there was meaningful participation or not.

The interview response and a review of documents show that(described above), though usually inadequate, HPRs played by far better roles than other nongovernment actors, the following is taken from their written comments:

...However, all this does not mean that the draft doesn't have brighter sides. The fact that the Ministry has taken an initiative to draft a new law to regulate all the public policies is by itself a major step forward. Likewise, the Ministry's decision to consult HPRs on the draft laws/policies needs to be highly appreciated though there is still a need for continued and broad based dialog on the given public policy/law. The recognition by the draft of the right of HPRs to engage in income generating activities and the tax exemption it provides for public policies of the nation are measures which will, if applied to both societies and government, greatly help HPRs to sustain themselves driving the major public policies as stipulated in the grand law of the land (i.e. the Ethiopian Constitution). The current drafting process showed a major deviation from the tradition of continued dialog and consultation between MOJ and the national legislative paradigms projected to the fundamental process models during the preparation of any public draft laws of Ethiopia in the past.

Unlike previous processes, *public policies for HPRs' approval & formulation are given a very short time to submit their comments in writing, making a wider consultation of the Ethiopian parliament and the legal professionals difficult if not impossible.* The Ethiopian Society is credited a lot, still hopeful, that the MOJ will, which is in a position to give an adequate opportunity for continued dialog and constructive engagement on the legal drafting processes.

Like opposition parties, the issue of 90/10 is also questioned by the public for its firm stand of all their constitutional provisions to oppose the government for its mal-administrative practices of the executive. In either of the cases their proposal is not incorporated which are allowed by definition (Ethiopian constitution) are again seriously jeopardized due to the fact that if they obtain more than 10 per cent of their funding from foreign sources they cannot be engaged in political matters. As a result this has been one of the most contentious provisions that pitted the government through its executive by opposition.

Nongovernment actors especially the independent and the opposition MPs had less power leverage during the law making process while the former have no any official mandate to represent all public policies in Ethiopia; as a result they were unable to change more contentious provisions that pitted the government with them despite several changes on less contentious issues but they still argue that their role was inadequate, the later being extremely fragmented is neither able to initiate agenda nor table strong challenges against the ruling party always remaining with a minor vote.

On the other extreme, the judges (in MOJ) argue on the reverse side. For instance, one of the public prosecutors at Ministry of Justice through the questionnaire replied:

The role of the different actors in the making of charities and society's proclamation was fair, legitimate and adequate: according to the respondent "It was the first occasion in Ethiopia lawmaking process that different interested groups and stakeholders discussed exhaustively on the draft law. The respondent also argues that "during the lawmaking process, representatives of all CSOs were invited by MOJ to provide their written comments, the PM of the country has given due attention and responded their questions one by one, and the law was drafted and redrafted by incorporating the stakeholder's opinion(questionnaire responses from one of the drafters in MOJ).

Despite efforts by CSOs, the final legislation remains the same [contentions provisions still exist]; as a result, the ratification of the law by the legislature is followed by *resistances* from both national and international NGOs. The opposition had of course its own predicaments during the law making process. Thus, the heterogeneous opposition (with different programs and experiences) contributed a lot to this. They themselves admit and described the situation, while the ruling party in the parliament always enjoys the majority vote during the ratification of the law; the nature of opposition in Ethiopia had an impact on their roles to change the major contentious provisions of the proclamation. The

EPRDF MPs are not in its strict sense free to express their will and table challenges to their own party sponsored legislation, neither is the opposition.

The minute of public hearing session by the FDRE Legal and Administrative Affairs Standing Committee in the House of Peoples Representatives on the Charities and Societies draft law also attests this fact. One of the participants during public hearing session suggested that the ‘government did not invite any stakeholder before public hearing session’, for this the Minister of Ministry of Justice systematically admitted it as:

This is true. During the initial phase of the lawmaking process we admit, we did not invited any stakeholder but, the Minister assured that they [the judiciary] know the desires, current status, nature and activities of NGOs in Africa.

In summary, the data described above shows that public prosecutors in the Ministry of Justice at the department of *legal research, Drafting and transfer* had a daunting task of drafting and redrafting the legislation the absolute power being in the hands of the executive. Beyond this, the data obtained from the actors (the MPs in HPRs, the judges in MoJ) attested that the government exercised absolute power leverage during the charities and societies proclamation making process largely due to the majority vote it has in any meeting and very importantly the more ***fragmented nature of the opposition in the parliament.***

4.4 Executive-Legislature Relationships during the Lawmaking Process

In Ethiopia, where as the principal body of draft law initiator is the government, the House of Federation, The Speaker, the Federal Supreme Court, the Committees of the House, members of the House, and other governmental institutions directly accountable to the House have powers to initiate draft laws (FDRE HPRs working procedures and members’ code of conduct (Amendment Proclamation) Proclamation no. 470/2005.

The Standing Committee has the duty to exercise oversight over the executive, each standing committee instructs a head of a respective ministry or government agency to deliver an annual report to committee members and the executive also initiates the policy agenda and drafts laws and refers it to the pertinent committee. The Standing Committee that the draft bill is referred to contacts the drafters, consults them and organizes a public gathering to elicit public opinions’. After consultations with the ***public and the executive***, the committee designs the law for the ***second reading***. A ***third*** reading will follow if the session fails to achieve complete deliberations on the draft and a third reading brings the legislative process to end. Finally the draft becomes law after it is signed by the

President and published in the *Negarit Gazeta*, the power of not signing by the President could bring nothing more than prolonging the official adoption for fifteen days, and nevertheless the law takes effect with or without his signature.

Whatever procedure one holds there must be **checks and balances between** the three branches of the government: the *executive*, *legislature* and the *judiciary*.

Data collected from different actors of public policy (lawmaking) process reveals that the **checks and balances between the executive and the legislator are not fully maintained**. For instance, the opposition MP, through the interview of some old Opposition MPs, clearly puts the executive-legislative checks and balances during the legislative making process as follows:

*In the constitution it has been plainly stipulated that there should be application of balance of power between the three wings (organs) of the government but in this country we have got what is called a **party fused executive system** [executives are ruling party affiliates]. Party and the state are not clearly separated. Because of that the executive is dominated by the party which in turn dominates the legislature. The executive through the so called majority seat in the parliament always legislates whatever it wants. So, the domination of the executive over legislator is clearly observable in the Ethiopian political system if one has to speak one's wits clearly (Interview held with Old Opposition MP - & AAU Senior Educator of political science Dr. **Merara Gudina**).*

The above data shows that the executive dominated the legislator due to the following reasons. *First*, executives are the ruling party affiliates, *second* in Ethiopia the head of the executive is often the member of EPRDF and still member of the parliament then the executive, probably its head in the parliament enjoys the majority vote. In other words, the executive is dominated by the party which dominates the legislature. It should be understood that, twenty members of the parliament can initiate a law and set agenda for discussion in the parliament, however, the fragmented opposition with different experiences and opinions have contributed a lot to the imbalance created between the legislature and the executive during the lawmaking process.

An Opposition MP evaluates the roles of the opposition throughout their stay in the parliament as:

Our stay in the parliament was so challenging. The attitude prevailing in our country and in developed ones is so different. According to our country's rules and code of conducts for MPs, the ruling party imposes more on us. Draft laws coming from the Council of Ministers are referred to

*the Standing Committee. Because the Standing Committee is dominated by the ruling party and out of twenty members of the committee the opposition is not more than two or three yet the worst situation reached to almost null level of opposition & participation in crafting & drafting public laws of Ethiopia after the 2010 election where EPRDF scored 99.6% electoral results. Hence, the ruling party passes draft laws by first reading (Interview held with Old Opposition MPs- **Professor Beyene Petros** & Addis Press, April 20, 2010).*

Professor Beyene Petros further consolidates his idea:

The composition of the national legislature, in Ethiopia, is only a sign for single party representation (EPRDF MPs constitute about 99.6%) where the level of opposition & independent MPs has gone very far apart in reality to even have a fair game of parliamentary seats in the HPRs yet, by implication, the Ethiopian parliament has been paralyzed for no democratic clash of different views / ideas are entertained. Hottest public debates are apparently believed to have the sign of modern democracy & transparent good governance basing out of the notion of..... ‘No opposition no democracy’ (Prof. Beyene Petrose, AAU Senior Educator & Old MP).

However, questionnaire responses from the judges in the MOJ and the EPRDF MPs are on the reverse side claiming that all government and nongovernment actors participated in the process, their comments are considered and checks and balance between the executive and the legislator is maintained and the role of the government, stakeholders and interested bodies was in line with national lawmaking principles.

For instance, one of the public prosecutors in the MOJ expresses the executive-legislative relationships prevailing during the lawmaking process through the questionnaire as follows:

It is a mere fact that the government of a country has a duty to formulate national policies and strategies. Regarding the legal framework of Ethiopia, the lions share to formulate lies under the government. But, the government, after producing the draft presents the document to the public and stakeholders for discussion and collects opinions (Questionnaire response from the judges in the MOJ).

The respondent continues to claim as:

*What MoJ or the executive did is it just presents a draft law to the legislator; where the HPRs have power whether to adopt or reject the draft law. And all what was done is based on the constitutional mandates of the executive as well as the **HPRs**.*

4.5 The Executive: Overwhelming the Legislative/Policy making/ Process in Ethiopia

According to the works of Mulgeta Abebe (Mulgeta, 2005) who explained the upper-hands of the executive over the Ethiopian public policy making, in his dissertation, the author urgently needs to go through a documentary analysis for the following section here after critical scrutiny of the material. The current constitution entirely reversed the allocation of powers, assigning the Head of the State (i.e. the President) and the Head of Government (i.e. the Prime Minister) ceremonial and enormous executive powers respectively. Nominated by the **HPRs**, the joint session of the two houses of the Ethiopian parliament elects the President of the FDRE by a two-third majority. Unlike the parliament whose term of mandate / office expires after five years, the president's term of office is for 6 years, and he can continue in office for another term. The constitutional design for the parliament and the executive's stay in office a year less than the President is to establish a continuity of government and linkage between the preceding and the forthcoming terms (Fasil, 1997). In any case, the latter's duties are invariably nominal. Among others, these include addressing the joint session of the parliament annually, appointing ambassadors, granting high military titles, and decorating high domestic and foreign dignitaries with medals and prizes, of course, after having been recommended by the Prime Minister. The constitution assigned the President little role in the **policymaking process**. He signs bills into laws following their approval by the **HPRs**, although laws can still take effect within fifteen days with or without his signature.

Enormous policymaking power in Ethiopia is vested in the executive. The latter is comprised of the Prime Minister and the Council of Ministers (CoM). Although the 'election' of the President and the Prime Minister is often concluded at the party forums behind the parliamentary scenes, the joint session of parliament and the HPR designate the President and the Prime Minister respectively as provided for in the constitution. Hence, elected by the HPR for five years, the Prime Minister is the chief executive officer, the chairman of the CoM, and the commander-in-chief of the armed forces of the country. **The current constitution limits the Head of State's term of office to two;** ironically, it is **silent** on the Head of Government's term of stay in office, though the latter possesses such a huge responsibility and enormous powers that are susceptible as to be misused. The Prime Minister can have the HPR approve his nominees for the ministerial positions who, together with him, constitute the second leg of the executive. He presides over the entire implementation process of laws and socio-economic and foreign policies of the country (FDRE, 1995).

Consisting of the Prime Minister, his deputy, heads of the ministries and other government officials whom the PM wishes to be members, the second aspect of the executive constitutes the Council of Ministers. Its competences revolve around the initiation, formulation and supervision of the implementation of socio-economic and foreign policies. In fact, despite being subject to approval by the HPR, the CoM has control over the power of the purse, essentially because the latter remains in the limelight for much of the formulation, arrangement and the execution of the budget. The CoM holds regular sessions once in a week, and conducts emergency sessions when situations requiring such meetings arise.

Besides, performance evaluation sessions are scheduled quarterly, or four times annually.

Half of the members the Council of Ministers constitute a quorum, and decisions are made by a simple majority vote (CoM) (FDRE, 1995, PMO, 2003).

The three critical elements which attest to the executive's prime role in the policy and/or legislative process are that it: formulates and issues new policies or modifies old ones; sends draft proclamations to be approved by the *HPRs*; and issues regulations and publishes them in the official legal reporter - the *Negarit Gazeta* (FDRE, 1995, 2001; PMO, 2003).

One should not fail to stress that, in the Ethiopian context; the *machinery of the legislative process starts rolling from the premises of the executive* and is concluded with the seal of approval in the parliament building. To begin with, each ministry is empowered to initiate and/or formulate laws and policies. Every ministry can, however, initiate and formulate laws and policies in line with procedures and modalities spelt out by the *Prime Minister's Office* (PMO, 2003). Accordingly, each minister requests the Cabinet Affairs Minister in the PMO for the specific legislation and/or policy that his ministry tends to propose, and have the former incorporated into the legislative program which often comes at the beginning of the Ethiopian calendar year in September. The Legal Advisory Group, based in the PMO, sets up the programs and prioritizes them in light of the urgency and importance that they are accorded, and mostly priorities are set based on the information ascertained from executive government agencies (*ibid.*). If the former is satisfied about their urgency and seriousness, the Legal Affairs Department of the ministry can propose a new law or modification of an old one draft and sends it to Cabinet Affairs Minister/Legal Advisory Group. The Cabinet Affairs Minister presents it to the next CoM plenary session, if it is satisfied with the formalities and technical trustworthiness of the legislation. Following a first reading of the legislation under consideration, the CoM may well refer it to one of the relevant standing committees. At all stages of the clearance points that the draft

legislation passes through, each (i.e. the ministry initiating the law, the Legal Affairs Advisory Group, the relevant standing committee that the law is referred to, and the CoM) should make sure that the bill does not conflict with the constitution, other laws and the international laws that the country has ratified (*ibid.*). The plenary session of the CoM decides whether a draft bill should be sent to **HPRs**.

The structure of the CoM includes:

- a) A General Assembly/Plenary Session;
- b) Standing and Ad-hoc Committees;
- c) Cabinet Affairs Minister and Departments organized under it. [PMO, 2003: 6]

Although the new operating guideline that has recently been issued by PMO did not mention the standing committees that the CoM has established, a previous guideline specified three such committees as follows:

- ❖ *The Economic Affairs Standing Committee that includes ministers heading the economic sectors;*
- ❖ *The Social and Administrative Affairs Standing Committee that involves ministers heading social and administrative affairs; and*
- ❖ *The Legal Affairs Standing Committee is a composite of several ministers chaired by the Minister of Justice. [PMO, September 1995]*

Before the 2001 restructuring measure that fundamentally reorganized ministries and other government agencies, the Prime Minister's Office (PMO) had three major divisions directly answerable to the PM. Not only did the divisions serve as the linchpins of the entire socio-economic policymaking process, but also they bypassed the powers of the ministers and the CoM. Hence, the PMO supervised the relationship between central government and NRSs through its Regional Affairs Division, and controlled the work of huge ministries functioning in the economic and social sectors through its Economic and Social Affairs Divisions till 2001. By and large, the PMO remains the most authoritative and influential organ of the executive to date.

Currently, supported by advisors of high professional caliber in economics, social and legal affairs, the PMO is the most powerful institution in the executive structure. The institution has three major divisions, each led by a minister directly accountable to the PM. These are Ministers in charge of PMO, Cabinet Affairs and Economic Affairs.

The functions of the first include leading, coordinating and controlling the administrative affairs of the PMO; advising the PM on factors relating to strategic and administrative issues, including proposals

about whether new government establishments should be constituted, old ones reorganized and/or merged with other establishments.

The Economic Affairs Minister, on the other hand, advises the PM on a range of macro-economic and monetary policies, and evaluates their implementation. Accountable to the PM, the Cabinet Affairs Minister leads the entire policy and legislation-making process ranging from arranging and making available logistical support to the CoM to maintaining and safeguarding the confidentiality of the cabinet decisions, from documentation and record keeping to maintaining the quality of the outgoing and incoming documents, and to dispatching draft bills to the *HPRs* for approval.

The competences of the Cabinet Minister largely revolve around the issue of making logistical support available to the CoM and mapping out action programs for legislative and policy decisions. Excluding the closest advisors to the PM, till September 2003 the PMO had well over 250 employees. For much of the legislative and policy-making process, however, the Prime Minister not only presides over the plenary sessions of the CoM, but also closely scrutinizes the agenda items. In other words, the Cabinet Minister heading the operational and logistical support in PMO should ensure that the PM approves the agenda items well before a plenary cabinet session commences ((PMO, September 2003).

4.6 The Great Challenges of the National Legislature (HPRs) in the Public Policy Making Process

A thorough review of the Minute of Public Hearing Session of the House of Peoples' Representatives on the Proclamation to provide for the Registration and Regulation of Charities and Societies (PCS)-No.621/2009, held on Tahsas15, 2001 E.C) shows the following extra features, problems and gaps beyond what has been said in the earlier discussions as:

The public hearing of the standing committees are definitely taken place. One good logical & functional system of is creating such type of atmosphere to the public. But things are not being changed whatever golden idea is being brought by the public. Public hearings are held but we don't see such influential changes. In essence, I have never seen radical reforms & structural adjustments effected only by the national legislature of FDRE parliament (Professor Beyene...through an Interview as Old Opposition MP).

The minute shows that all EPRDF MPs who participated during public hearing session did not express any concern against the contents of the law, tabling challenges against one's own party sponsored agenda is unthinkable in Ethiopia. So, how do EPRDF MPs reach in to agreement during

parliamentary deliberations? The EPRDF MP through the questionnaire explains the procedures that EPRDF MPs follow to bring consensus among them on the draft law as follows:

The EPRDF MPs voted for the proclamation after a series of deliberations made on the bill draft. There were ideas like the law may obstruct the genuine NGOs and limit capital inflow. Finally, it was decided by EPRDF MPs that a legal framework should be established to administer NGOs so that the country can benefit, hence EPRDF members of parliament voted for the proclamation (Questionnaire response from Labor & Social Affairs Standing Committee EPRDF MP).

The lion share of problem here is that, whatever law is referred to the parliament, if it is government sponsored all EPRDF MPs vote for that and the law deserves 100 per cent support from EPRDF MPs. If the party supports the law, all members do the same following the opinions of party leadership. It can also be consolidated through the following view of **Dr. Costantinos** on how public debates & public hearings are treated in the national legislature of FDRE's HPRs as:

*The public is not involved in the draft legislations there never has been any public hearing except when it gets controversial. The only public debate we had in Ethiopia on a given policy legislation is probably the charities & societies proclamation because it was very hard the NGOs raise their voice, the international communities' raise their voice, human rights organizations raise their voice including governments which give money aid to this government and that it already become a debated issue where even the **late prime minister was forced to come and explain in public** what the law meant and still is a hot debated because the NGO sector made up the international NGOs is a very vocal group and also it brings money to this country but what else is there for example the other land lease law would not even discussed in parliament; 'forget the public'. So I cannot say that there is public participation in the legislation process of Ethiopia.*

The Doctor comes again to say:

*what I dully thought is, all members of parliament would have to go their constituencies to debate the draft policy, any policy but I have never seen any member of parliament going the draft policy is, be it land lease law be it the charity & society's proclamation going to the constituency to debate that is the **only opportunity** the Ethiopian public would have to be able to discuss draft legislation otherwise what do we do?you cannot use radio, you cannot use television because the many of / majority of our population doesn't have an access to the*

*media. Where as in other countries, even if there is a party with more members in the parliament, there is a situation where the minority's voices are considered through negotiation. In our parliament strong opposition parties are not considered necessarily. This is very different from what we observe through others' experience like in the parliament of **Ghana** where the national legislature is the source of law and this African nation is assumed to have very stable democratic legislature that could be a role model to the FDRE parliament (Interview held with **Dr. Costantinos Berhe**, AAU Senior Educator of Public Administration & Management policy and Chair Person for the African Humanitarian Affairs / Action).*

Summary

The supremacy of the executive and its claims on policymaking has been pervasive, with absolute executive powers vested in the EPRDF party and the ruling government. The combined forces of party and executive leadership and their overwhelming dominance in the public policymaking are nevertheless relatively new conventions, phenomena and constructs that evolved and became ingrained in the Ethiopian political system. Ideologically, the notion of revolutionary democracy and the system of developmental state have been a critical element guiding as well as justifying policy elites' claims on the choice of public policies and the institutional and structural mechanisms of implementing them. Wedged between staggering financial and organizational capacity, on the one hand, and inhospitable politico-administrative and legal milieu, on the other, the civil society, a network of civil society institutions and the public have over the decades remained at peripheral end of the public policymaking process.

Hence, the most difficult challenges that the Ethiopian public policymaking process has been experiencing over the years can be encapsulated into the following core issues.

First, not only ideology has played critical role in the choice of public policies and institutional instruments for implementing them, but also laid the ground-work for policy elites to justify their claims on policy actions. While ideological precepts and the justifications underpinning them provided policy elites with overwhelming leverage in policymaking, it precluded civil society from making salutary contributions to the policymaking process.

Second, the emergence and consolidation of a coterie of party and executive leadership (policy elites) have been the dominant phenomena in the realm of public policymaking, with the ruling party institutions overlapping with the formally constituted policymaking government structures.

CHAPTER FIVE

Summary of Findings, Conclusion & Recommendation

Contextually, with reference to the theoretical and the empirical evidences discussed in the preceding sections, this last section outlines the findings, provides the conclusion and all the recommendations in pertinence.

4.1. Summary of Findings

Based on the analysis and interpretation of the data, the findings of this research shows:

- ❖ The composition of the national legislature, in Ethiopia, is only a sign for single party representation (EPRDF MPs constitute about 99.6%) where the level of opposition & independent MPs has gone very far apart in reality to have a fair game of parliamentary seats in the HPRs yet, by implication, the Ethiopian parliament has been paralyzed for no democratic clash of different views / ideas are entertained. Hottest public debates are apparently believed to have the sign of modern democracy & transparent good governance basing out of the notion of ‘No opposition no democracy’.
- ❖ The political executive and the ruling party fused executive leadership dominated the public policy (legislation) making process in Ethiopia, due to the fact that the party philosophy that is revolutionary democracy and its objectives provides interest in every field of public policies; this allowed the government to draft a law that grants the executive primary authority to make laws through the proclamations to define powers and duties of the federal executive bodies.
- ❖ As far as the power of the legislature and the executive is concerned, during the law making process in Ethiopia, the process has unbalanced power between the legislature and the executive. The judiciary hence, the Ministry of Justice, plays the major role (the highest power) during a given parliamentary law making process in the *HPRs* on reconciling some contradictory public issues/controversial provisions upon which balance of power between the legislative and executive could be maintained to the level of constitutional harmony.
- ❖ The executive which of course is dominated by party affiliated elites is considered as the soft ware to initiate the agenda, to draft and re-draft the law, an expert and trend setter with the highest power leverage during presentation to the council of ministers and later to the

legislature, the legislature has a mere power to enact it by the majority vote provided the law is credited to the party-fused elites (executives) and later by the Council of Ministers.

4.2. Concluding Remarks

The following conclusions are drawn based on the finding and analysis of the data.

- The combined forces of party and executive leadership and their overwhelming dominance in the public policymaking are nevertheless relatively new conventions, phenomena and constructs that evolved and became ingrained in the Ethiopian political system.
- The public is not involved in the draft legislations there never has been any public hearing except when it gets controversial. The only public debate we had in Ethiopia on a given policy legislation is probably the charities & societies proclamation because it was very hard that NGOs raise their voice, the international communities' raise their voice, human rights organizations raise their voice including governments which give money aid to this government.
- Efforts made on the side of the government to raise awareness of the public on roles and powers in the *HPRs* during Proclamation making process are not even a bit encouraging.
- Though, at times the government played a tremendous role in bringing change to the level of public participation and citizen action in Ethiopia, the public is not in a position actively participating to promote an enabling legal environment for reasons the MPs in HPRs of FGRE parliament could never visit their constituencies after their immediate seat already secured once in the national legislature.
- Public policy making process in Ethiopia has involved the executives; the ruling party dominated legislating body. The legislature is usually criticized for and even admits that it is not well staffed, thus to create a practical checks and balances between the two bodies, the government has to increase its capacity through strategic management of human capital.
- The emergence and consolidation of a coterie of party and executive leadership (policy elites) have been the dominant phenomena in the realm of public policymaking, with the ruling party institutions overlapping with the formally constituted policymaking government structures.

4.3. Recommendations

Based on the research objectives, analysis of data and findings suggestions are made as follows:

- The role of public policy making actors (like HPRs), during the law making process did not bring changes on the fundamental aspects of the proclamation. All public policy stakeholders should work together to create an enabling environment for producing effective public decisions in Ethiopia through their network organizations and strengthen the institutional capacity of the national legislature (parliament).
- The ratification of a given law is not the last stage in any law making (legislative) process. Therefore, **HPRs** members should continue to raise concerns about the proclamation and design a system for reviewing the enforcement
- The impact of the effective legislation with the aim to provide evidence on how its application is affecting their activities. The executive should make continuous reappraisal of the most contentious provisions and provide remedies for such legal & constitutional complexities.
- The government should continue promoting independent legal consultants and researchers (policy think tanks) to flourish in Ethiopia that can initiate, supplement and consult the House of Peoples Representatives on lawmaking and other policy issues by producing more scholars in the field of public policymaking.

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Special External Links

- [Public Policy Hub - Parliament and Law Making.](#)
- [United Kingdom Parliament - Official Website.](#)
- [Parliament of the South Africa Republic - Official Website.](#)
- [Indian Parliament International - Official Website.](#)
- [Parliament of FDRE - The HPRs Official Website.](#)

Appendices

A. Questionnaire-1

Addis Ababa University
School of Graduate Studies
College of Business and Economics
Department of Public Administration and Development Management

Questionnaire to be Filled by EPRDF MPs

Dear Respondents

Dear respondents, this questionnaire is designed to conduct survey research for my ‘thesis’ on : “The Legislative process in Ethiopia: Challenges and prospects” that makes the overall public policies of Ethiopia. The researcher does believe that the outcome of the research is vital in providing solutions for the challenges & prospects that *the Ethiopian Parliament is experiencing*. The data you & your institution are providing will not be used for purpose other than for the intended academic reasons yet indicated here in this the questionnaire. So the researcher wants you to be honest and truthful in replying the questions in the questionnaire.

Thank you very much for your time and cooperation!!!

1. How do you (EPRDF MPs) discuss and take a stand of a policy/legislation to endorse it at the plenary session in the HPRs for producing (effecting) a speedy Legislative process of democratic practices?

2. In drafting laws (policies) even party members may table challenges to the proposals of the party for which they are the members. Do you have had such opportunities especially during the adoption of the major national laws (public policies) of Ethiopia as stipulated in the constitution?

3. Apparently, the executives propose the bulk of policy and legislative proposals but not the HPR. The HPR only approves detailed policy and legislation when the executive sends them to the parliament. What is your opinion about this as a member of EPRDF MP hand in hand to the parliamentary legislative power & constitutional practice?

4. The recognition of the plurality of interest could be an extremely essential issue in public participation for public policy making in Ethiopia. What is the reality in the Ethiopian public policy making/legislative process in general and the parliamentary practices in particular?

5. Is there anything that may affect the free expression of wills during the parliamentary deliberations? If any, would you explain these factors in relation to HPR legislation making practices?

6. There are some claims that after the adoption of proclamations, EPRDF MPs overwhelm the views of opposition in almost all of the interest groups who expressed their concerns upon the contents of the policy they have dealt with. Why do you think the reasons for such contests could be?

7. EPRDF MPs are barely allowed to promote ideas other than those of their party just as tried in some other parliamentary states of our contemporary world (i.e. South Africa Republic). How do you evaluate this statement especially in relation to the national priority proclamations/legislation making processes? Would you please be so kind to justify this idea in brief?

8. Finally, how do you evaluate the overall public participation and their roles in public policy making in general and the stand point of the Ethiopian parliament in particular? Explain in solid evidences of a legislative parliament.

B. Questionnaire-2

Addis Ababa University
School of Graduate Studies
College of Business and Economics
Department of Public Administration and Development Management
Questionnaire to be filled by Opposition MPs

Dear Respondents

A dear respondent, this questionnaire is designed to conduct survey research for my ‘thesis’ on: “The Legislative process in Ethiopia: Challenges and prospects ” that makes the overall public policies of Ethiopia. The researcher does believe that the outcome of the research is vital in providing solutions for the challenges & prospects that *the Ethiopian Parliament is experiencing*. The data you & your institution are providing will not be used for purpose other than for the intended academic reasons yet indicated here in this the questionnaire. So the researcher wants you to be honest and truthful in replying the questions in the questionnaire.

Thank you very much for your time and cooperation!!!

1. Do you think that there was a meaningful public participation during the given plenary session of any parliamentary policy making process? Suggest some ideas on this.

2. Do you believe that public hearings (open discussions) can bring significant changes upon the final text of a given legislation/public policy? What is your opinion towards this view?

3. In any of the public policies it is clear that government should play its own role during policy-making process. How does it could be measured its role against the role of the opposition and other major actors? Is the government dominating? If yes how?

4. Do you think the balances of power and checks and balances that dictate separation of power between the legislatives and the executive is maintained during the national priority policy making processes? Just forward your ideas & support with reasons to this.

5. EPRDF MPs are barely allowed to promote ideas other than those of the party. How do you evaluate this statement especially in relation to the public policy-making process of the Ethiopian context?

6. Do you share the idea that EPRDF MPs at times they are exercising relatively less power in the party sponsored legislations and motions than the constitution stipulates? Comment in relation to the policy/law making process.

7. What roles did opposition party play in the national legislation making process to change the contents of the draft law done by the ruling government - EPRDF?

C. Questionnaire-3

Addis Ababa University
School of Graduate Studies
College of Business and Economics
Department of Public Administration and Development Management
Questionnaire to be filled by FDRE Ministry of Justice (MoJ)

Dear Respondents

Dear respondents this questionnaire is designed to conduct survey research for my ‘*thesis*’ on: “The Legislative process in Ethiopia: Challenges and prospects ” that makes the overall public policies of Ethiopia. The researcher does believe that the outcome of the research is vital in providing solutions for the challenges & prospects that *the Ethiopian Parliament is experiencing*. The data you & your institution are providing will not be used for purpose other than for the intended academic reasons yet indicated here in this the questionnaire. So the researcher wants you to be honest and truthful in replying the questions in the questionnaire.

Thank you very much for your time and cooperation!!!

1. Who are the actors who participated during the public Proclamations making process in the Ethiopian public policy making experiences? Jot them down.

2. In any public policy-making processes the government usually takes the highest power of drafting the policy issues and finally adopts it. How do you measure the role of the government against the role of major actors such as Opposition Members of the parliament and other stake holders?

3. What contributions can have the major actors of public policy making stake holders in the process of adopting a government policy hand in hand to the manipulation of a given parliamentary legislation?

4. Apparently the executives – MoJ in this case propose the bulk of policy and legislative proposals but not the HPR. The HPR only approve detailed policy and legislation when the executive sends them to the parliament. Would you be so kind to explain & justify these facts, please?

5. What are the roles exercised by the Ministry of Justice during the making of proclamations/new legislations during its enactment by the parliament?

D. Interview Guide-1

***Addis Ababa University
School of Graduate Studies
College of Business and Economics
Department of Public Administration and Development Management
Interview for Speaker/Deputy Speaker of the House***

1. In any of the public policies it is clear that government should play its own role during the policy-making process. How do you measure its role against the role of the opposition and other actors?

2. Do you think the balances of power and checks and balances that dictate separation of power between the legislatives and the executive is maintained during the policy making process?

3. Do all members of the HPR promote ideas other than those of the ruling party in the manner that can convince the whole plenary session of parliament? If the case is so, how do you evaluate this statement especially in relation to the national priority areas of public proclamation making processes?

4. What roles did the opposition party play in the legislation making process to change the contents of the draft law done by the ruling government and at times the ruling party has been dominating/taking the upper hand of the parliament (i.e. HPR)?

E. Interview Guide-2

Addis Ababa University

School of Graduate Studies

College of Business and Economics

Department of Public Administration and Development Management

Interview for Ethiopian Academics/Senior Educators in AAU

1. How do you explain the legislative - executive relationship in the public policymaking of Ethiopia? That is do you think there had been real separation of power between the two in practice?

2. Would you explain the stage of public participation in Ethiopia in which it has attained an effective public policy making (Legislative Process) experiences with particular reference to the power of parliamentary legislative-executive relationship?

3. What do you think are the motives that prompted the government to initiate the policy agenda and to adopt it later for reasons the legislative power of parliamentary jurisdiction is in harmony of constitutional balance?

4. How do you comment on the overall Ethiopian public participation and their roles in public policy making practices? Could you provide some facts on how the community (public) is involved in the legislative process?

5. **Finally**, if you have any suggestions about citizen participation and their role in public policymaking in Ethiopia in general & parliamentary power of the legislature in particular, please explain in brief.
