

**POWERS AND FUNCTIONS OF A
SUB PROVINCE.**

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There is an essential constitutional difference between the status of a Province in a federation and the status of a sub-Province or other local authority. The Province would have powers and functions in its own right derived, not from any superior constitutional authority, but from the written constitution itself. The powers and functions of a sub-Province or other unit would be conferred on it by the legislature of the province. For the whole Province or federating unit, a single legislature exercising certain rights and powers including those of creating the autonomous units and endowing them with powers must, of course, exist. An executive for the whole Province goes with the Provincial Legislature. It would also be necessary that recruitment to superior services, akin to the All-India Services of the present day, should also take place for the Province as a whole. There would be similarly a single Supreme Court for the whole Province and the specialised and research services and institutes would be provincial. The province would also have a single executive head in the Governor. It may be thought appropriate to appoint Deputy Governors for the sub-Provinces who would officiate for the Governor during his absence from the particular sub-province. In the legislative sphere, it is clear that the all-Province Legislature must have the powers of a general and overriding character in all matters, economic and social. The civil and criminal law would be uniform for the whole Province as also industrial and commercial legislation. The province would have to have the necessary powers required for economic planning, including crop-planning. It would maintain the major social services and lay down the main lines of social legislation.

(2) For a detailed consideration of the powers that could be devolved on a sub-Province, it is necessary to know the division of powers between the Federal Government and the Provincial Government. In the absence of definite information regarding this division in the Indian Union, we may refer to the Legislative Lists in the 7th Schedule to the Government of India Act, 1935.

All powers in List I of this Schedule, the Federal Legislative List, which might be transferred from the Federal List, to the Provincial List should pertain to the Provincial Government. Similarly all powers in List III, Concurrent Legislative List, in this Schedule should also be held by the Provincial Government. The Government of a Sub-Province, could, however, be given a substantial portion of the powers contained in List II, the Provincial Legislative List. The main powers that could be conferred on the Sub-Province are:—

- (1) Public Order.
- (2) Jurisdiction and powers over courts except the Provincial Supreme-Court.
- (3) Police.
- (4) Prisons and reformatories.
- (5) Local works.
- (6) Local Self-governing institutions.
- (7) Public health and sanitation.
- (8) Primary and secondary education, including vocational and technical education upto that stage.
- (9) Communications, classified as sub-Provincial communications.
- (10) Minor Irrigation.
- (11) Agriculture other than agricultural research and crop-planning.
- (12) Land and land tenures.
- (13) Local markets and fairs.
- (14) Charities and Charitable institutions.
- (15) Theatres and dramatic performances.
- (16) Libraries and Museums, sub-Provincial.

(3) From among the Provincial List of the 1935 Act, the main subjects that would have to be given to the Province are:—

- (1) Major irrigation works.
- (2) Agricultural research and crop-planning.
- (3) Mines and minerals.
- (4) Generation and distribution of power, e. g. gas works, electricity.

- (5) Trade and Commerce, money lending and money lenders.
- (6) Industry and industrial development.
- (7) Weights and measures.
- (8) Unemployment, poor relief and social security.
- (9) Corporations and Companies.
- (10) Cinema industry.
- (11) University and other higher education of that stage.

(4) It would be observed that this division gives to the sub-Province all the main work of day-to-day administration as also all subjects connected essentially with the smaller region. It is only such subjects as have wider implications and must for proper and economic management be handled on as wide an area as possible that have been given to the Province. However, the administration even of a number of Provincial subjects could be effected through not an independent agency, but through the agency of the sub-Provincial administration.

(5) It would be necessary that in all branches of administration, personnel in the highest grades of services be recruited on the Provincial level and each individual in the higher grades should see service in more than one sub-Province. If this is done, considerable uniformity in practice and interchange of ideas between sub-Province and sub-Province will be attained, even when the list of sub-Provincial subjects is large.

(6) The difficulties in separating sources of revenue will be much greater than those in separating legislative or administrative subjects. The sub-Provinces can be given land revenue, direct taxes on agricultural income, judicial stamps and also, perhaps, the entertainments tax. For most other taxes, it is of great importance that there should be uniformity over a large area and differences in administrative practice and incidence between sub-Provinces should be carefully avoided. Duties of excise and direct taxes on other than agricultural incomes, taxes on corporations and companies, succession duties, taxes on mines and mineral rights and sales taxes are all taxes whose rates and systems of imposition and administration should not differ from sub-Province to sub-Province. If it is found that the sources of revenue

allotted to sub-Provincial Governments are not sufficient to meet their requirement, a share in the proceeds of some of the taxes imposed and collected on a Provincial Basis will have to be allotted to sub-Provincial Governments.

(7) The above seems to be the maximum possible extension of the sphere of a sub-Province without impairing the essential integrity of a Province. It is not necessary that all these powers be exercised by each one of the subordinate units of administration created in a Province. It appears, at present, that the sub-units of Maharashtra in future will be (1) Eastern Maharashtra (2) Western Maharashtra, (3) Greater Bombay, (4) Kolhapur. The Kolhapur unit may include also the territory of other contiguous states. It would, however, not be possible to provide efficiently for a union of all the dispersed smaller states who will presumably have to be merged in the territory of the bigger unit in which they are placed. If Bastar becomes a part of Maharashtra, it can become an independent sub-unit like Kolhapur. In case, Goa becomes part of Maharashtra, a small sub-unit could be created of the territory of Goa together with parts of Kokani-speaking peoples contiguous to it who desire to join that sub-unit. The full powers of the sub-Province as described above need be vested only in the bigger units of East and West of Maharashtra. The other sub-units which will be smaller in population and resources may find it convenient to transfer to the Provincial Government authority in respect of a number of subjects mentioned in the sub-Provincial List above.

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