

- ✓ people will be motivated to do things to reach a goal if they believe in the worth of that goal and they can see that what they do will help them in achieving it.

CRITICISM

- ✓ not empirically tested
- ✓ can't be applied in practice.

Def of motivation: complex of force inspiring a person at work to intensify his willingness to use his capacities for the achievement of certain objectives. //

DELEGATED LEGISLATION

- ✓ statutory rules and orders
- ✓ regulations, notifications, bye-laws, directions, etc.
- ✓ delegated or subordinate legislation
- ✓ "A body of law which is made administratively by means of rules, regulations and orders promulgated by framed and promulgated by the govt. or some executive authority in pursuance of power conferred on it by an act of legislature."
- ✓ 2 senses: power of rule making & output of the exercise of that power.
- ✓ Doughmore Committee on Ministers' Powers:
"the exercise of minor legislative power by the subordinate authorities and bodies in pursuance of the statutory authority given by the Parliament itself."
- ✓ different from executive legislation
EL = laws made by Pres & Gov under Art 123 & 213 (ordinances)

Need for DL :

19th century Laissez-faire → Today Welfare State

- ✓ 1) Pressure of Legislative Work
- ✓ 2) Technicality of Subject Matter
- ✓ 3) To meet unforeseen contingencies
- ✓ 4) Expediency and flexibility

Types of Delegated Legislation : four types

- ✓ 1. Normal
 - +ve characteristic : limits of delegated powers clearly defined
 - ve characteristic : no powers to do certain things s.a. legislate on matters of principle or impose taxation.
- ✓ 2. Exceptional
 - power to legislate on matters of principle or impose taxation
 - wide discretion → limits not known
- ✓ 3. Henry VIII clause : nickname for executive autocracy ; powers to the executive to amend the statute.
- ✓ 4. DL excluding Judicial Review.

Demerits of Delegated Legislation.

- ✓ 1) 'New Despotism', 'Bureaucracy triumphant', serious danger to free society
 Lord Hewart : "New Despotism" (book) : despotism & arbitrary rule ; fervent appeal against DL which he said was usurpation of legislative power by executive
 ⇒ Donoughmore Committee : DL inevitable but precautions & vigilance desirable.
- ✓ 2) Danger of legislature delegating unlimited powers :
 e.g. skeletal laws in India confer blanket powers upon the executive.

- ✓ 3) Admin. may become corrupt. Political pressure or other influences may lead to rules made for prt. rather than public purposes. (2G Scam is an example)
- ✓ 4) Inadequate scrutiny by Parliament → DL → despotism
servant may be transformed into master.
- ✓ 5) Rules & regulations not known due to inadequate publicity → people may be victimised.

Safeguards in DL

- ✓ (i) well defined Limits
- ✓ (ii) Normal Purposes
- ✓ (iii) Publicity
- ✓ (iv) Judicial Review - doctrine of ultra vires
- ✓ (v) Parliamentary Scrutiny.

DL in India

- ✓ Art 13(3) → rules, byelaws, order, etc. in violation of FRs is void ⇒ ~~Const~~ It is well settled that rules, byelaws, etc. are made by executive under delegated authority ⇒ Constitution indirectly envisages delegation of legislative functions to exec to a limited extent.

✓ SC in "V.K. Rajgopal case":

"delegation unlimited may invite despotism uninhibited."

Parliamentary Control over DL in India

- ✓ Committee on Subordinate Legislation in each House
15 mems each
- ✓ G.V. Mavalankar: "Custodian of the duties of Parliament"

ADMINISTRATIVE LAW

- ✓ Law → Public & Pvt.
- ✓ AL → Branch of Public Law
- ✓ deals with the relation of individual with the State and other Public bodies
- ✓ Jennings : "Law relating to the admin. It determines the organisation powers & duties of admin authorities."
- AL deals with :
 - ✓ (i) Composition & powers of ^{organs} orgs of admin
 - ✓ (ii) limits of their powers
 - ✓ (iii) procedure adopted in exercise of power
 - ✓ (iv) modes of control over power, esp. judicial control.

Rule of Law

- ✓ Supreme characteristic of English Legal System as per Dicey
- ✓ RoL implies no. of propositions acc. to Dicey
- They are
 - ✓ (i) Equality in the eyes of the law or impartiality of law
 - ✓ (ii) Habeus Corpus
 - ✓ (iii) rules of constitution are result rather than source of individual's rights.
 - ✓ (iv) Courts of law : guarantors of rights of the individual
 - ✓ (v) Laws should be passed after adequate and perfect discussion
 - ✓ (vi) distinction should be made b/w law & regulation.
- ✓ Dicey : enthusiasm for RoL & contempt of AL.

Droit Administratif

- ✓ founder : Napoleon Bonaparte
- ✓ NB established Conseil d'Etat
- ✓ general repugnance to control of courts on admin during old regime; intention to avoid judicial interference in affairs of the admin.
- ✓ benefit : Independent body of eminent civil servants reviews every admin. action

Dicey on Droit Administratif

- ✓ (i) rights & liabilities of govt. functionaries diff from that of priv. citizens → privilege to public officials
- ✓ (ii) govt. officials made free from jurisdiction of ordinary courts & special protection given to them.
- ✓ ⇒ DA opposed to rule of law & alien to English System.

Criticism of Dicey's views

- ✓ 1. The working of DA has shown that no special protection to officials has been provided. Bulwark of protection of citizens' liberty
- ✓ 2. DA → state takes responsibility → compensation to citizen assured; No such thing in England.
- ✓ 3. Special discretion to State authorities in England also like Inland Revenue & Postal Depts., prerogative powers of Crown, etc.
- ✓ 4. All not equal before law in England : no. of privileges to executive. e.g. Limitation Act
- ✓ 5. only small part of English constitutional law has grown out of judicial decisions on rights of individuals. Bulk is found on customs, traditions & statutory enactments, contrary to Dicey's claims.