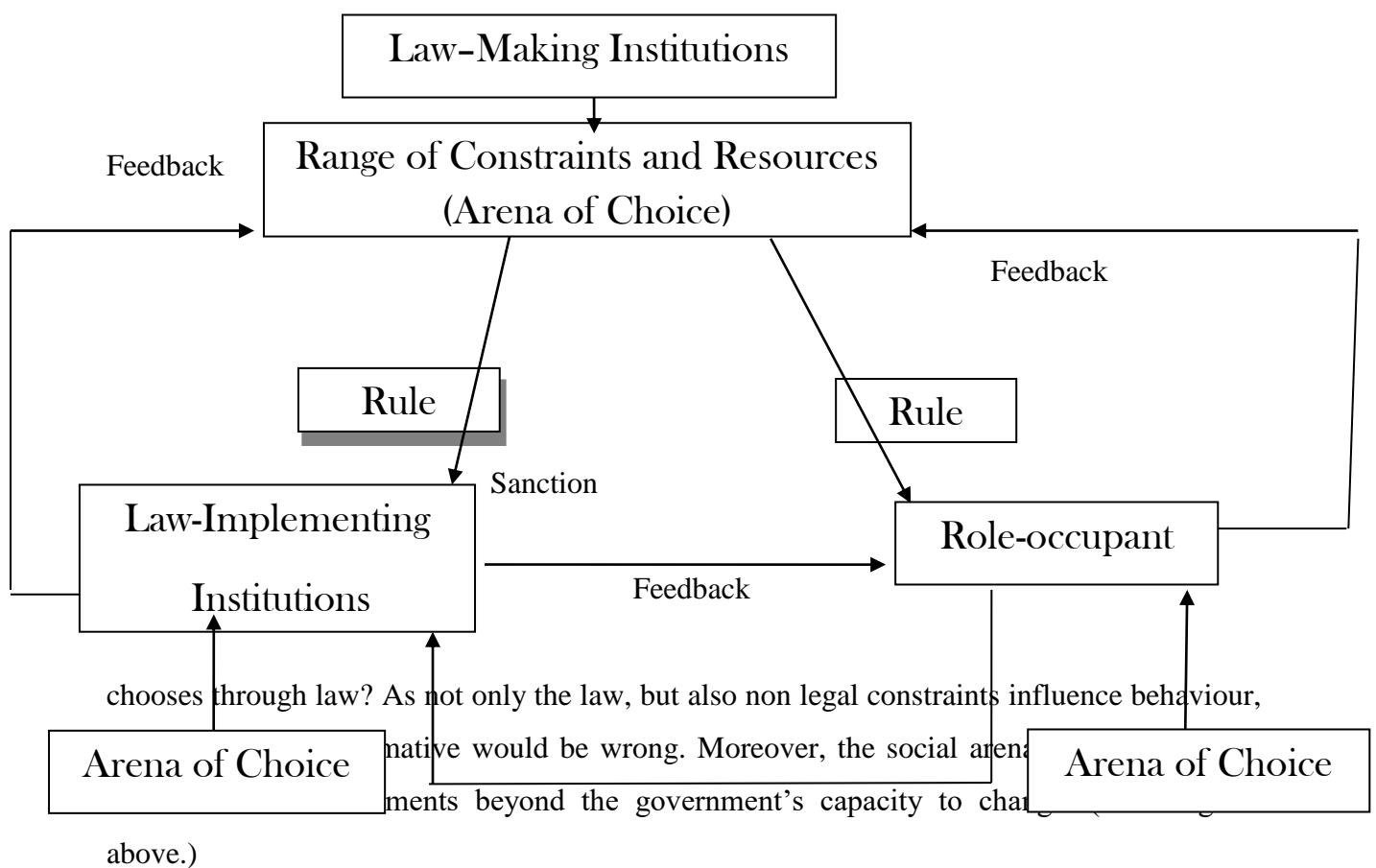


Chapter VI: Basic Structure of Legislation

Section I. Theory and Techniques of Drafting¹

Laws prescribe behaviours that change individual as well as institutional behaviours. Currently, “the Law” seems to have not yet triggered developmental processes. That signals that problems inherent in the law-making system exist. For one, drafters frequently draft laws that fail to bring about institutional changes.

Though a number of such examples can be mentioned, it is appropriate to address another concern of the public. Can a government change behaviours it



¹ Ann Sedman, Op.cit., note no. 22, p. 17.

This part deals with practices useful in drafting draft-law or legislations from policies by conducting his/her researches (refer to Part II). First make artificial separation of form and substance in writing a *Research Report*. Formulating the substance simplifies choosing the form in which and how to write it. Secondly, this part aims at providing readers with sufficient knowledge of drafting techniques to enable them to participate competently not only in assessing, but also in actually drafting such documents.

Hence, an approach to the problem of legislative form rests on the following two propositions:

- a. That substance has inextricable link with form; and
- b. That the primary criterion for assessing alternative forms for a draft and its several components consists, primarily, in its usability.

Nobody disputes that form ought to follow substance; however, substance also follows form. Likewise, proposition holds for every aspects of form; i.e. structure of statute, sentence structure, choice of vocabulary, syntax, grammar and punctuation.

In making choices over structure, i.e. a question of form, a drafter can not avoid making choices concerning primary, secondary and periphery objectives.

Most lawyers perceive the principal task of laws is declaring rights and duties. And thus, they direct their efforts to judges for deciding cases, and indirectly to lawyers, for advising clients.

6.1.1 **Architecture**²

The outline of a draft forms its structure. Because of this, the drafter wrestles with the successive parts of the text; i.e. designs its form, as part of the structure. Here, the drafter

² Id., pp. 207-210.

clearly discerns the substance of the issue at hand. This part offers a guideline for developing the details of a draft's substance.

Here, one has to relate the architecture of the draft to the larger problem. This helps see how an unsuitable outline may hinder implementation. Secondly, it explicates the relationship between a draft document's structure with that of a legislative theory.

Some might wonder: Why one should begin with outlining the form of a draft-document? Why not begin instead with constitutional or other aspects that cage the drafter's task? What is the necessity of using clear, precise language? One approach considers that the architecture of draft should come first, because the approach gives recognition to its close relationship to the larger issues to be addressed.

The focus on drafting documents as an instrument of development underscores that, at the heart of all effects, lies institutional transformation; that is, bringing about positive behavioural change. In this view, a draft-law should primarily be sent to judges and lawyers. To prove useful to them, it must accommodate their professional culture and vocabulary; complete with quirks and foibles.

In contrast, another theory holds an alternative view that in conditions of transformation, the principal aim of law is to change behaviours. To change behaviour requires that law reaches not only judges and lawyers, but all its addressees. For that purpose, the structure and language of a draft-document should facilitate its use by those whom it purports to address.

Perhaps no great harm will result if a drafter couches a draft concerning the procedure of Courts in a civil suit in a vocabulary and in a style familiar to be that of judges and lawyers. In writing a draft-law concerning local government, however, a drafter should employ a language that at least local government officials can easily comprehend.

A draft's form rests on the principle that a law influences behaviour most efficiently when its addressees understand it. That proposition underpins modern drafting practice which aims at achieving clarity and at facilitating understanding by the groups expected to use the law. However, that does not mean that drafts must be read as easily as a novel. Many drafts can

not avoid complex subjects. Sometimes, drafters can not help but organize and draft those drafts in a way that requires careful reading and re-reading.

Nevertheless, drafters must organize their drafts and draft them in a way the users will find it as easy as possible. So they should avoid structural discrepancies as these constitute a significant aspect of poor drafting which many drafters stumble into.

“Most lawyers are familiar with the function of an outline, and yet they underestimate its utilities and forget how hard it is to make a good one. Without an adequate outline, the bill will hardly serve its purposes.”

Structure of a *transformatory bill* frequently contributes towards its ineffectiveness:

- a. its organization dose not help its addressees to understand the law;
- b. it dose not contribute to the easy use of the law in daily practice; and
- c. it dose not serve to guide the drafter’s tasks of gathering the facts needed to demonstrate the likelihood that the bill will solve the problem addressed.

In a draft-document, no less than in others, structure carries the primary burden of demonstrating the writing’s underlying logic. The draft’s hierarchy of ideas must reflect its logic. It must show the inter-relationship between important and auxiliary concepts, and the rules that they generate. A well constructed draft makes it easier for users to understand how the various actors involved ought to interact.

Finally, early development of a tentative structure of the draft facilitates not only writing it, but the research required to justify it. Drafting needs concentrating once mind. Drafting pushes the drafter to consider details that even writing the first draft of the *Research Report* he/she might not have done. By focusing attention on the draft’s structure, the drafter can not avoid confronting issues of substance. Before dredging deeply into research, long before even beginning writing the *Report’s* solution section, the drafter has already developed some notion about the draft’s substantive issues. The process of structuring the *Report* again and again inevitably pressures the drafter to confront issues of decision about the draft’s substance. Then, the drafter begins to test the appropriateness of substantive possibilities; in other words, he/she begins to concretize ideas.

6.1.2 Interrelation of Theories and Structure³

A draft-law embodies a legislative scheme devised to address an identified problem in away that enhances good governance. This requires six sorts of normative prescriptions.

The first tells the *primary role occupants* a) what they must do, b) what they may do, or c) what they may not do. The second gives the same commands to the implementing agency prescribing the kinds of conformity, inducing measures, they may or must implement. The third prescribes the criteria and procedures the officials must use in deciding how to implement those measures. A fourth set of prescription gives a similar set of commands to officials involved in *dispute settlement* practice.

In addition, a complete legislative scheme requires two other, usually shorter, sets of prescriptions. *Technical provisions* instruct the respective *role occupants* of the legal system as to how to fit a new law into the body of the nation's legislation, and how to interpret it.

6.1.3 Principles of Ordering – Grouping⁴

Outlining a bill involves grouping and ordering its provisions. This section first defines these terms, and then discusses criteria for using them in a bill's outline

After this, drafters must decide where to group the bill's provisions. The process of sorting the provisions into parts, chapters or sections constitutes grouping. Grouping requires discerning which subordinate matters shall be put together under a given heading; i.e. which chapters belong in a particular part, what sections belong in a particular chapter, etc ...

For example, why should part I include the particular subject matters of chapter 1 and 2 and not some other subject matter? or Why in part I, consider Chapter 2? Or which of the bill's sections should the drafter locate under that chapter's heading?

³ Id., p. 210-211.

⁴ Id., pp. 215-216

A drafter might easily devise alternative principles of allocating several sections of a bill. Grouping pertains determining which sections to be placed in the same chapter, which chapters in the same part, and, in a large bill, which parts to be placed under the same title.

Ordering pertains sequencing; i.e. parts to be included within the titles, sequence of chapters within part(s), sections within chapters, and sub-sections within sections.

For example, part I might consist of three chapters: one dealing with the obligations, responsibilities of doctors under the law, the other with the obligations, .. of nurses, and the third referring to the obligations, responsibilities of the administrative/managerial staff that run, say, hospitals. The drafter must thoroughly think in which order they should appear in part I; the sequence by which particular sections come in each chapter.

On the other hand, conditions might necessitate that one or more regulations be devised to meet objective realities. For example, the following two regulations seem appropriate for, say, the health sector.

- 1) Public hospitals, no matter what the circumstance, should admit patients under emergency, requiring immediate treatment; and
- 2) Prohibiting regional public hospitals from admitting patients referred to district hospital by a local clinic.

By grouping and ordering a bill's parts, chapters and sections, drafters define that its architecture. Thus drafters should make their decisions as much as possible on principles they can articulate and justify on objective requirements.

Drafters may group objects or ideas in one of three principles:-

- 1) Looking for a *golden thread*;
- 2) Some notion of logical continuity ; or
- 3) The draft's usability to its users.

The Golden Thread⁵ Sometimes, drafters organize their draft-law by looking for a *golden thread* that runs through the various parts. For example, in hospitals, many people have contact with patients, doctors and nurses as well as secretaries, telephone operators, emergency room orderlies, clerks, bill collectors, pharmacists and cleaning staff as well as. A drafter might see *contact with patients* as the *golden thread* that ties them together, and group the draft's provisions on that basis. In practice, un-explicated biases in the drafter's own mind should not be allowed to shape the *golden thread*; it rather should be based on decision-making process grounded on reason, on information and on experience.

Abstract Logic⁶ Sometimes, drafters group a draft-law's provisions in terms of a preconceived principle or abstract. For example, it may seem *logical* to group together provisions concerning the duties of various institutions working in different offices. In that grouping the prescriptions concerning the people on the first category of agencies would appear in part I, the second, in part II, and so forth. However, the institutions so grouped should have rational differential.

Usability to the Bill's Prospective users⁷ Finally, some people consciously classify objects or ideas in terms of the classification's usability to those who use the classification:

- (a) a used clothing salesman may sort out a pile of used clothing in terms of the different sorts of markets in which he might sell them (warm clothes to markets in cold climates, for example);
- (b) the director of a home for the homeless, by the size of the garments and whether for men, women, children or adults;
- (c) a paper manufacturer, in terms of the clothing's utility for grinding into pulp to make rag-type papers;
- (d) a laundry operator, in terms of their colors and the likelihood of their bleaching or coloring other cloths in the washing machine.

⁵ Id., p. 217.

⁶ Ibid.

⁷ Id., p. 217-218.

In the same way, drafters might group and order their drafts' provisions according to their probable users' convenience.

For a drafter, which system of grouping and ordering seems more desirable? For both grouping and ordering decisions, the general criterion of *usability* to the law's users seems preferable than any other. Drafters generally should consider at least three different sets of users – some with markedly different requirements: a) the law's *primary role occupants*, b) its implementing officials, and c) its dispute-settlement officials.

Usability does not prescribe a unique grouping; it hardly amounts to more than a general guide to grouping and ordering decision. Attention should be given as to the ease with which a user can find a relevant part and understand the relationship between the behaviour that part commands, prohibits or permits and other behaviours within the domain of the draft-law. To help the readers to understand the draft's logic, a drafter should explicate the principles used for grouping as well as for ordering in the *Research Report*. Here, principles of ordering relates to hierarchy, whereas that of grouping pertains to the basis of creating the different categories of users.

The same principles – usability to the draft's primary addressees and the administrators – should govern the ordering of the groups' sequence. Too often, a drafter violates this rule by putting first the part that describe in detail the formation and structure of the implementing agency (the bodies, members, how chosen, what qualifications, the officers, etc), its internal operations (meetings, agendas, voting, quorums) and sometimes even provisions for the pay and reimbursement.⁸

Subject to overriding the command for considering the draft-law's probable user's needs, a few additional quid lines may prove useful in grouping a draft's provisions. The most significant ones are:

1. Order in terms of the general function first, followed by particular functions and exceptions.
2. Put provisions about permanent arrangements first, and transitional or temporary arrangements second.

⁸ Id., pp. 218-219.

3. Sometimes, it seems better to order in terms of time sequence. For example, according to the steps a person must take in creating a corporation or in applying for a mining license.

So long as drafters group and order according to articulated, defensible propositions, and explained in the *Research Reports*, they will rarely go wrong.

Grouping and ordering the items in the preliminary lists constitutes only the first approximation of the draft's architecture. As with all aspects of drafting, a drafter should never fall in love with his own draft outline. An outline, like every other aspect of a draft-law and *Research Report* becomes final only on the day the drafter submits it to the concerned officials. In the course of drafting and re-drafting, the drafter learns more about the kinds of detailed provisions to put in to the draft-law. In working back and forth between both documents, formulating new hypotheses and gathering new evidence, the drafter continually refines the draft's substantive provisions; constantly refines and improves their grouping and ordering. A drafter can never afford to view his draft as cast in concrete.

In structuring the draft-law, a drafter should simultaneously consider what to put into the part dealing with the technical aspects of the draft; identify which sections purport to help readers understand the draft's purposes, and where it fits into the existing body of law.

A draft-law invariably contains some essentially technical sections – usually in a *general* part or chapter at the beginning, and a *miscellaneous* one at the end, where those drafts vary from jurisdiction to jurisdiction.⁹

General provisions invariably come at the beginning of a draft-law; miscellaneous ones, at the end. Local practice determines their content. The general part or chapter at the beginning frequently includes.

- The short title;
- A general objectives' section;
- (Some times) an application (or general principles') section;

⁹ Id., p. 220.

- the general definition's section (as in some jurisdictions, depending up on the local convention).

The miscellaneous part or chapter at the end frequently includes;

- Consequential amendments;
- Saving clauses;
- Transitional provisions;
- The general definition's section (in some jurisdiction)
- The short title (in some jurisdiction) ; and
- The coming-into-force provision.

Schedules To simplify a draft-law's architecture, drafters sometimes append schedules at its end. This generally consists of lists or details of organizational structure. They comprise an essential part of the draft, and a drafter should use them.

The next section offers a default outline which, if used flexibly as a guide rather than a blue print, may help drafters to integrate detailed provisions into their draft's architecture.

6.1.4 A Default System for Ordering Bills¹⁰

Many bills fall comfortably into a structure that tracks legislative theory (figure.1). That structure serves as a useful default, or fall-back outline for grouping and ordering a bill's provisions. It consists of six parts (in a smaller bill, six parts).

- (1) A general part;
- (2) A part of law that prescribes a behavior to *primary role occupants*;
- (3) An implementation part that prescribes the behaviour to the *implanting agency*;
- (4) A part that sets sanctions, penalties or other conformity-inducing measures with regard to the prescribed behaviours;
- (5) A part for dispute-settlement;
- (6) A part for appropriation; i.e. a part ensuring resource allocation for the implementation of the bill's provisions, outlines the means, terms and conditions of resource utilization, ...
- (7) A miscellaneous part.

¹⁰ Id.,

The default outline groups its significant *operative section* in conformity to underlying legislative theory (figure1). The provisions of the law include the prescriptions and sanctions directed towards the *primary role occupants*, as well as towards the *implementation agency*. Because of its general utility, the rest of this section discusses the default system in some detail.

Section II. Compiling and Organizing: Top to Bottom

Structuring is a practical discussion on steps to be taken for developing a draft-law's outline. First and for most, there are facilitating parts such as Preambles, Definition and the like. The preamble reflects the policy. Usually it consists of goals to be attained, the reasons to enactment and the source of authority pursuant to which the enactment is made. One may start the drafting exercise by defining basic concept that had to be enshrined in the bill, as well one can put the head title, for this to, in a way determine the scope of the bill. To avoid redundancy and the like, you may have to define some terms and phrases, that better be done at the final stage of the exercise. Then try to locate and designate first the Parts (Title), if it is a large bill, continue to arrange chapters for the respective Parts. You may put your major sections which would be further developed. This is a way of generating a list of the subject matters of the draft-law's sections; describes good practice in grouping and ordering those elements according to stated principles, and discusses the appropriate location of the auxiliary section (general principle's, definitional clauses and short titles), and, if that particular legislation requires it, the dispute-settlement provisions.

A draft-law's outline follow the form typically used for all outlines; a sequence of points identified by either numbers or figures forming a list containing within it varying levels of sub-lists. While all drafts everywhere follow this typical outline in form, different jurisdiction drafting conventions give the various levels in the outline different names. Drafters should learn properly to confirm to the local practice¹¹.

¹¹ Id., p. 212-214.

Title Some jurisdictions have codified their laws. These jurisdictions publish their statutes not merely in the order of the dates on which the appropriate authority promulgated the statutes, but in a single giant compilation into which the law-makers slot each new law. Instead of “codification”, some jurisdictions denote this process “consolidation”. Other jurisdictions, e.g. Sri-Lanka, use the word “consolidate” to indicate the process of putting into a single, concrete law the original legislation and its subsequent amendments, frequently scattered in annual volumes of the laws over a long period. Jurisdictions with a system of consolidated laws frequently use the label *title* to cover all the laws concerning a particular subject like *Education, Transportation, ...* Most jurisdictions do not employ the word *title* to make a division within a single law.

The approach employed in the preparation of *Consolidated Laws of Ethiopia*, which is a better way of arrangement, was in two volumes and much alike with that of Sri-Lanka.¹²

Parts Conventionally, the parts constitute a law’s largest divisions, the major heading that takes a roman numeral (‘I’ or ‘II’). Invariably drafters number a law’s parts consecutively, while some authorities do so only if that section could stand alone as a separate law. Such a dogmatic position seems unwarranted. Surely drafters should use whatever sub-divisions make the laws easier to read and use. If drafters find they have used a large number of parts in a law, each one of which might well stand alone, they probably should consider resolving too many diverse problems.

Chapters To designate the grouping of sections within each part, some jurisdiction use *chapter* while others use *divisions* most jurisdiction number chapters (Dr. Division) consecutively throughout a draft-law. Regardless of the part in which they appear, a few begin each part in a new chapter. Many simple draft-laws contain no level higher than chapters and some, no level higher than sections.

Sections Most jurisdiction use the word *section* to designate the law’s basic building blocks, while a few use articles instead. Whether its name is *section* or *article*, it should contain only

¹² Faculty of Law, H.S.I.U., Consolidated Laws of Ethiopia, Vol. I, II and Supplement, (Artistic Printers Ltd., Addis Ababa, 1972, and 1975 for the Supplement).

a single legislative concept. That is its essential feature underlying the section's/article's function as a draft-law's basic building block.

Well before completing the *Research Report*, drafters should begin to write down their ideas about the bill, usually as a list of its main points. That list will contain a series of direct statements – usually not complete sentences, sometimes no more than a phrase – each holding the germ of an idea that the drafters think might go in to the bill. Those brief statements will become the basis for the bill's sections – its basic building blocks. Making the list will give drafters more ideas. Before long, they will start plundering about how most logically to group the various sections in light of the need to make the bills from as useful as possible to its users. Then, they can begin writing the bill's outline. In doing so, they will get ideas, not only about the bill's structure, but also about its substantive content.

What ought to go into a bill? Where to derive those ideas from?

As mentioned earlier, *statute* and *regulation* contain six different sorts of norms; each, usually, in separate section or subsection.

- Addressing *primary role occupants*,
- Addressing *implementing agencies*,
- Discerning and addressing *technical* matters,
- Prescribing conformity; i.e. inducing measures like *sanctions* ...
- Prescribing dispute-settlement systems.
- Stating funding provisions if formidable and appropriate.

That list provides a convenient preliminary check list, telling drafters to make their minds to each sort of provisions; make up of their minds as to what the final bill ought to include.

Section III. The Enacting Part¹³

The *law part* relates to what we have earlier attempted to show under *jural relation; means of achieving legal ends; location of legal relationship; principles, doctrines and standards/rules*.

¹³ Id., p. 222-224.

The *law part* contains prescriptions addressed to *primary role occupants*, while the *implementation part* contains prescriptions addressed to *actors* to be assigned in the implementation process. In many bills this distinction causes little difficulty. Usually, the necessary implementation, funding and even most of the auxiliary provisions appear in other laws.

In bills aimed at transforming institutions, devising the *implementation part* is more difficult, as that part of the bill aims not only at changing the *primary role occupants*' behaviours, but also that of the *implementing agency*, which may as well include ensuring, enhancing of a behaviour of an existing agency, or establishing a new one. At times, changing behaviour might include that of an agency's official(s) – they, seen as *primary role occupants*.

Where the introduced new rules are directed towards the *implementing agencies*, a difficult case for using the default outline to order and group a bill's provisions arises.

Which groups of people constitute *primary role occupants*?

Within the state bureaucracy, low-ranking functionaries (employees with negligible *power*) might as well be considered as *primary role occupants*; like, for example, teachers in the Ministry of Education, or nurses and medical assistants in hospitals, etc ...

An even more difficult case arises when the *difficulty's section* of the *Research Report* identifies as problematic the behaviors of only senior agency officials. So, a bill should address all the actors; both *primary role-occupants* and the *implementing agency*. The provisions of the law's parts, then, should also prescribe them formidable behaviours.

When that is included, it may appear difficult to identify an authority [to whom could be relegated the necessary *state power*] that implements the appropriate rules over the officials as well as over those *implementing agencies* [here, an agency is considered as a body by its own] not in line with the prescribed, formidable behaviours.

It seems that this difficulty reoccurs as the insurmountable problematic factor in writing the *difficulty section*, on the basis of which agencies' problematic behaviours are reflected,

formidable behaviours devised and, ultimately, an authority responsible for monitoring and enforcing the rules is identified and empowered.

Long ago, the great Roman orator Cicero asked who will guard the guardians. The default outline requires a drafter ask the same question: who will enforce the bill's new rules which aim to change the implementers' problematic behaviors? In the same manner, a default outline forces the drafter to confront the question: Who will implement the new law?

That officials' behaviours may contribute to the difficulty suggests that whatever the desired goal may be, it might not become successful, as long as no guardian guards the guardians. This instructs the drafter that his/her bill's principal function may well consist of prescribing an agency to hold *implementing agency* officials accountable. Once again, form helps to shape content.

Section IV. The Implementation Part in Particular¹⁴

A bill's *implementation part* should contain the prescriptions addressed, primarily, to the *agency*, to which is directed the responsibility for implementing the measures designed to induce *primary role occupants* to conform to the prescribed norms of the law. The provisions of the *implementation part* should specify the agency's many responsibilities, including those which relate to the agency's directors or management personnel, by articulately expressing:

- how and by whose nomination, appointment is carried out, what are the requirements like qualification, .. to be met for each, major office, post;
- length of terms of office service relevant for ensuring continuity, acceptable reasons for termination of office service like for example reasons of physical impairment, misconduct;
- the powers and duties of *role occupants* and other employees (both to enforce the rules detailed in the law part and keep the agency itself functioning; eg to hire and fire personnel, to own and dispose the *agency's* property, to sue and be sued, etc ..);
- requirements for holding meetings (i.e. permissible meetings, agendas for addressing the changes in *agencies*);

¹⁴ Id., pp. 225-226.

- procedures at meeting (quorum; voting procedures; open or closed sessions; who has standing to be heard);
- power, duties and procedures for dealing with disputes.

N.B

To all these, drafters should identify and list its various elements, unless covered by others.

Legislation, a complex bill, is likely to prescribe behaviour to *primary role occupants*; how the responsible agency officials should implement conformity-inducing measures, sanctions; how to implement dispute-settlement, undertake miscellaneous measures.

Keeping all these elements in mind, drafters should group and order their bills' provisions; including the technical sections, according to specified principles. The chapter's default outline may help them in structuring. In some cases, however, drafters will undoubtedly need to organize the parts and sections in ways more suitable to their bill's particular subject matter.

In designing each bill's architecture, drafters should always consider the structure's usability to those who must follow its prescriptions as well as those who must interpret them to settle disputes (about disciplinary measures directed at agency employees; appeals by citizens against agency officials' rulings).

The *implementation part* should include the provisions describing the roundabout measures the agency may employ to induce primary role occupants' conformity with the *law part's* provisions.

Sanctions' Part¹⁵ As the principal conformity-inducing measure for *transformatory bills*, penal sanctions rarely seem appropriate. Most bills, however, necessarily contain some provisions for penal sanctions or civil liability for violation of specific duties imposed by an Act; especially when a perverse incentive appears as a significant cause of violation. (For example, many Acts, otherwise devoid of criminal provisions, contain provisions making it a crime to give false information in connection with the Act to the *implementing agency*.)

¹⁵ Id., p. 227

In development, most non-conforming behaviours arise for reasons other than perverse incentives or ideologies (like for example, lack of capacity or opportunity). Especially in a *transformatory bill*, penal sanctions to change non-conforming behaviours rarely serve to redirect problematic behaviours.

Proposition 1.

See Structural set-up of the 1st, 4 Parts of Labour Law Proclamation No. 377/003 is shown below:

Preamble

Part 1. General

Art. 1.1 Short Title

Art. 1.2 Definitions

Art. 1.3 Scope of Application

Part 2. Employment Relation

Ch. 2.1 Contract of Employment

2.1.1 Formation of Contract of Employment

2.1.2 Duration

2.1.3 Obligation of the Parties

2.1.5 Temporary Suspension of Rights and Obligations

Ch. 2.2 Termination of Employment

S. 2.2.1 Termination of Contract of Employment by Law or Agreement

S. 2.2.2 Termination of Contract at the Request of Parties

S.S 2.2.2.1 Termination of Contract by the Employer

S.S 2.2.2.2 Termination Contract by the Worker

Ch. 2.3 Common Provisions with Respect to Termination of Contract of Employment

S. 2.3.1 Notice to Terminate a Contract of Employment

S. 2.3.2 Payment of Wages and other Payments on

S. 2.3.3 Severance Pay and Compensation

S. 2.3.4 Effects of Unlawful Termination

Ch. 2.4 Special Contract

S.2.4.1 Hours' Work Contract

S.2.4.2 Contract of Apprenticeship

Part 3. Wages

Ch. 3.1 Determination of Wages

Ch. 3.2 Mode and Execution of Payment

Part 4 Hours of Work, Weekly Rest and Public Holidays

Ch. 4.1 House of Work

S. 4.1.1 Normal Hours of Work

S. 4.1.2 Overtime

Ch. 4.2 Weekly Rest

Ch. 4.3 Public Holidays

Part 5- 12

Questions

1. Insert the titles of provision in each chapter or section, as the case may be, then observe:
 - 1.1 The largest unit is what is designated as “Part” and the smallest is “Article” along with its sub- articles
 - 1.2 Part one consists of Articles only, whereas 2 of Part two consists of Sub-Sections, whereas Chapters 2 and 3 of Part four has no Section. Do you take this a logical arrangement? Why? Why not
2. Continue making similar structure from Part 5-12 of the Proclamation, then again ask yourself same question.
3. Read the Preamble
 - 1st Paragraph --- to bring about industrial harmony and all-round development,
 - 2nd - to actualize the right of association
 - 3rd - to determine the powers and liabilities of government agency
 - 4th -to meet the Ethiopian socioeconomic conditions and international standards
4. Are these the crux of the Preamble? Are they attainable by the scheme of arrangement you abstracted from the Proclamation?

Proposition 2.

You are a legal advisor in the Prime Minister office. You found a memo from his excellence that he is thinking of establishing a “Drug Authority”, and that he has assigned you sketch outline, which should a direction for future research, and legislation.

Let us give you a rudimentary outline, form which you will come up with your own drafter after answering the questions you find at the end of the said draft.

Art 1. A. The title of the establishing legislation

B. The preamble

Art 2. The Definition

a) Illustration

Drug- an article for use in

a) Diagnosis

b) Cure

c) Mitigation

d) Prevention

- Natural or synthetic(psychotropic) material-depressant or relevant
- Nourishing material, vitamins, baby food
- Hygienic materials like soap, tooth paste etc
- Cosmetics

b) All words that have to be defined may not be discovered at the beginning stage of drafting. You better gather them later on.

3. The Object of the Law

3.1. Drugs for human use?

3.2. “ “ animals –farm? – wild? Pet?

3.3. “ “ Plants garden? wild?

3.4 pesticide

4. Lesson to be learnt

4.1. a) how does international instruments discriminate one form another

b. look at our drug Administration law

c. Take the law of any other state, say India

4.2. Which government agency has control over this sphere of activity?

a) Ministry of Health

b) “ “Agriculture

c) how about

- Custom office
- Standard authority
- Institute of nutrition

5. The powers of the Agency- in matters of:

5.1. Importation

5.2. Production

5.3. Distribution

5.4. how about traditional medicine?

5.2. Control

5.2.1. Should the authority have its own laboratory

5.2.2. how auditing should be done

5.2.3. Entrance without warrant?. (in case of surprise visit)

5.2.4. The obligation to declare on the par of business

5.2.5. Who should have the power of licensing and revoking?

6. Measure

6.1. Administrative

- Fine, warning etc
- Seizure and confiscation
- Revocation of permit

6.2. Penal

- Should the Authority have its own specialized prosecutor
- How about investigation-by police? Special police
- How about courts

Regular?

Special court?

7. Status of Previous laws

7.1. should they be Amendment

7.2. Transitory

7.3 Hule in Heydon's case:

- What was the law before the making of the Act?
- What was the mischief and defect for which the law did not provide?
- What remedy the parliament would choose to cure the disease, so as to come up with a new solution?

(What are to be included and what to be excluded from the ambit of the law.)

8. How much power should the authority be given?

- In matters of implementation/ enforcement,
- Regulation and adjudication

