

## **“From Ordinance Raj to Delegated Legislation - Democratic Accountability and the Crisis of Parliamentary Oversight in India”**

*\*Roshani Pal*

*Post-Graduate in Law (LL.M.)*

**\*\*Lalit Shukla**

*Law Graduate,*

*Chhatrapati Sahu Ji Maharaj*

*University,*

*Kanpur*

**\*\*\*Dr. Samiuddin,**

*Assistant Professor,*

*Atal Bihari Vajpayee School,*

*of Legal Studies*

*Chhatrapati Shahu Ji Maharaj*

*Maharaj University,*

*Kanpur*

### **ABSTRACT**

The Indian constitutional framework vests legislative authority primarily in Parliament and State Legislatures, reflecting the democratic principle that lawmaking must emanate from elected representatives. However, over time, the increasing reliance on executive ordinances and delegated legislation has raised serious concerns regarding democratic accountability & erosion of parliamentary oversight. This paper critically examines the transformation from what has often been termed “Ordinance Raj” to an expansive regime of delegated legislation, analyzing its constitutional foundations, judicial responses, and implications for the separation of powers. Drawing upon key constitutional provisions as to Art. 123 and 213, and landmark judicial decisions, the paper evaluates the constitutional limits on ordinance-making power. It further investigates the growth of delegated legislation under modern governance, the decline of effective parliamentary scrutiny, & democratic risks posed by executive lawmaking. The paper argues that while delegation and ordinance powers are constitutionally permissible tools of governance, their excessive or routine use undermines deliberative democracy and legislative supremacy. It concludes by proposing structural reforms aimed at strengthening parliamentary committees, enhancing transparency, and reaffirming constitutional accountability in India’s legislative process.

**Keywords** - Ordinance Power; Delegated Legislation; Parliamentary Oversight; Democratic Accountability; Separation of Powers; Executive Lawmaking; Article 123; Judicial Review; Constitutional Governance.

### **INTRODUCTION**

The Constitution of India establishes a parliamentary democracy premised on representative lawmaking, deliberation, and accountability. Art. 245 and 246 vest legislative competence in Parliament and State Legislatures within their respective domains. However, the constitutional

design also equips the executive with extraordinary lawmaking powers through ordinance-making under Art. 123 and 213 and permits delegated legislation to meet administrative requirements. These mechanisms were conceived as pragmatic tools to address urgent situations and administrative complexities. Over time, however, they have evolved into routine instruments of governance, raising fundamental concerns about democratic legitimacy.

The phenomenon often described as “Ordinance Raj” reflects the frequent promulgation and re-promulgation of ordinances by the executive, bypassing legislative deliberation. Simultaneously, the expansion of delegated legislation has shifted substantive lawmaking authority from Parliament to the executive branch. In an era characterized by regulatory complexity and policy urgency, executive lawmaking has gained prominence, but at the cost of parliamentary supremacy and accountability.<sup>1</sup>

This paper examines the constitutional framework governing ordinance power and delegated legislation in India, the judicial doctrines developed to curb executive excess, & contemporary crisis of parliamentary oversight. It argues that while delegation is inevitable in a modern administrative state, constitutional democracy requires robust safeguards to prevent executive overreach.

## **THE CONSTITUTIONAL FRAMEWORK OF ORDINANCE-MAKING POWER**

The ordinance-making power under Art. 123 empowers the President to promulgate ordinances when Parliament is not in session and when circumstances require immediate action. Art. 213 confers parallel power upon the Governor at the state level. Ordinances have the same force and effect as Acts of Parliament but must be laid before the legislature and cease to operate six weeks after reassembly unless approved.

The framers envisioned ordinance power as an emergency mechanism. During the Constituent Assembly Debates, concerns were expressed regarding potential misuse, but the provision was retained to ensure continuity of governance. Dr. B.R. Ambedkar emphasized that the power was limited and subject to legislative approval, thereby preserving parliamentary supremacy. However, practice has diverged from theory. The frequent use of ordinances for ordinary legislative matters has blurred the distinction between emergency necessity and political convenience. Judicial scrutiny became necessary to define constitutional boundaries.

In *R.C. Cooper v. Union of India*,<sup>2</sup> court examined the validity of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, emphasizing that the President’s satisfaction under Art. 123 is subject to judicial review. Although court did not invalidate the

---

<sup>1</sup> M.P. Jain, *Executive Law-Making and the Indian Constitution*, 14 J. Indian L. Inst. 1 (1972).

<sup>2</sup> (1970) 1 SCC 248.

ordinance on procedural grounds, it signaled that ordinance power is not immune from constitutional scrutiny.

The misuse of ordinance power became more pronounced in the State of Bihar, where ordinances were repeatedly re-promulgated without legislative approval. This practice was challenged in *D.C. Wadhwa v. State of Bihar*.<sup>3</sup> Court held that repeated re-promulgation of ordinances constituted a fraud on the Constitution and subverted legislative authority. Court observed that ordinance power is intended for exceptional circumstances and cannot be used to circumvent the legislature.

The constitutional position was further clarified in *Krishna Kumar Singh v. State of Bihar*,<sup>4</sup> where a seven-judge bench revisited the issue of re-promulgation. Court held that the satisfaction of the President or Governor under Art. 123 and 213 is not beyond judicial review and that re-promulgation without placing ordinances before the legislature is unconstitutional. Importantly, court emphasized that ordinances are subject to the same constitutional limitations as statutes and must satisfy the requirements of legislative competence and fundamental rights.

The jurisprudence in *Krishna Kumar Singh* marked a doctrinal reaffirmation of parliamentary supremacy. By insisting that ordinances must be laid before the legislature and that re-promulgation is constitutionally suspect, court reinforced the principle that executive lawmaking is temporary and conditional.

## **DELEGATED LEGISLATION & EXPANSION OF EXECUTIVE LAWMAKING**

While ordinance power represents direct executive legislation, delegated legislation involves the legislature conferring rulemaking authority upon the executive. In modern governance, detailed regulatory frameworks often require technical expertise and administrative flexibility, making delegation inevitable. However, excessive delegation risks diluting democratic accountability.

The constitutional permissibility of delegation was addressed in *In re: Delhi Laws Act, 1912*.<sup>5</sup> Court upheld the validity of delegated legislation but articulated the principle that essential legislative functions cannot be delegated. The legislature must lay down policy, principles, and standards, leaving only implementation details to the executive. This decision established the “essential legislative function” doctrine, which continues to guide delegation jurisprudence.

Subsequent cases refined this doctrine. In *Hamdard Dawakhana v. Union of India*,<sup>6</sup> court struck down a provision that conferred unguided discretion on the executive to determine what

---

<sup>3</sup> (1987) 1 SCC 378.

<sup>4</sup> (2017) 3 SCC 1.

<sup>5</sup> AIR 1951 SC 332.

<sup>6</sup> AIR 1960 SC 554.

constituted objectionable advertisements, holding that excessive delegation without clear standards violates constitutional principles. Similarly, in *A.K. Roy v. Union of India*,<sup>7</sup> court examined delegated powers under preventive detention laws and emphasized the necessity of procedural safeguards.

Despite these judicial interventions, the scale and complexity of delegated legislation have expanded significantly. Rules, regulations, notifications, and circulars now constitute a substantial portion of operative law. Parliamentary enactments increasingly contain skeletal frameworks, leaving substantive content to executive rulemaking. This phenomenon has transformed the legislative process into a two-tier structure, with the executive exercising significant normative authority.

The crisis arises not from delegation per se but from inadequate parliamentary oversight. Although both Houses of Parliament maintain Committees on Subordinate Legislation, their recommendations are not binding and often lack enforcement mechanisms. The sheer volume of delegated legislation further impedes effective scrutiny. Consequently, executive-made rules frequently escape detailed debate, weakening democratic deliberation.

Court has occasionally intervened to invalidate rules exceeding delegated authority. In *General Officer Commanding-in-Chief v. Dr. Subhash Chandra Yadav*,<sup>8</sup> court held that delegated legislation cannot travel beyond the scope of the parent Act. Yet judicial review operates retrospectively and cannot substitute for proactive parliamentary supervision.

The increasing reliance on delegated legislation reflects broader structural shifts in governance. Economic liberalization, technological regulation, and welfare schemes demand adaptive rulemaking. However, when delegation becomes expansive and oversight mechanisms remain weak, the balance of power tilts decisively toward the executive.

## **THE DECLINE OF PARLIAMENTARY OVERSIGHT & RISE OF EXECUTIVE DOMINANCE**

The increasing reliance on ordinances and delegated legislation must be situated within a broader structural transformation of India's parliamentary functioning. While the Constitution envisages Parliament as the primary site of deliberative lawmaking, contemporary legislative practice reflects shrinking debate time, frequent disruptions, and expedited passage of complex bills. This institutional weakening has inadvertently strengthened executive lawmaking authority and diminished meaningful parliamentary oversight.

---

<sup>7</sup> (1982) 1 SCC 271.

<sup>8</sup> (1988) 2 SCC 351.

One of the most significant indicators of this shift is the declining number of bills referred to Departmentally Related Standing Committees. These committees were designed to enhance deliberation by allowing expert consultation and clause-by-clause examination. Their reports often contain substantive recommendations that improve legislative quality. However, in recent years, an increasing number of bills have been passed without committee scrutiny. This erosion of pre-legislative deliberation narrows the space for parliamentary engagement and shifts normative authority toward the executive, particularly where subsequent rulemaking fills legislative gaps.

The use of ordinances reflects a similar pattern of executive assertion. While the Constitution permits ordinance-making during legislative recess, the frequent promulgation of ordinances immediately before or after parliamentary sessions raises questions about the genuine existence of urgency. Court in *Krishna Kumar Singh v. State of Bihar*,<sup>9</sup> emphasized that ordinance power is conditional and temporary, intended to address emergent situations. Yet political expediency often blurs the constitutional threshold of necessity. When ordinances are used to enact significant policy changes without prior debate, the deliberative function of Parliament is effectively bypassed.

The erosion of oversight is also visible in the functioning of Committees on Subordinate Legislation. These committees are tasked with examining whether delegated legislation conforms to the parent statute and does not exceed the scope of delegated authority. However, their recommendations lack binding force, and follow-up mechanisms are weak. Moreover, the sheer volume of rules, notifications, and regulatory instruments makes comprehensive scrutiny difficult.<sup>10</sup> Delegated legislation frequently operates in technical domains such as finance, telecommunications, environmental regulation, and digital governance, where complexity further limits effective oversight.

Judicial review serves as a corrective mechanism, but it operates ex-post facto and is constrained by doctrines of deference. In *In re: Delhi Laws Act, 1912*,<sup>11</sup> court accepted the inevitability of delegation but insisted that essential legislative functions must remain with the legislature. However, subsequent practice has demonstrated that the distinction between essential and non-essential functions is not always rigorously enforced. Legislative frameworks often articulate broad policy objectives while leaving substantive normative content to executive rulemaking, thereby diluting the doctrine's protective function.

The weakening of parliamentary oversight must also be understood within the political context of majoritarian governance. Strong party discipline & anti-defection framework under the Tenth Schedule reduce the independence of individual legislators, consolidating executive control over

---

<sup>9</sup> (2017) 3 SCC 1.

<sup>10</sup> S.P. Sathe, *Judicial Review and the Limits of Delegated Legislation*, 19 J. Indian L. Inst. 195 (1977).

<sup>11</sup> AIR 1951 SC 332.

the legislative agenda. As a result, even when ordinances or delegated legislation are debated, the scope for dissent or amendment may be limited. This dynamic accentuates executive dominance and reduces Parliament's capacity to function as a check on concentrated power.

## SEPARATION OF POWERS AND DEMOCRATIC LEGITIMACY

The growing prominence of executive lawmaking raises fundamental questions regarding separation of powers and constitutional balance. The Indian Constitution does not embody a rigid separation of powers; rather, it establishes a system of functional separation with checks and balances. Nonetheless, legislative supremacy in lawmaking remains a core democratic principle. When executive instruments begin to substitute for parliamentary statutes, the equilibrium envisioned by the Constitution is disturbed.

Court has repeatedly emphasized the importance of preserving constitutional boundaries. In *D.C. Wadhwa v. State of Bihar*,<sup>12</sup> court characterized repeated re-promulgation of ordinances as a subversion of democratic process. The ruling underscored that the legislature cannot be rendered irrelevant through executive maneuvering. Similarly, in *A.K. Roy v. Union of India*,<sup>13</sup> court acknowledged the validity of delegated powers but cautioned against excessive delegation that compromises constitutional safeguards.

The principle that essential legislative functions cannot be delegated reflects a deeper democratic commitment. Lawmaking involves normative choices that affect rights, obligations, and social priorities. These choices must emerge from public deliberation and political accountability. Delegated legislation, while administratively efficient, is typically insulated from robust debate. The opacity of rulemaking processes & limited visibility of executive notifications reduce public participation and democratic scrutiny.

The crisis of accountability becomes particularly acute when delegated legislation carries penal consequences or significantly affects fundamental rights. In such cases, the normative stakes are high, yet parliamentary involvement is minimal. Judicial review may invalidate ultra vires rules, but courts traditionally exercise restraint in policy domains, especially where economic or technical considerations are involved. This judicial deference, though grounded in institutional competence, further underscores the necessity of effective parliamentary oversight.

Comparative constitutional experiences reveal similar tensions in administrative states worldwide. However, mature democracies often supplement delegation with strong committee systems, transparency requirements, and sunset clauses that mandate periodic legislative reconsideration.

---

<sup>12</sup> (1987) 1 SCC 378.

<sup>13</sup> (1982) 1 SCC 271.

The Indian framework, though formally equipped with oversight committees, suffers from limited enforcement capacity and inadequate transparency in rulemaking processes.<sup>14</sup>

The democratic legitimacy of law depends not merely on formal enactment but on deliberative participation and accountability. When executive instruments become the primary vehicles of substantive regulation, the democratic character of governance risks dilution. Ordinances and delegated legislation, though constitutionally permissible, must remain subordinate to legislative supremacy.

### **STRUCTURAL CAUSES BEHIND THE EXPANSION OF EXECUTIVE LAWMAKING**

The transformation from ordinance-centric governance to expansive delegated legislation cannot be understood solely as a matter of executive ambition. Structural features of the modern administrative state have facilitated this shift. Contemporary governance demands rapid regulatory responses in fields such as financial markets, digital technology, environmental protection, public health, and national security. Legislative processes, characterized by debate, amendment, and consensus-building, are often perceived as slow in comparison to executive decision-making. This functional asymmetry creates incentives for greater delegation.

Economic liberalization and globalization have intensified regulatory complexity. Statutes governing telecommunications, securities, competition, and digital platforms frequently establish regulatory authorities empowered to frame binding regulations. While such delegation is defended on grounds of expertise and flexibility, it has effectively relocated substantial normative power from Parliament to technocratic bodies operating within the executive framework. The legislature increasingly enacts broad enabling statutes, leaving critical policy details to subordinate legislation.

Another structural factor is the centralization of political power. Strong executive leadership combined with disciplined legislative majorities reduces incentives for internal scrutiny. When the executive commands stable parliamentary support, the urgency to deliberate extensively diminishes. In such contexts, ordinances may be promulgated strategically to secure immediate policy implementation, with subsequent legislative ratification becoming a formality. Although court in *Krishna Kumar Singh v. State of Bihar*,<sup>15</sup> reaffirmed that ordinances cannot be re-promulgated as a substitute for legislation, the broader culture of executive primacy persists.

Time constraints within parliamentary sessions further exacerbate the crisis. The number of sitting days has declined over the decades, compressing opportunities for debate. Complex bills are often

---

<sup>14</sup> Upendra Baxi, *The Little Done, the Vast Undone: Some Reflections on Reading Granville Austin's The Indian Constitution*, 9 J. Indian L. Inst. 323 (1967).

<sup>15</sup> (2017) 3 SCC 1.

introduced and passed within short timeframes. When legislative scrutiny weakens at the primary stage, reliance on executive rulemaking becomes more pronounced. Delegated legislation then functions not merely as a supplementary mechanism but as the principal site of regulatory development.

The judiciary has occasionally attempted to restore equilibrium. In *Hamdard Dawakhana v. Union of India*,<sup>16</sup> court invalidated excessive delegation lacking clear standards. Similarly, in *General Officer Commanding-in-Chief v. Dr. Subhash Chandra Yadav*,<sup>17</sup> court emphasized that delegated legislation must remain within the scope of the parent statute. However, judicial review operates episodically and cannot address systemic over-delegation. Courts are institutionally constrained from micromanaging legislative drafting or substituting their judgment for policy determinations.

The cumulative effect of these structural dynamics is a recalibration of constitutional power in favor of the executive. While formally consistent with constitutional text, this shift raises normative concerns regarding accountability, transparency, and democratic participation.

Another significant dimension of expanding executive lawmaking concerns the changing relationship between governance, technology, and regulatory administration. The emergence of digital governance, algorithmic regulation, and data-driven decision-making has fundamentally altered the nature of state authority. Regulatory frameworks governing digital platforms, data protection, financial technology, and online speech often require continuous adaptation to rapidly evolving technological conditions. As a result, legislatures frequently enact broadly worded statutes that delegate wide rulemaking powers to executive agencies and regulatory authorities. While such flexibility enables responsive governance, it simultaneously raises concerns regarding transparency, accountability, and democratic legitimacy.

The growth of regulatory bodies exercising quasi-legislative powers represents a notable feature of contemporary governance. Independent and statutory authorities frequently possess the power to issue binding regulations, guidelines, and directives affecting fundamental economic and social interests. These bodies operate within the executive framework yet exercise substantial normative authority. Their decision-making processes, often technical and specialized, remain relatively insulated from parliamentary debate. The increasing reliance on such institutions reflects a broader shift toward technocratic governance, where expertise and efficiency are prioritized over deliberative accountability.<sup>18</sup>

This transformation raises important constitutional questions concerning the nature of democratic representation. Parliamentary deliberation traditionally serves as the primary mechanism through

---

<sup>16</sup> AIR 1960 SC 554.

<sup>17</sup> (1988) 2 SCC 351.

<sup>18</sup> *Supra* note 14.

which diverse social interests are articulated and contested. However, when substantive policy choices are relocated to executive agencies, opportunities for public participation and legislative scrutiny diminish. The technical complexity of modern regulation may justify limited delegation, yet excessive reliance on executive expertise risks weakening the representative character of lawmaking.

The institutional capacity of Parliament to monitor complex regulatory activity also remains limited. Modern delegated legislation frequently addresses specialized domains such as financial regulation, environmental standards, telecommunications policy, and public health administration. Effective scrutiny of such measures requires technical knowledge and sustained engagement, which general legislative bodies may lack. Consequently, oversight mechanisms often struggle to keep pace with the scale and sophistication of executive rulemaking.

The phenomenon of “framework legislation” further illustrates this structural shift. Legislative enactments increasingly establish general policy objectives while leaving crucial regulatory details to executive authorities. Such statutes may outline broad goals, standards, or principles without specifying operational mechanisms, thereby granting the executive considerable interpretive discretion. Although this approach enhances administrative flexibility, it also creates opportunities for policy formulation beyond direct legislative control.<sup>19</sup>

The evolving role of the judiciary also reflects this changing constitutional landscape. The Supreme Court of India has repeatedly emphasized the need to preserve constitutional limits on delegation while acknowledging the practical necessity of administrative rulemaking. Judicial decisions attempt to balance competing concerns of efficiency and accountability by scrutinizing whether delegated powers are guided by intelligible principles. However, courts remain institutionally cautious in interfering with complex regulatory frameworks, particularly where economic or technical considerations are involved.

These developments indicate that the expansion of executive lawmaking is not merely the result of political expediency but also reflects deeper structural transformations in governance. The increasing complexity of the modern state, the demand for rapid regulatory responses, and the rise of specialized administrative institutions collectively contribute to the diffusion of legislative authority. Nevertheless, constitutional democracy requires that such transformations remain subject to meaningful safeguards ensuring transparency, accountability, and parliamentary control.

The challenge, therefore, lies in reconciling administrative efficiency with democratic legitimacy. Without robust oversight mechanisms, structural pressures may gradually normalize executive dominance, thereby altering the constitutional balance envisioned by the framers. Addressing this

---

<sup>19</sup> *Supra* note 14.

challenge requires institutional reforms that strengthen parliamentary capacity while accommodating the practical demands of modern governance.

## **REFORMING PARLIAMENTARY OVERSIGHT AND RESTORING DEMOCRATIC BALANCE**

Addressing the crisis of parliamentary oversight requires structural and procedural reforms aimed at revitalizing legislative supremacy without undermining administrative efficiency. The objective is not to eliminate delegation or ordinance power, but to re-anchor them within a robust framework of accountability.

First, mandatory pre-legislative consultation and committee scrutiny should be institutionalized. Referral of significant bills to Departmentally Related Standing Committees can ensure expert input and deliberative engagement. Strengthening these committees with research support and independent advisory capacity would enhance their effectiveness. While committee recommendations may not be binding, institutional norms can evolve to treat them as authoritative benchmarks.

Second, delegated legislation should be subject to systematic parliamentary review through strengthened Committees on Subordinate Legislation. These committees must possess enhanced investigative powers, timelines for executive response, and mechanisms for follow-up. Publication of detailed reports and compliance audits would improve transparency. Given the technical complexity of modern regulation, committees may require specialized legal and policy expertise to evaluate the scope and impact of subordinate rules.<sup>20</sup>

Third, sunset clauses and periodic review requirements can mitigate executive overreach. Embedding sunset provisions within parent statutes would compel the legislature to revisit delegated powers at regular intervals. This mechanism aligns with the constitutional principle that extraordinary or expansive authority must be time-bound and justified through continued legislative endorsement.

Fourth, the ordinance-making process requires stricter transparency and accountability norms. Although *D.C. Wadhwa v. State of Bihar*,<sup>21</sup> and *Krishna Kumar Singh v. State of Bihar*,<sup>22</sup> curtailed re-promulgation practices, further procedural clarity may be warranted. Requiring the executive to provide a written statement of urgency and necessity when promulgating ordinances could subject the decision to greater parliamentary and public scrutiny. Timely debate upon reassembly of

---

<sup>20</sup> *Supra* note 1.

<sup>21</sup> (1987) 1 SCC 378.

<sup>22</sup> (2017) 3 SCC 1.

Parliament should be mandatory to prevent ordinances from functioning as fait accompli instruments.

Fifth, judicial review remains a vital safeguard. However, courts may refine the “essential legislative function” doctrine to scrutinize skeletal legislation more rigorously. Where statutes confer excessively broad discretionary powers without intelligible principles, constitutional invalidation may serve as a corrective. At the same time, judicial restraint must balance institutional competence concerns.

Finally, democratic culture itself plays a decisive role. Parliamentary accountability depends not only on formal mechanisms but on the willingness of legislators to assert oversight. Strengthening deliberative norms, protecting opposition participation, and ensuring adequate debate time are essential to restoring institutional balance.

In addition to institutional reforms within Parliament, enhancing transparency in executive rulemaking processes constitutes a critical component of democratic accountability. Delegated legislation often emerges through administrative procedures that remain inaccessible to the general public. Unlike parliamentary debates, which are publicly recorded and widely scrutinized, executive notifications and regulatory instruments may receive limited public attention. Establishing participatory mechanisms, including public consultation procedures and publication of draft rules, can significantly improve the legitimacy of delegated legislation.

Pre-publication of draft regulations followed by stakeholder consultation enables affected individuals, civil society organizations, and industry representatives to provide feedback before rules acquire binding force. Such participatory processes not only enhance the quality of regulation but also reinforce the democratic character of governance by incorporating diverse perspectives. Institutionalizing consultation requirements through statutory mandates would promote transparency and reduce the risk of arbitrary rulemaking.

Another important reform involves strengthening the doctrine of reasoned decision-making in executive legislation. The executive should be required to provide detailed justifications explaining the necessity, scope, and expected impact of delegated regulations. The publication of explanatory statements accompanying subordinate legislation would facilitate informed parliamentary review and enable judicial scrutiny where necessary. Reasoned decision-making also promotes administrative accountability by subjecting executive choices to standards of rationality and proportionality.

Digital technology offers further opportunities to enhance parliamentary oversight. Establishing centralized online repositories of delegated legislation, committee reports, and compliance records would enable systematic monitoring of executive rulemaking. Such platforms could provide real-

time information regarding the status of regulations, committee observations, and executive responses. Improved accessibility of information would strengthen both legislative scrutiny and public awareness.<sup>23</sup>

Comparative constitutional practices provide useful insights for strengthening oversight mechanisms. Several democratic jurisdictions require legislative approval of significant delegated legislation through affirmative resolution procedures. Under such arrangements, executive rules cannot take effect without explicit legislative endorsement. Although strict adoption of such procedures may not always be feasible, adapting similar mechanisms for regulations affecting fundamental rights or imposing penal consequences could reinforce parliamentary control.

The role of federalism also merits consideration in discussions of delegated legislation. In a federal constitutional framework, the distribution of legislative powers between the Union and the States creates additional layers of accountability. However, extensive delegation to central regulatory authorities may sometimes blur these federal boundaries. Strengthening consultative mechanisms between central and state institutions in the formulation of delegated legislation would promote cooperative federalism and prevent excessive centralization of regulatory power.

Educational and institutional capacity-building within Parliament is equally essential. Legislators require access to expert research assistance, technical training, and independent advisory services to evaluate complex regulatory measures effectively. Enhancing the professional support available to parliamentary committees would improve their ability to scrutinize executive action and assess policy implications.

## CONCLUSION

The evolution from “Ordinance Raj” to expansive delegated legislation reflects deeper structural transformations within India’s constitutional democracy. While Art. 123 and 213 empower the executive to promulgate ordinances in urgent circumstances, judicial decisions have reaffirmed that such powers are exceptional and subject to constitutional discipline.

Yet constitutional doctrine alone cannot prevent democratic erosion if institutional practices weaken. The declining frequency of legislative scrutiny, limited enforcement of committee recommendations, and increasing reliance on executive rulemaking collectively signal a crisis of parliamentary oversight. Executive lawmaking, though administratively efficient, risks diluting deliberative democracy and concentrating power.

---

<sup>23</sup> *Supra* note 10.

The Indian Constitution embodies a vision of accountable governance grounded in representative lawmaking. Delegation and ordinance power are tools of necessity, not substitutes for parliamentary sovereignty. Preserving constitutional balance requires revitalizing oversight mechanisms, strengthening committee systems, enhancing transparency, and fostering a culture of deliberation.

Ultimately, democratic legitimacy depends on the visible and participatory character of lawmaking. When substantive regulation migrates from the legislature to executive instruments, the constitutional promise of accountability is strained. Restoring equilibrium does not demand rigid formalism, but principled restraint and institutional vigilance. In reaffirming parliamentary supremacy and reinforcing oversight, India can ensure that administrative efficiency coexists with democratic integrity, preserving the foundational commitment of its constitutional order.