
DELEGATED LEGISLATION AND PARLIAMENTARY OVERSIGHT IN INDIA: BALANCING EXECUTIVE RULE- MAKING AND LEGISLATIVE CONTROL

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ABSTRACT

The increasing complexity of modern governance has made it difficult for legislatures to personally formulate every rule and regulation required for the implementation of legislation. Consequently, Parliament frequently delegates limited rule-making powers to the executive.¹ Delegated legislation enables administrative flexibility and facilitates the implementation of legislative policy, but it also raises an important constitutional concern: the extent to which the executive may exercise law-making power without undermining legislative supremacy.²

The Indian constitutional framework therefore permits delegation while retaining limitations on the transfer of essential legislative functions. Parliamentary committees, particularly the Committee on Subordinate Legislation, provide an important mechanism for scrutinising the exercise of delegated powers. Judicial review provides an additional constitutional safeguard against excessive or ultra vires subordinate legislation.

This paper examines the constitutional basis and limits of delegated legislation in India, the role of parliamentary oversight, particularly through the Committee on Subordinate Legislation, and the principles developed by the Supreme Court. It argues that effective control over delegated legislation requires parliamentary scrutiny and judicial review to operate as complementary mechanisms rather than as substitutes for one another.

Keywords: Delegated Legislation; Subordinate Legislation; Parliamentary Oversight; Committee on Subordinate Legislation; Excessive Delegation; Judicial Review.

¹ D.D. Basu, *Administrative Law*, 7th ed., LexisNexis, discussion on delegated legislation.

² *In re Delhi Laws Act*, 1912, AIR 1951 SC 332; (1951) SCC 568.

I. INTRODUCTION

The modern State performs functions extending far beyond the traditional functions of maintaining law and order and administering justice. Economic regulation, public health, environmental protection, taxation, education, technology and social welfare require detailed and frequently changing regulatory frameworks.³ It is practically difficult for Parliament to incorporate every technical and procedural detail into primary legislation. Delegated legislation is a response to this practical difficulty. Parliament lays down the legislative policy and framework through an Act and authorises the executive or another subordinate authority to formulate rules, regulations, bye-laws, orders or other statutory instruments necessary for implementing that framework.⁴

Delegation, however, creates a constitutional tension. Parliament is the principal legislative body, whereas the executive is primarily responsible for implementing law. If delegated power is exercised beyond the authority granted by Parliament, the distinction between legislation and administration may become blurred.

The question, therefore, is not whether delegated legislation should exist, but how far legislative power can legitimately be delegated and how the exercise of that power should be controlled.

The Indian constitutional framework has developed around this balance. The Supreme Court has consistently recognised that delegation is permissible, but the legislature cannot surrender its essential legislative function.⁵ At the same time, Parliament has created institutional mechanisms through which subordinate legislation can be scrutinised.

II. CONCEPT AND NEED FOR DELEGATED LEGISLATION

Delegated legislation refers broadly to legislation made by an authority subordinate to the legislature under powers conferred by a parent statute.⁶ The parent Act ordinarily establishes the legislative policy and confers power upon the executive to provide detailed rules for carrying that policy into effect. Delegated legislation may take several forms, including rules,

³ M.P. Jain & S.N. Jain, *Principles of Administrative Law*, 8th ed., LexisNexis.

⁴ C.K. Takwani, *Lectures on Administrative Law*, 7th ed., Eastern Book Company.

⁵ *In re Delhi Laws Act*, 1912, AIR 1951 SC 332; (1951) SCC 568.

⁶ I.P. Massey, *Administrative Law*, 9th ed., Eastern Book Company.

regulations, bye-laws, orders, schemes, notifications and other statutory instruments.

The principal justification for delegation is practical necessity. First, modern legislation frequently involves highly technical matters requiring specialised knowledge⁷. Parliament may establish the broad legal framework while leaving technical details to the specialised administration. Second, delegated legislation provides flexibility. Rules made under delegated authority can generally be modified more easily than primary legislation. This is particularly important in areas where circumstances change rapidly.⁸ Third, delegation promotes administrative efficiency by allowing administrative authorities to formulate detailed procedures necessary for implementing legislative policy. Fourth, certain regulatory matters may require different approaches depending upon local conditions. Delegated legislation can provide the flexibility required for such circumstances. However, administrative convenience cannot itself justify unlimited delegation. The need for delegation must remain consistent with constitutional limitations.

III. CONSTITUTIONAL LIMITS ON DELEGATION

The Indian Constitution does not contain a single provision expressly setting out a complete code governing delegated legislation. Its permissible limits have consequently been developed substantially through constitutional interpretation. The central principle is that essential legislative functions cannot be delegated. The legislature must determine the legislative policy, principle or standard. The executive may then be authorised to work out the details necessary for implementing that policy. The constitutional foundation of the Indian law on excessive delegation is found in *In re Delhi Laws Act, 1912*.⁹

The reference concerned the validity of provisions permitting the executive to extend and modify laws. The Supreme Court considered the extent to which legislative power could constitutionally be delegated. The decision is significant because the Court recognised the necessity of delegation while maintaining that the legislature cannot abdicate its essential legislative function. The case therefore established the fundamental distinction between determination of legislative policy by the legislature and implementation and elaboration of that policy by the delegate. The doctrine remains central to the constitutional control of

⁷ M.P. Jain & S.N. Jain, *Principles of Administrative Law*, 8th ed., LexisNexis.

⁸ C.K. Takwani, *Lectures on Administrative Law*, 7th ed., Eastern Book Company.

⁹ *In re Delhi Laws Act, 1912*, AIR 1951 SC 332; (1951) SCC 568.

delegated legislation. In *Harishankar Bagla v. State of Madhya Pradesh*, (1954) 1 SCC 978¹⁰, the Supreme Court considered the validity of delegated power under the Essential Supplies (Temporary Powers) Act, 1946. The Court upheld the delegation because the parent legislation sufficiently indicated the policy and purpose governing the exercise of the delegated power. The decision demonstrates that delegation is not invalid merely because the executive receives substantial rule-making authority. The relevant question is whether the legislature has itself determined the policy and provided adequate guidance. In *Vasantlal Maganbhai Sanjanwala v. State of Bombay*, 1960¹¹ SCC OnLine SC 27, the Supreme Court again considered the permissible limits of delegation. The Court recognised that the legislature may delegate ancillary or subordinate matters while retaining the essential legislative function. The decision reinforces the distinction between delegation of details and abdication of legislative responsibility. In *Municipal Corporation of Delhi v. Birla Cotton, Spinning & Weaving Mills*, 1968¹² SCC OnLine SC 13, the Supreme Court examined the scope of delegated legislative authority in the context of municipal taxation. The decision is important for understanding the principle that the legislature must retain control over essential matters of legislative policy while subordinate authorities may be entrusted with matters of detail and implementation.

IV. PARLIAMENTARY CONTROL OVER DELEGATED LEGISLATION

Judicial review is only one form of control. In a parliamentary democracy, the legislature itself must also scrutinise the exercise of powers delegated by it. The parliamentary committee system plays an important role here. The Committee on Subordinate Legislation was constituted to scrutinise whether powers to make rules, regulations, bye-laws, schemes and other statutory instruments have been properly exercised within the authority conferred by the Constitution or by Parliament. The Committee on Subordinate Legislation is therefore an institutional expression of the principle that delegation of power does not mean abandonment of legislative supervision. The Committee examines subordinate legislation and considers whether the executive has remained within the scope of the authority granted by the parent statute.

¹⁰ *Harishankar Bagla v. State of Madhya Pradesh*, (1954) 1 SCC 978.

¹¹ *Vasantlal Maganbhai Sanjanwala v. State of Bombay*, 1960 SCC OnLine SC 27.

¹² *Municipal Corporation of Delhi v. Birla Cotton, Spinning & Weaving Mills*, 1968 SCC OnLine SC 13

V. THE COMMITTEE ON SUBORDINATE LEGISLATION

The importance of the Committee lies in the fact that scrutiny of delegated legislation requires detailed examination that may not always be possible during proceedings on the floor of the House. The Committee may examine whether¹³:

1. The delegated authority has been exercised within the scope of the parent Act;
2. The instrument improperly imposes a tax or fee without sufficient authority;
3. The subordinate legislation involves an unusual or unexpected use of delegated power;
4. The instrument makes matters that should appropriately have been dealt with in the parent legislation;
5. The delegated legislation imposes an unreasonable restriction or obligation; and
6. The rule-making authority has exceeded the limits contemplated by Parliament.

Thus, parliamentary scrutiny operates before or alongside judicial review, rather than merely after litigation arises.

VI. PARLIAMENTARY OVERSIGHT IN PRACTICE: THE 18TH LOK SABHA

The significance of parliamentary scrutiny can be seen from the recent work of the Committee on Subordinate Legislation of the 18th Lok Sabha. The Parliament Digital Library records, among others, the Committee's Seventh Report (24 March 2026) concerning alleged infirmities in regulations under the National Medical Commission Act, 2019; Eighth Report (24 March 2026) concerning the Mineral Concession Rules, 1960 and Colliery Control Rules, 2004; Ninth Report (24 March 2026) concerning the Food Safety and Standards Rules, 2011 and subsequent amendments; and Tenth Report (27 March 2026) concerning action taken by the Government on earlier recommendations relating to subordinate legislation under the Ministry of Defence.¹⁴

These reports demonstrate that parliamentary scrutiny of delegated legislation is not merely theoretical. The Committee continues to examine actual rules and regulations made under different parent statutes. The Committee's work is particularly significant because it enables Parliament to examine delegated legislation as a category of law-making, rather than waiting for an affected individual to challenge a particular rule before a court.

¹³ Lok Sabha, Committee on Subordinate Legislation, Parliament of India.

¹⁴ Committee on Subordinate Legislation, Lok Sabha, Tenth Report, Eighteenth Lok Sabha, 27 March 2026.

The Fifth Report of the Committee on Subordinate Legislation of the 18th Lok Sabha, for example, dealt with action taken by the Government concerning subordinate legislation under laws administered by the Ministry of Railways. This illustrates an additional feature of parliamentary oversight: follow-up. Parliamentary scrutiny can continue even after observations or recommendations have been made, allowing Parliament to examine the Government's response.

VII. JUDICIAL CONTROL OF SUBORDINATE LEGISLATION

Parliamentary scrutiny does not exclude judicial review. The Supreme Court has developed a substantial body of jurisprudence concerning the validity of subordinate legislation. In *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India*, (1985) 1 SCC 641, the Supreme Court recognised that subordinate legislation is open to judicial scrutiny and may be challenged on grounds applicable to delegated legislation.¹⁵ The judgment is important because subordinate legislation does not enjoy precisely the same constitutional position as primary legislation enacted directly by Parliament. Judicial review therefore provides an external constitutional check on the exercise of delegated power.

The leading authority is *State of Tamil Nadu v. P. Krishnamurthy*, (2006) 4 SCC 517. The Supreme Court identified the principal grounds on which subordinate legislation may be challenged, including lack of legislative competence; violation of fundamental rights; violation of constitutional provisions; failure to conform to the parent statute; exceeding the authority conferred by the enabling Act; repugnancy to other laws; and manifest arbitrariness or unreasonableness in the recognised circumstances¹⁶. The Court also emphasised that the validity of subordinate legislation must be examined with reference to the nature, object and scheme of the enabling legislation and the extent of the delegated power.

VIII. PARLIAMENTARY CONTROL AND JUDICIAL REVIEW: COMPLEMENTARY MECHANISMS

Parliamentary scrutiny and judicial review perform different but complementary functions. Parliamentary oversight is an internal legislative mechanism conducted through parliamentary committees. It examines the exercise of delegated authority and can identify systemic or

¹⁵ *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India*, (1985) 1 SCC 641.

¹⁶ *State of Tamil Nadu v. P. Krishnamurthy*, (2006) 4 SCC 517.

procedural problems. Judicial review, on the other hand, is constitutional and legal scrutiny conducted by courts when a proper challenge is brought. A parliamentary committee may identify that a rule travels beyond the authority delegated by Parliament and recommend corrective action. A court, when properly seized of a legal challenge, may determine whether the rule is legally invalid. Therefore, effective constitutional control does not require choosing between Parliament and the judiciary. Rather, both institutions contribute different forms of accountability.

IX. CHALLENGES IN PARLIAMENTARY OVERSIGHT

Despite its importance, parliamentary control over delegated legislation faces practical limitations. First, the sheer quantity of rules, regulations and notifications makes comprehensive scrutiny difficult. Second, many subordinate instruments involve specialised scientific, economic or technical questions. Effective scrutiny may therefore require substantial research support. Third, the effectiveness of committee recommendations depends partly upon the Government's response and subsequent implementation. Fourth, unlike major Bills and parliamentary debates, technical subordinate legislation may receive relatively little public attention. This can reduce wider awareness of important regulatory changes. Finally, effective scrutiny requires comparison between the parent Act, previous rules, amendments, notifications and relevant judicial decisions. This makes the role of parliamentary research particularly important.

X. STRENGTHENING PARLIAMENTARY OVERSIGHT

Several measures may improve the effectiveness of parliamentary scrutiny.

A. Greater research support: Members and parliamentary committees require accessible and reliable research material to examine technical delegated legislation effectively.

B. Systematic monitoring: A centralised database of rules, regulations, amendments, committee observations and Government responses can facilitate continuous monitoring.

C. Stronger follow-up: Where committees identify significant deficiencies, subsequent monitoring of Government action can ensure that parliamentary recommendations do not remain merely advisory observations.

D. Better legislative drafting: Parent Acts should define the scope and purpose of delegated powers with sufficient clarity. Clear legislative guidance reduces the possibility of excessive delegation.

E. Greater transparency: Making subordinate legislation and committee observations easily accessible to the public can strengthen democratic accountability.

XI. CONCLUSION

Delegated legislation is an unavoidable feature of modern governance. The complexity and technical nature of contemporary administration make it practically necessary for Parliament to authorise the executive to formulate detailed rules and regulations. However, delegation must not become abdication. The constitutional principle developed by the Supreme Court requires Parliament to retain the essential legislative function while permitting the executive to undertake subordinate and ancillary tasks. Cases such as *In re Delhi Laws Act*, *Harishankar Bagla*, *Vasantlal Maganbhai Sanjanwala*, *Indian Express Newspapers* and *P. Krishnamurthy* demonstrate the gradual development of this principle.

Parliamentary oversight adds another dimension to this constitutional framework. The Committee on Subordinate Legislation enables Parliament to examine whether the executive has remained within the limits of the authority delegated to it. The recent reports of the Committee in the 18th Lok Sabha demonstrate that such scrutiny remains an active part of parliamentary functioning. Ultimately, the legitimacy of delegated legislation depends upon maintaining a workable balance between administrative flexibility and legislative accountability. Delegation may facilitate effective governance, but meaningful parliamentary scrutiny and judicial review remain necessary safeguards against the excessive exercise of delegated power.

The objective should therefore not be to eliminate delegated legislation, but to ensure that the executive exercises only the power that Parliament has lawfully entrusted to it, subject to continuing constitutional and parliamentary oversight.

BIBLIOGRAPHY

A. Books

1. M.P. Jain & S.N. Jain, *Principles of Administrative Law*, 7th ed., LexisNexis, 2013.
2. I.P. Massey, *Administrative Law*, 7th ed., Eastern Book Company, 2008.
3. S.P. Sathe, *Administrative Law*, 7th ed., LexisNexis/Butterworths, 2004.
4. H.W.R. Wade & C.F. Forsyth, *Administrative Law*, 8th ed., Oxford University Press, 2000.
5. M.N. Kaul & S.L. Shakhder, *Practice and Procedure of Parliament*, Metropolitan Book Co., 2009.

B. Articles and Research Papers

1. M.P. Sharma, "Parliamentary Control Over Delegated Legislation in India," *Indian Journal of Public Administration*, Vol. 2, Issue 3, pp. 208–217 (1956).
2. Sage Journals
3. Gurpreet Kaur & Ajay Kumar, "Parliamentary Control of Delegated Legislation in India," in Vanita Khanna & Komal Krishan Mehta (eds.), *Principles of Administrative Law*, University Book House Pvt. Ltd., Jaipur, 2024, pp. 126–133.
4. SSRN
5. Pankhuri Swarnim, "Judicial, Legislative and Other Controls over Delegated Legislation in India," *International Journal of Law Management & Humanities*, Vol. 3, Issue 3, pp. 1362–1380 (2020).

C. Parliamentary and Official Materials

1. Committee on Subordinate Legislation, Lok Sabha, Parliament of India — Committee on Subordinate Legislation, Lok Sabha Secretariat.

2. Committee on Subordinate Legislation, Rajya Sabha, Control of Legislature on Delegated Legislation, Rajya Sabha Secretariat.
3. Committee on Subordinate Legislation, Lok Sabha, Reports of the Committee on Subordinate Legislation, 18th Lok Sabha, Parliament Digital Library.
4. Committee on Subordinate Legislation, Lok Sabha, Fifth Report, Eighteenth Lok Sabha, on action taken by Government on recommendations concerning subordinate legislation under various Acts administered by the Ministry of Railways.
5. Committee on Subordinate Legislation, Lok Sabha, Tenth Report, Eighteenth Lok Sabha, on action taken by Government on recommendations concerning subordinate legislation under various Acts administered by the Department of Defence, Ministry of Defence, 27 March 2026.

D. Constitutional and Parliamentary Materials

1. The Constitution of India, especially Articles 73, 77, 122, 123, 245 and 246.
2. Rules of Procedure and Conduct of Business in Lok Sabha, Lok Sabha Secretariat.
3. Rules of Procedure and Conduct of Business in Rajya Sabha, Rajya Sabha Secretariat.

E. Cases

1. In re Delhi Laws Act, 1912, AIR 1951 SC 332; 1951 SCC 568.
2. Harishankar Bagla v. State of Madhya Pradesh, (1954) 1 SCC 978.
3. Vasantlal Maganbhai Sanjanwala v. State of Bombay, 1960 SCC OnLine SC 27.
4. Municipal Corporation of Delhi v. Birla Cotton, Spinning & Weaving Mills, 1968 SCC OnLine SC 13.
5. Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, (1985) 1 SCC 641.
6. Sharma Transport v. Government of Andhra Pradesh, (2002) 2 SCC 188.
7. State of Tamil Nadu v. P. Krishnamurthy, (2006) 4 SCC 517.