DELEGATION OF LEGISLATIVE POWERS TO EXECUTIVE: A COMPARATIVE ANALYSIS OF INDIAN AND UNITED STATES LAW

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ABSTRACT

Delegated legislation, is the legislation made by an authority subordinate to the superior authority, namely, the legislature. A portion of law-making power of the legislature is conferred or bestowed upon a subordinate authority. With the growth of the administrative process in the 20th Century, administrative rule-making or delegated legislation has assumed tremendous proportions and importance. Today the bulk of the law which governs people comes not from the legislature but from the chambers of administrators. The main objective of this Article is to clearly understand the comparative cases of India and U.S related to delegation of legislative powers by legislature to executive and to know the procedure and safeguards regarding control of delegation of legislative powers in both the countries. To understand a comparative case of India and U.S related to delegation of legislative powers it is necessary to know the meaning and constitutional position of delegated legislation in both the countries.


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INTRODUCTION

Delegated Legislation’ means the exercise of legislative power by an agency which is subordinate to the legislature. Delegated legislation is, referred to as “Ancillary”, “Subordinate”, Administrative Legislation or as Quasi-Legislation”. Delegated legislation is a technique to relieve pressure on legislature’s time so that it can concentrate on principles and formulation of policies. A statute may be inexact, incomplete and may even be misleading unless it is read with the delegated legislation made there under. The legislature shares the legislative power with the Executive and other administrative organs of the state. Delegated legislation is generally expressed as statutory rules and orders, but expressions like regulations, notifications, bye-laws, schemes, directions etc. are also employed in the same context.

The term delegated legislation is difficult to define. Even if defined it is equally difficult to determine with certainty the scope of such delegated legislation. The committee on Minister’s power1 in England has pointed out that the expression ‘delegated legislation’ is used in two senses. In one sense delegated legislation means the exercise of the power of rule making, delegated to the executive by the legislature. In the second sense, it means the

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1 A committee appointed in England in the year 1929 to examine the growing powers of the administration and to a report on the constitutional validity of delegated legislation. It submitted its report in 1932.
output of the exercise of that power, viz., rules, regulations, orders, ordinances, etc. The expression is used here in both the senses. Where the emphasis is on the limits of constitutionality of exercise of such power, the term is used in the first sense; where the emphasis is on the output of concrete rules the term is employed in the second sense.

**Position of Delegated Legislation in India**

Articles 245 and 246 of the Constitution provide that the legislative powers shall be exercised by the Parliament and State legislature. The delegation of legislative power was conceived to be inevitable and therefore it was not prohibited in the constitution. There is nothing in the Constitution from which it can be inferred that the Legislature cannot delegate its legislative power to anybody else. But it does not mean that power of legislation includes the power of delegation. In the Indian Constitution there are several provisions which empower Executive heads, *i.e.*, the President and the Governors of the different states to make laws under certain conditions. For instance, when the Parliament or State Legislatures are not in session the President and Governors make ordinances. During the President’s rule in any State, the Executive has been authorized to make laws for the state. It is clear from these provisions that it was not the intention of constitution makers that the legislative functions should be carried out by the Legislatures only. Further, Article 13(3)(a) of the Constitution of India lays down that law includes any ordinances, order, bylaw, rule regulation, notification, etc. which if found in violation of fundamental rights, mentioned in chapter III, would be void. It is well settled that the rules, regulations, bye laws, etc., are not made by the Legislature but by the agencies other than the Legislature, namely, the Executive and local bodies, under the delegated authority. Besides, there are a number of judicial pronouncements where in the courts have justified delegated legislation such as in *re Delhi Laws Act case*, *Vasantlal Magan Bhair. State of Bombay*, *S. Avtar Singh v. State of Jammu and Kashmir*, etc.

So, the delegation was held to be valid except with repealing and modification of legislative power. While commenting on indispensability of delegated legislation Justice Krishna Iyer has rightly observed in the case of Arvinder Singh v. State of Punjab, that the complexities of modern administration are so bafflingly intricate and bristle with details, urgencies, difficulties and need for flexibility that our massive legislature may not get off to a start if they must directly and comprehensively handle legislative business in their plentitude, proliferation and particularization Delegation of some part of legislative power becomes a compulsive necessity for viability.

**Position of Delegated Legislation in U.S.A**

The text of United States Constitution contains no reference to delegation of legislative powers by legislature to executive. American Constitution distributed the powers of Government into three distinct and separate departments i.e. legislative, executive and Judicial. The separation was not merely a matter of convenience but its object was basic and vital, namely, to prevent the concentration of powers of Government in the same hands. It was also said that the Legislature was an agent of the people and therefore legislature is under a disability to delegate power entrusted to it to another body.

The framers of the American Constitution were imbued with the political theories propagated by John Locke and Montesquieu. According to Locke "the legislature cannot transfer law making power to anybody else, or place it anywhere

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2 AIR 1951 Supreme Court 332  
3 AIR 1961 SC 4  
4 AIR 1977 J&K 4  
5 AIR 1979 SC 321
but where the people have.” He further stated that there should be a separate legislature and executive because if the same person has the power to make laws and to execute them, then they may exempt themselves from the laws they make and use the law to their own private advantage. Montesquieu also developed the doctrine of separation of powers. According to Montesquieu one person or body of persons should not exercise all the three types of powers of government, namely, executive, legislative and judicial. The legislature should make law and should not administer or enforce it. The executive should not take over the functions of legislature or judiciary. The judiciary should be independent both of the executive and legislature. In America all the legislative powers are vested in the Congress which is consisted of Senate and House of Representatives. The executive power is vested in a President of the United States of America. The judicial power of the United States is vested in one Supreme Court and in such other inferior courts as the Congress may, from time to time, ordain and establish.

Due to the adoption of the doctrine of separation of powers by United States legislative powers have to be exercised by the Congress and it cannot be delegated to any other organ of the government. Further, it is argued that since Congress was a delegate, it could not further delegate its power. The legislative powers are delegated to Congress by American constitution so it cannot further delegate its power to executive and judiciary. All the organs of government are required to exercise their own powers and perform their own functions. The main function of legislature is to make law and but not to execute or enforce the law. On the other hand the main task of executive is to administer or execute the law and not to take over the functions of legislature or judiciary. The judiciary should be independent both of the executive and legislature. The Supreme Court of America also observed in Field v. Clarke, “that powers entrusted to one department should be exercised exclusively by that department without encroaching upon the powers of another.”

But in some other cases Supreme Court of America observed that non essential legislative powers such as rule making powers or quasi legislative powers can be delegated by legislature to executive. For the purpose of delegation of non essential powers by legislature to executive the Supreme Court of United States has made a distinction between essential legislative powers and non-essential powers. It was held that the essential legislative powers cannot be delegated and the non essential legislative powers such as making of rules, bye rules and bye laws by administrative authorities can be delegated. In Panama Refining Co. v. Rayans, the supreme court of the United States has held that the Congress can delegate only non essential legislative powers to the Executive subject to the condition that it lays down the policies and establishes standards while leaving to the administrative authorities the making of subordinate rules within the prescribed limits. In Wagman v. Southard the observations of Marshall C.J. that the line had not been exactly drawn between those subjects which were important and therefore, must be entirely regulated by the Legislature itself and those which were of less interest and were, after general provision being made given to others to fill up the details. A distinction was, however, made between the essential legislative powers and subsidiary to fill up the details, or to determine facts to carry out the declared policies of the legislature. Delegation of the former was taken as forbidden but that of the latter was held permissible.

References:
6 John Locke, in his Civil Government, article 141
7 Montesquieu in his Esprit Des Lois
8 Article 1, section 1 of American Constitution
9 Article 2, section 1 of American Constitution
10 Article 3, section 1 of American Constitution
11 143 US 656, 692 (1892); see also United States v. Shreveport Grain and Elevator Co; U.S. 77,85 (1932)
13 293 U.S. 388 (1935)
Thus from above observations of American Supreme Court it can be said that pure legislative powers cannot be delegated by Congress to any other organ of government. But quasi legislative powers and administrative powers can be delegated to administrative officers and regulatory commissions. In U.S. v. Grimana, the court held that a complete denial of delegation of legislative power by congress would be to stop the wheels of Government. In the entire constitutional history of American Supreme court the Congressional delegation was held invalid only in three cases, e.g., Carter v. Carter Coal Co., Panama Refinery Co. v. Rayans, Schescheter Poultry Corporation v. United States.

So on the whole in United States of America the doctrine of delegated legislation has not been accepted in principle but in practice the legislature has entrusted legislative powers to the executive. On the other hand in India delegated legislation met with a rapid growth after World War II and during 1973 to 1977. Thus due to radical changes in the philosophy as to role to be played by the state, their functions have increased and some legislative powers are delegated by legislature to executive. Consequently, delegated legislation has become essential and inevitable in both India and U.S.A.

Safeguards Regarding Control of Delegated Legislation in India and America

The practice of delegated legislation today is now well-established. It is regarded as inevitable. But it does not imply that the executive and its rule making may be exercised arbitrarily. In order to ensure that the power of delegated legislation is not misused, it has been subjected to three-fold controls. These modes of control may be classified into Procedural, Parliamentary and Judicial control.

Procedural Control

It is not possible for the Parliament to exercise effective control over delegated legislation. Therefore certain procedural safeguards have been provided which are relevant to keep constant watch over the exercise of this power by the administrative authorities. The methods of procedural control can be studied under the following heads.

Prior Consultation of Interests Likely to be Affected by Proposed Delegated Legislation

In the United States the practice of prior consultations of the affected interests is very much common. The Administrative Procedure Act requires the rule making authority to consult the interest likely to be affected. The interested persons are given an opportunity by the agency concerned to submit their representations within prescribed time. There are various Acts in America which provide not only consultation of interested bodies but also the consultation of certain advisory bodies which are formulated for such purposes. In America consultation of interests has tended to become a regular feature of the rule-making process. The purpose of prior consultations of the affected interest is to know their view points and to minimize the objection to administrative legislation. This technique would also be useful in avoiding improper use of rule-making power by the executive. This has been especially true where the interests affected are well organized and have a constant contact with the administrative authorities. In America various bodies of affected interests are consulted by the Ministry of Health before making new statutory regulations about the use of preservatives in food.

14 220 US 596
15 289US 238
16 293 U.S. 388 (1935)
17 295 U.S. 395 (1935)
18 The Administrative Procedure Act, 1946
Over sixty associations and individuals were notified of the draft proposals; these included various bodies representing food manufacturers, the London Chamber of Commerce, the Royal Sanitary Institute, the Society of Medical Officers of Health, and so forth. The Ministry received some thirty deputations, altered its draft in consequence at a number of points, circulated a final revised draft to three of the most important bodies, and made further amendments to meet last minute criticisms. It should be added that this was done without statutory requirement, and similar examples can be drawn from the experience of other departments. This type of consultation is just as common in the American rule-making process.

In India there is no general provision of law, requiring consultation of the affected interest in the process of rule making. Where consultation is required, such words as “the power to make rules shall be subject to the conditions of previous publication” are inserted in the parent Act. It is notable that in some statutes provisions are laid down conferring the power on the affected interests to initiate and frame rules themselves. For example, Section 9-A of the Forward Contracts (Regulations) Act, 1952, authorized the recognized association to make rules with respect to several matters mentioned therein. These rules become effective after having been approved by the Central Government. The Government can also make such modification as it deems fit.

Prior Publicity of Proposed Rules and Regulations

In America the practice of prior publication has been adopted under various Acts. For example, under Rules Publication Act, 1808, public notice was given of proposals to make ‘statutory rules’ and the department concerned had to consider representations or suggestions made by interested bodies, who were thus made aware of proposed rules of which they otherwise might not have known. Such antecedent publicity was characterized by the Donoughmore Committee as ‘undoubtedly a safeguard of the highest value particularly where it leads to consultation with the interests concerned.’ A similar system of antecedent publicity is provided for in the American Administrative Procedure Act, 1946—a statute which imposes certain minimal procedural requirements upon the administrative process in that country.

In India the practice of prior publication has been adopted wherever prior consultation has been deemed necessary. According to Section 23 of General Clauses Act, 1897, the authority shall publish the draft rules for information of affected interests in such manner as it deems sufficient. The authority shall take into consideration any such objection which may be received by it while finalizing the rules.

Publication of Delegated legislation

Publication of any law, rule or regulation is extremely necessary to ensure full justice to the public. In America, Administrative Procedure Act, 1946 requires general notice of proposed rulemaking to be published in the Federal Register—the American equivalent of the Statutory Rules and Orders in this country. Such notice is to include:

- Statement of the time, place, and nature of the rule-making proceeding;
- Reference to the authority under which the rule is proposed; and

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20 Ibid
21 Report of the Committee on Ministers’ Powers (Cmd. 4060, 1932) 44. It is not, however, provided for in the Statutory Instruments Act, 1940, which repeals the Rules Publication Act, 1893
23 Section 4
• Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

The agency concerned must then afford interested persons the opportunity to participate in the rule making through submission of written data, views, or arguments, with or without opportunity to present the same orally or in any manner, and all relevant matter so presented must be considered by the agency.

In India there is no a general statutory provision requiring or regulating publication of delegated legislation. But there is a general practice to publish them in the gazette of India. Sometimes Parent statute also provides for their publication in the gazette. No attempt has been made in India to codify them regularly on the pattern of American Code of Federal Register. The Govt. of India commenced in 1960 publication of various rules in a codified form but its progress is quiet slow and the volumes so far codified up to date do not contain any annual supplements.

**Parliamentary Control**

In the United States, the executive is not responsible to the legislature and therefore the congressional control of delegated legislation is mostly indirect. But the Congress may direct administrative agencies to submit periodical and special reports or to give an account of their activities. By Limiting financial grants, the congress may compel the administration to frame better regulations. In recent years the tendency has been to set up ‘watch-dog’ committee to maintain constant vigilance over the implementation of important statutes. These committees are meant not to control but obtaining information.

In the United States congress can exercise its direct control on the rule-making power by amending the enabling statute and restricting or withdrawing the delegated rule making powers if administrative authority ultravires the provisions of enabling statute while exercising its rule making power granted or delegated by congress under an enabling statute. But this is a domestic measure which may result in some Government function being left unperformed. Another unusual method of direct control is that Congress may by law supersede the rules and regulations issued under delegated authority if administrative authority to whom power is delegated arbitrarily exercised its power, not followed proper procedure for publication of rules and prior consultation of affected interests mentioned under enabling statute and violates the provisions of enabling statute. None of these methods is ever resorted to and they only exist as theoretical possibilities.

In India the Parliamentary control of delegated legislation follows the same pattern as in England. Dr. Ambedkar in 1950 suggested in the house that like Standing Committees in House of Commons in Great Britain, in India too there should be committees in the Lok Sabha. Such Committees would examine delegated legislation and would “bring to the notice of Parliament whether delegated legislation has exceeded the original intention of parliament or has departed from it or has affected any fundamental principle.” The committee was formed on 1st December, 1953, known as committee on Subordinate Legislation at Lok Sabha. The Lok Sabha Committee consists of 15 members. The members of the committee are appointed by the Speaker for a year. The Rajya Sabha committee similarly consists of 15 members who are nominated by the Chairman of Rajya Sabha. Each committee scrutinizes the statutory rules, bye-laws, etc. made by any administrative body and reports to the House whether the delegated power has been exercised properly within the limits provided under

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25 Galloway, Congress and Parliament, p.70.
26 Laying on the Table 65 Harv L Rev. 637 at p.641
27 Ibid
28 Laying on the Table 65 Harv L Rev. 637 at p.641
29 Galloway, Congress and Parliament, p.70.
the parent Act or Constitution.

Generally in the Central statutes there is a practice of laying the rules made by any administrative body before each house of Parliament, while it is in session, for a total period of thirty days. Before the expiry of the session, the Houses can make modifications in the rules or even anull it. Laying is of two kinds, simple laying and mandatory laying. In simple laying the rules come into effect even if they have not been laid. But in mandatory laying, if the rules made by administrative bodies are not laid in draft within a stipulated time its non-laying would effect the legal validity of the rules. It may be further noted that where the rules framed by the Executive are ultra vires the Act, and they have been laid before the Houses, the laying before the Houses does not make them valid. The committee also disfavoured the rules on the ground of their being in complicated language. It recommended for the simple language for an easy understanding of justice.

Judicial Control over Delegated Legislation

In United States the Courts play a vital role to control delegated legislation. The main function of courts is to ensure that the authority exercised under delegated legislation has not been broader than the terms of the delegation. In America the judicial power to control delegated legislation is based upon the doctrine of ultra vires. The tests which have been applied to subordinate legislation by the courts in America, are mainly two- first, whether or not enabling Act or the enabling provision there under is valid. Second, whether or not subordinate legislation violates any provision of the constitution. Delegated legislation made by subordinate bodies shall be declared invalid not only on the ground of ultra vires, but also on the ground of unreasonableness.30 There are various decisions in which American courts exercised their power of judicial review to control delegated legislation on the ground of ultra vires and unreasonableness. In Kruse. v. Johnson31 it was laid down that a subordinate legislation would be unreasonable if it is found to be (i) partial or unequal i.e. its operation as between different classes; (ii) manifestly unjust; (iii) disclosing bad faith; and (iv) involving such oppressive or gratuitous interference with the right of the people that it could find no justification in the minds of reasonable men. Under the American doctrine, it is for the courts to say whether or not there is a rational relationship between particular delegated legislation and the governing statute ; ’rules and regulations must be reasonably appropriate and calculated to carry out the legislative purpose, and must be entirely within the power conferred.’32 Thus these are the various modes and approaches through which Judiciary in America exercises its effective control over delegated legislation.

In India also, the delegated legislation does not go beyond the reach of the judicial review of the Supreme Court and of the High Courts. Judicial control over delegated legislation is exercised at the following three levels:-

- The enabling Act or delegating statute being unconstitutional.
- The subordinate legislation violating the Constitution.
- The subordinate legislation being ultra vires the delegating Act.

The delegation can be challenged in the courts of law as being unconstitutional, excessive or arbitrary. The validity of the rules can be challenged on the ground of substantive ultra vires. Substantive ultra vires is of two kinds:

31 [1898] Q.B.91
32 Wallace v. Fechan, 206 Ind 522(1934)
• If the rules made under delegated legislation are against the provisions of the Act; and

• If the rules made under delegated legislation are in excess of the authority delegated by the Legislature.

When the Court applies the method of substantive ultra vires rule, it examines the contents of the rules and regulations without probing into the policy and wisdom of the subject matter. It merely sees that, whether the rules and regulations in their pith and substance are within the import of the language and policy of the statute or not.

While applying a method of substantive ultra vires rule, court further examines that rules made under delegated legislation cannot go against the intent of statute and cannot be inconsistent with the provisions of the Act. They are framed for giving effect to the provisions of the Act and not for nullifying their effect and they should not be in excess of the authority delegated to the rule-making body. In Radhakrishna v. State of M.P., 33 it was laid down that a rule may become ultra vires for not being made in the manner prescribed by the Enabling Act. The rules were directed to be made by the State Government with the concurrence of the Central Government but the rules were made without such concurrence of the central government. The rules were held to be invalid.

Thus from the above it can be said that the Indian judiciary plays an active role to control the delegated legislation.

COMPARATIVE ANALYSIS OF MODES OF CONTROLLING DELEGATED LEGISLATION IN INDIA AND UNITED STATES

Both in India and United states there are three modes to control delegated legislation. Under the following we will make a comparative analysis of various modes of controlling delegated legislation in India and America:

Comparative Analysis of Procedural Control over Delegated Legislation

In India there is no general provision of law, requiring consultation of the affected interest in the process of rule making. On the other hand in United States the practice of prior consultations of the affected interests is very much common. The Administrative Procedure Act 34 requires the rule making authority to consult the interest likely to be affected. The interested persons are given an opportunity by the agency concerned to submit their representations within prescribed time. In India no such kind of Act has been enacted which provides a procedural control regarding misuse of delegated legislation. There are various Acts in America which provide not only consultation of interested bodies but also the consultation of certain advisory bodies which are formulated for such purposes. But no such kind of provisions regarding consultation of certain advisory bodies are applicable in India. So Government of India should enact an Administrative Procedure Act under which the rule making authority is directed to consult the interest likely to be affected.

Another procedural safeguard against delegated legislation is prior publicity of proposed rules and regulations. In America the practice of prior publication has been adopted under various Acts. For example, under Rules Publication Act, 1808, public notice was given of proposals to make 'statutory rules ' and the department concerned had to consider representations or suggestions made by interested bodies, who were thus made aware of proposed rules of which they otherwise might not have known. In America, Administrative Procedure Act, 194635 also requires general notice of

33 AIR 1952 Nag 467;
34 The Administrative Procedure Act, 1946
35 Section 4
proposed rulemaking to be published in the Federal Register—the American equivalent of the Statutory Rules and Orders in this country.

But in India there is no general statutory provision requiring or regulating publication of delegated legislation. But there is a general practice to publish them in the gazette of India. Sometimes Parent statute also provides for their publication in the gazette. No attempt has been made in India to codify them regularly on the pattern of American Code of Federal Register. The Govt. of India commenced in 1960 publication of various rules in a codified form but its progress is quiet slow and the volumes so far codified up to date do not contain any annual supplements. So India should codify publications of delegated legislations regularly on the pattern of American Code of Federal Register.

**Comparative Analysis of Parliamentary Control over Delegated Legislation**

In the United States, the executive is not responsible to the legislature and the congressional control of delegated legislation is mostly indirect. But the Congress may direct administrative agencies to submit periodical and special reports or to give an account of their activities. In America Congress have no effective control over delegated legislation because President of America is not responsible to Legislature.

But in India there is Parliamentary form of Government and Prime Minister is responsible of Legislature. So in India parliament can exercise direct control over executive. In India committees regarding control of delegated legislation are formulated by Parliament for both houses every year. The main function of each committee is to scrutinize the statutory rules, bye-laws, etc. made by any administrative body and reports to the House whether the delegated power has been exercised properly within the limits provided under the parent Act or Constitution. But in America no such kind of powers are given to legislature and legislature has no power to exercise direct control over delegated legislation made by executive. So it is necessary to maintain harmony between legislature and executive in a democratic society and there should be an effective control of legislature over executive so that executive cannot misuse their powers while making a delegated legislation.

**Comparative Analysis of Judicial Control over Delegated Legislation**

In India the delegated legislation can be challenged in the courts of law as being unconstitutional, excessive or arbitrary. Judiciary can control delegated legislation on the ground of substantial ultra vires and procedural ultra vires. In India if law made by the executive is found to be inconsistent with the constitution or ultra vires the parent Act from which the law making power has been derived then it would be declared as null and void by the court. The power of examining the validity of delegated legislation in India has been vested in the Supreme Court and High Courts. Indian judiciary plays an active role to control the delegated legislation.

In India as well as America the judicial power to control delegated legislation is also based upon the doctrine of ultra vires. There are various modes and approaches through which Judiciary in America exercises its effective control over delegated legislation. The U.S. Supreme Court has taken two main approaches to justifying the delegation of legislative power to the executive branch:

- To “fill up the details” approach where no violation exists because the basic structure and standards contained in the legislation create the skeletal outline that limits the authority of the delegate to “fill up the details” in

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36 Schwartz, Introduction to American Administrative Law p.69.
accordance with the legislation;\(^{37}\) According to this approach congress should lay down the standard of policy for the guidance of the executive and the main function of executive is to fill up details and carry out policy of legislation according to the standards laid down by congress.

- The “intelligible principle” approach where no violation exists because Congress has given the delegate an “intelligible principle” by which a reviewing court could determine whether the administrative action was permitted by the statute.\(^{38}\) According to this principle the court can review the delegated legislation if it ultra vires the enabling statute and not in accordance with the provisions of enabling statute.

Due to developed political system, developed economy, adequate laws, proper legal awareness the American judiciary has effective and absolute control over delegated legislation. But due to various reasons and factors the higher courts in India are unable to exercise absolute and effective control over delegate legislation. Such as pressure of work on courts due to filing of useless, frivolous litigations in the courts, lack of E-Courts, pending of litigations for many years, less number of judges in the courts, lack to adequate law to control misuse of delegated legislation, lack of technical experts in the courts to deal with technical delegated legislation.etc. Therefore the need of the hour is to reform our judicial system and to enact adequate laws so that judiciary can perform its functions effectively.

CONCLUSIONS

The issue of delegated legislation has been one of the most debated issues in the domain of legal theory because of its various implications. Scholars have consistently presented differing and even contradicting views about delegation of power to legislate and have thus taken different stands on the issue. While Delegated Legislation has been a widespread practice in modern times and is almost an accepted norm, there have been contrary views. Although law making is the function of legislature, it may, by a statute, delegate its power to other bodies or persons. The statute which delegates such power is known as Enabling Act. Under Enabling Act the legislature, lays down the broad guidelines and detailed rules are enacted by the delegated authority. Delegated legislation is permitted by the Indian Constitution. But United States constitution contains no reference to delegation of legislative powers by legislature to executive. But it exists in form of bye rules, regulations, orders, bye laws etc. In order to ensure that the power of delegated legislation is not misused in the hands of executive it is necessary to adopt effective modes of control as applicable in America which India has not incorporated yet.

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