

DELEGATED LEGISLATION IN INDIA AND U.S.A. – AN ANALYSIS

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Abstract

A person not belonging to the legal fraternity or even the political fraternity are seldom aware of which laws are being applied upon them. If that is the premise then what is the source of such law is also a farfetched information which cannot be presumed to be available to them. Under the concept of rule of law, it is right that we are to be ruled by law and not the king's proclamation but this understanding reek of pre-liberalisation era. In today's world rule of law also incorporates various checks upon the law as well. This is because laws are not only made by the legislature but also majorly by the executive and it's alter egos. These delegated legislations are thus a reality which needs to be balanced under the concept of rule of law. This paper presents a brief comparison of the reasons and objectives behind the delegated legislation in two jurisdictions i.e. India and USA with reference to leading authorities and judgements of these jurisdictions. It aims to make the law and its issues understandable to even an lay person not belonging to legal fields and therefore is in the interest of general audience.

I. INTRODUCTION

In India, the rule of law is the mainstay of the democratic principles which protects the individual from unfairness by the government of the state. Therefore the government formulates legislation which carries the presumption that it is constitutionally valid. These legislations sometimes create substantive and procedural functions of the government. It is generally done on the pretext that the Parliament and the State Legislatures have neither the time nor the expertise to be involved in detail in all cases and circumstance because of the rapid development of welfare state. In other words,

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