

UNIT-II

ADMINISTRATIVE LAW

DELEGATED LEGISLATION

REASONS FOR GROWTH OF DELEGATED LEGISLATION

Many factors are responsible for the rapid growth of delegated legislation in today's time. Because of the radical change in the governance of a country from „police state“ to the „welfare state“ the function and the need of delegated legislation have increased. These factors and reasons for growth of delegated legislation can be seen as follows:

1. **Pressure upon time of Parliament:** The area, scope, or horizon of state activities are expanding day by day and it is difficult for the Parliament to make laws on each and every matter as they are having a lot of work to do and they also have to make legislation on various matters. The Parliament is so much occupied with matters concerning foreign policy and political issues that it has not much time to enact the laws in detail. So it only frames the broad part of the rule and outline of the legislation and gives that legislation to the executive or some of its subordinates to fill the full detail following the necessary rules and regulations. It is like they have given the only skeleton and the subordinate have to fill flesh and blood to the skeleton to make it alive. The committee on Ministers' Power has observed that if the parliament is not willing to delegate law making power to the subordinate then he will be unable to pass the quality of rules and regulations that a person needs to live a happy life or legislation which a modern public requires.
2. **Technicality in the matters:** With the progress and advancement in society, things have become more twisted, complicated and technical. So to understand the technicality of each and every topic, legislature needs the expert of that particular topic who is well aware of each and every detail of that matter. Over the years it has been observed that some legislature only knows politics and some might have knowledge about one or two topics. Therefore, after framing policies by the parliament on any topic, that topic is given to the government department or any particular person who knows about the technicalities of that particular topic and given the power to lay down the details.
3. **Flexibility:** Parliamentary amendment is very slow and it requires a process to make any type of law but by the tool of delegated legislation it can be made expeditiously with the help of the executives, e.g., police regulation, bank rate, import and export, foreign exchange, etc. Also, Parliament cannot foresee the contingency while enacting a law so to make it foresee the workload is being given to the executives. So it is necessary to give work to lower body to have that work in a smooth and better manner.

4. **Emergency:** In any type of emergency one should know how to deal with it quickly without any delay. The legislature is not equipped with the skills of providing an urgent solution to meet the situation of emergency. Delegated legislation is the only way to meet that situation. Therefore, in times of emergency and war, an executive is given wide power to deal with that situation. Some examples of delegation in England during the First and Second World War are the Defence of the Realm Act 1914-15, the Emergency Power Act, 1920, etc. Similarly, in the case of inflation, flood, epidemic, economic depression, etc. immediate remedial actions are necessary.

5. **Experiment:** The practice of delegated legislation enables the Executive to experiment. As every work is new for the legislature and he has to experiment that either this law is working in perfect condition or not. This method or approach permits the utilization of experience and implementation of the necessary changes in the application of the provision made by the Parliament. For example, in traffic matters of the road an experiment method can be conducted and in the wake of its application necessary changes can be made in the provisions. The advantages of such a course is that it allows the delegated authority to consult the interest of people at the ground level that what type of law is affecting them and then he makes an experiment by altering the provisions.

6. **Complexity of modern administration:** Modern administration used to take added responsibilities when it came to upraise the condition of the citizens such as looking after their employment, health, education, regulating trade, etc. Therefore, the complexity in modern administration and expansion of states' function to the social sphere and economic have allowed the formation of a new form of legislation and to give wide powers to various authorities on various occasions. It is important that an administration should give an excess of power to activate socio-economic policies. In a country like Bangladesh where control over private trade, business or property may be required to be imposed, it is necessary that the administration should hand over the excess amount of power to implement such policy.

Therefore, we can say that there is a rapid growth of this delegated legislation and also it is necessary for a country to run smoothly.