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Political Control and Accountability in Ethiopian Rulemaking

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Walden University

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Walden University
2019

Abstract

Political Control and Accountability in Ethiopian Rulemaking

by

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MA, Transformational Leadership, Greenwich University, 2011

LLB, Mekelle University, 2007

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

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Abstract

Administrative rules have played a central role in Ethiopian public administration since 1994 when the current constitution was adopted. However, if the formulation and implementation of the rules are not politically controlled, and proper accountability is not applied, these same rules could become threats instead of assurances of the rule of law and order. This case study explored what strategic controls and accountability measures are in place to regulate the rulemaking process. To inform the study, the political control of bureaucracy framework in general and the principal–agency model, in particular, were used. The central research question focused on strategies that ensure the political control and accountability of rulemaking in Ethiopia. Purposive sampling methods were employed, with interviews of five legislators and five appointed officials, as well as supportive legislative documents providing the data. The data were coded and thematically analyzed using a coding framework and a continuous iterative process. The results revealed that in Ethiopia there is a constitutional framework of control and accountability, but there is no political control mechanism in place, and no accountability measures have been taken. The study findings may indicate that there is a need for further studies on administrative and judicial review mechanisms and federated states' control mechanisms to fully understand the situation. The implication for social change includes awareness and attitudinal change of lawmakers and administrative authorities towards the importance of controlling and limiting the power to make rules. Positive social change is nearly impossible where unlimited and uncontrolled power is exercised.

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Dedication

This dissertation work is dedicated to my loving and caring father who passed away a few years ago.

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Table of Contents

List of Tables	v
Chapter 1: Introduction to the Study.....	1
Introduction.....	1
Background.....	4
Gaps in Prior Research.....	5
The Ethiopian Situation	6
Problem Statement.....	9
Purpose of the Study.....	10
Research Questions.....	11
Theoretical Foundation	11
Nature of the Study.....	13
Definitions.....	13
Assumptions, Scope, Delimitation, and Limitations	15
The Significance of the Study.....	17
Implications for Social Change.....	17
Chapter Summary	18
Chapter 2: Literature Review	19
Introduction.....	19
Literature Search Strategy.....	21
Theoretical Framework.....	21

Origin of Principal–Agent Model	23
The Sources of Agency Problem	24
Advantages and Strategies of Agents	26
Applicability of the Principal–Agent Theory	29
Political Control Mechanisms and Accountability	32
Ex-Ante Control Mechanisms.....	32
Ex Post Control Mechanisms.....	33
The Problem of Strict Separation of State Powers.....	34
The Genesis of Delegation of Legislative Powers	37
Delegation of Legislative Powers and Rules	38
Current Political Governance in Ethiopia	40
Delegation of Legislative Powers in Ethiopia	45
Lawmaking Process in Ethiopia.....	46
Chapter Summary	47
Chapter 3: Research Method.....	49
Introduction.....	49
Research Design and Rationale	50
Research Questions.....	50
Key Concepts	50

The Relevance of Case Study	52
Role of the Researcher	52
Methodology.....	54
Population, Sample Size, and Selection Logic	54
Sampling Strategy.....	55
Criteria for Participation	55
Participants and the Criteria.....	56
Saturation Point and Sample Size.....	56
Instrumentation	56
Data Collection Instrument.....	56
Source of Data Collection Instruments	57
Data Face Value Validity.....	57
Data Collection Procedures.....	58
Data Analysis	58
Trustworthiness.....	63
Ethical Concerns	64
Chapter Summary	65
Chapter 4: Results.....	67
Introduction.....	67
Setting of the Study.....	68

Demographics	69
Data Collection	70
Data Analysis	72
Evidence of Trustworthiness.....	75
Results of the Study	76
Thematic Presentation.....	80
Summary.....	99
Chapter 5: Interpretations, Conclusions, and Recommendations	100
Introduction.....	100
Interpretation of the Findings.....	102
Limitation of the Study.....	111
Recommendations.....	112
Implications.....	114
Conclusion	115
References.....	116
Appendix A: Interview Protocol Form and Questionnaire	129
Appendix B: Relationship Between Theme, Category, and Codes	132
Appendix C: Examples of Delegation Clauses.....	133
Appendix D: Samples of Unimplemented Delegation (Taken From a Study by Attorney General)	135

List of Tables

Table 1. Preliminary Value Coding and Analysis Framework	60
Table 2. Data Coding and Analysis Framework	78
Table 3. Theme 1 Data Presentation: What perceptions do the elected and appointed officials have on(the importance of) delegating rulemaking powers?.....	81
Table 4. Theme2 Presentation of Data: What perceptions do the elected and appointed officials have on (the extent of) delegating rulemaking powers?	86
Table 5. Theme 3 Data Presentation: What perceptions do the elected and appointed officials have on the issue of political control and accountability?	89
Table 6. Theme 4 Data Presentation: What are the ex-ante/ ex-post political control mechanisms in the rulemaking process?.....	92

Chapter 1: Introduction to the Study

Introduction

One of the conditions for sustaining a democratic system is controlling the coercive power of the government through the rule of law and principles of accountability (Fukuyama, 2013). Separating the legislative, executive, and judiciary powers of the state into three bodies is one way of controlling the power (Fukuyama, 2013; Pecaric, 2015). The concept of separation of powers, where the three functions of government are vested in different branches is one of the peculiarities of democratic political governance (Fukuyama, 2014; Pecaric, 2015).

Regardless of the character and structure of the government, if a state is democratic, the lawmaking power is vested in the legislature. The authority to execute those laws rests on the executive branch, and the ability to adjudicate the laws lies with the judiciary branch. In a democracy, neither the executive nor the judiciary branch could make laws by themselves, unless the body of the lawmakers confers some of its lawmaking powers on them (Kerwin & Furlong, 2011).

However, studies show that legislators could not make all forms of policies and laws because of the lack of broad technical capability on each public policy matter, lack of expertise, and lack of organizational flexibility (Fukuyama, 2014; Pecaric, 2015). Thus, the body of lawmakers transfers authority of rulemaking to bureaucratic agencies through legislation. In addition to authorization of public agencies to make detailed rules, the legislators depend on the agencies for information to make the broad policies, while the power of bureaucratic agencies depends on the legitimacy of the policymakers. Such

interdependency between the principals and the agents makes the policy-making process sophisticated (Carpenter & Moss, 2014; Organization for Economic Cooperation and Development [OECD], 2017; Workman, 2015).

Nevertheless, a delegation of legislative powers is not without cost because, in addition to their influences on the policy-making process, bureaucratic agencies could make rules that promote their policy preference and self-interest (Degol & Kedir, 2013; Kerwin & Furlong, 2011). They might also use the opportunity to expand their powers. The authorized bodies might advance their self-interest and expand their powers through different mechanisms including the delay of the rulemaking action, total inaction or ignoring the authority to make rules. When there are deviance and expansion of power through the formulation of regulation, it could violate human rights, the rule of law, and the principles of accountability of the government, and noncompliance (Kerwin & Furlong, 2011).

The debate on the necessity of delegation of agencies is not within the scope of this research. Instead, in this the study I was concerned with the ability of the legislative body to prevent an abuse of power and noncompliance. Though legislators could transfer the power to executive and judiciary branches, the purpose of this study is also limited to the delegation of legislative power to the executive branch because it is a more common practice in Ethiopia (Degol & Kedir, 2013; Kerwin & Furlong, 2011).

I conducted the case study that considered the Ethiopian delegating of legislative power and the ability of legislators to control the process of applying this delegated legislative power. The situation in Ethiopia seems favorable for the study because in

Ethiopia the institution of democracy is only about 20 years old. After hundreds of years of monarchical rule and 17 years of military regime, Ethiopia adopted a constitution that recognized international human rights' norms, conventions, and a multiparty system in 1995 (Bach, 2011; Degol & Kedir, 2013). I believe that the case of Ethiopia might be an ideal situation to demonstrate the scenario where lawmakers do not set a controlling mechanism when delegating some of their powers to the executive bodies, particularly in the developing world.

Thus, the purpose of this case study was to explore strategies that Ethiopian lawmakers use to prevent abuse of power and noncompliance in administrative rulemaking. I believe the findings of this study could potentially contribute to a positive social change by enlightening the legislative authorities on their oversight role to prevent abuse of power and noncompliance. Even though I conducted the study at the federal level and only in political control, the implications translate to the judiciary review, administrative review and control mechanisms in the nine federated regional states.

In this chapter, I introduce the problem by explaining literature related to the topic. I also explain the gap in the literature that I expected to be narrowed by the findings of the study. The chapter contains an explanation of the purpose of conducting the study and a summary of the background of the research by reviewing some of the relevant literature. The significance of the research and its implications for positive social change are some of the significant issues that this chapter addresses. I introduce the theoretical framework that I used to inform the study, and the chapter ends with a presentation of the nature of the study and its delineations and limitations.

Background

For a democratic system to survive as a system, state power must be limited by the values of the rule of law that asserts government accountability. One of the mechanisms of making the government accountable is separating the function of the state into the legislative, executive, and judiciary bodies of the government (Manning, 2015; Pecaric, 2015; Sohoni, 2016). The topic of this research is related to the nature of democratic governance, which is a system of reconciling coercive state powers, the rule of law, and democratic accountability of the government (Fukuyama, 2013). However, it is becoming apparent that strict separation of powers is not applicable to current public administration in the democratic administrations (Manning, 2015; Pecaric, 2015).

On the one hand, the lawmakers depend on the bureaucratic agencies for broad technical knowledge and information that enables them to make informed policy decisions. On the other hand, the bureaucratic agencies depend on the policymakers for the legitimacy of their authority to make rules. Thus, the concept of delegation of legislative powers whereby the lawmaking body delegates some of its powers to the administrative bodies is inevitable.

The literature reveals that there is still a contest regarding whether delegating legislative rulemaking power to administrative bodies is a proper decision in light of the guiding principles of separation of powers (Kelley, 2017; Iuliano, 2018; Hesick & Hessick, 2013). In this regard, the Ethiopian constitution granted all lawmaking powers to the parliament along with discretionary authority to authorize administrative bodies to pass regulations (Degol & Kedir, 2013; House of Peoples Representatives, 1995). Article

77 (13) of the Ethiopian constitution granted the parliament full discretionary power to authorize the council of ministers to enact regulations. Accordingly, the authority of the cabinet to make regulations lies at the discretion of the body of lawmakers. Hence, the focus of this study is not on the contention of delegation and nondelegation. Instead, the focus of this study will be directed towards the possible consequences of uncontrolled legislative power reconcentrating in the hands of the administrative bodies and what possible rectifying mechanisms could be put in place.

Gaps in Prior Research

Administrative bodies could make nonstatutory rules in different ways. They can make such nonstatutory rules because of their insensitivity to the rule of law, separation of powers, and private rights (Daniels, 2014; Walker, 2015). They could also make non-statutory rules by interpreting ambiguous legislation in a way that could promote self-interest and policy preference (Walker, 2015). Furthermore, they might intentionally cross the lines by violating delegation guidelines, principles, and limitations (Daniels, 2014; Walker, 2015; West & Raso, 2012). One of the solutions in such cases is legislative oversight.

The possibilities of making nonstatutory rules in the rulemaking and possible solutions to address those problems are dealt with in the literature about western democracy. However, there is a gap in the literature on applicability in countries such as Ethiopia where democracy is young and formulated in a domestic context.

The Ethiopian Situation

Though Ethiopia is one of the oldest countries in the world, it had been under a monarchical regime where there was no rule of law with accountability of the government or any form of democracy (Bach, 2011; Regassa, 2010). After a long history of the monarchical rule, a military regime under the banner of socialist ideology held power by a coup from 1974-1991. Under the army rule, there was no election, no freedom of expression, and no multiparty system (Regassa, 2010). After about 4 years of transition from 1991-1995, in 1995 a democratic constitution that ratified international democratic and human rights norms and conventions was adopted as the supreme law of the land (House of Peoples Representatives, 1995; Regassa, 2010).

The 1995 Constitution introduced the rule of law, accountability of the government, a multiparty system, and the freedom of citizens with responsibility. It was the first constitution in the history of the country to declare the public as the source of all political powers, and free election as the only appropriate way to hold power (Alemu, 2015; Degol & Kedir, 2013).

As the concept of the rule of law with accountability of the government is new to the country, oversight of the use of the power of government about its delivery of public services such as rendering justice is vital for sustainability and enhancement of democratic administration.

Article 55 (17) of the constitution granted to the legislative body, in general terms, the power to control and have oversight of all activities of the executive branch and the bureaucratic agencies. Accordingly, the legislative branch has the authority to

question the prime minister and other federal officials and to investigate their conduct regarding discharging of their duties and responsibilities. In addition to their original executive powers, Article 77(13) of the constitution granted power to the executive body to exercise rulemaking powers such as passing regulations. As discussed earlier, the legislative body granted such power in the form of delegation. Beyond the general terms, the constitution did not set any test of compliance checklist, review mechanisms, or controlling mechanisms of legislative power. However, Article 59(2) of the constitution granted the House an authority to adopt rules and procedures regarding the legislative process.

Accordingly, the House enacted in 2006 as amended in 2016 a regulation under the title of The House of peoples' representatives working procedure and the members' code of conduct. Among other things, the regulation set a mechanism of delegating legislative power to different public bodies. Article 61 of the regulation stipulated mechanisms of delegation, provisions, and punishments for noncompliance. Article 61(2) prohibited rulemaking without explicit delegation. Article 61(3), ordered the House to mention the delegated public organ. Article 61(4) and (5) said all regulations and directives must be within the scope of the delegation and in alignment with the purpose of the parent legislation. Article 61(6) of ordered any delegated authority to make the rule within 3 months. According to Article 61(7) of the regulation, any regulation shall be accessible to all persons. Finally, article 61(8), which is the last subarticle, stipulated that any federal authority that did not make such rules accessible shall be accountable.

Though the study covered the Ethiopian delegation doctrines, a political control mechanism in the lens of the principal–agency model, the criteria in the literature, and the House regulation, I picked specific legislation enacted under the title of registration of vital events and national identity card proclamation number 760/2012 as a case. The proclamation was enacted in 2012. The legislation has two parts. The first part is about registration of vital events such as birth, marriage, and death, while the second part is about the national identity card. The first part amended 70 year old legislation (Article 68). However, the second part, which covered chapter 3 of the legislation, introduced a new policy to the country (Article 55-62). This policy was unique because there was no such thing as a national identity card uniformly applicable throughout the country. The purpose of introducing a national identity card policy is stipulated in the preamble of the legislation (House of the Peoples Representatives, 2012a).

Accordingly, the purpose of the national policy of issuing an identity card is to protect national security and to provide efficient services to citizens, which implies the essentiality of this policy. The legislation said that the proclamation should be operational within 2 years, which meant until 2014 (Articles 67 and 70). The legislation (Article 55) granted a power to make rules to the cabinet to enact a regulation thereby to establish an appropriate federal organ to carry out the national identity card policy without which the relevant section of the legislation could not be operational. However, Article 55 and Article 69(1) of the legislation grants an unassertive delegation stating that the council of ministries may issue a regulation. The word "may/might" in legal terms gives a discretionary power. The same legislation Article 69(2) grants authority to a nonexisting

appropriate federal organ to issue directives regarding the registration requirements and service fees. I learned that the legislation is not yet operational and that the proper organ has not yet been established.

Though my interest was in the doctrine of delegating legislative power and controlling the use of the power and possible noncompliance, I picked the legislation that introduced a national identity card because there were many questions to address including the delegation of legislative power to a nonexistent organ. This study added to the topic's worth in filling the literature gap in the Ethiopian perspective.

Problem Statement

Policy makers need authority and information to pass a legitimate and meaningful public policy. In a democracy, the legitimacy of the policymakers must come from the constitution. However, in most cases, necessary information to approve the policy comes from the relevant bureaucratic agencies (Carpenter & Moss, 2014; Organization for Economic Cooperation and Development [OECD], 2017; Workman, 2015). Because of their sophisticated technical capability and information advantage, bureaucratic agencies could influence the public policy process in prioritizing the policy agenda and in the process of developing the policy document (Yackee, 2013). In addition to their sophisticated influences on the policy-making process, the bureaucratic agencies get authorization from the policymakers to make rules for prescription of the same broad policies (Daniels, 2014; Iuliano, 2018; Kerwin & Furlong, 2011). Together, the information advantage in the policy area and the authorization to further prescribe the policy give much autonomy to the agencies to grab more power and to promote their

interests against the intended policy objectives (Daniels, 2014; Kerwin & Furlong, 2011; Yackee, 2013).

Thus, the lawmakers should set political controlling mechanisms so that they could prevent bureaucratic agencies from influencing and directing the public policy goals toward their policy preferences (Daniels, 2014; Walker, 2015). Such bureaucratic agents' behavior has been studied in the western governance systems; there is a gap in the literature concerning their implications for the Ethiopian situation.

In an attempt to fill this gap in the Ethiopian literature, I focused this study on the possibilities of redirecting public policy goals towards bureaucratic agencies and interest group policy preferences. I conducted the study in a context of Proclamation 760/2012, the registration of vital events and national identity card proclamation. I picked the piece of legislation as a case to review doctrine and mechanism of legislative oversight to prevent the abuse of power and redirection of public policy goals to bureaucratic or industrial policy preferences in the rulemaking process.

Purpose of the Study

The purpose of this qualitative case study was to explore and increase the understanding of how the Ethiopian lawmakers could effectively prevent and noncompliance of the administrative agencies regarding the rulemaking. Since regulatory agencies could abuse the rulemaking power by redirecting public policy goals into their personal, organizational, or industrial policy preferences, political control is vital. Additionally, the sources of most public policies in Ethiopia are the public agencies (Degol & Kedir, 2013).

Administrative agencies should not only take part in the rulemaking but also in the process of making broad policy that will later be a source of an authorization to prescribe the rules. Thus, this study tried to understand the possibilities of power abuse and possible preventive mechanisms that could be applied in the context of Ethiopia. The approach follows a qualitative paradigm and analyzes legal documents and interview data to fill the literature gap and fulfill the purpose of the study.

Research Questions

The central question for this qualitative study was:

RQ: What strategies would ensure an effective political control for preventing a possible abuse of power and noncompliance in the process of rulemaking in Ethiopia?

The subquestions that helped further guide the inquiry were:

SQ1: What perceptions do the elected and appointed officials have on delegating rulemaking power?

SQ2: What perceptions do the elected and appointed officials have on the issue of political control and accountability?

SQ3: What are the ex-ante/ex-post political control mechanisms in the rulemaking process?

Theoretical Foundation

In qualitative research, theories play a crucial role in informing the issue under study (Creswell, 2013; Patton, 2015). Accordingly, I used the principal–agency model (Mitnick, 1975a, 1975b). The model has been used to understand the rulemaking process

(Kerwin, & Furlong, 2011; Frederickson, Smith, Larimer, & Licari, 2015). The principal agency model is one of the groups of theories in theoretical frameworks of controls of bureaucracy (Frederickson et al., 2015). Therefore, I used the general framework of control bureaucracy and the principal–agency mode to inform the study.

The principal-agent theory or model stemmed from economic studies of bureaucracy. Different scholars considered the bureaucratic agents as self-promoting and abusive of their superiority in accessing information to redirect public policy goals towards personal ends or institutional interest (Frederickson et al., 2015; Kerwin, & Furlong, 2011). The model is attributed to Mitnick (1975a, 1975b). A principal-agent problem occurs when delegated agents promote their interest rather than that of the delegators in the rulemaking process (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015).

In this study, the Ethiopian body of lawmakers who had inherent power was considered a principal while the administrative bodies were regarded as their agents. The principal-agent relationship exists when the body of lawmakers authorizes administrative bodies to make rules (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015). Agents could have their personal goals, professional interests, risk appetite, risk aversion strategy, and policy preferences that are not in line with the policy objectives set by the principals.

Agents might not have only distinct interests but also advantages over their principals. Some of the advantages include information asymmetry in area expertise, technical capacity, and organizational readiness. Also, administrative bodies might not have public pressures as the elected official do face (Walker, 2015).

Thus, because of the motive and the opportunity to do so, the agents could make rules that promote their interests and favor unendorsed policy preferences (Kerwin & Furlong, 2011). In addition to the earlier mentioned reasons, agents could be insensitive to individual rights when compared to their sensitivity to collective public interests (Sohoni, 2016). Thus, the control of the bureaucracy theoretical framework in general and the principal-agent model, in particular, seem to be the relevant theoretical formworks for this study.

Nature of the Study

The nature of the inquiry was qualitative, using the case study method. A qualitative approach appeared to be the relevant approach to explore the perceptions of participants about the ability of and mechanism for a legislative body to delegate rulemaking power and still control that power from being redirected towards unendorsed goals. I intended the research question to help me explore what strategies the lawmakers use to control the bureaucratic agencies without adversely affecting their effectiveness and efficiency. Thus, the fact that the study was focused on a single process and legislation makes a case study approach more relevant (Rudestam & Newton, 2015; Yin, 2014).

Definitions

The central concepts in this research process were legislative delegation, political control, and rulemaking. However, to explain this process, various essential concepts and terms are used in this dissertation. Therefore, I provide the following working definitions of the relevant underlying terms.

Administrative rules/rules and regulations (in the Ethiopian context): Regulations enacted by the council of ministers and directives that are formulated by each ministry/agency.

Agency/public agency/administrative body/ executive organ/bureaucratic authority: The terms that might include all Ethiopian federal executive bodies under different names such as ministries, attorney general, services, commissions, authorities, offices, administrations, centers, institutes, and agencies.

Delegation doctrine: A principle or set of guidance that lawmakers adopted to manage the implementation of a delegation of legislative powers (Manning, 2015).

Democracy: A system of political governance whereby all concerned parties can participate in a decision-making process that matters, directly or through representatives, equally and without any repression (Christiano, 2015).

Judicial review: The power of courts to do an ex-post review over the legislative decisions of the body of lawmakers and of the executive when there is contention (Daniels, 2014; Kerwin & Furlong, 2011).

Legislative delegation: Delegation of legislative powers, a process of transferring rulemaking power to the executive body or its branches by the body of lawmakers (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015).

Legislative oversight: A set of policies, mechanisms, and activities that elected officials use to control the proper exercise of the delegated legislative power (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015).

Principal-agent problem: The existence of a conflict of interest between delegators and the delegated. Such conflict happens when the delegate uses the delegated power for promoting personal and organizational interests contrary to the principal's interest (Kerwin & Furlong, 2011).

Regulatory capture: The control of policy decision-making or redirecting public policy contrary to the public interest by the bureaucracy, industry or other interest groups (Yackee, 2013, OECD, 2017).

Rulemaking: A process of promulgating regulations and directives by the executive body (Kerwin & Furlong, 2011).

Assumptions, Scope, Delimitation, and Limitations

Assumptions are realities that a researcher takes for granted at least until the completion of the research because without which the research would be irrelevant. They are somewhat out of the researcher's control, but if they were to disappear, the study would become irrelevant (Simon, 2011). Thus, in this research, I assumed that the Ethiopian constitution gives equal value to state power and citizens' freedom. In the absence of this assumption, the findings of this study become unrealistic. The other assumption is that the existing legislative process would continue without change at least until the end of the study. If the process changes, then the entire framework of the study changes.

Another critical assumption is that participants' were honest in sharing their knowledge of the process. A lack of honesty would adversely affect the study. Therefore, by repeatedly explaining the purpose of the inquiry and the importance of their

participation, I ensured that the participants were taking the issue seriously and could be forthright with no repercussion.

Limitations of the research referred to weaknesses that are out of the researcher's control but for which the researcher can set mitigating mechanisms (Simon, 2011). I used a structured approach to the study design (see Maxwell, 2013). One of the limitations of the structured approach is a restriction of flexibility and opportunity to see new developments. To correct the weakness, I was consciously open to adapting to emerging ideas. The second limitation might be related to sampling. It is difficult to be sure about the representativeness of the sample in the interview. My limited experience in coding and setting themes might also have been a limitation because the inexperience might expose me to biases in pattern recognition, coding, and theme. Thus, I considered and exploited most of the available tools to make sure that the limitations and weaknesses were not undermining the validity of the study.

The scope or delimitation of the inquiry is one of the considerations in designing a study. Scope or delimitation means the nature of the investigation that determines its boundaries (Simon, 2011). There would be many ways to explore the issue, which could include evaluating the effect of the delegation by researching the already promulgated rules and their implementations. Furthermore, the behavior of lawmakers in this regard could be studied by assessing all forms of legal and policy decisions. In this case, however, the decision process about legislative delegation limited the scope. Another relevant yet not considered issue is the process of delegation of legislative powers in the nine federated states. The effects on the lives of citizens' state laws could be as vital as

federal statutes, but they were beyond the scope of this study. However, a careful and diligent examination of the federal delegation of legislative powers would have significant relevance to understanding the relevant federal and state level policy decisions.

The Significance of the Study

This study identified the possibility of benefiting from authorizing administrative bodies to exercise the full power to make rules and controlling the extent and methods of application of the power. It addressed how far public agencies could go to use their delegated power to make rules that deviated from goals set by the lawmakers. Furthermore, by doing such exploration in the study, I tried to fill a gap in the literature.

Although there are studies related to political control and agency autonomy in the context of the process of authorization of public bodies to make rules and to control the authority in the western democracy, there is no study that considers the Ethiopian situation. Thus, the contribution of the study could be significant and original. The importance of the study includes contributing to the enhancement of regulatory effectiveness, the rule of law, and accountability of administrators.

Implications for Social Change

I believe that the results of this study could strengthen positive social change and enlightening the importance of controlled power in rulemaking, which means addressing issues of the rule of law and accountability and compliance in the process of the application of the delegated legislative power. Though the study was conducted at the

federal level, its implications could also apply to the state level authorization of state-level administrative bodies to make rules.

Chapter Summary

In this chapter, I introduced the nature and importance of the study. The purpose of the study was to explore the mechanisms of contorting the possibilities of redirecting public policy goals towards personal, institutional, or industrial policy preferences while allowing the bureaucracy to exercise its power. There might be many ways of controlling the government after delegating the power. Some of them are a legislative oversight, incentivizing, judicial review, and de-authorization.

However, I believed that there was a gap in the literature about possibilities of power abuse in the rulemaking process and possible preventive mechanisms in the Ethiopian context. The central research question was about strategies ensuring effective political control mechanism for preventing abuse of power and non-compliance in the process of rulemaking in Ethiopia.

The study used a qualitative approach to address the RQ and SQs. The result of the study could be significant in creating awareness for the lawmakers. If the lawmakers try to use the results and recommendations, it will have a positive impact on social change, because creating a controlled rulemaking power is the source of positive social change. Nevertheless, the scope of the study is limited to the federal level authorization of administrative bodies to make rules.

Chapter 2: Literature Review

Introduction

Democracy is the only viable governance system so far that is capable of reconciling power and accountability (Fukuyama, 2014; 2015). The building blocks of the democratic governance are the coercive power monopolized by the state, the institution of the rule of law, and accountability of government (Fukuyama, 2014). The government holds a monopolistic, coercive power over citizens. On the other hand, the institutions of the rule of law and accountability limit the power of the government for the sake of the citizens' freedom.

Rulemaking is one of the critical decision-making processes where government displays its power (Kerwin & Furlong, 2011). Though free exercise of the rulemaking power is fundamental for effectiveness, an efficiency of public service delivery; controlling of the same power is also imperative for the sake of the rule of law and the principle of accountability. In this study, I explored the delegated power and the need to control power through the lens of the principal-agent model (Frederickson et al. 2015; Kerwin & Furlong, 2011).

Political control is one of the features of democratic rulemaking in the democratic governance system. On the one hand, rules give power to the administrators; on the other hand, they limit the ability of the administrators, which in turn restricts the power of the government. Rules then become ways of promoting freedom and liberty for all. Similarly, rules could enhance or restrict the substantive and procedural rights of the citizens (Kerwin & Furlong, 2011).

The transfer of lawmaking power could enable administrators to get more coercive power for themselves and put at risk the rule of law and decrease administrative accountability (Walker, 2015). Administrators might want more power at the risk of freedom to make quick decisions (Walker, 2015; Daniels, 2014). Concerning the issue of authorization of public bodies and controlling their power, there is enough literature in the context of western democratic culture, while the literature is not sufficient to review the same subject in the Ethiopian context. The purpose of the study was to explore how the principal-agent issue could be manifested in the rulemaking and what controlling mechanisms could rectify it within the Ethiopian situation.

This chapter highlights the research strategy and reviews the theoretical concept of the principal-agent model, including the historical development of the concept. The discussion includes the nature of the model and its application in different sectors and field of studies. After introducing the research strategy, I address in this chapter the concept of the control of bureaucracy and the principal-agent model in light of its relevance to this study.

Beyond considering the general concept of the theory, I discuss in this chapter the concept of the democratic system and its fundamental principles with application to policy-making, particularly in the delegation of legislative powers and its application when delegated. Because the study is conducted in the Ethiopian context, I review and introduce the Ethiopian political system and policy-making process along with the nature and form of Ethiopian democratic governance. The chapter ends by introducing the methodology and design of the research.

Literature Search Strategy

In most cases, I use Walden library's databases such as SAGE Primer, Ebsco, LegalTrack, and Google Scholar. However, the easiest way to get access to relevant resources through Walden was Google Scholar. This was helpful, mainly when I did not know the exact article. I wrote the search term on Google Scholar's window, and if it was available in Walden library, then I could access it. The other strategy I used was to refer to the reference list of a relevant article and copy and paste the titles of the articles in that reference into Walden library's finding specific article window for easy access.

During this process, I learned a unique strategy that helped me search the most recent articles. This was through accessing an item in Google Scholar or the Google search engine; I took note of how many times the article has been cited, which was valuable information in my decision on which material to refer to. The number of citations revealed the importance of the article and the number of consequently related articles that were published. Some of the terms I used in searching the materials included political control, legislative oversight, legislative review, oversight mechanism, policy capture, regulatory capture, democracy, rulemaking, agency theory, principal-agent problems, and values. Additionally, I used search terms such as Ethiopian politics, Ethiopian history, rulemaking in Ethiopia, policy-making in Ethiopia, and legislative delegation.

Theoretical Framework

The central question in this study focused on what strategies would ensure effective political control of bureaucratic agencies in exercising their delegating power to

make rules in the Ethiopian federal government. The purpose was to elicit the importance of political control to prevent any power abuse and policy redirection in the process of administrative rulemaking.

Thus, the theoretical framework that was best suited to serve as a lens for this study was the principal–agency model, which was developed in fields of economics and institutional studies of bureaucracy (Mitnick, 1975a, 1975b). Different scholars considered the bureaucratic agencies self-promoting and suggested that they abuse their information superiority as a tool to redirect public policy goals and repurpose the legislative power (Frederickson et al., 2015; Kerwin, & Furlong, 2011).

The model was applied in the administrative rulemaking process (Frederickson et al., 2015; Kerwin, & Furlong, 2011). One of the situations for the principal-agent relationship to exist would be the delegating of legislative power to administrative bodies to make rules (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015). Agents could try to achieve their personal goals, professional interests, risk appetite, risk aversion strategy, and policy preferences that were not in line with the publicly endorsed ones. They could try to achieve institutional and industrial interest rather than the public interest.

In addition to the policy preferences of their own and the industries they prefer or regulate, bureaucratic agents have an advantage over their principals. Some of the advantages included superior access to information, area expertise, technical capacity, and structural readiness (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015). With the motivation and the opportunity to decide, the agents could make rules that promote

their interests and unendorsed policy preferences (Kerwin & Furlong, 2011; Sohoni, 2016).

In this study, the Ethiopian body of lawmakers that has an inherent power is considered a principal while executive bodies at different levels are considered agents. Thus, the control of the bureaucracy theoretical framework in general and the principal-agent model, in particular, was the relevant theoretical formwork for this study.

Origin of Principal-Agent Model

The principal–agency model is one of the models under the theoretical framework of control of bureaucracy (Frederickson et al., 2015; Kerwin, & Furlong, 2011). There are underlying assumptions behind the theoretical framework and the model. If a researcher rejects the assumptions, the researcher rejects the validity of the theoretical framework and the model (Frederickson et al., 2015; Kerwin, & Furlong, 2011).

In a democratic governance system, there is leadership policy-making aspect and administrative-implementation aspect of policies. The policymakers represent the public interest. They make policies and oversee the implications of the policies they made. On the other hand, the administrative agencies implement the policies (Cohen, 1971; Workman, 2015). Though each body influences the other, the relationship between the policy-maker principals and bureaucratic agents are somehow dichotomous.

The principal–agency model is based on the assumption that there is a dichotomy between policies and administrations, which implies policy makers and bureaucratic authorities might have dichotomous interests (Frederickson et al., 2015; Kerwin, & Furlong, 2011; Mitnick, 1975a; Yaver, 2015). The second assumption is that the

relationship between policymakers (principals) and bureaucratic authorities (agents) is hierarchical. In this case, administrative agents can be difficult to control. However, it is controllable (Frederickson et al., 2015; Kerwin, & Furlong, 2011; Mitnick, 1975a). The assumptions implied that there is always a conflict of interest between the principals, who represent the public interest, and the bureaucratic agents who mostly represent their personal, institutional, and industrial interests (Kerwin, & Furlong, 2011).

However, some scholars reject the existence of a dichotomy between policy-making and their implementation or between the policy-making bodies and the administrative bodies. The theoretical frameworks used to explain the nonexistence of dichotomy between the two are known as theories of bureaucratic politics or bureau dominance theories (Curry, 2015; Frederickson et al., 2015; Kerwin, & Furlong, 2011).

Some scholars try to rectify the polarized assumption by treating the relationship between the policymakers and authorized bureaucrats as dynamic and interdependent (Workman, 2015). The assumption behind this approach is that the principals have formal authorities to make rules, while the agents, which are informal authorities, have the advantages of broad technical capabilities and information over the policymakers. Thus, the lack of legitimate authority makes the agents dependent on the elected officials while the elected officials are dependent on the bureaucrat agents for technical capability and information (Frederickson et al., 2015; Kerwin, & Furlong, 2011; Workman, 2015).

The Sources of Agency Problem

The personal and institutional interest of public administrators to expand their power and to get more is an additional crucial factor (Walker, 2015). The question

becomes why public administrators develop personal and institutional interests to broaden the power and to abuse the power they have. Administrative bodies could face internal and external pressures to pursue their personal and institutional preferences rather than public goals. The public administrators might develop financial or power interest beyond that for which they are authorized. Additionally, public administrators might want to promote their political or policy preference (Brehm & Gates, 2014; Kelley, 2017; West & Raso, 2012).

Public administrators are mostly appointed officials, not elected officials. Hence, they could not present their policy alternative to the public and get approval. However, they could develop an interest to implement their policy preferences. If agents develop such an interest that conflicts with the principals' interest, the conflict of interests could be the sources of a principal-agent problem (Bosse, & Phillips, 2016; Lewis & Selin, 2015; Walker, 2015). Public administrators might not be as sensitive as elected officials when it comes to the public interest because they incline towards institutional or industrial interest than the public interest (Shapiro & Murphy, 2015). Therefore, an agency problem could emerge from the personal and institutional interest of bureaucratic authorities or lead to insensitivity towards the rule of law or the public interest. The two problems originate with the administrators.

However, there might be external pressures from different groups such as political groups, lobbyists, and other stakeholders (Bosse, & Phillips, 2016; West & Raso, 2012). Most importantly, multiple and conflicting signals might come from different principals. For example, some agencies might be accountable to other cabinet-level agencies. This

kind of agent could be pressured by their ministers, the cabinet, and the lawmakers. Such conflicted interest signals might push agents to behave against the explicit or implied objectives of the lawmakers (Weaver, 2014; Worsham & Gatrell, 2005).

Regulatory capture could be one of the sources of agency issue. The legislators (principals) are dependent on the bureaucratic agents for information and technical capabilities because the agents have sophisticated technical skills in their respective industries (Kerwin & Furlong, 2011; Workman, 2015). When the principals want to make a policy decision on some aspect of a given industry, whether the policy issues come from any interested group or the bureaucratic agency, they need to be informed by the agencies, who could be pressured by the industries they regulate (Carpenter & Moss, 2014; Coglianesse & Walkers, 2016; Kerwin & Furlong, 2011; Potter, Olejarski, & Pfister; 2014; OECD, 2017).

Given that the agencies have sophisticated knowledge of the area and the principals are dependent on the capability and information of the agencies that are inclined to favor the interest of industry, the regulatory process can be easily captured (OECD, 2017). *Regulatory capture*, according to Carpenter and Moss, (2014) is when a policy process or content of policy is repeatedly or consistently redirected away from the intended goal towards the industrial interests (Carpenter & Moss, 2014; OECD, 2017). Thus, in this case, regulatory capture is one of the sources of agency problems.

Advantages and Strategies of Agents

The previous section discusses the possible sources of agency problem, the motivation behind the infidelity of by the principals. However motive alone could not

make agents successful unless they have some particular advantages over the principals. Thus this section will review some of the advantages that agents could have over the principals.

One of the paramount advantages is *information asymmetry* (Ruffing, 2015; Woods, 2018; Workman, 2015). Information asymmetry means upper hand information on the public policy issue. Administrators have information superiority over legislators and private citizens. The legislators enact laws over all aspects of public issues (Ruffing, 2015). On the other hand, administrators work in one specific area (Johnson, 2013). For example, those who work on security-related matters have detail knowledge of the issue. Thus, they have the advantage of controlling the understanding of the public as well as that of the legislators. As a result, administrative agencies earn higher public trust than the lawmakers.

The second significant advantage that administrators could have is related to the technicality of some public goals (Ennser-Jedenastik, 2015; Workman, 2015). Some general goals, such as environment, security, technology, health, and the like are technical. The administrators who have more resources on a specific industry or sector have more technical capability than the legislators. Such capability gives higher public acceptance and respect to agencies rather than the legislators. Because of their technical capability, administrators have a double advantage over the legislators. Their say in the matter make legislators give them credibility, which is the foundation for their policy matter; then they can influence the public and interest groups. With this influence, they

can choose to mislead legislators to enact a policy that gives them more room for their power expansion (Enns-Jedenastik, 2015).

Bureaucratic authorities have an interpretive advantage. As Walker (2015), observed it, agents could manipulate their statutory interpretation to promote institutional or personal goals by enacting non-statutory rules because bureaucratic agencies are the ones who have the power to interpret statute either to make a rule out of it or to implement it (Nourse, 2014; Walker, 2015). Courts could intervene only when they are invited by disputing parties, who have legal standing or vested interest (Kerwin & Furlong, 2011).

Administrative agencies could also use their autonomy as an advantage to noncompliance. The discussion implied that on the one hand, the delegation of legislative powers has been becoming imperative (Iuliano, 2018; Kelley, 2017; Manning, 2015). In countries such as Ethiopia, the authorization of administrative bodies to make rules is even constitutional, which means the body of lawmakers is endowed with the discretionary power to empower the executive to make rules (Degol & Kedir, 2013). If they are not autonomous administrators might become ineffective and indecisive. The interest of the public can be served only if the public administrators make a quick decision, formulate rules and regulations to be able to respond to demands in due time, effectively and efficiently (Daniels, 2014; Walker, 2015). For example, in national threat issues such as terrorism, administrators need to have a broad range of authority and flexibility (Lewis & Selin, 2015). However, public administrators might take their

freedom under the guise of national security and related threats as a tool to go astray against the objectives set by the principles (Etzioni, 2015).

As a strategy, public agencies could use information hoarding as a tool to mislead the principals (Kerwin & Furlong, 2011; Walker, 2015). They might pressurize the principals by leaking some information to the public and hiring lobbyists to pressurize the principals might also be a tool (Haeder & Yackee, 2015). In some case, agencies use a lack of resources or lack of capability as an excuse for noncompliance. At the same time, they might manipulate the dysfunctionalities of the principals, ideological polarizations and inter-party disagreement as a tool to buy time (Hill, 2015; Sant'Ambrogio, 2011; Nau, 2013).

Applicability of the Principal-Agent Theory

The principal-agent model first developed and applied to the financial and economic sector (Mitnick, 1975a, 1975b). The model addressed the relationships between shareholders and managers in banks and other financial firms. Then its application expanded to the public administration (Frederickson et al., 2015). In addition to its applicability to the general public administrations, specific areas such as an administrative rulemaking process to address relations between the lawmakers as principals and public agencies as agents (Kerwin & Furlong, 2011; Walker, 2015). For more clarity, I reviewed the applicability of the model in the United States of America, in Africa and somehow in Ethiopia.

In the United States of America, different researchers applied the theory in different fields of study among others things, the relationships between state legislators

and state bureaucrats, higher courts, lower courts, and different public agencies regarding their interpretation of legislative delegations.

To provide working examples, I will mention Boushey and McGrath (2015).

Boushey and McGrath examined the relationship between American state bureaucrats as agents and stated legislative organs- the governor and lawmakers as principals (Boushey & McGrath; 2015). In addition to its confirmation of that agents are not faithful to their principals; the study showed that public agencies exploit inter-branch conflicts or ideological polarizations between policymakers to pursue their policy preferences that contravene a political preference of principals.

Sant'Ambrogio in 2011, tried to examine if the delay in rulemaking is somehow related to the principal–agency problem. In his study, Sant’Ambrogio learned that agency delay in rulemaking is part of the agency issue. Understanding the fact that agency delay in rulemaking was part of the game when he suggested that a strong judiciary review doctrine is one of the solutions (Sant'Ambrogio in 2011).

Kim (2011), tried to apply the principal–agency model to the hierarchical relations between higher courts and lower courts. In some cases, higher courts delegate some cases to lower courts. Thus, Kim tried to see if the lower courts as agents might pursue their interest regarding the delegated cases. However, he learned that though it was helpful to understand the situation, the model could not explain higher–lower court relationship very well because the relationship is not purely of a principal-agent as both courts equally serve the same policy objectives (Kim, 2011).

Walker (2015), used the principal- agency-model to see the relationship between the congress-as principal and the multiple agencies- as agents to examine how agents could manipulate statutory power make rules that promote institutional or personal goals by enacting non-statutory rules. In his examination of the issue by looking into the internal side of the multiple agencies including Homeland Security Agency, Agriculture, Commerce, Energy, and Health and Human Services he found out that agencies use statutory interpretation- as an opportunity to peruse their own goals.

In 2006 IMF commissioned research on how the ministry of finance of developing (African countries) set ex-ante and ex-post controlling mechanisms to control the public expenditure before the apportioning of the budget. The researchers used principal–agency model to examine the issue, and they found that the ministry of finances could manage effectively to control if the public funds go to the objectives they are apportioned or not (Leruth, & Paul, 2006).

Lane (2014), tried to examine the rule of law of Africa and Asia, mainly Burkina Faso, as an agency problem. He took the public as principal and bureaucratic authorities as agents. He concluded that the failure of or low score in the rule of law might come from not considering the bureaucratic authorities as agents or contractor parties who must discharge their contractual obligations (Lane, 2014).

Amegnran (2017), in his dissertation study at Walden University, examined the role of Poll workers in Tongan 2015 presidential election using the principal agency model along with state capacity theory. He considered the election agency as a principal and the poll workers as agents because the election agency was entrusted by law for the

fair administration of the election (Amegran, 2017). He found out that poll workers showed partisanship, and tribalism among other things, in discharging their duties, which means they perused their preferences in favoring a candidate from their tribe.

Degol and Kadir (2013) conducted a review on the institutional and legal framework of administrative rulemaking in Ethiopia. Their purpose was to fill the literature gap in the area of administrative rulemaking and political control. They learned that there is a legal and institutional gap in controlling the administrative rulemaking process. The authors did not explicitly mention the principal–agency model, but implicitly treated the lawmakers as principals and the administrative agencies including the cabinet as agents (Degol and Kadir, 2013).

Political Control Mechanisms and Accountability

Setting a mechanism that holds rule makers accountable for the means and ends of what they do, regarding compliance is the only viable way of keeping the democratic system sustainable. In this section, I will review the essential tools so far formulated. I will discuss the mechanisms in two sections as ex-ante mechanisms and ex-post mechanisms.

Ex-Ante Control Mechanisms

The idea behind the ex-ante political control of administrative rulemaking decision-making is that lawmakers set legal, procedural and organizational mechanisms to regulate the behaviors of administrative agencies by limiting the choices and discretion of the agencies in their rulemaking process (Nicolai & Stea, 2014). The objective of the mechanisms is to make sure that public agencies are in line with the preferences of the

principals and complying with the objectives they set (Daniels, 2014; Kerwin & Furlong, 2011; Nicolai & Stea, 2014). The underlying mechanism of ex-ante control includes the following.

One of the crucial elements of political control is limiting the delegation.

Lawmakers must not delegate legislative power that gives broad discretionary power to agencies (Furlong, 2011). The lawmakers might limit the discretionary power by using a precise phrase and by setting clear boundaries (Daniels, 2014; Kerwin & Furlong, 2011). The other controlling mechanisms could be regulating the rulemaking process and setting comments and notice procedures, mandatory interest group participation platforms. Structuring specific institutional mechanisms also enable the principals to control the rulemaking before the enactment of the rules (Balla, 2014; Daniels, 2014; Kerwin & Furlong, 2011; Nau, 2013). The lawmaker might control the process through relevant standing committees or appropriate office set for this purpose (Nicolai & Stea, 2014; Sant' Ambrogio, 2011). Lawmakers could also set monetary intensives for compliance as a behavioral regulatory mechanism. Setting deadlines along with penalty clause and alternative rules – otherwise known as hammers could also help to control the process. Another important mechanism is legislative approval or veto. The lawmakers can set a mechanism of vetoing some essential rules before their enactment (Daniels, 2014; Nicolai & Stea, 2014; Walker, 2015; West & Raso, 2012).

Ex Post Control Mechanisms

Ex-post- after rules made control implies the legislative oversight mechanisms and activities. The principals could make such a controlling activity by setting

mechanisms such as reporting from the agencies, monitoring the rulemaking activities by oversight offices of committees- otherwise known as policy patrol and through platforms of complainant citizens (Balla, 2014; Kerwin & Furlong, 2011; Nau, 2013; Sant'Ambrogio, 2011). The ex-post control could include checking if the agencies are complying not only with statutory objectives but also with the ex-ante control mechanisms. The ex-post control also enables the principals to penalize noncompliances of any form (Nicolai & Stea, 2014).

The Problem of Strict Separation of State Powers

Though the study will provide a general overview on the Ethiopian federal process of delegating legislative power to make rules and to control the extent and proper use of the power; it will focus on a single national policy, which is a national identity card policy. The following sections discuss why was the principal–agency theory relevant to this study.

Some of the peculiarities of democratic decision-making process include separation of duties, the rule of law, accountability of the decision makers and transparency of the decision proposes (Fukuyama, 2013; Manning; 2015; Pecaric, 2015). Democratic governance has two aspects. These are policy – direction aspect and administrative -implementation aspects. According to the principle of separation of power, representing, policy-making and oversight, the role is played by the elected officials while implementing those laws is the role of appointed official or bureaucratic agencies (Cohen, 1971). The elected officials set the public goals at a high level, while the bureaucratic agencies, who act like agents implement the policies (Cohan, 1971;

Frederickson et al., 2015). The policymakers who are elected officials set the public policy goals in broad terms in the form of programs and legislation among other forms (Sabatier & Weible, 2014).

Earliest democratic governance advocates argued that the separation of authority should be strict, which means each organ must exercise its inherent power as delegated by the people (Iuliano, 2018; Kelley, 2017). For the advocates of strict separation of power, the constitutional power of the three of the branches is a delegated power. Hence, redelegating the delegated power is unacceptable because re-delegation might lead to concentration of authority and additional growth of the executive body (Iuliano, 2018; Kelley, 2017; Manning, 2015; Pecaric, 2015).

Thus, power transfer within the organs had been unwelcomed. However, public administration has been showing that strict separation of power is not going to work (Iuliano, 2018; Kelley, 2017). A delegation of legislative powers is becoming standard practice (Clark & Leiter; 2011). The dynamism of current governance is one of the causes of the legislative organs to delegate some of its powers to make laws and policies mainly to the executive branch (Kerwin& Furlong, 2011). Rulemaking must be flexible to address dynamic issues, such as demand for good governance, the unpredictable threats to national security and technological advent.

However, it is tough for legislators who traditionally lack such flexibility to make laws and revisions fast. Legislative sessions are full of contests, and they are too procedural. The decision to make laws is the longest and too procedural. The legislative organ is mostly a stage of different ideological and policy contests. On the contrary, the

executive, which mostly led by the ruling party is relatively uniform and fast in decision making. Thus, it has been standard practice for the legislator to formulate general policies and delegate some power mainly to the administrative body which formulates detail rules (Clark & Leiter; 2011; Kerwin & Furlong, 2011).

Another vital reason for delegating the authority to make rules is the ever-growing technicality of regulations. Some regulations need specialized knowledge. For example, security measures in the aviation industry, food and drug regulations, environmental and health-related rules need specialized knowledge that the legislators mostly lack. Thus, adopting such technical regulations are relatively easy for public agencies. Federal agencies established for specific missions have the capacity and resources to formulate rules that regulate industries that are rich in technicalities. Thus, asking the legislature to adopt all levels of laws and policies to all modern administrative areas will be difficult. Therefore, establishing a delegation of legislative powers is becoming indisputable. The only thing, which is disputable is related to the extent and form of delegation and the way the delegated power is controlled (Clark & Leiter; 2011; Kerwin & Furlong, 2011).

As noted earlier the executive branch, whom its primary task is actualizing public policy into reality, has the actual power (Cohen, 1971). When the legislators granted to the executive the power to make rules, the power of the executive becomes more actual (Mooney, 2012). After citizens granted their power to the government in the form of delegation, they stand on the defensive side, when the government violates their rights. They should protect their liberties and freedom from the government. However, the issue becomes so severe when the legislative organs delegate some of their legislative power to

the executive, which enables the executive to have a legislative authority (Daniels, 2014; Walker, 2015).

The Genesis of Delegation of Legislative Powers

In 1767 John Lock postulated the concept of nondelegation of a delegated power (Manning, 2015). The idea of redelegation presupposes that the constitutional power of the legislator itself is a delegated power. The legislative delegation, in this case, seems the antithesis of democracy and the principles of separation of power. The reason for nondelegation doctrine was based on the fact that the legislatures only have a delegated power from the people. Therefore, it was treated as a negation of democracy and a new way of power consolidation at the hands of the executive branch (Cass, 2016; Iuliano, 2018; Kelley, 2017; Manning, 2015; Mishra, 2015).

However, in the USA after the great depression, the executive needed much power to tackle the economic problems. The executive was delegated with much power to resolve the crisis. The time of the economic crises was equated with a time of war. As in the date of war, the president, and other executive departments needed much power to defeat the enemy, which was the economic crisis. The extension of the executive power to rulemaking has been growing since the great depression. Mainly the delegation-nondelegation controversy shifted into the how much, to what extent and what form of delegation (Elias, 2016; Iuliano, 2018; Kelley, 2017; Manning, 2015; Pecaric, 2015).

In the United States, the constitutionality of delegation was controversial; it is through judicial interpretations and decision that became standard practices (Iuliano, 2018; Kelley, 2017; Manning, 2015). However, in Ethiopia, the concept of delegation of

legislative powers is stipulated in the constitution (Degol; Kedir, 2013). So the argument is not authorization administrative bodies to make rules per se but the extent and doctrine of the authorization and the control of its application (Weaver; 2014). Thus it will be useful first, to discuss the nature and extent of power delegation.

Delegation of Legislative Powers and Rules

Administrative rulemaking includes creating new rules, amending, and repealing current rules (Kerwin & Furlong, 2011; Sabasiter, 2014). Rules might be categorized as constitutive, regulative rules, and be explained in three forms. Constitutive rules are rules that create new activities, new institutions, and entities. On the other hand, regulative rules are rules that regulate existing behaviors and activities such as traffic regulation. The three forms of regulations are substantive, procedural and interpretive rules (Antony, 1992; Kerwin & Furlong, 2011).

Substantive rules are important because they create, repeal or extend rights and duties, or they might replace existing rights, privileges, and obligations. Thus the power to make substantive rules is the most critical power regarding sensitivity (Antony, 1992; Kerwin & Furlong, 2011).

Some scholars argue that the legislative branch should not authorize public agencies to formulate substantive rules because creating rights and duties must remain at the hand of the legislatures (Iuliano, 2018; Kelley, 2017; Manning, 2015; Pecaric, 2015). On the contrary, others argue that the purpose of substantive rights is not to create fundamental rights or duties, their purpose is to help the application of already approved general public policies (Clark & Leiter; 2011; Kerwin & Furlong, 2011). However,

regardless of the argument, it is common practice, and in some countries such as Ethiopia, it is constitutional to transfer the power to make all forms of rules (Degol & Kedir, 2013).

The second form of rules is the procedural rule. The procedural rule does not create new rights and duties or repealing existing rules. However, procedural rules determine the mode of operation and timetables that dictate when and how citizens can get access to their rights. Procedural rules can also change, amend or repeal the existing procedural prescriptions. Since procedural rules determine the implementation of new regulations and the way the substantive rights could be exercised, so their importance is sensible (Antony, 1992; Kerwin & Furlong, 2011).

The third form of rules is interpretive rules. Interpretive rules might include non-legislative or nonbinding policy statements, notices, guidelines, and circulation. However, the focus of this study is on interpretive rules that have legislative force or force of law. Mostly, interpretive rules are statements produced by the public agency or ministerial office to explain ambiguous regulations and some clauses in them. Thus, interpretive rules are necessary when there are conflicting and unclear clauses or sections (Antony, 1992; Kerwin & Furlong, 2011). However, if uncontrolled, the agencies can abuse the vagueness of regulation to extend power in the name of interpretation (Daniels, 2014; Walker, 2015). So it is a discretion power of the body of the legislature to authorize administrative bodies to pass any form of the rules after the formulation of the necessary policies.

Thus, the legislative body is expected to do two things. One it should formulate the public policy issue and leave rooms for the administrators to enact rules according to the demand of dynamism and flexibility of the matter (Kerwin & Furlong, 2011). On the other hand, legislators should set mechanisms to control delegated power (Walker; 2015). Delegation doctrine deals with the strictness and broadness of the delegation and the nature and extent of the delegation, and legislative guidelines.

Current Political Governance in Ethiopia

Ethiopia is one of the oldest nation-states in the world (Karbo, 2013). There is at least more than 3000 years of recorded history without interruption. Ethiopia is located in the Horn of Africa, which is one of the volatile parts of the world. The geopolitical position of the country necessitates a unique approach in many aspects. It is a neighboring country to the Middle East. Its people speak the Afro- Asiatic languages (Abbink, 2014). Ethiopia is the only African country that has its alphabet and calendar. It is the only country that accepted and legitimized Judaism as its religion since the 10th century before Christ, and there are many domestic followers of Judaism. The country declared Christianity as a state religion in the first half of the 4th century until it lasted in the 1974 communist revolution (Karbo, 2013).

One of the uniqueness about Ethiopia is that it is the first country in the world even before the Makah and Medina (now parts of Saudi Arabia) to recognize Islam as a legitimate religion. Mohamed, the Prophet of Islam, sent his families and followers including his daughter to Ethiopia when his tribe in Makah persecuted him and his supporters. The then Ethiopian Christian king legitimized Islam as one of Ethiopia's

religions. Since then Islam and Christianity have been living side by side peacefully, and prophet Mohamed prohibited Muslims from waging jihad against Ethiopia on a religious basis. In Islamic tradition waging jihad against Christian Ethiopians are taboo (Abbink, 2014, Erlich, 2013). However, regardless of its long and unified history, Ethiopia is full of diversity. There are about 80 ethnic groups with their unique languages. Christianity and Islam are essential religions and covers 62.8% and 33.8% of the population, respectively. There are other religious minorities too (Abbink, 2014; Karbo, 2013; Haustein & Østebø, 2011).

The other thing about Ethiopia is that a dynasty had ruled it that claimed to have descended from the same line for hundreds of years until public unrest in 1974 overthrew the last emperor. After the last emperor was dethroned, a military junta came to power under the banner of communist ideology. Ethiopians were successful when it comes to defending their country from foreign invaders. In the era of the colony, Ethiopia was the only free country in Africa (Abbink, 2014). However, when it comes to democracy and democratic freedom, Ethiopians had been too tolerant until the 1960s 1970s. At the end of the 1960s and the first half of the 1970s, Ethiopian students, farmers, military officers, and other section of the society demonstrated for democratic governance and more freedom. Because the movement was disorganized, the military took power and declared the socialist ideology as the political ideology of its government. The regime had prohibited any form of political activism and a multi-party system. The military junta held power for 17 years. After the declaration of one party system, different student

groups raised arms and started fighting the regime (Abbink, 2014; Bach, 2011; Ibrahim, 2014). This brought down the military junta in 1991.

Immediately after the fall of the military regime, a three-year transitional government was established. After three years of transition, in 1995, the new constitution was adopted. The new constitution introduced a new federated republic under the name of the Federal Democratic Republic of Ethiopia. According to the new constitution, the federation comprises nine regional states and one autonomous city administration. The new constitution created two levels of governments that are the federal government and regional state governments (Alemu, 2015).

The new constitution covered the internationally accepted human rights stipulated in modern international human rights the universal human rights declaration, the international convention on civil and political rights and the international convention on social, cultural and economic rights. According to article 10 sub article 1 of the 1995 constitution, human rights and freedoms emanate from the nature of humanity, so that they are inviolable and inalienable. According to constitution human rights can only be limited by criminal activities, the rights of others, national security, public order, and well-being of the youth (House of Peoples Representatives, 1995)

On the other hand, the constitution put limits on the power of the government. For example, it is stipulated in article nine of the constitution that any law, customary practice, or decision by state organ or public offices that contravene the constitution shall be null and void. The point is any law enacted or any court verdict rendered alternatively,

a decision made by violating human rights and freedoms of persons will be considered as if it does not exist.

Article 13 sub-article 2 of the constitution also dictated that the fundamental human rights stipulated in the very constitution must be interpreted in the manner and principles of the 1948 universal declaration of human rights and other international human rights' convention ratified by the country. The same constitution stipulated in article 11 about the accountability of the government. According to article 11 of the constitution, the conduct of the government must be transparent. At the same time, any public official or representative shall be accountable in case of failure in his official duties. In the case of loss of confidence, the public has a right to recall its representative. According to article 55(17) of the constitution, the parliament has the power to call and investigate all government officials including the prime minister in the case of misconduct.

The constitution has various unique features. One of its unique features is that the constitution in article 62 sub-article 1 granted the power to resolve any constitutional dispute, not to courts but the house of the federation. According to article 61(1) of the constitution, the house of federation represents the nations, nationalities and peoples groups in the federated states. The house is not lawmaking but constitutional disputes interpreting body. So, any law enacted by the parliament, any verdict rendered by a court, or any decision made by the executive can be reviewed by the house of the Federation (Bach, 2011, Ibrahim, 2014; Lefort, 2014). The constitutions created two levels of governance. According to article 50 (1), the federation comprises federal government and

regional states governments. These are nine regional states and one administration. The nine federated regional states are mainly established on the following criteria. According to Article 39 (4) (e), the elements for some groups to be treated as a nation, nationalities, and peoples and to have the right to self-determination are the same language, geography, the same identity, and psychological makeup (Degol & Kedir, 2013; Twibell, 1999).

The constitution granted two kinds of rights. These are civil and political rights, which are sometimes called negative rights and socio-economic rights such as the right to education, health, and the right to get a job. From article 14 to article 44 of the constitution, which is two-thirds of the whole constitution, covers the civil and political rights and socio-economic and cultural rights. The socio-economic rights include the right to education, health, and development. The Ethiopian constitution is somehow a combination of socialist and liberal political economy concepts. In this kind of hybrid governance system, the government has two forms of duties.

The first duty is that the government must protect the right of citizens and enforce laws and policies, which is a minimum task of every form of government. The other thing is the government must provide underlying social, economic commodities and services. It is a constitutional right for citizens to get access to education, health and job, and another economic right. For the government to be able to provide such services and commodities, in addition to its regular government service, it must have an income. In Ethiopia, because the government could not collect enough money from tax and customs, it owns banks, air, land, marine, and transport cooperation, hotels, industries, and health centers (Degol & Kedir, 2013; Ibrahim, 2014; Twibell, 1999). The point of the constitution

discussion is that on the one hand, the constitution guaranteed fundamental human rights with moderate responsibilities; on the contrary, it creates governments whose power is constitutionality limited by the rule of law.

Delegation of Legislative Powers in Ethiopia

In the Ethiopian constitution, there are two forms of delegation. One the federal government can delegate some of its constitutional power to the federated regional states, which means the legislators can delegate their legislative authority to regional states. Article 50(9) of the Constitution gave power to the federal government to delegate its powers to the regional state when necessary. Article 77(13) gave power to the cabinet to enact regulations if authorized by the body of the lawmakers. According to the sub-article, the council can formulate regulations when the legislature authorized it to do so. The subarticle did not put any condition or guidelines as to the form and level of the delegation. The power to delegate and the nature of delegations left to the parliament to decide.

The house of federation does not have any lawmaking power, except legislative review over legislation promulgated by the parliament. The parliament, which is the single House, has political and legislative supremacy over all state institutions. Thus, delegating a legislative power either to the cabinet or directly to the ministerial offices or agencies is an absolute power of the parliament. That constitution is silence about authorization of public agencies and courts to make rules. However, there are many instances, where the legislative body authorized public agencies and rare occasions where the legislative body authorized a federal court to make rules (Degol & Kedir, 2013).

Lawmaking Process in Ethiopia

In Ethiopia, the state is constituted by a federal government and nine regional governments. Each layer of governments has legislative, executive and judiciary powers in their spheres as stipulated in article 50, 51 and 52 of the constitution. Each of the federal and member states exercises legislative, executive and judicial powers. When it comes to the federal government, there is the concept of separation of power, but there is no principle of balance of power because the parliament is the highest body. Article 50 sub article 3 of the constitution declared that the parliament is the supreme authority of the federation and each state council (state legislative body) is the highest organ on each state matters.

Article 59(2) of the constitution stipulated that the house of people's representative shall adopt working rules and procedures as a guide to its internal activities including the law and policy-making process (Alemu, 2015). Accordingly, the parliament enacted internal working procedure and members' code of conduct regulation 6, 2016. According to article 50 of the regulation, lawmaking includes enacting new laws, amending or repealing existing laws, ratifying international agreements, and passing resolutions (House of People's Representatives, 2016). Article 51 of the regulation stipulates that initiating draft legislation is mainly the task of the executive; however, initiating finance-related laws is exclusively the power of the executive. In other matters, parliamentarians can individually or in group initiate laws (Alemu, 2015; Degol & Kedir, 2013).

Articles 51 and 52 of the house regulation stipulated that all forms of laws whoever imitates them, they should be presented in English and Amharic versions along with short explanatory documents to the parliament through the office of the house speaker. Then first it must be distributed to members of the parliament for first reading. In the first reading, a general debate on the content and purpose of the draft law must be held. Then if the house accepts the general objective of the proposal, it refers it to the relevant standing committee or joint committee for further study and scrutiny. The standing committee calls all stakeholders for open hearing and debate on the draft. During the public hearing, the standing committee might consult the agency or the minister who initiates the law for further examination, and the committee might revise the law and present are to the parliament for the second reading. Then after discussing the report by the standing committee, the parliament decides whether the bill must be passed or not. It can be passed as it is, it can be rejected or can be approved with some revisions (House of People's Representatives, 2016).

Chapter Summary

From the review in the literature, I learned that rulemaking is at the heart of public administration. Thus avoiding rulemaking is not in the option. However, as a necessary authority, it should be securitized because the monopoly of power of any form is the antithesis to the rule of law and accountabilities.

Studies showed that administrative agencies used delegated legislative power to promote their interest, policy preferences and they inclined to serve the industries they regulate than the public interest. They use their information superiority and technical

sophistication to insulate themselves from scrutiny by the public and the principals. They also use non-statutory action, inaction and action delay as a way of non-compliance, and abuse of the delegated legislative power.

In response to the behavior of the administrative agencies, the lawmakers developed different ex-ante and ex-post control mechanisms. Some of the mechanisms include setting delegation doctrines, placing institutional and legal platforms of control, using vetoing power and mandatory participatory. Reporting and patrolling are some of the ex-post control mechanisms. Since the studies are conducted mostly in the western democracies, the literature gap considering the Ethiopian situation is extensive.

The nature of the study will be qualitative. In order to narrow the existing gap, this will be using the case study methods relevant to the case of Ethiopia. The next chapter will address the methodology used in this study.

Chapter 3: Research Method

Introduction

In this chapter, I explain the research design, central concept definition, and participant selection, the role of the researcher, data collection procedures, and data analysis mechanisms. I also explain procedures and issues related to the trustworthiness of data and ethicality of the treatment of participants. Notably, the focus of the inquiry was about delegating legislative power to make rules and to oversee their implementation.

To know the legality, extent, nature and the oversight and other political control mechanisms in the delegating rulemaking process, I analyzed the mechanisms in a context of Proclamation 760/ 2012, the registration of vital events and national identity card proclamation.

In this chapter, I address the choice of the qualitative case study as research design and discuss the central concept of the study and the tradition of the study. I also address my role as a researcher along with the possible sources of biases on my side because of personal or professional relations with participants.

Furthermore, in this chapter, I address issues such as population size, sampling strategy, and participant selection criteria. As part of the discussion of the methodology of data collection, I address data collection instruments. I discuss the analysis plan and the connection between data and the research question. The chapter also addresses issues of trustworthiness such as credibility, dependency, transferability, and ethical concerns.

Research Design and Rationale

Research Questions

The central RQ for this qualitative study was:

RQ: What strategies would ensure an effective political control for preventing possible abuse of power and noncompliance in the process of rulemaking in Ethiopia?

The subquestions that helped to guide further the inquiry were:

SQ1: What perceptions do the elected and appointed officials have on delegating rulemaking power?

SQ2: What perceptions do the elected and appointed officials have on the issue of political control and accountability?

SQ3: What are the ex-ante/ex-post political control mechanisms in the rulemaking process?

Key Concepts

The central concepts of the study were delegation doctrine, legislative delegation, polarity management, and rulemaking.

Delegation doctrine: Delegation doctrine is a principle or guidelines that lawmakers set to manage the process and implementation of legislative delegation. The principles include the broadness and narrowness of delegation and the kind of mechanisms established to oversee the rulemaking process (Manning, 2015).

Legislative delegation: Delegation of legislative powers a process of transferring lawmaking power from the lawmakers to the executive body or its branches and the judiciary (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015).

Legislative oversight: Legislative oversight is a set of policies, mechanisms, and actions that lawmakers use to control the proper exercise of the delegated legislative power (Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015).

Rulemaking: Rulemaking is a process of promulgating regulation and directives by the executive body with the power vested in it by the lawmakers (Kerwin & Furlong, 2011).

Identifying the Research Tradition

The central focus of this study was to explore what strategies would ensure effective political control of the administrative agencies regarding rulemaking without affecting their autonomy in the case of Ethiopia. Thus, the qualitative research approach was relevant in exploring and understanding the meaning of the social problem profoundly and comprehensively (Creswell, 2013; Patton, 2015).

I collected interview data from members of the parliament who had been active at least since the previous term and the executive officials who participated in the legislative drafting process as experts and coordinators. I triangulated the interview data by analyzing legislative texts in the relevant legislation regarding principals' political control mechanisms. Thus, the nature of the inquiry and the nature of the data that I collected dictated that a qualitative approach was the right approach (Creswell, 2013; Patton, 2015; Yin, 2014).

The Relevance of Case Study

After choosing a qualitative approach to the study, the next step was to determine the type of qualitative approach most relevant from the qualitative study traditions. Several qualitative approaches were considered, including phenomenology and grounded theory as presented by Creswell (2013), Rudestam and Newton (2015), and Saldaña (2013). To clarify the bias of why a case study is appropriate in this case while there are many qualitative approaches within the qualitative tradition, the answer is: when a study tries to address a single process and single case, a case study becomes the most relevant approach (Miles, Huberman, & Saldaña, 2014; Rudestam & Newton, 2015; Yin, 2014).

In addition to the questions the researcher intends to address, Yin (2014) added two other parameters for selecting the case study. The first one is the extent of control the researcher has on the situation. The case study must be conducted on contemporary cases as opposed to the historical case. However, the researcher in the case study must not be able to manipulate the situation (Yin, 2014). This study was focused on a crucial decision process by the highest political organ in the country.

The second parameter for choosing the case study tradition is the contemporariness of the event. Though the delegation of legislative powers and the rulemaking process have started in the past, it is ongoing. Therefore, the case study approach was the appropriate approach for this research.

Role of the Researcher

One of the features that differentiate a qualitative strategy from the quantitative strategy is related to the role of the researcher. Unlike the quantitative strategy where the

role of the researcher is limited to that of an observer, in qualitative studies the researcher plays a crucial role in the research process. If not controlled and carefully monitored, the instrumental power of the researchers could be a source of bias and breach of ethics (Creswell, 2013; Miles, Huberman, & Saldaña, 2014). The researcher is the one who designs the research, which of course will have an impact on the research process. Also, the researcher typically selects the sources of the data and analyzes those data.

As a qualitative researcher, I designed the research, and I collected the data. Then I created an intimacy with the data and made sense of the patterns in those data and tried to create meaning. However, I tried to be as objective as possible in the process. To minimize personal biases, I applied all relevant data analysis mechanisms such as coding, categorizing and theming, and limited member checking (Rudestam & Newton 2015; Yin, 2014).

For the last 10 years, I have been working as a policy and legal researcher and director of cyberlaw and policy research in one of the public agencies of the federal government of Ethiopia. I have led a team and personally participated in drafting policies and legislation. In some instances, I have defended proposals in front of lawmakers. Such cases have created an opportunity for me to know some of these lawmakers in person, and a chance to give short-term training related to these legislative actions. However, none of the participants had prior individual engagement with me.

Methodology

Population, Sample Size, and Selection Logic

I used two sources of data for this study. These were interview data and document data. I interviewed active parliamentarians who were members of the Ethiopian federal body of lawmakers and sitting for the 4th and 5th term from 2010 to 2020. The Ethiopian Parliament has 547 seats. About 30 of those 547 members hold executive offices (House of People's Representatives, n.d.). Thus, the population is about 500 members of the parliament. I was convinced that interviewing five parliamentarians would reach the point of saturation because the purpose was to search for the shared understandings of the parliamentarians (see Patton, 2015). I interviewed five officials from the executive branch. In 2011, the Ethiopian prime minister formed a national screening committee composed of ministers and agency heads to lead the registration of vital events and national identity card program. The steering committee, in turn, established a committee of middle-level officials from the ministry of justices, now the office of the Attorney General (House of People's Representatives, 2012b) Thus the five executive officials were either members of a steering committee or had knowledge about drafting process of the registration of vital events and national identity card program.

I had a total of 10 participants. The documents data included the legislation itself, parliamentarian's code of conduct and lawmaking process regulation, and subsequent subordinate legislation formulated to implement the identity proclamations.

Sampling Strategy

The parliamentary participants were those who had a seat at least in the previous and current terms (2010–2020). I mainly focused on the parliamentarians who were members of the national security and of the legal and justice affairs standing committees because they have particular relevance to the legislation central to the case. On the administrative side, I focused on members of the steering committee who looked over the legislative drafting process of the identity legislation and employees of the Attorney General who participated in the drafting process of the legislation. Patton (2015) called such sampling purposive sampling.

Criteria for Participation

The Ethiopian parliament is organized into different standing committees, one of which is Legal and Justice Affairs Standing Committee. The role of this standing committee is to oversee all legal, justice, and administration-related proposals before their approval. The standing committee consults the public and organizes public hearings before the approval of proposals. I focused on the National Security Standing Committee for they have the power to review legislation connected to national security. Thus, I gave priority to members of the two standing committees. On the administrative side, I focused on the National Steering Committees established by the Office of the Prime Minister to look over the national program and the process of the legislation and the drafting committee from the Ministry of Justices, now the office of the Attorney General. The second important criterion was volunteering for the participation; no participant was in any way forced or felt obligated to participate in the study.

Participants and the Criteria

I formally asked the Office of the House Speaker through my sponsor to obtain access to the office of the parliament. However; I directly contacted the executive officials in their respective offices. I presented a letter of invitation to each participant along with the consent form.

Saturation Point and Sample Size

Deciding on what number of participants is enough to elicit the necessary data is not an easy task. Patton (2015) supported the idea that there is no clear mechanism in qualitative research for deciding the sample size. However, the principle is that the sample size must be meaningful and reliable. Thus, assuming the fact that most delegation of legislative powers regarding the legislation is formally discussed and every potential participant is free to present his opinion, I interviewed 10 lawmakers and appointed officials from the executive branch.

Instrumentation

Data Collection Instrument

As previously mentioned, the sources of the data for this study were interview data and document data. I interviewed members of parliament and appointed officials who participated in the drafting and passing of the legislation under study. The first instrument then was semistructured interview questions. I audio recorded the interviews. In the documents data category, I reviewed the legislation and other subordinate legislation, parliaments working procedures, and other supportive documents.

Source of Data Collection Instruments

For the semistructured interviews, I prepared an interview protocol along with semi-structured interview question formats. According to Jacob (2012), there are three types of interview questions. These are general, structured, and semi-structured. General questioning might create an unmanageable situation, and conversely, structured questioning might limit flexibility and limiting information gleaned. I developed my interview protocol (see Appendix A) based on logical steps recommended by Crewel (2013), Jacob (2012), Rudestam and Newton (2015), and Turner (2010).

To conduct the interview, I tried to select a setting free of disturbances and distractions such as the offices of each participant and any place of the participants choice. I then explained to the interviewee the purpose of the interview and why the person is participating in it. Then I addressed the issue of confidentiality and anonymity of the individual's name. I explained the format of the interview and notified each participant that the interview was to be recorded. Furthermore, I explained how long the interview would take. I explained my readiness and availability to each interviewee on the matter of the questioning. Finally, I asked the participants if they have any questions they would like to ask me and are free to refuse to answer any question they are not comfortable with.

Data Face Value Validity

To make sure that all forms of data collected from the legislation, other documents, and the interview are valid at face value level, I took the following steps. In

relation, to the legislative documents, I confirmed the validity of each law considered in this study to avoid the repeal of some legislation (Creswell, 2013; Yin, 2014).

The second part of the document data consists of official memos, minutes, and other parliamentary working procedures and regulations. Therefore, to make sure that the data sources are valid, I checked the authenticity of each documents bearing the right signature and stamps on it. Since the interview data could be affected in the process of transcription, I tried to give the valid transcribed data to each interviewee (Birt, Scott, Cavers, Campbell, & Walker, 2016; Harvey, 2015).

Data Collection Procedures

I had one central question and three sub-questions. I collected the data to answer mainly the central question and its elaborative sub-questions. I referenced document data to triangulate and ensure the validity of the study.

I conducted the interview personally by audio recording the interview and transcribing it. I met with participants at least twice. First, through a phone call and then I met them in person to conduct the interview. I saw two participants to give the transcribed data for counter checking because the rest were not interested to counter check.

Data Analysis

After data collection, the next important step was analyzing the data and obtaining the input from it. As a researcher, I collected data then analyzed, presented and interpreted the data. To conduct the analysis I had to make sure collected data was valid at face value making sure that they are up to the standard; the first step was data

organization. Data organization according to Creswell (2013) is one of the first steps, qualitative research must take. I transcribed and edited the interview data. I organized the document data in a logical and time sensible manner. Then I followed the points step by step.

First, I created intimacy with the data. Data intimacy was the result of reading, thoroughly through and studying the data (Saldaña, 2013; Yin, 2014) Therefore; I skimmed over the data and then read them thoroughly and critically until I was well acquainted. The second step was coding. Coding, is an analytical process and helpful in facilitating data analysis and interpretation. The coding contributed to study the distinct concepts, structures, hierarchies, and relationships within in the data (Creswell, 2013; Patton, 2015; Rudestam and Newton, 2015; Saldaña, 2013). Coding according to Saldaña, (2013) is part of the analyses process. However, coding, which is often represented by a word or short phrase holds the summative essence of a part of the text, whether it is transcribed text or document text. These are known as precording and non-structured (Jacob, 2012, Rudestam and Newton, 2015; Saldaña, 2013).

Table 1

Preliminary Value Coding and Analysis Framework

Theme	Category	Code	Research questions	Interview q.
Delegating legislative power(DLP)	Effectiveness and efficiency (EE)	Technical Capability (EETC)	CQ	Sec. A & sec. B
		Flexibility (EEF) Organizational reediness (EEOR) Time and Adaptability (EETA)		
	Applicability of policies (AP)	Detailed rules (APDR) Informed rules(APIR) Contextualized rules	CQ	Sec. A & B
Autonomy (A)	Law and order (ALO)	Power monopoly(APM) Stability(AS) Sense of security(ASS) Predictable future(APF)	CQ	Sec. A & B
		Law enforcement (ALE) Crime control (ACC) Preventing terrorism(ALE) Enforcing contracts (AEC) Civil liability(ACL)		
	Decisiveness (ARD)	Timely decision (RTD) Effectiveness(RE1) Efficiency (RE2) Dynamism (RD) Service delivery(SD)	CQ	Sec. A & C

Table continue

Them	Category	Code	Research question	Interview question
Political Control	Accountability of government(PCAG)	Reporting (PCAGR) Patrolling((PCAGP) Fair Arming (PCAGFA)		Sec B.
	Rule of law (RL)	Lawfulness(RLF) Compliance (RLC)		
Delegation doctrine (D)	Broad delegation- (DBD)	Free of condition (DFC) Time insensitive(DTI) No incentive(DNI) week oversight (DWO) Free of restriction(DFR) All rule(DAR)	CQ&SQ	Sec. D
	Narrow delegation (DND)	Conditional(DC) Time oriented(DCTR) Incentivized(DI1) Interpretive and procedural rules(DIP) strict oversight mechanisms (DSOM)	CQ &SQ	Sec. D
	Oversight mechanisms (DOM)	Legislative(DL) Judicial review (DJR) Legal and procedural(DLP) Institutional(DI2) Technological(DT) Accountability(DA) Rewordings (DR) De- authorization(DD)	CQ&SQ	Sec.D

The structured precoding approach is applicable when the following three conditions exist. The first pre-coding structured approach is provisional coding, which a researcher uses preliminary data to set codes before he collected the actual data (Miles, Huberman & Saldaña, 2014). The second precoding approach is hypothesis coding when the researcher uses to confirm or disconfirm pre-existing theoretical and conceptual frameworks. The third precoding approach is protocol coding (Miles, Huberman & Saldaña, 2014). I chose the hypothetical coding for its appropriateness among the three options. Therefore, I developed the following preliminary coding framework to have a picture.

Even though I tried to make sense of the future by designing a preceding framework, I coded the data after reading and getting the essence of each part of the text. According to Miles, Huberman and Saldaña (2014), and Saldaña, (2013) there are two levels of post data collection coding. The first cycle coding method helps to assign a code to the data chunks.

Among the lists of the first coding, I selected value coding strategy, because value coding was relevant as the primary data was interview data depicting the perception of the participants. While the first cycle helps to transform the chunk file into relevant text, the second cycle coding, which works based on the result of the first coding, leads to study the distinct concepts, patterns, structures, hierarchies and relationships within the data. In the second cycle level consists of my identification of the categories and the themes.

Trustworthiness

The concept of trustworthiness in qualitative research implies the soundness of qualitative research and its worthiness (Creswell, 2013; Jacob, 2012, Rudestam and Newton, 2015; Saldaña, 2013). Trustworthiness is a value of the research result, which is a response from reviewers of the research result. Therefore, trustworthiness is a result of cumulative of credibility, transferability, and dependability of the research result (Patton, 2015). The credibility is the result of an evaluation of whether the research findings are the theological induction of the raw data (Creswell, 2013; Patton, 2015; Yin 2014).

The first element of trustworthiness is credibility, which relates to the internal validity of the research. I guaranteed the integrity of the interview data by transcribing them carefully and ask the interviewees to read transcribed data and check it (Birt, Scott, Cavers, Campbell, & Walker, 2016; Harvey, 2015). Additionally, I used data triangulation methods mainly when factual claims existed in the interview data as triangulation is one of the strategies of ensuring credibility (Creswell, 2013; Patton, 2015; Yin, 2014).

Another essential element of trustworthiness is transferability. Transferability means the possibility of applicability of the research result to other similar areas. For the research to be transferable, I integrated the processes of data collection, data analysis, and presentation (Shenton, 2005; Creswell, 2013). Another major factor for qualitative research to be trustworthy is its conformability. Conformability is a measure relationship between the research finding and the relevant data. The point is the data must support and evidence the result of the study (Creswell, 2013; Patton, 2015; Shenton, 2005).

Ethical Concerns

The ethical concern is one of the crucial elements of the research process. The reason is the research should not harm in any way the interest of any participant. Harm might include physical, psychological, goodwill, economic, and others. The other reason to be ethical is academic honesty, which includes plagiarism and conflict of interest (American Psychological Association, 2010; Creswell, 2014; Miles, Huberman & Saldaña, 2014, Rudestam & Newton, 2015; O'Sullivan, Rassel & Berner, 2008). To avoid unethically in all aspects, I duly followed all ethical concerns mentioned in the Institutional Review Board (IRB) documents and the cited literature.

Where there I sensed an issue of ethical concern, I tried to calculate potential harm in comparison to the expected benefits. I weighed the balance between the benefits I intended to gain and possible harms I may incur on the participants and other third parties (Rudestam, & Newton, 2015). To avoid unethically, I took the following measures.

First, all document data that I used are public documents; thus, I cited and used all the data in a manner I mentioned in the data analyses part. Regarding the interview data, I formally asked the office of House speaker and to get access and obtained permission from the office of the standing committee. I gave the letter of invitation to potential participating individuals. I then presented a consent form for signature for all who volunteered to participate. I had the full support of my sponsor throughout this process.

I made sure that no vulnerable person is on the list because their participation is not essential. In the process, I respected the privacy of the participants by not intruding to

their private issues unrelated to the research. I have kept the confidentiality of the information of the participants by not disclosing intentionally or negligently to any third party. I also tried to respect the anonymity of the participants by not leaving any link between the data and the identity of the participants. I made sure that I remain academically honest all the time in the process, particularly in the data collection and data analyses process. Finally, I carefully checked any case with conflict of interest in the process (O'Sullivan, Rassel, & Berner, 2008; Rudestam, & Newton, 2015).

Overall, I strictly followed all relevant ethical procedures in the design, in the data collection process, data analysis, and data dissemination. I observed all established relevant ethical standards.

Chapter Summary

Chapter three of the study restated the restatement of the problem and the research questions. I discussed the type of research design and the rationale for its selection. I discussed the role of the researcher as a data collector, data analyst, and an interpreter. In this chapter, I discussed the type of data I intended to collect and the data collection instrument I intended to use. I discussed data analysis strategies. Along with the data analysis strategies, I explained my strategies for ensuring data validity to prove the credibility of the research result.

The other major issue which I addressed in this chapter is the matter of ethical concern. Unethicality might come from violating participants' rights aspect, conflict of interest and academic dishonesty. The next chapter discusses the data collection process,

the result of the data analysis, and interpretation. Finally, the chapter discusses the take away from the study and forwards recommendations.

Chapter 4: Results

Introduction

The purpose of this study was to understand the perception of Ethiopian elected and appointed officials on the issue of delegating legislative power, the importance of political control, and accountability of officials in case of noncompliance. The means of obtaining the perceptions of the lawmakers and executive officials were interviewing sampled officials. I referred to legislative documents to cross-check specific factual claims by the officials. The interviews were designed in light of a selected national policy known as the vital events and national identity card proclamation. In the inquiry, I sought to answer the following central RQ and three elaborative SQs:

RQ: What strategies would ensure an effective political control for preventing a possible abuse of power and non-compliance in the process of rulemaking in Ethiopia?

SQ1: What perceptions do the elected and appointed officials have on delegating rulemaking powers?

SQ2: What perceptions do the elected and appointed officials have on the issue of political control and accountability?

SQ3: What are the ex-ante/ex-post political control mechanisms in the rulemaking process?

This chapter is organized in a way to present the personal and organizational situations that influenced the results of the data collection process and its interpretation. In this chapter, I also discuss the demographic description of the participants. The process

of data collection, its analysis and the tools employed for data analysis are the core issues that this chapter addresses. The results of the study present the issue of evidence of trustworthiness. This chapter ends with a summary of the key findings.

Setting of the Study

For the last 3 years, Ethiopia has been in political unrest. There were demonstrations and street action followed by the deaths of hundreds and the destruction of properties (Weber, 2018). Finally, the political unrest forced the ruling party to revise some of its policies and change its leadership (De Waal, 2018; Weber, 2018). Just four months before I started the data collection process and when I was in the process of defending the proposal and working for Institutional Review Board (IRB) approval, there was a leadership change in the country. The demonstration and civil disobedience in most parts of the country forced the ruling party to change its leaders within the party platform and in the government system. As a result, a new prime minister who was believed to be a change agent from within the party held the premiership.

The change in leadership affected the study in many ways. Before the change in the leadership, I was promised access to the parliament office to interview any parliamentarian who would volunteer. However, because there was a leadership change in parliament leadership too, I had to repeat the process of getting permission and support from my sponsor. The entire process took about 2 months. I was also promoted to a different government position within this time frame. My move affected the support of my sponsor who now is no longer my employer. This would have delayed my research considerably had both my former and present employers not agreed on the continuation of sponsorship

by my former employer. With much effort and negotiation on my side, my research continued with minimum delay.

Though the leadership change and the power transition happened within the same party, the new leadership has come with new ideas of freedom and massive policy revision in the area of justice. Citizens took the chance to demonize and curse everything related to the previous leadership of the party and the government. My fear was the situation might influence the perception of some of the participants. However, I learned that the perception of the participants was based on real experiences. I did not notice any discrepancies in perceptions of those who supported the change and those who did not. I still had to be careful not to be biased when interpreting the data as I was part of the change process.

Demographics

The participants of the study were from different backgrounds; most of them were lawyers. A few were with a background in social studies and one with a technology background. As to their academic level, two of them held Ph.D.s, and the rest had master's degrees. I did not consider age as a factor, but because all of them were still actively employed and the pension age is 65, I can confirm that they are all under the age of 65. Judging from their physical appearance, the sample group age is a mixture of young and middle-aged individuals with some who have studied abroad and others nationally educated. Their history of employment ranged from judges, administrators, ministers, chairs of standing committees, to teachers and consultants.

Five of the participants were from the executive, and the other five were members of the parliament. The minimum service of the parliamentarians was two terms; some

were in the current term, and others had continued from the previous term. All of the participants were informed about the overall issue of the inquiry, and particularly on the legislation/policy chosen as a case.

Data Collection

After the approval of the Institutional Review Board (IRB (approval number 07-27-18-0503302), I met with the secretariat of the house speaker, and as we discussed the purpose and nature of the study I asked him if he could connect me with some of the relevant standing committee chairs and members he thought would be relevant to the study. He introduced me to one of the relevant standing committee chairs, who in turn introduced me to 10 parliamentarians. I exchanged phone numbers with these 10 members of the parliament, made an appointment over the phone, and tried to meet them in person for an interview. Three of them refused to discuss the legislative part and did not want to be bothered because of which I stopped the interview. One told me that he was leaving the city and I could see him in the middle of September. Six persons were willing to provide information. I interviewed the first five I met, and I was convinced the information I obtained was sufficient and did not require further interviews.

As for participants from the executive offices, I had in mind two officials whom I heard were participating in the process of the legislation. I called them and explained to them the purpose of the study. They were pleased, and they gave me numbers of other individuals who were participants in the proposal writing and other aspects of the national identity card program. All of them were willing to cooperate except for one. However, I interviewed the first five, and I obtained enough data and did not need to seek

more information. I interviewed a total of 10 participants, five from the parliament and another five from the executive branch.

I met with most of them three times, firstly by telephone and secondly in person to deliver the invitation letter and to explain the purpose and the nature of the study. Some of them were ready to give me the interview at the first meeting. Others wanted more time and gave me an appointment. Seven of the participants were interviewed in their offices with no disturbance or any external noise.

One of the participants wanted to be interviewed in my car, which was not comfortable with much distraction. Transcribing the data was hard. One other participant was interviewed outdoors in a garden. There were music and other external noises, which made the transcription challenging as the external noise was recorded while the interview was going on. A third participant chose to have the interview in a hotel lounge, which was quiet enough for the interview.

I collected the data through the same instrument, which was a semistructured interview protocol. I received valuable feedback at my first interview on the arrangement of the interview questions. First, I asked about the mechanisms of political control. The participant said, "First let me speak about the importance of political control, then I will speak about the control mechanisms." The participant's suggestion in reframing my questions helped me to notice the illogical arrangement of the questions. In the following interviews, I arranged the interview questions in a more logical order.

As I mentioned earlier, there has been a dramatic change in the country. New officials were replacing former officials. The change has been affecting everything, and a

new form of government structure was under study. Thus, I feared that I might not get the relevant participants regarding experience which matched my research design. I made all efforts to finish all interviews before more changes took place in the bureaucracy. It took me 10 days to conduct all the interviews, setting the pace at two interviews some days and one or none on other days.

Data Analysis

In Chapter 3 of the study, I developed a preliminary coding analysis framework based on the literature I reviewed and the theory I used as a lens for the study (Table1). In the framework, I guessed possible themes, categories, and codes that I expected.

Thematic analyses can be theory-driven or data-driven (Javadi & Zarea, 2016; Maguire, & Delahunt, 2017). Thus, the approach in this study regarding the thematic analyses was a combination of both. On the one hand, I used a framework that was based on the theory and the literature that I reviewed; on the other hand, the framework I used was changed by emerging codes and themes from the data. Thus, the approach was mixed.

I developed the framework not from actual data but from the literature review, which meant the coding and theme analyses should be flexible and open for emerging codes. In the process, I tried to strike a balance between theory-driven and data-driven approaches. Theory-driven approach means a deductive approach; the data-driven approach means an inductive approach (Maguire & Delahunt, 2017). However, though I was open and flexible enough to the emerging codes, the preliminary framework was helpful in creating a picture in my mind about how to code and organize the data.

In the coding and analysis approach, I followed the six steps formulated by Braun and Clarke (2006) as cited in Maguire and Delahunt, (2017). After I transcribed each interview, I printed it out, and I read it many times until I felt that I created an intimacy with the data and had a sense of its content. Then I used Microsoft Word 2016, and the comment menu to code all interviews manually. In the coding process, I used the value coding method because the participants were sharing their experiences and their recommendations regarding values or usability of limited and controlled power of government in rulemaking. I was not searching for the same words but similar if not the same ideas and concepts. For example, to explain the misbehavior of administrative authorities, different participants used words such as abuse of power, extending power, ultravirus, and nonstationary rules. Thus, to find a word or a phrase to represent the same concept that presented in different words and phrases, the value coding method was relevant. In the coding process, I first coded as many codes as I could; in the second process, I refined the codes and came up with the result, which is discussed below.

I coded the data manually using the track changes in Microsoft Office. Then I used the navigation pane to count the frequency for each code. As a final result, I got 49 codes with 487 appearances. The code with the lowest number of appearances was “specific rules” which appeared twice, while the frequent code, “serving the public interest,” appeared 33 times.

The next task was to look into the codes for patterns or similarities. For example, when I reviewed the codes “technical capability,” “area expertise,” “organizational readiness,” “time,” and “service delivery,” I found similarity between codes regarding

delivering public services effectively and efficiently. I then named the subtheme or category as effectiveness. I followed the same steps and out of the 49 codes I got nine categories named as “effectiveness,” “decisiveness,” “applicability of policies,” “broad delegation,” “narrow delegation,” “compliance,” “lawfulness,” “ex- ante control “and“ ex-post control mechanisms.”

Similarly, I studied the patterns or similarities the nine categories and grouped them into four themes. In the theming process, I focused on the values of the categories as I did in the coding and categorizing process (Maguire and Delahunt, 2017). When I looked into the categories of “effectiveness,” “decisiveness,” and “applicability of police,” I saw the pattern that led to the theme “delegating legislative power,” which stresses the importance of delegation. Through the same process, I came up with nine categories. I identified four themes named “delegating legislative power,” “Delegation doctrine,” “Political controls benefits,” and “Political control mechanisms.”

The code labeled as “capacity and courage,” is somewhat unique since I could not find any literature that discusses parliamentarians have no courage to control and make the executive official accountable. In the interview, I learned that the appointed officials are more courageous and willful to criticize the defects in the system and support stronger parliament than the parliamentarians. I will address this issue in details in the result section.

Some control mechanism such as judiciary, cabinet and administrative review mechanisms were generated from the data and were not analyzed since they are out of the scope of this study. Nevertheless, these mechanisms are an essential part of the regulatory

quality system, which reveals the limitation of the study and hence became one of the crucial parts of the recommendation.

Then I compared the code, categories, and themes in the preliminary data coding analyses formwork in chapter three. I saw emerging themes, categories and codes. I developed the same framework to display the new themes; categories' and codes as displayed in the result discussion section (Table 2). To show the relationships between the codes, the categories, the themes and the topic of inquiry I developed the following concept map, using free software from the Institute for Human & Machine Cognition (<https://cmap.ihmc.us/mechanisms>; Appendix B).

The concept map depicted the relationship between the code, the categories, and the theme. Out of the interview data, 49 codes with 487 times of frequencies generated. Out of the 49 codes, 9 categories were generated, that was result in four themes. The values of the codes and the categories are discussed under each sub research question theme in the result section.

Evidence of Trustworthiness

As discussed in chapter 3 trustworthiness is everything about the research because it is about the soundness of the qualitative study (Creswell, 2013; Jacob, 2012, Rudestam and Newton, 2015; Saldaña, 2013). For the research result to be trustworthy, which means to be acceptable in the eyes of the reviewers and any reader, I kept the procedures I set in chapter 3.

One of the elements of trustworthiness is credibility. Credibility relates the quality of the data, in the collection process, in the transcription process, and the analyses

process. As I mentioned earlier, I had a fear about the emotionality of some of the participants. As many people are engulfed in the current political situation and expressing their unhappiness and anger about the previous leadership, I was ready to tackle this issue by taking more time and creating a calmer situation, but to my surprise, all of the participants were mature enough to be fair and objective.

I recorded the data; I transcribed it word by word leaving outside talks, jokes and some adverse information that could affect others. Though, I gave participants to check the transcript only two of the participants did check. In many instances, the participants referred to different legislation related to the issue for triangulation.

For the result to be transferable, I carefully integrated the process of data collection, data analysis and result presentations in a concept map and tables. I cross checked that the findings are the result of the data. I did not notice any discrepancy from what I was designed in chapter 3 regarding the evidence of trustworthiness.

Results of the Study

The purpose of the study was to answer the central research question, which focused on searching for types of strategies ensuring an effective political control for preventing a possible abuse of power in the process of rulemaking and their implementation in Ethiopia. In order to address the quest in the central research question, I have added three elaborative sub-questions. The sub-questions were formulated in a way they could help to learn about the perceptions of elected and appointed federal officials. I was looking for their perceptions on the concept of delegating rulemaking

powers, on political control and accountability, and the *ex-ante/ ex-post* political control mechanisms in the rulemaking process.

To address the inquiry I collected data mainly through interview questions, which is supported by legislative documents. Four themes were generated from the data. These themes have as specific meaning to this study. Delegating legislative power does not include any form of delegation except authorizing the administrative authorities to formulate rules and regulation to further a policy, which is approved by the legislative bodies. Delegation doctrine means any policy, precondition, or mechanism set before delegating the power to make rules to be applied either before the delegation or after the delegation. Political control benefits imply the benefits that the governance system or the public would benefit from controlling the behaviors of the administrative authorities, about their compliance.

Finally, political control mechanisms mean all forms of mechanisms the lawmakers could use to oversight the administrative organs about the power to exercise their delegation. In this section of each theme will be discussed under subsections research question they related to. I first present the aggregate results in the data coding and analysis framework found in Table 2. I will then discuss each theme and presented the data from the lawmakers and appointed officials perspective.

Table 2

Data Coding and Analysis Framework

Theme	Category	Code	Code frequency (f)
Delegating legislative power	Effectiveness	Technical capability	24
		Area expertise	8
		Organizational readiness	9
		Time	21
	Decisiveness	Service delivery	13
		Flexibility	17
		Adaptability	4
		Discretion	11
	Applicability of Policies	Detailed rules	27
		Informed rules	6
		Contextualized rules	10
	Delegation doctrine	Broad delegation	Free of condition
Time insensitive			3
No oversight			6
Narrow delegation		week oversight	4
		Free of restriction	11
		All rule	7
		Conditional	8
Political control benefits	Accountability	Time-oriented	4
		Specific Rules	2
		Strict oversight mechanisms	3
		Limited power	18
		Serving public interest	33
		Self-interest	9
		Political/ Legal liability	7

Table continue

Theme	Category	Code	Frequency (F)
	Rule of law	Lawfulness	11
		Compliance	21
	Ex-ante control mechanism	Public consultation	18
		Web-based public notes and comments	15
		Institutional control	22
		Legal and procedural control	29
		Parliamentarian's Capacity and courage	16
Political control mechanisms		Reporting	8
		Auditing	10
		Parliamentary review	11
	Ex post control mechanisms	Cabinet review	10
		Judicial review	5
		Political and legal Penalty	11

Table 2 explained two things. On the one hand, the table presented lists of the codes and their frequencies in the dataset. It presented the nine categories and the four themes. However, the table did not only present the codes, categories, and the themes but it also showed the interconnection between the codes, categories, and themes.

On the left side of the table, there are themes. For example, the first theme is delegating legislative power, which is about the importance of legislative delegation.

Next, to the themes, there is a section where the categories sub-themes listed. Under the first theme, there are three categories where the theme emanated from. To the right of the categories, there is a section where the codes are listed. Under each category, there are lists of codes where the category was emanated from. The section to the right of the categories is about the frequency of each code, which implied that numbers of appearances of the code throughout data set.

Thematic Presentation

In this study, the central question focused on types of strategies ensuring an effective political control for preventing a possible abuse of power and noncompliance in the process of rulemaking in Ethiopia. However, the elements of central question are dissected into three elaborative sub-questions, which mean answering the sub-questions means addressing the central question. The four themes that emanated from the data set address the central and the sub research questions. Therefore, I will discuss the theme, in the lights of the research questions.

Delegating legislative power.

Theme one is about the necessity of delegating rulemaking power. The necessity of delegation is implied in sub research question one. The first sub research question is: what perceptions do the elected and appointed officials have on delegating rulemaking powers? In this question, there are two parts. On the one hand, the question is about the perception of the elected and appointed official on the importance of delegating legislative power, and on the other hand, it is about their perception on the extent of the delegation. Theme one addressed the first part of the sub research question one.

Before asking about the strategies that could ensure controlling the behavior of administrative authorities, it might be better to ask about their perception regarding the importance of delegating the rulemaking power. Thus, the perception of the participants in this regard is presented in theme one as displayed in table 3. Regarding the issue related to the importance delegation, 9 codes generated and appeared a total of 148 times and categorized into three. The codes are mainly from interview question number 2, 3, and 4. Sometimes participants explained the importance of delegating the legislative power while speaking on the different issue.

Table 3

Theme 1 Data Presentation: What perceptions do the elected and appointed officials have on (the importance of) delegating rulemaking powers?

Theme1	Category	Code Frequencies	The frequency of Codes(F)
Delegating legislative power	Effectiveness	Technical Capability	24
		Area expertise	8
		Organizational readiness	9
		Time	21
		Service delivery	13
	Decisiveness	Flexibility	17
		Adaptability	4
		Discretion	10
	Applicability of Policies	Detailed rules	27
		Informed rules	6
Contextualized rules		9	

As displayed in table 3, the theme is *delegating legislative power*. The research question is: what is your perception about legislative delegation? Participants answered the question in a way it generated three categories, which are *effectiveness*, *decisiveness*, and *applicability of policies*. The three categories implied that why is delegating legislative power essential or necessary.

The effectiveness of the governance system is one of the elements that the participants explained as a reason for the importance of legislative delegation. One of the participants PP4 (parliamentarian participant) said that “In the earlier times parliament had to enact every law because the business of the government was so limited. However, the modern-day complexity of administration forced parliaments to set general policies and to delegate the details.” For PP4 without delegating for the furtherance of policies, the government could not be as effective as the modern day administration so demands.

Similarly, PP2 examined the necessity of delegation in the following manner. “After all, the government is there to deliver the necessary services. Thus if delegation is important for better service delivery, we have to delegate. The issue is not about power; it is about serving the public interest.”

One of the reasons for delegating for sake effectiveness is *technical capability* ($f = 24$). The phrase technical capability as a code appeared 24 times. Most of the participants raised the issue of the need for technical capability in modern administration. In this regard, EP1 (Official Executive participant) said “Detailed rules can only be passed by the executive organ that has the technical capability,” he added that “as some areas of policies are highly technical” how we could expect the lawmakers to make such

technical rules? EP5 also asked, “How can we ask the parliament to make rules on chemical and drug regulations?”

The lack of “area expertise,” one of the reasons the participants mentioned for delegating the rulemaking power for the government to be effective. PP5, said, “We are politicians who care about policy issues, there might be few individuals who are experts in some areas but not in all issues, so the technical rules must be a concern of the capable bodies in the administration.” In the administration, there are many areas and industries begging for regulation. Thus, politicians in the parliament could not know issues in all public policy areas. PP1 examined the issues by saying “How could we know for example, what kind of fertilizer a farmer in a certain village needs?” EP2 elaborated this issue by saying, “There might be few professionals in the different field, most of them as representative of the peasants and nomads, and they could not have the necessary expertise in all areas.” Every administrative agency has its areas of specialization, but the lawmakers are lawmakers for all public policy and regulatory issues. Both the reasoning and the justification are sensible.

Another reason for supporting delegation for effectiveness is *organization readiness and service delivery* ($f=17$). The phrase organization readiness and service delivery together appeared 17 times in the transcript. For EP4, the fact that the constitution granted administrative bodies to make rules made them build capacity to make rules. PP2 shared the idea by saying “Let alone to make all rules, we do not have the capacity even to enact broad legislation. Thus it is better to delegate to the cabinet and to administrative agencies, which are in better organizational readiness”. Therefore, for

the participants, for the effectiveness of the governance system in delivering service to the public in better quality and in due time, delegating to those who have a better organizational position is beneficial.

One of the codes that have the highest frequencies in the interviews the code *Time* ($f = 21$). For any institution to be competent, it needs to have the necessary time. The parliament as a forum of public policy and debate does not have enough time to make all rules. The participants mentioned time as a factor in the ineffectiveness of the parliament, had it not delegate to different administrative organs. EP1 said, "The lawmakers have limits one of which is time."

Similarly, EP3 said, "It would be difficult for the parliament to formulate all laws within a given time frame, even if they work day and night." PP4 also supported the issue of time limit as a reason for delegating by saying "My argument is parliament could not do everything, with its limited time." According to the participants, if the parliament could not outsource the rulemaking power; the governance system would be ineffective because of time limitation due to conflicting priorities.

Decisiveness is an ability of the government to deliver services, without unnecessary interferences. PP2 argued that if we do not trust the government and gave it some discretionary powers, it could not give the expected services. Rules are the essential tools among others that enable the administrative organs to implement public policies (PP4).

Flexibility ($f = 17$) is one of the issues in implementing public policies. The participants used flexibility regarding delegation and excessive control. EP4 said, "From

the executive organs perspective; it would be easy for them to make flexible and timely regulations so that they will be easily changed when the situation so demands.” The reason is it would be difficult for the lawmakers to make rules and to amend them within a short time.

Additional reasons for the participants to support delegating rulemakings are *adaptability and discretion (f = 14)*. On the one hand, the rules must be adaptable to emerging changes and technologies. On the other hand, the administrative agencies should have some discretionary power to cope with changes by changing rules. PP3 and PP5 had to say” administrators can cope with the dynamism of circumstance so accommodate the change, the lawmakers must pass broad laws and let the executive body formulate detailed rules.”

Applicability of policies is one of the reasons for the participants to stand for delegating the rulemaking power. “After all we formulate rules, not for mere delectation but implementations,” said EP4. Broad public policies will remain unimplemented if they are not supported by rules that detail, informed, and contextualized. PP3, EP4, and PP5 gave their reasoning in the following way. “The furtherance of the broad legislation is only possible through subordinate laws. Only an administrative agency who has technical capabilities can only pass such detailed laws.” Thus delegating the legislative power is essential for the applicability of broad policies passed by the lawmakers.

The underlying issue in theme one is that for the question of why is delegating legislative powers significantly, the response was to have a productive and decisive

government that serves the interest of the people. It is essential to make broad public policies implementable.

Delegation doctrine.

Theme 2, which is “delegation doctrine, ”is a theme which is generated from the data on the question of what extent of delegation. The question about the extent delegation was implied in the first sub-question as discussed in theme one. The extent of delegation discusses whether a delegation is broad or narrow. The broadness of delegation implies much empowerment, broad discretion, and less control and restrictions. On the other hand, narrow legislation implies any restrictions and control.

Table 4

Theme2 Presentation of Data: What perceptions do the elected and appointed officials have on (the extent of) delegating rulemaking powers?

Theme 2	Categories	code	Frequencies(f)
Delegation doctrine	Broad delegation-	Free of condition	7
		Time insensitive	4
		No oversight	6
		week oversight	4
		Free of restriction	11
	Narrow delegation	All rule	7
		Conditional	7
		Time-oriented	4
		Specific Rules	2
		strict oversight mechanisms	3

Broad delegation is one of the features of delegation doctrine. Different factors can measure the broadness of delegation. However, the participants mentioned six factors for measuring the broadness of delegation. These are delegation, which is free of conditions ($f = 7$), time insensitive ($f = 4$), the absence of oversight as a policy ($f = 6$), weak oversight as a policy ($f = 4$), delegation with free of restriction ($f = 11$) and delegating without a limit scope (all rules; $f = 7$). Some participants said the value or the public interest that could be created by delegation must determine the broadness or narrowness of delegation. If the interest of the public is going to be served well by making the delegation broad, it must be broad.

EP5, EP1, and PP5 argued that if a broad delegation policy is going to affect the public interest, we have to make it narrow. In addition to the public interest, the participants mentioned controllability of the delegated power as a factor to determine the extent of the delegation, which means the lawmakers should not delegate a power that they could not control. On the other hand, EP2 argued that the broadness and narrowness of the delegation must be measured from the nature of the policy. For him, delegations related to policies such as human rights and crimes must be narrow.

Though the participants have a different stand on what should be better for Ethiopia; all agreed that the Ethiopian practices of the delegation are broad delegation. According to EP1, EP2, EP4, and PP5, most of our legislation stipulated in the last pages, clauses such as "the council of ministers may enact regulation to implement the proclamation" or the ministry may enact directives to implement this proclamation or the

regulation to be enacted by the council of ministers per this proclamation”. The evidence is tranquilized and sample legislation attached (Appendix C).

Narrow delegation is the second feature of the delegation doctrine. The participants mentioned setting conditions, putting time lime, limiting the scope regarding areas, and setting strict oversight mechanism are factors to measure the narrowness of rules. Five of the PPs mentioned a rule of three months as a limit. They mentioned House’s rules of procedures and members code of conduct regulation number 6 /2016. I checked regulation article 60 (6)and said delegated regulations and directives must be enacted within 3 months since the day of enforcement of the mother delegation.

In summary, the participants think that the practice of Ethiopia’s delegating legislative power is broad. However, some of the participants think that delegation should be narrow and restricted. Others argued that what matters is not the narrowness or broadness, but the benefits that the public could get from the delegation and the controllability of the delegation. One participant thinks that the narrowness or broadness of the delegation must be based on the nature and sensitivity of the policy.

Political control benefits.

The theme of political control benefits was generated from the data collected in response to the second subquestion. The second sub-question was about the perceptions the elected and appointed officials have on the issue of political control and accountability as an essential component of the central research question. The concepts of control and oversight did not seem favorable words. One of the participants EP3 was unhappy to hear the word control he said, “I hate the word control.” Moreover, the

participants see the importance of control from the perspective of accountability and the rule of law.

Table 5.

Theme 3 Data Presentation: What perceptions do the elected and appointed officials have on the issue of political control and accountability?

Theme	Category	Code	Frequency
Political Control Benefits	Accountability	Limited power	18
		Serving public interest	33
		Self-interest	9
		Political/ Legal liability	7
	Rule of Law	Lawfulness	11
		Compliance	21

Accountability is one of the reasons for the participants to opt for political control. EP4 said, “Uncontrolled power is corruptible, so if we are unable to hold accountable those who cross the lines, it is meaningless.” Similarly, PP5 said ‘if the parliament is unable to control the power, it delegates it must not delegate.’ The following terms are generated as-aspects of accountability in the political control. These are a *limited power* ($f = 18$), *servicing the public interest* ($f = 33$), *servicing self-interest* ($f = 9$) and *political and legal liabilities* ($f = 7$) in case of violation.

Limiting the power seems the only way to accuse the agencies of trespass. In this regard, EP1 had to say “if we create a government, which is not limited and accountable, we will destroy the young democratic institution we have already created.” for EP1

uncontrolled or unlimited power is an existential threat to our democracy. PP4 and EP4 also said, “The unimplemented legislations are the typical examples of unlimited and uncontrolled power.”

The two antagonistic terms generated from the data about accountability are *servicing the public interest*, which appeared 33 times as the highest frequented code and serving self-interest, which appeared nine times. The participant argued that political control could force the administrative organs to serve the public interest. Otherwise, they will serve their self-interest. In this regard, EP4 said, “If we do not have mechanisms to control the exercise of that power, so citizens are under the mercy of the powerful.”

PP1 said, “Power is a precious thing, it is also dangerous, so we have to make sure that parliament is controlling the power for the sake of the public interest.” PP3 in his opinion also said, “control is important, after all, power is to serve the people, so we have to control it. Otherwise, it can be used against the interest of the people.” The essence of the message is that if power is not serving the people, it must be serving self-interest.

For the question of why political control was needed, the answers of the participants included that it was needed for the sake of lawfulness and compliance. The rule of law means limiting some persons’ power and making them accountable. If they fail to live within the formwork of the law irrespective of the effects on their feelings, it is a failure. PP4 also said, “The rule of law must be respected; we have to make sure that the government is working within the framework of the law.”

The participants addressed the second sub research question by emphasizing on two categories of the benefits of political control that are the rule of law and compliance. Compliance, which is working within the framework of the given law, is as substantial as working according to the law (EP4).

Political control mechanisms.

The fourth theme *political control mechanism* emanated from the data collected in response to research question 3, which is the fundamental essence of the central quest. The central research question is what strategies would ensure an effective political control for preventing a possible abuse of power and noncompliance in the process of rulemaking in Ethiopia. So the inquiry was about the strategies that could manage or control the possible misbehaviors of administrative organs in the exercising of their rulemaking power

The identified fourth theme is a *political control mechanism*. Its features are two categories. These are *ex- ante control mechanism* and *ex-post control mechanism*. This theme is based mostly on participants' personal experiences than theoretical knowledge. The participants also address the question in the lights of the legislation I picked a case in the study. Participants mentioned other similar legislation and experiences when they address this research question. The theme covers a control mechanism from legislative or regulation initiation to post-promulgation review mechanism.

Table 6

Theme 4 Data Presentation: What are the ex-ante/ ex-post political control mechanisms in the rulemaking process?

Theme	Category	Code	Frequency(f)	
Political control mechanisms	Ex-ante	Public consultation	18	
		Web-based public notes and comments	15	
		Institutional control	22	
	control mechanism	Legal and procedural control	29	
		Parliamentarian's Capacity and courage	16	
		Reporting	8	
	Ex post control mechanisms	control mechanisms	Auditing	10
			Parliamentary review	11
			Cabinet review	10
			Judicial review	5
Political and legal Penalty			11	

The participants also have in mind two types of subordinate legislation. These are regulations – formulate by the council of ministers and directives formulated by each ministry or agencies. The ministries or administrative agencies might get the delegation directly from the lawmaker through the legislation or from the council of ministers through regulations. I attached sample delegation clauses form legations and regulation (Appendix D).

Ex- ante control mechanisms are one of the features of the political control mechanism. Ex –ante control mechanisms cover all political control mechanism from the

initiation of the legislation or regulation to its approval by the authoritative body. From the interview data public consultation the following five pre-legislations coding mechanisms were generated.

Quality and compliance control can start at the early age of the draft legislation. *Web-based public notes and comments* and *public consultation* are two of the frequently mentioned methods of pre-legislation. EP4 said public consultation ($f = 18$) means inviting those affected by the policy for discussion. On the other hand, giving the public an opportunity to comment on a new proposal can enrich the legislation or regulation for free and creates a sense of ownership. EP5 and PP5 cited an article from the internal cabinet directive, which says “any preparing legislation at any level shall be kept secret unless the council of ministers decided otherwise.” Having in mind the fact that, laws in Ethiopia submitted to council only for approval, keeping theme secret seems unbelievable because of laws are initiated by each ministry or agency.

Both PP1 and PP3 mentioned the importance of web-based technologies not only for quality and control but also for accessibility of legislation and regulation. EP1 and EP4 concluded that public comment is absent and public consultation is highly limited and not considered because of lack of control.

Institutional and legal pre-legislation control mechanisms are another two of the pre-legislative control mechanisms. No institution could control the quality of any legislation or regulation unless it is empowered or established by the law. Almost all participants notably, EP 1, EP5, PP3, and PP4 agreed on the importance of institutional and legal instruments for controlling the rulemaking process. However, all participants

witnessed that no legal and institutional instrument able the parliament to control the rulemaking process which is ex-ante control. The only instance where the control mechanism is cited is the 3 months' time limit stipulated in the internal working procedures of the parliament. The in internal working producers is exclusive to the parliament. The 3 month time is not stipulated in every legislation; hence there is no legal framework for the parliament to enforce it. The same is true for the parliament not to be able to hold the administrative organs accountable for not observing the three-month limit. The 3 month rule is only applicable to members of the house.

Ex- post control mechanisms are methods of control of the abuse and non-compliance of legislation by the delegated administrative organs. The following post-legislation control mechanisms were generated from the interview data. These are *mandatory reporting, auditing, cabinet review judicial review, and political and legal penalty*. These are important and directly related to the case I picked. However, Cabinet review and judiciary review mechanisms are treated as discrepant cases and factored into the study as cases show the limitation of the study.

Legislative auditing, according to PP5 is “a process of checking the implementation of legislation, the compliance regulations and directives with the legislation” In some case, there are laws enacted years ago but not implemented yet. For example, EP4 mentioned commercial code which passed in 1960 (still enforce). According to the commercial code, there are many agencies to be established by which part of the laws implementable. He added that in 2000 a family code passed by the parliament, the parliament delegated council of ministers to enact regulation to establish a

legislation agency within six months. The agency is not established to date. I checked this and found the following article 32(1), “The federal government shall, within six months from the coming into force of this code, issue registration law applicable to the administrations where this code is to be enforced and establish the necessary institutions.” The claimed institution is non-existent to date.

One of the most critical post legislations control mechanism is penalizing those who transgress. The penalty can be *political* and *legal*. For example, the cabinet did not enact regulation to establish a registration institution, but no one has been held accountable, even after 18 years. The national identity card in the vital events and national identity card proclamation event must be operationalized in 2014. The agency which was supposed to carry out the program has never been established. Therefore, the program has become an impossibility. No institution or government body was held accountable for negligence and noncompliance. The establishment and program have never taken a step of realization apart from being written on paper.

All participants said the failure and the nonoperationalization of the critical national program, which a national identity card program is a typical breakdown of the control system. EP4 said this case implied that “our legal system is in bad shape. EP5 also said that” It seems as if the Ethiopian government is enacting some of the laws to fulfill some international standard without its will.” PP4 and PP5 said that because the program is somehow related to national security, no one dares to ask about its status.” PP3 and PP2 mentioned the failure even to know about the existence of the critical national program as “the most disappointing case.”

For all the mechanisms, post legislation control, mainly accountability is none existent the Ethiopian legislative process and post-legislation situation. No participant could mention any instance, where an official or a government body was held accountable for his or its failure to act.

Two of the participants PP4 and EP3 argued that the one who has real political power is the executive. They argue that the head of the ruling party is the prime minister. As the ruling party is the sources of political ideology, the parliament could not be the highest political body. The power of the parliament is merely a formality; in essence, the real power is at the hand of the executive branch.

As mentioned earlier, the center of this study is political control over the behavior of the administrative authorities. As I reviewed in the literature, there are additional review mechanisms such as judicial review. Participants EP4 and EP5 mentioned judicial review as a limited additional mechanism in individual cases. However, the parliament as principal at least in a constitutional framework has the highest role. For example, almost all ex-ante and ex-post mechanisms must be set by the parliaments.

However, there is no capacity (readiness) and courage in the parliamentarians' side. PP5 who won the seat for three terms and served as standing committee chair said: "the real power and the principal is the executive, not the parliament." He added that when legislation comes from the cabinet for approval and some of the members of the parliament raised questions, a lawyer from the cabinet or the attorney general come and say, " this is a government policy, or if the chair of standing committee or the house

speaker said, it is a policy issue, no one would argue again. Because we believe the policy maker is the executive.”

PP5 added that “we do not dare to control the officials or their institution because sometimes they could be our bosses in the party platform. We need to be re-selected by the party for the next election, so we have to be careful.” He added that “when you become tough in some cases, the ministers asked, ‘are not you from our party?’” PP5 hoped that the new prime minister would change some aspects of the problem.

In this regard, PP2 added that “We might be more concerned in the case of our constituent’s specific problems. However, generally, the executive is more concerned about the people than us”, PP1 said “What must be clear is that the executive officials are more close to the people, which means they are concerned. After all, we form the same party”. For PP5 the problem is related to the fact that all the parliamentarians are from the same party. Party discipline is more binding than the power in the parliament. Therefore, in the Ethiopian situation, the parliamentarians are more concerned about the party discipline than the law and their constituents.

For EP3 the idea of political control of the lawmakers is insignificant because the real power is in the hand of the executive. He believed that even the parliamentarians are not equal to the executive branch. PP4 asked me to look at the differences between the office of the prime minister and the house speaker. The office of any standing committee chair and any minister” he said, “The parliament is there only for formality.”

For PP4 there is no instance where the members of the parliament resisted legislation and remained unapproved. He said, “if you continue resisting they take the

issue into a party platform then you will be warned.” EP4 said, “We have a system where the parliament is a supreme body that can control the activists of the administration and it can also remove the prime ministers, but this is merely a framework.” For him, the practice is the parliament is subordinate to the executive.

When I asked about the fate of the national identity card proclamation in light of the control mechanism, almost all participants believed that the success of the program depends on the interest of the government. EP1 and EP2 are sure that in practice the parliament could not force the government or any agency to carry out the program. EP4 added that unless it is the interest of the head of the government, political control is not a solution. EP5 and PP4 believed that “The fate of the legislation and the intended program will have the same fate with the similar forgotten legislations.”

Why does the parliament have lost the courage to address misbehavior legally? PP4 and PP5 believed that “The source of the problem is a dependency.” For them “The parliament as an institution is dependent on the executive for budgetary issues and all facilities.” The same is true for each member as individuals because they are dependent on the executive bosses. According to PP4 and PP5 “The members are dependent for reelection, for no one will compete in his name and for some promotion within the parliament, which is impossible without party blessing.”

PP5 hoped that “The new prime minister promised that he would make standing committee chair and a minister equal in status and benefits, so the issue will be changed” I heard about the promise in the media. However, the idea that the executive

head will change the statutes of the legislative officials affirms that the parliament is still somehow dependent.

Summary

For the central question what strategies would ensure an effective political control for preventing a possible abuse of power and non-compliance in the process of rulemaking in Ethiopia, the participants gave the following answers and recommendations. Setting an open and participatory legislative system is the first suggestion. Establishing an intuitional mechanism, which can serve as pre-legislation clearinghouses, is another one. Building the capacity and the courage of the parliament so that they will be able to audit, to hear reports and to review the implantations of delegated power are among the mechanisms that the participants suggested. Establishing a legal system that sets the standard for the quality and compliance of rules and regulations is mentioned as a priority. Above all, establishing a system where officials can be held accountable for non-observance, of rules is essential.

For all participants, delegation is essential because it helps create an effective and decisive government. It is helpful for the applicability of public policies. As to its extent, public benefit (necessity), controllability and nature of the public policy are the factors that must determine the extent. The control according to the participants is the delegated power helping the enhancement of the rule of law and compliance.

In this chapter, I reported the process of data collection and data analysis. I reassured data trustworthiness and the measures I took. Finally, I presented the data. In the next chapter, I will discuss my take on the findings and forward my recommendation.

Chapter 5: Interpretations, Conclusions, and Recommendations

Introduction

The purpose of the research was to explore and understand the control mechanisms for the administrative power of deriving rules from set laws in Ethiopia. In principle, lawmaking is the power of the lawmakers. However, because of practical reasons such as time limitation, level of expertise, and closeness to the subject matter, the lawmakers delegate the power of deriving rules to execute the set laws to the administrative organs for the furtherance of the policies. Unless there is a mechanism to set a limit to the delegated power and control the process of making rules by the owner of the power that is entrusted by the public, the delegated power could concentrate in the hands of the executive. A concentration of power, in turn, could adversely affect the essence of democracy by creating a vulnerability that could misguide the original intent of the law. To understand the Ethiopian situation in this aspect, I collected interview data from relevant elected and appointed officials. I analyzed some legislation to supplement the evidence that was generated from the interview data.

The critical findings generated from the interview data include four themes and nine categories that are indicated in Table 2. The perception of lawmakers and executive official regarding legislative delegation and the control mechanisms in Ethiopia were generated from the interview data. The first theme is about the importance of delegating legislative power. According to the participants, delegating legislative power is vital for effective service delivery, for creating a vibrant governance system, and for applying broad public policies. As to the extent of the delegation, the findings showed broad and

narrow delegation as alternatives. According to the participants, the factors for broadness or narrowness must be based on the necessity of the delegation for *public benefit*.

Accordingly, if a broad delegation is going to benefit the public, no doctrine should restrict it. If the delegation is going to affect the public interest, no doctrine should be a reason for broadening the extent of delegation.

Another vital measuring tool suggested by the participants was *controllability*. Controllability implies the ability of the legislators to control the application and the process of the rulemaking power. This concept of controllability indicates that it is better for the lawmakers not to delegate their power of rulemaking if they cannot control its application and process.

Participants believed that the nature and sensitivity of the public policy must determine the narrowness and broadness of the delegation. Sensitivity includes human rights issues, national security, and financial issues for which the nature of the policy requires equal if not higher vigilance than technical expertise. In these cases, managing the risk becomes a priority.

The fundamental essence of the research was to explore the political control situation, to understand the existence of control strategies and analyze existing strategies. The perception of the elected and appointed officials, in this case, was that the essential nature of political control to ensure the rule of law and compliance must be consistent and agreed on. However, when it comes to the kind of rulemaking process controlling mechanism, the findings reveal that there is no precise legal, institutional, or technological mechanism. The fact that there is no instance when lawmakers have held

administrative officials accountable for their abuse of power proves that either there is no political control mechanism or no ability or will to employ such a mechanism.

However, participants recommended institutional control, mandatory public consultation, and mandatory legal procedural mechanism that require the council of ministers and administrative organs to report to lawmakers. The possibility of legislative review at least on compulsory regulations was suggested. Participants recommended regular regulatory auditing to ensure the integrity of the process.

Interpretation of the Findings

The interview data generated results are in most cases are consistent with the literature as reviewed in Chapter 2. The emerging findings imply that the perception of the lawmakers and executive officials is also consistent with the reviewed literature. However, there are unique instances of inconsistency requiring further study. I discuss these unique instances uncovered in the literature review later in this chapter.

The importance of “delegating legislative power” appeared as a significant finding, confirmed by all participants with no reservation. The reasons behind the delegation of legislative power are effectiveness, decisiveness, and applicability of broad policies. These three subthemes resulted in theme “delegating legislative power.”

When the participants mentioned *effectiveness* as a reason for delegating the rulemaking power, they implied that administrative authorities are in a better position than lawmakers for rulemaking because they possess the better technical capability, the better expertise of the policy areas, better time allocation, better organizational readiness, and superior capacity to deliver public services. Thus, the finding is consistent with the

reviewed literature (Clark & Leiter; 2011; Daniels, 2014; Kerwin & Furlong, 2011; Walker, 2015).

The basic idea behind effectiveness through delegation is that the existence of a government is to serve the public effectively and efficiently. In the absence of effectiveness, the need for a government becomes questionable. The public entrusts the lawmakers to create laws that would benefit the public. By delegating their power to able bodies, lawmakers serve the public more appropriately and responsibly.

The second reason for the participants to believe that delegating legislative power is essential is *decisiveness*. According to the participants, administrative bodies are in a better position to give timely decisions than the lawmakers. The participants believed that administrative bodies have flexibility and better organizational and legal settings to render timely and informed decisions than the lawmaker. In the current public administration, citizens demand flexible but appropriate services, which will be difficult for the lawmaker to deliver given their position and level of subject matter expertise. Administrative bodies are more adaptive to changes than the lawmakers because they are agencies specialized for a specific public policy issue, established to deliver services directly related to the policy.

Applicability of policies was the third subtheme for the participants to support delegating rulemaking power. Public administration and public service delivery demand constant change fitting the situation. The government needs to have a way to cope with the change by enacting contextualized and detailed rules to be able to respond to demands

in due time (Daniels, 2014; Walker, 2015). The finding, in this case, is consistent with the literature.

The second finding is the “delegation doctrine.” The legislative delegation can be extended in two ways labeled as narrow delegation and board delegation. None of the participants held a stand against the legislative delegation but had differing opinions on the extent to which delegation can be applied. The difference was on how much and what kind of delegation must the lawmakers confer on the administrative bodies. This is directly consistent with the reviewed literature as written by Elias, (2016), Iuliano, (2018), Kelley, (2017), Manning(2015), and Pecaric (2015), who stated that the delegation/nondelegation controversy shifted towards agreeing on the need for delegation but still arguing on the extent of its application.

While narrow delegation versus broad delegation became the central idea, participants’ concerns were not its application per se but matching the type of delegation to the appropriate situation. The extent of the delegation should be situational depending on the sensitivity of the policy. For example, if the policy is on the area such as human rights, it must be narrow and restricted.

Second, participants also indicated that public interest must be considered in the process of delegating. The evidence of public benefit must determine the broadness or narrowness of delegation. Public interest, in this case, could be related to rulemaking to execute a critical solution addressing issues of public concern such as national security.

The other issue that participants raised is the extent of delegation about the nature of the policy. If a policy is more technical, broad delegation is advisable. While narrow

delegation becomes sufficient in case of policies with minimal technicality. Hence controllability must be the criteria to determine the extent of the legislative delegation. Lawmakers should match the extent of their delegation to how much control they could have on the process. Broadness or narrowness hence become criteria, but the application depends on the situation at hand.

Political control benefits are the third finding related to the benefit of controlling the administrative organs' behavior when power is delegated to them. For the question of why the lawmakers should control the rulemaking process, the answer is to benefit the democratic system and the public at large through accountability and the rule of law. Accountability is implied in the data as taking legal and political responsibility for crossing the line when individuals choose to pursue their self-interest instead of that of the public. The rule of law, on the other hand, is implied by the data as working within the framework of the legal system and discharging duties within the limit of the law by complying with the structure of the legislation. The finding is consistent with reviewed literature that states agencies must be in line with the preferences of the principals and comply with the objectives they set (Daniels, 2014; Kerwin & Furlong, 2011; Nicolai & Stea, 2014). However, the practical experience reveals no instance of political control of the rulemaking process.

The fourth finding, which is the most relevant to the central question, is a "political control mechanism." Given the fact that political control is necessary, an active control mechanism is indispensable. The political control mechanism can even be applied at the initial stage of the process, before any type of approval. Given this opportunity, it is

essential to analyze how lawmakers control the legal application and create accountability in the case of noncompliance.

The data generated the *ex-ante control mechanisms* and the *ex-post control mechanisms*. Ex- ante control mechanisms are mechanisms that can be applied before the approval of regulations by the council of ministers and the approval of directives through their respective public agencies. The ex-ante control mechanism, on the other hand, allows the parliament to review any noncompliance after the approval of the regulations and directives by the relevant bodies.

The ex-ante control mechanisms that are generated from the data are public consultation, web-based public comments, institutional reviews, legal and procedural applications on the process, and parliamentarians' expert review. The idea is the parliament must set a mandatory public consultation procedure where the public's voice could be heard before the approval of the regulations and directives. The public consultation might be limited to those who are directly affected. However, the web-based public comment could be made available to all interested parties. This finding is consistent with the reviewed literature, particularly with ideas forwarded by Nicolai and Stea, (2014) and Walker (2015). However, both mechanisms discussed are nonexistent in the case of Ethiopia.

Institutional control and legal and procedural control are other mechanisms inferred from the data as ex-ante control mechanisms. The idea of institutional control means, the parliament must establish or use established offices such as its secretariat or

the standing committees to review the regulations and directives. The mechanism is in line with the reviewed literature.

However, there is no single committee or institution that the parliament uses to control the regulations and rulemaking process. The parliaments are only knowledgeable of the number of regulations passed by the cabinet because it is the secretariat of the house who assigns numbers to each publication of the regulations. There is no practice of publishing directives and creating awareness among parliamentarians. This leaves them uninformed regarding the content, number, type, and application of directives.

Setting legal and procedural mechanism is another ex-ante mechanism generated from the data. All the ex-ante mechanisms discussed so far could not happen without the legal or procedural mechanism. This is consistent with the literature, but in practice, no law regulates the rule and directives-making process. The only mechanism is the 3 months' time limit stipulated in the parliament's internal working procedures regulation, which is usually overlooked.

Ex-post control mechanisms are one of the pillars of political control. Ex-post control mechanism means any mechanism that the parliament can use to review the regulations and directives after their approval by relevant authorities. One of the mechanisms can force the institution to report on the rules and regulation and their implementation to the parliament. The other mechanism is establishing regulatory and auditing system so that the parliament can make a planned or surprise audit to know how many rules and regulations are formulated and whether they are consistent with the mother law.

Another critical question is what would happen when some authorities intentionally or negligently violate rules, guidelines and other mechanisms already set by lawmakers? The answer is obviously to hold the trespasser liable either politically or legally. The political and legal penalty is the most crucial post-legislative mechanism. Without accountability, no one could assure that all involved would respect the delegation doctrine. In the literature, there are many mechanisms such as demanding reports from the agencies, monitoring the rulemaking activities by evaluating the performance of offices of committees based on public feedback. The ex-post control could include checking if the agencies are complying not only with statutory objectives but also by using the ex-ante control mechanisms.

The ex-post control also enables the principals to penalize non-compliances of any sort (Balla, 2014; Kerwin & Furlong, 2011; Nau, 2013; Nicolai & Stea, 2014; Sant'Ambrogio, 2011). According to the findings, there are no known clear mechanisms and controlling practices, in the case of Ethiopia.

Analysis and interpretation of the findings in the context of the theoretical framework.

I used the principal–agency model as a lens for this study. As discussed in the literature the principal–agency model is based on at least four underlying assumptions. In this section, I discuss participants’ assumptions in light of the literature, which helps to identify the connection between the findings and the theory. I will summarize the assumptions regarding the results or the themes.

The first assumption is that there is a dichotomy between policies – and administrations (Frederickson et al., 2015). The assumption implies that policymakers and bureaucratic authorities have a dichotomous interest (Frederickson et al., 2015; Georgiou, 2014). According to the theory, agents tend to promote their institutional or self-interest at the cost of the principal's interest. The findings of the study showed that the participants had these assumptions in mind when they discussed the importance of legislative delegation and the delegation doctrine, and confirmed the existing dichotomy.

The second confirmation is the relationship between the principals, and the agents (lawmakers and administrative agencies) is hierarchal. The principals are at a higher ladder in the relationship (Frederickson et al., 2015; Kerwin, & Furlong, 2011; Mitnick, 1975a). It would have no meaning for the participants to recommend control mechanisms, which suggest consequences if participants would not assume that their relationship between the makers and administrative agencies is hierarchical. The assumptions implied that there is always a conflict of interest between the principals, who represent the public interest, and the bureaucratic agents who mostly represent their personal, institutional, and industrial interests (Kerwin, & Furlong, 2011).

According to the theory the agents tend to promote institutional or self-intents and policy preferences at the expense of the principal's interest. The fact that one of the findings is the importance of political control implies that participants assume that there is a conflict of interest between the two. The interest of the principals must prevail over that of the agents. The finding of the importance of political control implies that the

participants assume they are at the higher position than the agent and do not anticipate to be controlled and corrected by their inferiors in position.

The fourth assumption behind the theory is that the deviant behavior of the agents is manageable and controllable. So by setting different control mechanism, the policymakers can control or oversight the behavior of the administrators. The participants mentioned time and again the concept of controllability and the mechanism of control. The fact that the participants suggest control mechanism to manage the deviant behavior of the agents implies that they assumed that there is a dichotomy.

The findings, which are the result of the perceptions and recommendations of all participants evidenced that the theoretical understanding and the practice in the ground are so different. The evidence from the data showed that the parliament as an institution and its members are dependent on the executive. The members of the parliament are dependent for reelection, promotion to different leadership ladders such as chairing a standing committee, issues such as housing and other benefits are dependent on the mercy of the executive.

In practice, the parliament could not reject any delegation or policy, which the cabinet approved. It is challenging for the parliament to resist the cabinet's decision because the executive owns the real power. Therefore, to reconcile the findings with the theoretical model is difficult. In Ethiopian legal and theoretical framework, the lawmakers are the principals. However, this is more of a formality than practice. In reality, the executive authorities are the principals because they are the real policymakers. In the literature, the agents could use much trickery tools to influence the policy. They

can use technical capabilities, information asymmetry, and interpretive power. However, according to the data, in Ethiopia, the executive officials did not need any trick because they have the final word on policy, and no lawmaker could resist. Thus, participants confuse legitimate public policy issues and party ideology since the executive branch is led by the prime minister who is also a party chairman in the party platform.

The fact that the lawmakers are hoping the new leadership will change their lives and increase their benefits implies their dependency. The new emerging code which recommended as a solution is the *capacity and courage of the lawmakers*. Thus, one of the mechanisms, which did not appear in the literature, is the need for the courage of the lawmakers to discharge constitutional powers.

I made sure that the interpretation of the findings is within the scope of the data by not adding a new thing or expanding beyond the limit. The fact that there is no single authority held responsible for non-compliance while there are many cases of non-compliance within the limited rules; and the fact that there are no practical mechanisms to control delegate power implies limited political capacity or lack of courage. The finding showed that though there is an understanding of the issue by the participants, there is a mechanism to exercise constitutional power.

Limitation of the Study

The limitation stated in chapter 1 remained the same throughout the execution of the study. However, during the study, I noted that the following limitation needs emphasis. Discussing the broad national idea in light of a legislation or policy might undermine the issue. The study was limited to 10 participants while the purpose is to

explore and increase the Ethiopian mechanism of controlling the use of rulemaking power. One of the many ways to address this limitation could be evaluating the effect of the unfettered exercise of delegated rulemaking power, by assessing a higher number of cases.

Another limitation that I learned after the execution of the study is the challenge and difficulty to assess the Ethiopian situation based on the legal and theoretical frameworks. For unclear reasons, the participants mentioned that lack of courage to exercise power in the Ethiopian parliament is a contributing factor to the quality of the study. Participants have both the knowledge and the willingness but have no encouraging circumstances to deliver.

The third limitation which was not considered in the design was that the study is limited to political control or oversight mechanisms of rules. However, there are other oversight mechanisms, such as judiciary reviews, cabinet reviews. The cabinet can review the directive making by the agencies and other administrative and political review mechanism, which were not addressed in this study. Therefore, to have a full picture of the Ethiopian legislative oversight issues, there needs to be further study addressing all mechanism.

Recommendations

Based on the literature reviewed and the findings from the data, I am convinced that there is a need for more understandings of the situation on the following three issues. For the country to be democratic, improving the rule of law and accountability of the administrative authorities is essential. In the finding, I have not come across anyone held

accountable for their inappropriate application of delegated rulemaking power. However, for the issue to be more understood, further research should be conducted on why are the parliamentarians lacking the courage to use their constitutional power? Why do they want to remain loyal to their party than the constitutional? What is the real thing that they fear? Dependency might be one issue, but I suspect it might be part of our culture, which evolved through time. In our long history, as discussed in chapter one, the sources of all laws were the kings, and later in the communist regime the party chairman. My understanding is that such a culture might influence the parliamentarians, but it needs further study.

My second recommendation for further study is about the directives that are formulated by public agencies. Unlike the regulations enacted by the cabinet, the parliament does not have any legal, institutional or other platforms to control the legality and compliance of the directives. There is no system in place to find out how many of the directives contradict the mother legislation and the constitution and there is no record on how many directives are enacted so far. Therefore, I recommend further study on rules mainly directives that are enacted by every federal agency and the possible contradiction with the establishment of the constitutional and legislative system.

The third recommendation is that the federal state design clears legislative delegation mechanisms. Since regional states are where most of the citizens reside, the design will give a full picture of the Ethiopian delegated legislative power and the control there off. I recommend similar studies at the regional level.

Implications

Ethiopians have been pursuing a democratic system where there is the rule of law not the rules of men. At the moment of conducting this research, Ethiopia was passing through a web of changes. The prevalent concern of citizens, as shown in many writings and messages through the media, was about the rule of law, accountability of officials and the government as a whole. If power is not controlled, even favorable change can turn into a disaster. One of the areas where controlling is essential is rulemaking because uncontrolled rulemaking enables agencies to act irresponsibly in the name of the rules. One of the participants stated that the bureaucratic language in Ethiopia is “according to directives, not according to the law.” This implied that agency directives are more respected than the legislation because agency directives remain to be principles of operation.

Controlling the rulemaking process and holding those who violate the rules responsibly is the way of enhancing and maintain our democracy because without limited and controlled power there is no democracy. Moreover, without democracy there no positive social change. So I firmly believe that the findings will help create understanding particularly in the lawmaking organ and the government as a whole. Thus, the study ’s implication for positive social change is very high. Though the study was conducted at the federal level; its implications are mostly applicable to the regional states’ rulemaking process.

Conclusion

The purpose of the study was to explore the kind of strategies would ensure an effective political controlled rulemaking in Ethiopia and expose any abuse of rulemaking power. The findings showed that both officials support legislative delegation and the legislative doctrine. Their view is consistent with the reviewed literature in the study. The officials have a clear stand on the issue of political control. The findings showed that control is critical to guarantee the integrity of the rule of law and accountability of the administrative authorities in the rulemaking process.

The findings implied that the officials have a consistent knowledge about the ex-ante, and ex- post control mechanism. However, in practice, there is no practice of any of these control mechanisms in place. It is paradoxes that while all participants are enthusiastic about the importance of control and setting control mechanism. There is no single controlling mechanism in place (except the unpracticed 3 months' time lime on the internal working procedures of the parliament). The significant implication is the parliaments have no capacity (political) and courage to exercise their constitutional power.

The findings implied that the parameters are not acting as principals but as agents of the executive branch, while the executive branch and its authorities are working as principals in the studied scope. The study brought a sensitive issue, which is believed to be untouchable by most of the participants. I firmly believe that this is the primary success of the study, which I trust is a significant contribution triggering a revision of the current practice.

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Appendix A: Interview Protocol Form and Questionnaire

Project: Political Control and Accountability in the Ethiopian Rulemaking

Academic Institutions: Walden University

Sponsoring: Organization: INSA

Date: To be decided

Time: To be decided

Duration: About 45 minutes

Location: To be decided

Interviewer: Esayas Araya

Interviewee: Honorable Member of Parliament / Appointed official

Bridging

Before I start interviewing, I want to thank and appreciate your participation in the study.

The purpose of the meeting is to conduct an interview session to address your experiences on the issue of political control of administrative agencies to exercise power to make rules and oversight the application of the power in rulemaking As a legislator / or government official. The interview is expected to last about 1 hour. Before we begin,

1. Please note that this interview is to be audio recorded for use as data for coding and analysis,
2. The treatment of your answers and your identity confidential
3. The study will not report on individual participation, and you may withdraw at any time.

Thus, the purpose of this study will be eliciting the possibility of non-compliance in the application of delegated legislative power and preventive mechanisms in the Ethiopian context.

Semi-Structured Interview Questionnaire

Section B: Introductory Questions

1. I understand your role in parliament is Or As a government official:_____
- What are the additional roles you have been playing in the parliament, roles such standing committee chair or any ad hoc committee, or in the executive offices?

Section B: About the Importance of Delegating Legislative Power

2. What is your conception of the importance of authorization of executive organs to make rules?
3. Would you explain why the delegation of power could be useful regarding good governance, efficiency, and effectiveness in the public service delivery?
4. What do you think should the extent of delegating legislative power to be?

Section C: Doctrine of legislative Delegation of Legislative Oversight

5. What do legislative control mechanism you think is recommendable? Alternatively, already in place?
6. How autonomous should you think the public bodies be in the exercise of their delegated power?
7. How do you think political control could be necessary for the exercise of delegated power?

Section D: Political Control and registration of vital events and national identity card proclamation number, 760/ 2012(Particular Chapter three of the legislation)

8. Tell me about any debate and justification about chapter three of the legislation in your memory
9. Please explain the purpose of delegating to the non-existing organ as mentioned in article 69(2) as an appropriate *federal organ*? Moreover, why was not mandatory for the cabinet to establish the appropriate organ?
10. Though, the legislation said, the national program will be operational within two years, (until 2014) where it is now?
11. How do you explain the delegation doctrine and legislative oversight mechanism in lights of the operationalization of the identity card policy and its status?
12. Tell me about any ongoing activity or plan for the national identity card program?

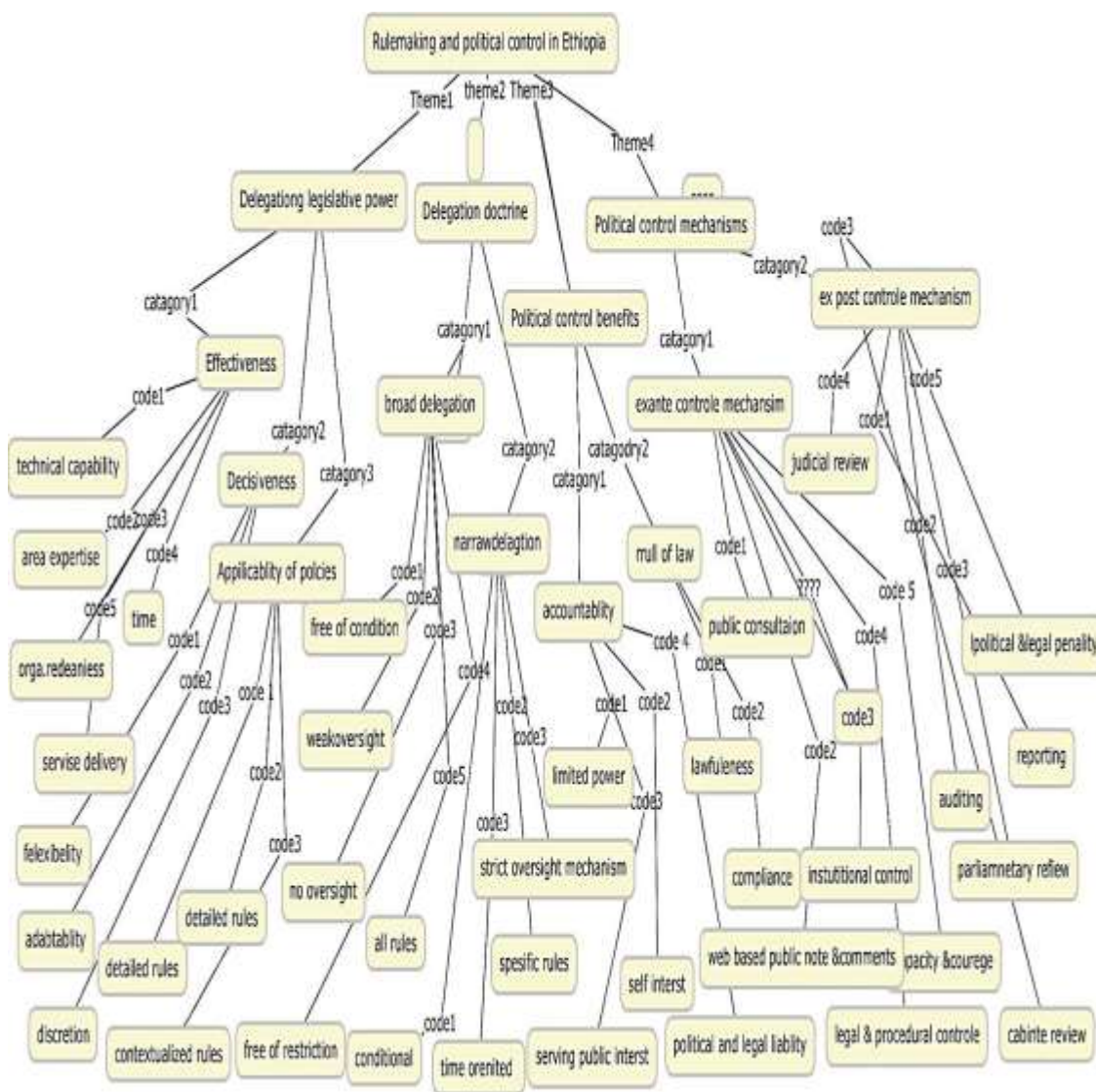
Section E: Exit

Would you like to add anything else? I will be happily ready to listen.

Closure

- Thank you, again for your participation.
- I want to reassure- you that I will keep the confidentiality of the data and your identity.
- I would like you to have an opportunity to review the interview after I transcribe it. May I have your email for that purpose only?
 - Declined _____
 - Email _____

Appendix B: Relationship between Theme, Category, and Codes



Appendix C: Examples of Delegation Clauses

No.	Proclamation No.	Purpose of the legislation	Delegation clause	Condition/restriction
1	804/2013 National Intelligence and Security Service Reestablishment Proclamation	To protect and safeguard the national security of the country	1. "The Council of Ministers may Issue regulations necessary for the implementation of this Proclamation. 2. "The Service may issue directives necessary for the implementation of this Proclamation and regulations issued pursuant to sub-article (1) of this Article."	No condition
2	No.760/2012 Registration of Vital Events and National Identity Card Proclamation.	1.Introduce uniform national identity card 2. Introduces vital events registration	1. "The Council of Ministers may issue regulation necessary for the implementation of this Proclamation". 2. "The appropriate federal organ may issue directives necessary for	No condition or restriction

		the implementation of this Proclamation and regulation issued in accordance with sub-article (1) of this Article.”	
3	Establishment Proclamation No. 943/2016 Federal Attorney General Establishment Proclamation	1. “The Council of Ministers may issue regulations necessary to enforce this Proclamation.” 2. The Federal Attorney General may issue directives necessary for the enforcement of this Proclamation and regulations issued pursuant to sub-article (1) of this Proclamation.”	No condition or restriction
4	Proclamation NO.1048/2017 Railway Transport Administration Proclamation	The Council of Ministers shall issue Regulations necessary for the implementation of this Proclamation: 2/ The Ministry shall issue directives for the implementation of this Proclamation and regulations issued pursuant to sub-article (1) of this Article.	No condition or restriction

Appendix D: Samples of Unimplemented Delegation (Taken From a Study by Attorney
General)

No.	Issue number and year of publication	Delegated authority	Type of law to be enacted	Status of the regulation or directive	Accountability reported
1.	Labor 377/ 2003	The council of ministers The minister of Labor and social affairs	Council regulations (at least one regulation Ministry directive (directives on 5 or 5 issues	No regulation (15 years_ Not all directives	No
2	proclamation number, 760/ 2012	Council of ministers Appropriate organ (to be established	Regulation Directives	None	No
	Proclamation number 841/2015	Council of ministers ministry of water, electric city, and irrigation	Regulation directives	Neither of them	No

	Proclamation no. 804/2013 a proclamation to reestablish the national intelligence and security service		Regulation Directive	No regulation Not sure	No,
4	Foreign Service Proclamation, No. 790/2013.	Council of ministers ministry of foreign affairs	regulation directives (about five)	No directives No regulation	no