



Mains Practice Question

Q. "The rise of delegated legislation in India, while necessary for administrative efficiency, poses challenges to democratic accountability." Examine this statement with suitable examples. **(250 words)**

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Approach

- Introduce by defining Delegated Legislation
- Give Importance of Delegated Legislation for Administrative Efficiency
- Delve into Challenges to Democratic Accountability
- Suggest Measures to Enhance Accountability in Delegated Legislation
- Conclude suitably.

Introduction

Delegated legislation refers to the process where the **legislature delegates its law-making powers to the executive**, allowing it to formulate rules, regulations, and bylaws under the framework of an enabling statute.

- While it is necessary to ensure administrative efficiency in a complex and dynamic governance environment, it also **raises concerns about democratic accountability**.

Body

Importance of Delegated Legislation for Administrative Efficiency:

- **Adaptability to Changing Needs:** The executive can **swiftly make and modify rules without** requiring lengthy legislative debates.
 - **Example:** During the **Covid-19 pandemic**, the Disaster Management Act, 2005, empowered the executive to issue regulations to enforce lockdowns and health protocols.
- **Technical Expertise:** Legislators **may lack the specialized knowledge** needed to draft intricate rules, especially in sectors like environment and technology.
 - **Example:** The **Environment Protection Act, 1986**, enables the executive to issue **technical regulations** on air and water quality standards.
- **Time-saving for Legislature:** Delegated legislation allows **Parliament to focus on policy-making** rather than micromanaging implementation.
 - **Example:** Rules under the **Motor Vehicles Act, 1988**, such as those related to emissions standards, are framed by the **Ministry of Road Transport and Highways**.

Challenges to Democratic Accountability:

- **Dilution of Legislative Oversight:** The transfer of significant law-making powers to the executive can undermine parliamentary control.
- **Risk of Excessive Delegation:** Broad and vague enabling provisions can lead to arbitrary rule-making by the executive.

- **Example: Essential Commodities Act, 1955**, allows the government wide discretion in declaring essential goods, **often bypassing legislative scrutiny.**
- **Limited Judicial Oversight:** Although courts can review delegated legislation, judicial intervention is often reactive and time-consuming, leading to a lack of timely checks.
 - **Example:** In *Vasantlal Maganbhai Sanjanwala v. State of Bombay (1961)* - SC upheld delegated legislation but reiterated that essential legislative functions cannot be delegated.
- **Inadequate Public Participation:** Rules and regulations framed through delegated legislation **often lack transparency and consultation**, reducing citizen involvement.
 - **Example:** Draft rules under the **Information Technology Act, 2000, related to intermediaries' liabilities faced criticism** for insufficient public engagement before implementation.
- **Abuse of Ordinance Power:** In some cases, ordinances are used excessively, bypassing legislative scrutiny, and their provisions are converted into delegated legislation.
 - **Example: The farm laws introduced through ordinances in 2020** witnessed widespread protests over lack of consultation and scrutiny.

Measures to Enhance Accountability in Delegated Legislation:

- **Strengthening Parliamentary Oversight:** Committees such as the **Committee on Subordinate Legislation** should be empowered to ensure thorough scrutiny of rules and regulations.
 - Rules should not go **beyond the rulemaking power conferred by the Parent Act.**
 - Furthermore, the drafting language should be **lucid, precise, and free from ambiguities** to eliminate any potential for misinterpretation.
- **Precise Enabling Provisions:** The enabling statutes should **clearly define the scope and limits of delegated powers** to prevent excessive delegation.
 - **Example :** Under the **Food Safety and Standards Act, 2006**, every rule and regulation made under the Act must be presented before both Houses of Parliament as soon as possible after being enacted.
- **Enhanced Judicial Review Mechanism:** Courts should adopt proactive mechanisms to address challenges related to arbitrary delegated legislation.
- **Public Consultation Framework:** Introducing mandatory public consultations before finalizing rules can improve transparency.

Conclusion

Delegated legislation is **indispensable for efficient governance in a complex society like India.** However, to balance efficiency with **democratic accountability, robust safeguards such as precise enabling statutes, strengthened oversight mechanisms,** and public participation must be institutionalized. By doing so, India can align to the principle of '**checks and balances**' which got more prominence after the **Minerva Mills case.**