



ADMINISTRATIVE REFORMS COMMISSION

GOVERNMENT OF KERALA

NINTH REPORT

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Accountability and
Public Grievance Redress Mechanisms
in Government

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JANUARY 2021

In Partnership With

Centre for Management Development, Thiruvananthapuram.

Foreword

Periodic review of existing governance systems and mechanisms is an essential prerequisite for keeping government machinery robust and attuned to changing requirements of democratic polity/ people centered service delivery.

Administrative Reforms Commission, constituted to recommend/suggest improvements/changes to enhance efficiency of the State Administrative System is bound to review structure and functioning of the administrative machinery of Kerala and suggest measures for improving its responsiveness, efficiency, and effectiveness as required in a democratic polity. In the 10th report of the Commission, study of existing accountability mechanisms and organisations created for addressing public grievance redress is taken up.

Accountability for decisions/action taken is the basis for ensuring corruption free and transparent administration. Effectiveness and efficiency of accountability mechanisms ensure accountability of civil servants and political executives and assist transparency in government functions. Public grievances arise when there is gap in delivery of services between expectations of the people and actual delivery. Redress of public grievances is an important factor in formulation of policies for people centered delivery of services and for good governance.

The report attempts to identify some of the key limitations of existing accountability mechanisms and public grievance redress institutions. Based on the issues identified, recommendations are made to ensure good governance, accountability, transparency in government functions and provide effective grievance redress mechanisms for the people. The report includes functioning of the organisations, relevant acts, infrastructure and human resource constraints, nature of grievance received, action taken on the recommendations, authority of the institutions, other constraints, and suggestions for improvement. The report is prepared in consultation with Secretaries to government, heads of departments and the panel of experts formed for assisting ARC for preparation of the report.

In-depth discussions were held with the officials of accountability mechanisms and public grievance redress organisations, in the presence of panel of experts of the ARC and members of the Commission. As Chairman, Administrative Reforms Commission, I thank all officials and experts who assisted the Commission in preparation of the Report.

The Commission request Government to study the report and implement the recommendations to ensure a paradigm shift in the system of governance concerning accountability and public grievance redress.



V.S. Achuthanandan M.L.A.

16.01.2021
Thiruvananthapuram

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Vivil Kumar S., Assistant Section Officer

(Relieved on 16/07/2020)

Pradeep V.R., Assistant Section Officer

(Relieved on 16/07/2020)

Satheesh R., Assistant Section Officer

Praveen K, Assistant Section Officer

Shajir A, Assistant Section Officer

Rajan Varghese, Personal Assistant

Lisa T.J., Confidential Assistant

Harees Ahmed A., Confidential Assistant

Bindu S., Research Assistant

Priya K.C., Office Attendant

Chandrakala V., Office Attendant

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INTRODUCTION

Accountability

In democratic system of governance, governments are accountable to the people and accountability is ensured through creation of systems, mechanisms and authorities by the government. Accountability is a “driving force that generates the pressure for the key actors involved to be responsible for and to ensure good public service performance” (Paul, 1992¹). It is defined as the “obligation of those holding power to take responsibility for their behavior and actions “(Malena et al, 2004²). This obligation arises out of moral- ethical need to account for ones’ actions, or out of legal requirements. It is a relational concept as it concerns the relationship between those that perform an action or deliver a service, i.e., the *agent*, and those on whom the action or service has an effect, i.e., the *principal*. Accountability is the leverage that the principal has over the agent. It includes the elements of **answerability**- need for justification of actions, **enforcement**-sanction that could be imposed if the action or justification of actions is found to be unsatisfactory (Schedler, 1999³), **and responsiveness** - ability of those held

¹Paul, S. 1992. “Accountability in public services: exit, voice and control”. World Development. Vol. 20 No. 7, pp. 1047-60.

²Malena, C.et al. 2004. ‘Social Accountability: An Introduction to the Concept and Emerging Practice’, Social Development Paper, No. 76, Washington DC: World Bank, pp. 2.

³Schedler, A., 1999. Conceptualising Accountability in Schedler A, et al in Posani and Aiyar.2009. State of Accountability: Evolution, Practice and Emerging Questions in Public Accountability in India.AI Working Paper. State of Accountability in India.

accountable to respond to the demands made (Posani and Aiyar, 2009⁴). Accountability is linked to all aspects of 'good governance' and is considered as one of the best solutions for all issues in governance⁵.

Webster's Dictionary defines "accountability" as "the quality or state of being accountable; an obligation or willingness to accept responsibility for one's actions." Accountability does not mean punishment. It is the willingness to accept responsibility for one's own actions. Accountability in the workplace means that all employees are responsible for their actions, behaviors, performance and decisions. It is also linked to an increase in commitment to work and employee morale, which leads to higher performance.

Accountability is considered as a tool for responsive administration. It is related to scope, accuracy, timeliness of service delivery, functioning of organisations and systems. It is an important component of good governance that-

- hold government and/or key decision-makers to account.
- promote good governance.
- combat corruption.
- improve public policy and efficiency.

Public accountability refers to the variety of approaches, mechanisms and practices used by the state to ensure a desired level and type of performance (Paul 1992⁶). It is the need for the state to be accountable to people and stems out of the

⁴Posani, B and Aiyar, Y. 2009. 'State of accountability: Evolution, Practice and Emerging questions in Public Accountability in India', Engaging Accountability: Working Paper Series, No2., Accountability Initiative.

⁵Joyal, N.,2008,'New Directions in Theorizing Social Accountability?' IDS Bulletin 38 (6):105-110.

⁶Paul, Samuel.1992. Accountability in Public Services: Exit, Voice and Control. World Development, Vol. 20, No. 7, pp. 1047-1060,19.

'social contract' that people share with the state. In a democracy, this contract is operationalised when people elect a government and invest elected representatives with the authority to govern them. The representatives in their turn, acting themselves and through the civil servants are obliged to perform their duties with people at the centre of services delivered by government. Institutional mechanisms ensure that government respects this contract. There are mechanisms for **external** accountability, or direct accountability to the people. In a democracy, elections are the chief instrument through which external accountability is achieved. Consultations with people and their participation in design, implementation and monitoring of states' services are other examples of external accountability. Alongside, there are provisions for **internal** accountability - institutional checks and balances like constitutional separation of powers into Judiciary, Executive and Legislature, rational delegation of tasks and responsibilities, internal performance monitoring, and official oversight through Auditor General, Anti-Corruption Bureaus and Vigilance Commissions etc. Public accountability is ensured when these two aspects of accountability are realised together. When there is lack of accountability, corruption and related problems in the public sector tend to increase. Therefore, accountability is essential to ensure efficiency and quality of public service.

Public Grievance Redress

Public grievance redress is an integral part of government functions. Public grievance can be understood as communication that expresses dissatisfaction about an action of government/deficiency of service given by government or requests for remedial action. Systems need to be in place for people to communicate their dissatisfaction to the concerned authority and needs to be addressed immediately.

Public Administration cannot claim to be efficient without developing a responsive and user-friendly grievance redressal mechanism.

Oxford dictionary defines grievance as ‘something that is unfair and that one complains or protest about, a feeling that a person is badly treated’. The word “grievance” traces its root to the word “grieve”, a Middle English and Old French word which refers to cause to feel grief or sorrow. Grievance is an issue, concern or a claim that a person or a group of people want to be addressed and resolved.

12th Report of the Second Administrative Reforms Commission (ARC), Government of India - 'Citizen Centric Administration¹² – The Heart of Governance', defines grievance as indignation or resentment arising out of a feeling of being wronged. In Government, grievances are complaint against any action or decision taken by the government or government agencies. Sometimes, it may refer to a situation felt to be oppressive. It takes the character of discontent arising out of non-fulfillment of demands and expectations. These demands may be related to policies of government or to performance of administration in implementation of policies framed by the government. Grievance/ discontent is a normal feature when there is disparity between performance of government and expectations of the people. Public Grievance arise when services/benefits due to an individual or group is denied/ partially given/delayed or incorrectly given. The need to search for solutions and improve existing systems for effective redress of grievances is an important attribute of democratic polity.

¹²Second Administrative Reforms Commission, 2009. 12th Report. Citizen Centric Administration; Heart of governance. Government of India.

Mechanisms to address grievances are important for effective governance as they serve to meet needs of the people, address their concerns, and facilitate efficient service delivery. Governments employ internal processes to address grievances. Most often these internal mechanisms are found less efficient from the perspective of the people and the State. It is a challenging task for the state to develop efficient grievance mechanisms specific to requirement of the people and the context.

Most of the grievances in government are regarding delay in getting requested service, denial of services, denial of basic information on the status of the service requested etc. Delay in redress of grievances is identified as an issue in public grievance redress. Some of the common grievances are related to corruption, favouritism, nepotism, non-courteous behaviour, discrimination on the basis of social and economic and physical conditions, delay in providing services, maladministration and weak redress mechanisms. Other than these, department/organisation/service specific grievances are also made.

From the discussions above, it can be seen that there is close link between accountability and public grievance. Effective accountability mechanisms will have positive impact on public grievance leading to reduction in number of grievances and faster redress of grievances. Hence, establishing and ensuring accountability is essential to minimise/eliminate public grievance.

Objective

This report aims to analyse accountability mechanisms in the state and provide quick overview of mechanisms through which departments, institutions and civil servants are held accountable. The report also examines public grievance redress mechanisms in the state to understand how far these institutions are successful in promoting good governance by addressing grievances of the people in the state and in protecting their rights. It aims to identify barriers/hindrances faced by the public in accessing services of these Institutions and make necessary recommendations.

This report is in two parts. First part is on accountability mechanisms and second part discusses public grievance redress mechanisms in the state.

Focus of the report is to:

- understand prevailing system of accountability and public redress mechanism in the state.
- evaluate overall role of these institutions in safeguarding and protecting rights of people and redress their grievances.
- evaluate constraints that affect functioning of these institutions.
- analyse legal and institutional mechanisms existing in these institutions.
- use of IT and IT enabled services, e-filing, online complaint receipt, video conferencing etc. in facilitating the functioning of these institutions.

By studying the above aspects, the report aims to:

- analyse functioning and effectiveness of the above agencies in fulfilling their mandate.

- usefulness/effectiveness of simultaneous inspections by multiple agencies.
- possibility of integrated and joined up functioning of Administrative Vigilance Cell, Finance Inspection Wing, CTE and Stores Purchase Inspection Wing.
- possibility of integrated and joined up functioning of State Audit, Performance audit and internal audits.

Methodology

Accountability and public grievance redress systems form the basis for measuring efficiency and effectiveness of policies, administrative machinery and delivery of services by government.

Panel of experts was formed for assisting the Commission in preparation of the report. In-depth discussions were held with functionaries of accountability mechanisms and grievance redress organisations, on existing mechanisms, relevant guidelines, constraints faced, follow up on recommendations and their suggestions. Study team visited few of the organisations and based on the interactions, information on their functioning including nature of grievances received, constraints faced in redress of the grievances, relevant acts, infrastructure and human resource available, action taken on the recommendations, authority/responsibility of the organisations, constraints faced and suggestions to improve their functioning, etc., were gathered. Information from the discussions

and visits, analysis of reports and opinions and suggestions of the panel of experts are used in preparation of the report.

Following Accountability and Public Grievance Redress mechanisms in government are chosen for the study;

Accountability

1. C&AG Audit
2. State Audit Department
3. Internal Vigilance and Internal Audit in the following departments/
organisations
 - Kerala Water Authority
 - Civil Supplies
 - Legal Metrology
 - Land Revenue
 - Urban Affairs
 - Irrigation Department.
4. Performance Audit in Local Self Government Institutions
5. Administrative Vigilance Cell
6. Finance Inspection Wing
7. Chief Technical Examiner
8. Inspection Wing of Stores Purchase Department

Grievance Redress

1. Kerala State Human Rights Commission
2. State Information Commission, Kerala
3. Kerala State Commission for Backward Classes
4. Kerala State Commission for Economically Backward Classes among Forward Communities
5. Kerala State Commission for Scheduled Castes and Scheduled Tribes.
6. Kerala State Commission for Minorities
7. Kerala State Women's Commission
8. Kerala State Commission for Persons with Disabilities
9. Kerala State Commission for Protection of Child Rights (KeSCPCR)
10. Kerala State Electricity Ombudsman
11. Local Self Government Institutions Tribunal
12. Ombudsman for Local Self Government Institutions
13. Vigilance Tribunals
14. Kerala Administrative Tribunal
15. State Police Complaints Authority
16. Non-Resident Indians' (Keralites) Commission

Chapter 1

Accountability

“Anyone holding themselves accountable to nobody ought not to be trusted by anybody.” – Thomas Paine

“Creating an accountability culture is to recognize that wherever you are on the organizational chart, you encourage others to hold you accountable.”

— Henry Evans, Winning with Accountability.

Public administration is the process of governing people by governments and delivery of services to people through political administrators and officials. Governance and delivery of public services is managed through government departments/organisations, quasi-government/autonomous institutions etc. In this system of governance, people have the right to responsive governance and demand/obtain delivery of services as required/desired by them.

Main elements of Good Governance are:

1. Transparency
2. Citizens Service Charter
3. Grievance Redressal Mechanism
4. Social Audit/Monitoring
5. Public Accountability

For the purpose of this report, the Commission has taken up analysis of existing public accountability mechanisms. Accountability in Government is complex and there are extensive mechanisms for ensuring accountability. In democratic system of governance, accountability can be broadly defined as responsibility and answerability to the public. It is the responsibility of government to provide timely service to the people with quality and transparency. Government is answerable for decisions taken and activities done and is subjected to scrutiny by specified authorities and the judicial system.

Accountability denotes a condition for being accountable for one's own act or omission. Being accountable means a person or authority being responsible for what they do/not do and to be able to give a satisfactory reason for the act. It is an obligation or willingness to accept responsibility or to account for one's action or inaction. In general terms, accountability is the ownership of, and willingness to admit mistakes. Administrative authorities are considered as public trustees of public property/community goodness.

1.1 Audits

Service delivery by government, government departments and agencies need to be efficient, timely and transparent. Economy, efficiency and effectiveness in service delivery and elimination of corruption, delays, and favouritism are ensured by the functioning of built-in accountability institutions. One such institution is Audit.

Etymologically, the term Audit means official inspection of an organisation's account by an independent agent or body. In legal terms, audit denotes

examination or inspection of various books of accounts by an auditor followed by physical checking of inventory to make sure that all departments follow documented systems of recording transactions. It is done to ascertain accuracy of financial statements provided by departments/organisations/institutions.

There are two types of audit. The first is performed internally by the employers, officers or heads of department/institution. The other is done by an outside agency or authority.

According to nature, method and result of the process, audit may be classified into:

- i. Statutory Audit- which can be subdivided into Test Audit (C & AG, Local Fund Audit Wing), Penal Audit (According to the remedial measures), Correctional Audit (Monitoring and Evaluation as part of self-assessment/appraisal).
- ii. Administrative Audit – Internal or Domestic, Departmental or Institutional, Performance or Functional, Vigilance, Community or Social Audit, all these can be considered as administrative Audit.
- iii. Legislative Audit- conducted by the Public Accounts, Public Undertakings and other committees constituted by respective legislative bodies.

It is observed that in practice different types of audits and check measures are often conducted simultaneously by different agencies and authorities based on different authorisations, resulting in duplication and multiplication of procedures.

1.1.1 Comptroller and Audit General (C&AG)

Mission of the Supreme Audit Institution is to promote accountability, transparency and good governance through auditing and reporting. Audit, through its reports present an independent assessment of public spending, deviations from established norms and good practices, and allows the practitioners to adopt measures to successfully improve public administration and service delivery. Administrative usefulness of audit depends on administrative approach to audit report and taking timely action on its observations.

The process of auditing involves visit of auditors to the departments, verification of records, obtaining clarifications, calling for records, making detailed probe in relevant cases, obtaining remarks and observations of audited institutions through audit notes before finalising its reports etc. It is brought to the attention of the Commission that there are delays and reluctance in furnishing records and reply to audit notes. Replies to Inspection Reports are alarmingly delayed and many of the audit observations which could be settled through on the spot presentation of evidence are pending for years due to administrative lethargy. As per the details made available to ARC as on 1st October 2019, 25787 paras are pending unanswered in 4908 inspection reports for the period from 2008-09 to 2019-20¹³ in 36 audited departments. During the same period, 6988 paras are pending in various institutions under the Local Self Government Department.

¹³ details from C&AG audit.

Audit Monitoring Committees have been set up by Government at state, department, district and office level to review pending audit-related issues and their timely settlement. High pendency of inspection reports indicate unsatisfactory functioning of these committees.

Major irregularities in the Inspection Report, which requires legislative attention is included in the Audit Reports and presented before the legislature. These reports are considered by the Public Accounts Committee (PAC), Committee on Public Undertakings and Local Fund Accounts Committee. These committees consider audit paras, take evidence from concerned officers, conduct field visits if necessary and give their recommendations through committee reports. The committee report on approval by the legislature is given to government for compliance. As per information received by the Commission, as on 1st October 2019, 58 audit paras ranging from the period 2012-13 to 2016-17 are pending consideration by PAC. As on the same date, 90 paras relating to 2007-08 to 2016-17 are pending consideration by Local Fund Accounts Committee¹⁴.

Effectiveness of legislative effort depends on timely action by Government departments on the report of the committees. However, long pendency is observed in settling recommendations of the committees. As on 1st October 2019, 160 recommendations in 15 departments remain unattended. The recommendations

¹⁴ details from C&AG audit.

pertain to PAC reports of 2006-08 to 2019-20 and 250 recommendations of Local Fund Accounts Committee are pending actions from 2010-11 to 2019-20¹⁵.

Even though spirit behind the audit process is facilitation of better management of the audited organisation, especially accounts and performance, the auditees do not assimilate/internalise this aspect. Officials of AG are of opinion that most of the departments perceive auditing as a fault-finding mission and for taking disciplinary proceedings.

1.1.2 Performance Audit

The institution of Performance Audit is particular to Kerala. When Kerala adopted decentralisation through big bang approach, the advocates of decentralisation envisaged requirement of institutional support to aid, advise, and guide local governments. The Kerala Panchayat Raj (Manner of Inspection and Audit Systems) Rules 1997 created the new institution to evaluate whether developmental and social welfare functions and financial and supervisory/management responsibilities entrusted to local governments are executed/used effectively and efficiently in accordance with law, to handhold LSGIs in curing defects if any, and to give directions to comply with laws.

Secretary to Government in Local Administration Department is designated as Performance Audit Authority and government is authorised to appoint State Performance Audit Officer to whom Performance Audit Authority may delegate

¹⁵ details from C&AG audit.

any or all of its powers. An IA & AS Officer in the rank of Deputy Accountant General was appointed as the first State Performance Audit Officer in 2000 and continued in the post for six years. Nobody is regularly appointed to the post since 2017.

There are three Regional Performance Audit Officers, South, Central and North Regions. Additional Secretaries/Joint Secretaries from the Secretariat are appointed as Regional Performance Audit Officers. Section Officer and Assistants from the Secretariat are appointed as members of the audit team. Performance Audit of District Panchayats and Municipal Corporations is done by these officers.

Performance Audit of Block Panchayats is conducted by District Performance Audit Officer and officials. Assistant Development Commissioner, Rural Development Department is posted as District Performance Audit Officer and officials are from the Secretariat. In five districts, District Finance Inspection Wing conducts Performance audit also. Since functioning of Local Governments is different from that of other departments, efficiency of audit officials depend on the training imparted to them.

Performance Audit of Grama Panchayats is done by Assistant Director of Panchayats and Performance Audit Units. Members of the Performance Audit Units are from Panchayat Department.

Performance Audit of Municipalities is carried out by Regional Joint Director and officials in addition to their normal administrative duties. The system worked more or less satisfactorily in the initial years. Increase in the number of municipalities resulted in increase in administrative work of Regional Joint Directors. As a result, performance audit is given least priority and has become a routine item in the calendar of work.

It is a fact that Performance Audit has made visible contributions to improve functions of LSGIs in the state. General approach, maintenance of records, office management, accounting systems, response to audit, developmental and controlling functions, etc. have made tremendous improvement mainly due to timely intervention/advice of Performance Audit. But these achievements are largely due to the expertise and interest of individuals rather than institutionalisation of procedures.

It is brought to the notice of the Commission that government has appointed a Commission to suggest measures for merger of the departments of Panchayat, Rural Development, Urban Affairs etc., and create a single department 'Local Self Government Service'. Restructuring of Performance Audit institution is included in the Terms of Reference of the Local Government Commission. Hence ARC is not including issues in Performance Audit and suggestions for rectification in this report.

1.1.3 State Audit

State audit is conducted by Kerala State Audit Department, the Statutory Audit organisation under the administrative control of the Finance Department,

Government of Kerala. The department is responsible for audit of accounts of LSGIs and Local Funds included in the schedule of the Act. In addition, the state audit team audits Devaswom Boards, deposit accounts of the courts subordinate to the Honorable High Court of Kerala, amalgamated funds, welfare fund boards, tourism week celebrations and District Tourism Promotion Councils.

Mission of the state audit is to ‘enhance accountability of the executives to the Local authority/Local fund and State Legislatures by carrying out audits in the Local Bodies and providing accounting services in the Local Bodies in accordance with provisions of the Act and its Rules’. The Kerala State Audit Department is headed by director and has 56 sub-offices spread across the State. Out of these, 14 are District Offices located at district headquarters. Remaining 42 sub-offices are located at various places (mostly these are situated inside an audited institution). Of the 14 District Offices, four (Thiruvananthapuram, Ernakulum, Thrissur and Kozhikode) are headed by Joint Directors. Remaining ten district offices are headed by Senior Deputy Directors. There are 39 sub-offices functioning as concurrent audit offices performing concurrent audit at various audited institutions.

1.2 Issues

- Deficiency in optimal utilisation of audit expertise is evident at every stage of the audit process – in providing records for scrutiny, providing replies to audit notes, replying to Inspection reports, consideration of Audit Reports, submitting statements to Legislative Committees on paras under their consideration and follow up action on committee recommendations, and their final settlement. In many cases, replies to audit queries are not substantiated with supporting documents. Time gap between occurrence of

a serious irregularity, to its appearance in the Audit report and final settlement is alarming. Audit calls are often pointers to underlying causes of serious irregularities, and absence of timely action on them results in failure to prevent irregularities in utilisation of public funds. Audit of the past event needs to lead to prevention of future frauds.

- Lack of clarity on the term 'liability' used in audit remains a grey area.
- Financial liability /query by the audit team assigned to an employee does not move along with her when transferred and liability fixed is not recorded in the service book of the concerned employee.
- Local Fund Audit is functioning on the basis of an Act passed in pre-independence period. No major amendments are made to the Act so far, except inclusion of a list of establishments to be audited.
- Local Government Institutions express the grievance that they are subject to too many audits resulting in obstruction to their normal functioning, on several occasions. LSGIs are the only institutions subjected to audit of C&AG, State Audit, Performance Audit, Financial Inspection Wing, Store Purchase Department, and to Special Audit by some of the above organisations. All these agencies see the same records. Considerable time and resources are wasted in presenting same records to different agencies at indefinite intervals.
- The need to retain documents for five years for the purpose of audit is cited as a constraint by departments, especially LSGIs due to limitations of space and difficulties experienced in maintaining physical records.
- State Audit department faces structural deficiencies. The department does not have access to data pertaining to different schemes (Central, state and

LSG schemes) preventing them from identifying duplication of schemes, if any.

- Audits need to be conducted on the basis of an audit plan. Areas/subjects of audit need to be specified. This is to be followed by arriving at the audit objectives which ought to be in accordance with the vision and mission of audit. This is not happening now.
- In the prevailing system, local fund audit does audit of Gram Panchayats confining mainly to decisions taken by the Gram Sabha. If any nonconformity is noticed from the decision taken in the Grama Sabha, concerned official is summoned. This restricts the officials from proactively responding to genuine requirements apart from those discussed and approved in the Grama Sabha, adversely impacting the process of decentralisation. Procedure for replying to an audit report is discussion of the report in the Panchayat Samithi, followed by remarks from the performance auditor. It is then forwarded to the Deputy Director (Panchayat). However, this process is seldom followed.
- Development of a web-based accounting system, initiated years earlier had almost reached trial stage in 2017 but was stalled thereafter. ‘Web Sankhya,’ if implemented can bring revolutionary changes in the accounting and accountability system of LSGIs. It is unfortunate that such ambitious projects are left half implemented after spending considerable resources.

1.3 Recommendations

1. First meeting of Audit Monitoring Committee needs to be convened in April to prepare Annual Audit Programme for statutory audit of C&AG, State Audit and Performance Audit. The programme needs to include details of departments/offices to

be audited, proposed dates for audits etc., to avoid multiple audits in auditee offices. Annual Audit Programme prepared at State level needs to be communicated to all Secretaries to Government and Head of Departments immediately after finalisation of the same. This will give auditee offices required time for preparation without affecting day to day work. Government may, in consultation with AG (Audit), suggest that institutions may not be subjected to more than one audit in a year, unless there are valid reasons.

2. In the case of Local Governments Technical Guidance and Supervision (TGS) is successfully implemented and duplication of audit by AG and State Audit Department may be avoided through audit planning, except in the case of test audit envisaged under TGS.

3. Auditors also need to be accountable and remarks of Accountant General obtained before taking up subsequent inspection/Audit by an external agency if the institution is already audited by the AG or under the Technical supervision of AG.

4. AG selects Grama Panchayats for audit once in five years. But all the Panchayats are subjected to annual audit by the State Audit Department which functions under the Technical Guidance and Supervision of Accountant General. AG may consider whether the Panchayats audited under TGS are again to be subjected to AG audit.

5. Since the State Audit Department (SAD) is under the TGS scheme of CAG it needs to be considered whether detailed check of the records already audited by SAD is to be repeated by AG, unless it is essential to comply with provisions of TGS.

6. Clearance of Audit observations needs to be included as an item in the performance appraisal of offices at all levels. It shall also be included in their Last Pay Certificates. Liability fixed shall be recorded in the service book. When an employee is transferred, personal liability and audit objections (if any) shall also be sent along

with the LPC. Handing over notes needs to be insisted when officers are shifted/transferred, and pendency of audit matters shall be visibly reflected in them.

7. ARC request Legislative Committees to consider clearance of all paras in an Audit Report within a year and finalise their reports before the close of the year. Replies to Legislative Committees needs to be substantiated with supporting documents. Meetings of Audit Committees at all levels need to be strengthened and they shall not remain merely as an item in the Calendar of Returns.

8. Conventional method of submission of reports and replies needs to be replaced by technology aided methods for communication, evidence taking, and giving on the spot recommendations.

9. Action on committee recommendations needs to be time-bound and followed up strictly by Committee Secretariats for ensuring accountability of government organisations.

10. Heads of Departments needs to be informed of conduct of audits in their departments to enhance its effectiveness. Imparting training to officials on the process of auditing is essential to ensure robustness of audit as an accountability mechanism.

11. Government needs to clarify that Performance Audit needs to be carried out as an internal self-correctional audit by the institution/department functionaries/authorities. Performance Audit authority needs to be a friend and guide to the local governments and remain accessible for guidance and assistance. It needs to be conducted as peer assessment and audit reports shall be presented before the overseeing officer/authority to determine and enforce correctional measures. Officials need to be provided reasonable time for correction and improvement based on direction and guidance from supervisory officers. At the next level, the concerned official maybe warned of the consequences if there is no improvement in performance and corrections are not made within the given timeframe. The official shall be penalised/disciplinary action taken against her only as a last resort. If the mistake is repeated by the same

official it shall be marked in her Performance Appraisal Report and reflected in the proceedings of Departmental Promotion Committee.

12. Government needs to consider whether multiple agencies need to conduct audit/inspection of LSGIs. If Performance Audit is strengthened as an internal corrective mechanism there needs to be only one external audit. Financial Inspection need not be done routinely, and conducted only for a specific incident not covered by external and internal audits. ARC recommends that inspection of LSGIs by Stores Purchase Department to be discontinued and their inspections covered by performance audit.

13. ARC recommends that the application software 'Sankhya' developed by IKM is deployed to all LSGIs and its full potential utilised.

14. Government may consider publishing all Audit Reports- AG Audit and State Audit, in the departmental websites and relevant portions of the report of an office on the notice boards. Social Audit is a grass root level accountability mechanism and is conducted for various schemes/institutions. Findings of the Performance Audit, Local Fund Audit and CAG Audit shall be presented during Social Audit.

15. The State Audit mechanism shall not remain as an instrumentality of Local Self Government Department or Finance Department. It needs to be an independent, autonomous quasi-judicial entity with adequate decision making and enforcement powers. Government may revive the proposal for creating a 'State Audit Commission', with independent status, in place of State Audit Department and Performance Audit. A Senior Deputy Accountant General may be appointed as 'State Audit Commission'. State Audit Report needs to be directly submitted to the Legislature. The Commission shall be provided with executive powers and appellate jurisdiction maintained only through court of records.

16. ARC recommends that government needs to adopt the method of ensuring accountability by linking accountability with duties and responsibilities of government employees.(Refer ARC's 4th Report on Personnel Reforms (Chapter 5 Para 5.14(i)).

17. Steps need to be taken to create awareness among the departments on the purpose of auditing. This is essential for audit to achieve intended results. Auditors need to be given required training in the audit process.

Chapter 2

Accountability - Internal Audits and Inspections

2.1 Internal Audit

Internal Audit Wing (IAW) is constituted in government departments for supervising and overseeing functioning of the departments. Purpose of Internal Audit is to ensure compliance with rules and procedures, maintenance of registers and records, collection, consolidation and review of management information, supervision and monitoring of activities at different levels including implementation of projects and schemes etc. Internal Audit is an integral part of a department/organisation. Internal audit system in the departments of Civil Supplies, Land Revenue, Urban Affairs, Legal Metrology and Irrigation is reviewed for analysing effectiveness of IAW in government departments. An efficient internal audit system can ensure adequacy and effectiveness of internal control mechanisms.

All the departments referred above have internal audit wings. But their performance is at different levels. It is understood that nonperformance/below par performance of the internal audit wings in the departments is due to various reasons. These include:

- Officials of the internal audit wing are selected from among officials working in the same department. However, required training is not imparted

to these officials before posting them. Moreover, tenure is not fixed for the deputed officials.

- There is lack of clarity in the constitution of the team at state and district level.
- Reports of internal audit team are not given required importance. Timeframe fixed for rectification of non-conformities/defects is not adhered to making the whole process a futile exercise.
- Review revealed serious defects and inadequacies in the existing arrangements for internal audit in the departments. Issues include lack of competence of officials posted in auditing, inadequate training, absence of proper guidelines/ manuals on internal audit and inadequacy in audit planning, follow-up action etc.
- In some cases, liability fixed on an employee during internal audit is not cleared within a stipulated time. Thus, liability remains till retirement, leading to delay in release of retirement benefits.

2.2 Internal Vigilance

State government has made it mandatory to set up vigilance cells in all departments. It is implemented as a preventive measure to reduce corruption within the departments. The functioning of internal vigilance wing in Land Revenue Department, Legal Metrology Department, Irrigation Department and Kerala Water Authority is reviewed for the purpose of analysing effectiveness of Internal Vigilance Wing in government departments.

2.3 Inspections

Inspection is a traditional mechanism followed in government to ensure accountability. Dictionary meaning of Inspection is ‘the [act](#) of [looking](#) at something carefully, or an official visit to a building or [organization](#) to [check](#) that everything is [correct](#) and [legal](#)’¹⁶. Monk¹⁷ defines inspection as an “official examination to determine compliance with government regulation”. Inspections play a key role in accountability in government. It is considered that effective inspection practices help in delivering accountable and transparent governance. Inspections are a well-accepted method and is regarded beneficial in ensuring effectiveness of regulatory systems (ibid.).

Officials, and the system of administration complying with rules and regulations put forth by the government from time to time is an important factor in creating trust among the public about government. The challenge is to develop accountability mechanisms that promote absolute compliance of government officials. Governments have recognized that effective inspections can reduce burden on administration and people and improve productive utilisation of public resources.

Main Inspection agencies at State level are: Finance Inspection Wing (Nontechnical), Finance Inspection Wing (Technical), Stores Purchase Inspection Wing, Administrative Vigilance Cell (AVC) and Performance Audit Head Quarters Team in LSGD.

¹⁶Cambridge Dictionary

¹⁷Monk, J., 2012. Reform of Regulatory Enforcement and Inspections in OECD Countries. OECD.

2.3.1 Finance Inspection Wing

Finance Inspection (Non-Technical) Wing (FIW) of Government of Kerala was constituted in 1964 vide G.O(P)No.723/64/PD dated 19-10-1964, Finance Department to ensure that financial rules and procedures are scrupulously followed by all officials working in the State Government. It is formed based on Article 132 of the Kerala Financial Code. Main activity of FIW is enquiry into financial misappropriation by departments. FIW also takes action to ensure return of unspent amount to government Treasury.

Secretary (Finance) heads the inspection team. There are nine sections in FIW, and each section consists of one Accounts Officer/Section Officer and two assistants. Three sections are supervised by an Under Secretary. District Finance Inspection Squad consists of a Section Officer and an assistant.

Finance Inspection Wing is conceived as a deterrent force against corruption, malpractices, and dereliction of duty. Intervention of FIW helps in reducing financial impropriety in carrying out functions of the state government. Systemic corrections are proposed and implemented based on intervention of FIW. FIW has also assisted in identifying hundreds of crores of rupees kept idle in different bank accounts and ensured remitting it back to the Consolidated Fund of the state.

Inspection team of FIW is authorised to conduct surprise inspections in government offices, public sector undertakings and autonomous bodies and report to Government cases of irregularity, slackness/indifference on the part of Heads of Departments/offices in exercising financial control. The team is authorised to scrutinize all files and registers relating to accounts and stores, physical verification of cash and allied matters. Rule 132 of Kerala Treasury Code stipulates that FIW can conduct surprise inspection of cash, stores and accounts in government offices.

FIW is authorised to conduct surprise inspection of use of government vehicles of all officers including police, excise, forest, judicial departments, quasigovernment institutions, public sector undertakings, autonomous bodies, LSGIs, co-operative institutions etc., irrespective of grade and cadre for curbing misuse of government vehicles.

District Finance Inspection Squads are authorised to inspect district offices, public sector undertakings and autonomous bodies under their jurisdiction. Finance Inspection Wing (FIW) conducts inspections in response to, petitions submitted by the public, files transferred by administrative departments, and complaints forwarded by vigilance department.

FIW does follow-up of reconciliation of expenditure forwarded by the Accountant General and issues circulars and instructions to departments to complete the process in time. Inspection Reports, after approval are forwarded to respective

administrative departments for taking action and furnish report on action taken to the Inspection Wing, within a period of two weeks as instructed in G.O (P) No.506/92/Fin dated 20-08-1992.

As per G.O(P)No.2981/98/Fin dated 25-11-1998, based on the report of the Estimates Committee of the Legislature, Secretaries to Government and Heads of Departments are instructed to ensure strict compliance of directions issued in G.O(P)No.506/92/Fin dated 20-08-1992. Any lapse in this matter is viewed seriously by government, and departmental action initiated against concerned officials. Vide Circular No.56/FlW-G1/08/Fin dated 30-08-2008, they are instructed to review progress of action taken on inspection reports once in three months and report outcome of the review to Finance (inspection) Department. Directions are also issued to ensure effective and timely follow up action on the inspection reports of Finance Inspection Wing. As per Circular No.71/2018/Fin dt 31-07-2018, it was directed that action taken report on the recommendations in the Inspection Report should be intimated to Finance Department within two weeks and disciplinary action taken against the officials who intentionally delay implementation of recommendations of the Inspection Reports. Review meeting chaired by Secretary (Fin) is held every month to review activities of the Finance Inspection Wing.

2.3.2 Finance Inspection Wing (Technical)

Chief Technical Examiner (CTE)

Government of India created office of Chief Technical Examiner in 1957 under the Ministry of Works, Housing & Supply for conducting concurrent technical audit of works of the Central Public Works Department to ensure economy in expenditure

and for better technical as well as financial control. In Kerala, Government of Kerala formed CTE as per GO (P) No. 264/72/PWD dated 1st Nov 1972 as a technical inspection unit in the Finance Inspection Wing for close and continuous check on quality of works executed by state government departments, PSUs, accredited agencies etc.

Duties of Chief Technical Examiner include

(a) Inspection of important works after completion or during progress for ensuring (i) quality to specifications (ii) execution to schedule (iii) no undue deviation during construction.

(b) Inspection of works carried out departmentally for ensuring that there is no excess use of material.

(c) Checking percentage of concluded contracts for ensuring reasonableness of rates and ensuring that there is no ambiguity in the conditions, descriptions and specifications. Checking percentage of bills after payment with reference to M book and also check measurements and quality of works executed.

(d) To help Government on technical points in audit objections, draft paras, bills, contracts, administrative and technical sanctions of projects, and revisions.

Office of the CTE is headed by Chief Technical Examiner supported by a Technical Examiner and one or two Assistant Technical Examiners. A Divisional Accounts Officer (DAO) will be deputed to team if the case warrants the assistance of DAO. Present composition of the team is sufficient, but many posts remain vacant adversely affecting its activities

Following departments, undertakings and institutions are covered by CTE.

- All State Government Departments.
- State PSUs of Kerala.
- Local Self Government Departments.
- Autonomous / Statutory bodies of Government of Kerala.
- Co-operative Institutions.
- Public works of Government enlisted agencies.

Officials conduct site inspections on a regular basis. Most often, estimate prepared for various projects are not realistic and site-specific causing financial loss to the State Government on completion of the projects, underlining relevance of inspections by CTE.

2.3.3 Administrative Vigilance Cell (AVC)

Administrative Vigilance Cell in Personnel & Administrative Reforms Department in government was constituted in 2010 vide G.O (MS) No. 40/2010/P&ARD dated 14.12.2010. There are six Sections in this Cell. AVC was created for verifying credentials of candidates advised by the Public Service Commission for appointment during the ten years preceding 2010. On near completion of the verification process objective and functioning of the Cell was broadened to include:

1. Inspections in connection with timely reporting of vacancies to PSC by HODs.

2. Surprise and routine inspections in subordinate offices of government to ensure punctuality in attendance.
3. Inspections on regularisation, declaration of probation, seniority and other service matters.
4. Verification of Service Books to ensure that they are properly maintained.
5. Verification of records in connection with appointment of daily /contract employees.
6. Inspections on complaints/ information received etc.

It is reported by AVC that, during the last ten years several routine and surprise inspections had been carried out by the Cell, in addition to verification of PSC appointments, and detected several irregularities and malpractices including financial irregularities.

2.3.4 Inspection Wing of Stores Purchase Department

Stores Purchase Department conducts inspection of purchase files of government offices/PSUs/autonomous organisations/Local Bodies/Universities and other institutions utilising grant-in-aid of government. Purchasing officers of respective departments needs to make available all relevant records to the inspection team and render all possible assistance as required by them. In cases where procedure for purchase is not followed, the department becomes liable and disciplinary action initiated.

The wing is headed by a joint Secretary/ Under Secretary. Currently there are two inspection teams – Inspection Wing 1 & Inspection Wing 2. There are three members under each wing – a Section Officer and two Assistants.

2.3.5 Performance Audit Head Quarters Team

Till recently, Performance Audit Head Quarters Team functioned under State Performance Audit Officer. There are three Sections in Local Self Government Department in Government dealing with performance Audit, State Audit and AG Audit. Main function of the team is to deal with Audit matters. However, they are also entrusted with other responsibilities. Investigations, inquiries and inspections based on information on malpractices, fraud and embezzlement of public money in Local Self-Government Institutions are usually done by this team under the guidance of State Performance Audit officer. Petitions from the public, reports of Performance Audit teams etc., are main sources of information on corruption/malpractices. In addition, office of H'ble Ombudsman for LSGIs entrust inquiry of petitions received by them to the SPAO as they do not have separate investigation team. Inquiry report with findings on such cases is submitted to H'ble Ombudsman with copies of relevant documents and recorded statements. Decision on all other inquiry reports is taken by Secretary LSGD/Minister LSG, as the case may be.

2.4 Issues

- One of the main issues faced by Inspection mechanisms is lack of response of departments, especially on taking follow up actions on the Inspection Reports. This issue is reported by most of the Inspection Teams discussed

above before the Commission. Same is the case with Internal Audit Reports. As these mechanisms are envisaged as internal corrective mechanisms, taking time bound action is important.

- As in the case of Audits, departments and offices are burdened with too many inspections, whether it is Internal Vigilance, Internal Audit, Finance Inspection, Stores Purchase Inspection or Administrative Vigilance. Even though all these internal and external inspection mechanisms exist, frauds, embezzlement and corruption are rampant in the functioning of government necessitating continuance of the mechanisms
- All Inspections and Audit findings need to be verified/tested based on provisions in Manuals, Codes, Rules and regulations. But most of these Manuals and Codes are not updated and may not reflect present day realities.
- It is noticed that annual Administration Reports and Annual Reports of government departments and institutions including Public Sector Undertakings are not prepared and submitted to Government on time. Legislature Committee has taken note of this issue several times and issued strictures for timely submission of reports. But still there is no commendable progress in the matter.
- Another important issue is with regard to the absence of a Standard Operating Procedure (S.O.P) for Inspections. In addition to S.O.P, standard report formats and Action Taken Reports are to be in place for streamlined functioning of these mechanisms.
- Internal Vigilance Cells under Vigilance Officers in various departments are nonfunctional. This is a serious issue and needs to be addressed immediately.

- Ceiling on Travelling Allowance has been cited as one of the reasons for a low performance of Internal Audit and Internal Vigilance Cells as their jurisdiction is statewide.
- Staff strength of FIW is not sufficient to fulfill the mandate given to them. Sufficient space and other infrastructure are not made available to FIW in the districts.
- As per standing instructions, FIW needs to inform the departments in advance about visit of its team. Advance information adversely affects the functioning of FIW as it restricts inspection team in proper detection of financial irregularities. Files pertaining to reports on noncompliance often go missing in some departments. This indicates that no action is initiated and leads to further malpractices. In many instances, action is not initiated on the basis of reports submitted by the wing, even in clearly proven cases of fraud.
- Many departments conduct enquiry on FIW report through subordinate officers, which is an incorrect practice. FIW has identified that in some departments, employees posted on daily wages/temporary employees are entrusted with the responsibility of handling cash. In many cases, such employees are involved in misappropriation of funds and the amount could not be recovered from them. The only action that could be initiated is termination of service and filing case.
- Most of the technical experts working in the office of CTE are on deputation. Delay in completing the deputation process adversely affects functioning of the department. Office of CTE is functioning in a building without adequate protection. Confidential documents/reports cannot be stored securely in the office due to lack of safe storage facility.

- It is evident from the study that performance of internal vigilance wings constituted in government departments needs to be revamped if the purpose for which it is created is to be served. There is absence of competent and trained officials in the wing. Information/data collected from different offices needs to be compiled and reports prepared on the basis of the compiled data. This requires the services of trained personnel. Vigilance Wing most often lack representation from relevant technical, finance, administrative and legal areas specific to the departments/institutions. The internal vigilance wing is dependent on government and has to seek clarifications from the government which delays processing of cases and subject their decisions to extraneous influences.
- Suppliers of stores/ stationery/articles include those from within and outside the State. Current staff strength of the stores purchase inspection wing is not sufficient to conduct inspection at the suppliers' premises within or outside the State.

2.5 Recommendations

- 1. The Internal Audit (IA) wing and Internal Vigilance Wing requires the service of experienced officers. Systematic selection procedure for these wings needs to be ensured. The post of Vigilance Officer needs to be a Selection Post. This will take care of many constraints faced by the department. Selection procedure for IAW & Internal Vigilance Wing shall be based on test cum seniority. Test shall be designed to ensure that qualified and competent people are selected. At present, personnel who are not considered for posting elsewhere is often posted to internal audit/vigilance team without giving them any training or orientation. A separate cadre of audit/vigilance staff with sufficient training on the subject needs to be created.***

2. *Internal Audit needs to be given required independence to ensure that the reports are not affected by any conflict of interest. Personnel posted to the wing needs to be given required training. IA is a concurrent function and this spirit needs to be reflected in its functioning.*
3. *Findings of Internal Audit and Internal Vigilance, and action taken on them needs to be highlighted in Annual Reports of the departments.*
4. *Manuals and department specific standard operating procedures for internal audit and vigilance needs to be prepared. Internal audit cells shall be activated in all departments by giving proper training to the personnel posted to them. Action shall be taken against departments that do not have effective internal audit and vigilance wing.*
5. *A Standing Committee on Audit may be set up for monitoring internal audit process and for ensuring compliance of findings of Internal Audit.*
6. *ARC recommends to devise a system whereby every project is given a project code and funds released based on the code to ensure that money is not repeatedly spent for same schemes/projects from multiple sources/levels.*
7. *An effective system of monitoring of internal audit process that indicates progress of internal audit, issuing of Internal Audit Reports, receipt of replies and clearance of paragraphs needs to be developed. This will help the HoDs in ensuring that Internal Audit is conducted as per schedule and audit reports are complied with.*
8. *ARC recommends to government to form audit teams at regional/ district level, wherever required by deploying persons from existing employees. Government needs to have a relook at TA ceiling fixed for the Internal Audit wing.*
9. *Follow-up on actions against employees of the department who create liability/debt through internal maladministration needs to be enforced. Cases where criminal misconduct under Section 13 of the Prevention of Corruption Act are proved needs to be forwarded to Vigilance. Based on the findings in Audit, action shall be initiated to recover loss from the concerned officer.*

10. Finance Inspection (Technical) Wing has Civil, Mechanical and Electrical engineers. Services of Electronics and IT engineers are also required by the department. The Commission finds it a genuine requirement and recommends to government to fill this gap.

11. District Purchase Committees which are currently non-functional needs to be strengthened. Reporting by departments on status of purchases needs to be ensured. This shall be initiated by developing a suitable online system for reporting. ARC recommends revamping of the wing and make it capable of carrying out the responsibilities entrusted to it.

12. Government may consider the following suggestion of ARC.

Inspection wings that are attached to various departments/sections/wings of government- CTE, Finance Inspection Wing from the Finance Department, Administrative Vigilance Cell from P&ARD and Inspection wing of the Stores Purchase Department, needs to be detached from these departments to form an independent mechanism for effective functioning of the Inspection mechanisms. This will allow obtaining a holistic view of the issues to be addressed irrespective of issue being financial, technical or administrative. Other important benefit of a separate mechanism is that it can free LSGIs from too many audits and inspections by multiple agencies. The team under this mechanism shall inspect the case/issue and assess the cause and suggest corrective mechanisms. ARC recommends that government needs to institute a study, preferably by an external agency for setting up a unified mechanism for inspections.

Chapter 3

Public Grievance Redress

Grievance redress mechanism of an organisation is the instrument to measure efficiency and effectiveness of its functioning as it provides feedback on the working of the organisation. Effective public grievance redress requires regular analysis of public grievances received to help in identification of problem areas which require modification of policies and procedures.

Grievance in government is mostly regarding delay in taking decisions on requested service, denial of services, denial of basic information on the status of service requested etc. It is seen that officials are concerned more about disposal of cases and files and not on the quality or outcome of disposal. Delay in redress of grievances is also identified as an issue in public grievance redress. Some of the common grievances in government are related to corruption, favouritism, nepotism, non-courteous behaviour, discrimination on the basis of social and economic conditions, delay in providing services, maladministration and weak redress mechanisms. Other than these, there are also department/ organization/ service grievances.

Public grievances arise owing to many reasons. Misinterpretation of relevant provisions, arbitrary decisions, minutiae involved in the procedures, inaccessibility to services, lapse of the authorities in disseminating information of the schemes in time, delay in passing orders, non-enforcement of time limit for disposal of applications, demand for gratification, exploitation by middlemen, nepotism on various considerations, insensitivity and lack of empathy of public servants at

various levels etc. are some of the reasons for public grievances on administrative actions .

India, after independence has witnessed formulation of several enlightened legislations, of which the Right to Information Act 2005 requires special mention. Under the RTI Act, people are empowered to seek information from any public authority. The RTI Act also aims at eliminating/limiting corruption, promoting transparency and accountability in the working of Government and to make democracy work for the people in its real sense. The Kerala Right to Service Act 2012 has provided for effective, time-bound redress of grievances of people, delivery of services to the public and making government servants liable in case of default in prompt delivery of services.

Peoples' right to get services and remedies as mandated under a scheme in a time-bound manner requires to be honoured by the administration. Therefore, it has become imperative for the government to put in place proper mechanisms, both to succeed in the responsibility and to redress grievances arising out of such actions. Unless and until the administration can ensure effective mechanisms for grievance redress, there cannot not be cordial relationship between the government, its instrumentalities and the people, which in turn may lead to unnecessary litigations causing undue hardships to the people and also loss to public exchequer. Therefore, to make governance people friendly, it is essential to fine-tune/transform grievance redress mechanisms.

Despite all protective mechanisms and safeguards administrative action being a human executed activity is not free from errors that lead to public grievances. The grievances arise out of arbitrariness in decision making, nepotism, corruption,

misinterpretation of relevant provisions, arbitrary decisions, minutiae involved in the procedures, inaccessibility to services, lapse of authorities in disseminating information about the schemes in time, delay in passing orders, non-enforcement of time limit for disposal of applications, demand for gratification, exploitation by middlemen, insensitivity and lack of empathy among public servants at various levels etc. are some of the reasons for public grievances on administrative actions or as mentioned above, from errors that occur in decision making. Even if decisions are taken with diligence, mistakes can happen. To find out immediate solutions to grievances of people and to redress grievances in a time-bound manner, government have established mechanisms/institutions under laws enacted by the parliament and the legislature or under executive orders of the government. Still, the number of grievances rises at an alarming level and increase in public grievance is a matter of concern for the government/administration. It also creates anxiety and insecurity among a larger section of the public about their rights and enforceability of such rights in a time-bound manner.

Accessible as well as effective grievance redress mechanism is a necessary factor to ensure accountability in the respective realms of public activity. As the exercise of jurisdiction by the adjudicatory bodies will have the effect of overseeing administrative functions of the implementing authorities and agencies, the errors of the decision-makers can be rectified to render justice to the deserved. Such interventions would also be a mechanism to curb abuse as well as misuse of power for dubious intentions or otherwise. Thus, through the grievance redress mechanisms the government can hope that people can get their grievances redressed without recourse to protracted and costly litigations.

This report of ARC focuses on the study of selected statutory Commissions, Ombudsman Institutions and Tribunals, and other grievance redress authorities in the state. Most of the statutory bodies are constituted either as per provisions of Acts passed by the Parliament or State Legislatures. Such bodies usually have powers of a civil court while trying a suit under the Code of Civil Procedure 1908. As part of the procedure to be followed by such bodies, after formal inquiry their decision are reflected in a formal order passed after inquiry. Thus, statutory bodies which function as grievance redress institutions are established to perform specific functions as stipulated by the relevant Statute and Rules made there under. Through such quasi-judicial bodies government aims at finding solutions to issues faced by the people in lawful, harmonious and efficacious manner rather than the routine course of transaction of governmental business.

Ombudsman institutions are independent grievance redress authorities empowered to investigate grievances and enquire into administrative actions. Ombudsmen operate in various departments. Redress mechanisms include state established tribunals formed through legislation or administrative directives.

3.1 Grievance Redress Mechanisms/Organisations in Kerala

3.1.1 CMO Portal

State Government has evolved several mechanisms for redressing public grievances. The motto that underlines Chief Minister's Public Grievance Redress Mechanism in the state is *"Each file has a throbbing life behind it and the employees should examine them with a positive attitude"*. The grievance redress mechanism is implemented through a network connecting more than 10000 officials (offices). Chief Minister's Office has a public grievance cell which

receives complaints from people, forwards these to the concerned departments and follows them up. At the district level, the District Collector is designated as the District Public Grievance Officer. She monitors disposal/closure of complaints received from the people. A control room is set up at the civil station to function as the nodal office for all operations/ complaints pertaining to public utilities.

Complaints through the CM portal are handed over to the lowest level authorised officer for expeditious disposal. Every head of office needs to ensure that complaints received in her office are promptly attended to and that reports are furnished on time. Action on complaints for which time limit is not specified, needs to be completed within two weeks or a maximum of one month and disposed by giving reply to the complainant/petitioner after uploading it in the CM portal. All complaints shall be disposed only after giving reply to the complainant/petitioner. The number of complaints received through CMO portal as on 01/01/2019 is 2, 04,753.

3.1.2 Adalaths, Public Contact Programmes etc.

As part of public contact programmes, there are instances of conducting *Public Hearings*, and *Adalaths* by government departments and public utilities to settle disputes and grievances. Land Revenue Department conducts resurvey Adalaths on a need-based manner. Meetings of ‘Jilla Vikasana Samithi’ and ‘Taluk Vikasana Samithi’, held on fixed dates discuss general as well as individual issues referred to it by peoples’ representatives like MLAs, MPs and Chairpersons of LSGIs. In addition, statutory Commissions like Human Rights Commission, Women Commission, Child Right’s Commission, SCST Commission etc., frequently conducts Adalaths at district level to settle and redress grievances of people.

e-Grievance System is designed to facilitate people, district administration and local bodies by automating registration and monitoring of public grievances. It renders significant assistance to administrative staff and officers in reducing crowding in offices. Public Grievance Redress is an integral part of day-to-day activities of the district administration. Information processing is a major activity in Government Departments. A circular numbered CMCC-7/51/2017-CMCC dated 29/04/2019 clearly specifies handling of complaints of urgent nature received in the portal.

3.1.3 Right to Service Act (2012)

The Right to Service Act was passed in the state in the year 2012 to provide timely service to the public, reduce corruption and contribute to good governance. The Act aims to provide effective and time bound delivery of services and holds government officials accountable to lapses in delivery of services. The Act defines services to be provided by the departments and prescribe stipulated time limit for doing so. It specifies duties of the designated officer who on receipt of application accept or reject the application within a stipulated time. The Act also lays down procedure for filing appeals and method of handling appeals in case of denial of services within the stipulated time.

3.2 Public Grievance Redress- Quasi-judicial Institutions

The fourth Administrative Reforms Commission (ARC), studied functioning of selected quasi-judicial grievance redress organisations for preparation of this report. Grievance Redress Mechanism is an essential part of the machinery of any

administration. No administration can be accountable, responsive and user-friendly unless it has established an efficient and effective grievance redress mechanism. The Constitution of India has enshrined in it, provisions for justice, liberty, equality and fraternity to its people making it mandatory for the states to ensure social, economic and political justice to all people living within its boundaries. The directive principles of State Policy enshrined in part III of the Constitution are fundamental in the governance of the country and the State need to adopt the principles while making laws, thereby securing a social order ensuring rights of the people and promoting their welfare.

Functions, authority and activities of 16 statutory bodies functioning as grievance redress institutions in the State are discussed below to obtain an overview of its effectiveness, identify issues and make necessary recommendations.

3.2.1 Kerala State Human Rights Commission

Kerala State Human Right Commission was constituted on 11th December 1998 with the spirit of the Universal Declaration of Human Rights as per sub-section (1) of section 21 of the Protection of Human Rights Act 1993(Central Act 10 of 1994) to exercise the powers conferred upon and to perform functions assigned to a State Commission under chapter V of the said Act. Protection of Human Rights Act, 1993 (Act no. 10 of 1994) provides for the constitution of National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and matters connected therewith or incidental thereto.

Kerala State Human Rights Commission ensures protecting the rights of vulnerable and marginalised sections in the state. Activities include handling individual complaints, involvement in cases of human rights violations in the state by taking Suo motu cases on denial of civil, political, economic, social or cultural rights, matters relating to systemic reforms and good governance. There is an increase in the number of complaints received by the Commission. From 7,945 in 2014 the number increased to 11,444 in 2018. This signifies, according to the Commission an increase in awareness of human rights and increasing confidence of people in the Commission. Of the 11444 petitions received in the year 2018, the Commission disposed of 9633 petitions. Types of cases enquired by the Commission are multifarious. Complaints include rejection of old-age pension to medical negligence, alleged human rights violation against drivers of KSRTC¹⁸ etc. Majority of the cases filed before the Commission are against police and on medical negligence followed by complaints against LSGIs (e.g., no collection of waste for a long time or waste being dumped in the locality).

The Commission conducts visits to jails and meets the inmates and the police officers to analyse basic facilities in these institutions and to listen to grievances of inmates. They have given recommendations based on their findings to the government and have taken up individual cases based on the visits.

3.2.2 State Information Commission, Kerala

Openness is the strength of democracy. Right to know, or right to information is inalienable from right to freedom of speech and expression enshrined in article 19,

¹⁸Details provided by the Kerala State Human Rights Commission.

part III, Fundamental Rights of the constitution of India. The Right to Information Act, 2005 has ensured the right of a citizen to obtain any information from government, especially information related to public governance or administration, development, welfare and other regulative measures connected with functions of the government which are permitted by law to be accessed by the people. The state constituted State Information Commission, Kerala under section 15(1) of the Right to Information Act, 2005 through gazette notification No.80649/Cdn.5/05/GAD dated 19th December 2005 (Gazette No.Vol.L/2731 dated 19-12-2005. The Commission consists of the Chief Information Commissioner and four State Information Commissioners.

Number of cases registered and settled by the Commission during the period 2014 is 4971 and 2936 respectively. Data from the Commission shows that there is marginal decrease in the number of cases registered after 2014.4651 cases were registered in 2015, 4076 in 2016, 4214 in 2017 and 4112 in 2018¹⁹.

3.2.3 Kerala State Commission for Backward Classes

The Kerala State Commission for Backward Classes was constituted under Kerala State Commission for Backward Classes Act 1993 (1) (Act 11 of 1993). Terms of Reference of the Commission is envisaged under section 9 of the Act. The Commission examines requests for inclusion of any class of citizens as backward class in the list and hears complaints of over inclusion or under inclusion of any backward class in such list and tender advice to the Government as it deems appropriate. Exclusion and inclusion are made based on social, economic and

¹⁹ Details provided by the State Information Commission, Kerala

education criteria. Studies for understanding social, economic and education of a particular community is mostly done by KIRTADS and based on the study report and direct enquiry the Commission makes recommendations on inclusion and exclusion.

After determining whether a particular caste or community mentioned in a request or complaint is backward as per the above criteria, the Commission applies the test of adequacy of representation in services to the castes and communities identified as backward. Only those classes which pass the twin tests of backwardness and adequacy of representation are to be considered as 'backward' in terms of Article 16(4) of the Constitution of India.

Additional function of evaluating, from time to time degree of backwardness of backward classes and submitting periodical reports to the Legislative Assembly of the State is entrusted to the Commission as per the Kerala State Backward Classes (Reservation of Appointments or posts in the Services under the State) Act, 1995 (Act 16 of 1995).

As published in the annual reports of the Commission (2012-13, 2013-14 and 2015-16), about 40 percent of the grievances are about inclusion of a community as a backward class. The Commission registered 45 cases in 2014, 50 cases in 2015, 55 in 2016, 61 in 2017 and 60 cases in 2018. As on 30th Sept 2019, about 15 cases are pending in the Commission. As envisaged in the Act, this is one of the major roles of the Commission. This is followed by requests for reservations in recruitment (26%). Other grievances include atrocities against backward class, insult on the community, cases of criminal nature, request for issue of community and creamy layer certificate, inclusion and exclusion from creamy layer, land issues, atrocities by police etc. Grievances related to Schedule Castes are also

received by the Commission, which do not come within the purview of the Commission. Thus, it can be seen that about 40 percent of the grievances received by the Commission is not within the mandate of the Commission.

3.2.4 Kerala State Commission for Economically Backward Classes among Forward Communities (KSCEBCFC)

The Act for constituting a State Commission for Economically Backward Classes among Forward Communities came into force on the 16th day of May 2015.

Mandate of the Commission is:

- to identify forward communities in the State of Kerala and prepare a list thereof and submit it to the Government.
- to study and analyse issues concerning economically backward in the forward communities and recommend welfare measures.
- to examine requests of any community for inclusion as a forward community, hear complaints thereon and give advice as it may think appropriate, to the Government.
- to participate in and advise on planning procedure for socio-economic development of forward communities and evaluate progress of their development in the State.
- to make recommendations as to measures to be taken by the Government for effective implementation of provisions and other measures necessary for the welfare and socio-economic development of forward communities and to submit report to the Government annually at such time, as the Commission may deem fit.

- to conduct studies, research and analysis on issues relating to social, economic and educational progress of forward communities.
- to suggest appropriate measures to be adopted by Government in respect of forward communities.
- to submit report to Government periodically on any matter pertaining to forward communities, particularly in respect of difficulties faced by them.
- to discharge such other functions for protection, welfare, development and advancement of forward communities as may be prescribed.
- to do any other matter pertaining to forward communities, entrusted by the Government.

3.2.5 The Kerala State Commission for Scheduled Castes and Scheduled Tribes

The Kerala State Commission for Scheduled Castes and Scheduled Tribes Act, 2007 was passed to constitute a Commission for the Scheduled Castes and the Scheduled Tribes. Functions of the Commission are:

- investigate and examine working of various safeguards provided in the Constitution of India or under any other law for the time being in force or under any order of the government for the welfare and protection of the Scheduled Castes and Scheduled Tribes of Kerala.
- inquire into specific complaints concerning deprivation of rights and safeguards of the Scheduled Castes and the Scheduled Tribes of Kerala and to take up such matters with the appropriate authorities.

- participate and advise on planning process of socio-economic development of the Scheduled Castes and the Scheduled Tribes and to evaluate the progress of their development in the State.
- make recommendations as to the measures that should be taken by the Government for the effective implementation of safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and the Scheduled Tribes and to report to the Government annually and at such other time, as the Commission may deem fit.
- discharge such other functions in relation to protection, welfare, development and advancement of the Scheduled Castes and the Scheduled Tribes, as may be prescribed:

3.2.6 Kerala State Commission for Minorities

The Kerala State Commission for Minorities Act, 2014 (Act 5 of 2014) is an Act to constitute a state commission, for the comprehensive educational advancement, welfare, protection and empowerment of minorities.

Functions of the Commission are:

- To evaluate progress of development of minorities in the State.
- To enquire and monitor the manner of functioning of various safeguards provided in the Constitution of India or under any other law or any order of the Government for the welfare, protection and empowerment of the minorities in Kerala.
- To enquire into specific complaints about deprivation of social, economic, educational and linguistic rights, safeguards and benefits of the minorities, to

bring such matters into the notice of authorities concerned, to suggest remedial measures and to monitor follow-up actions thereon.

- To participate in and give creative suggestions on planning programmes for the educational, social and economic development of the minorities.
- To make recommendations as to the steps to be taken by the Government for the effective implementation of the measures and safeguards for the educational, social and economic development, welfare and protection of the minorities and to report to the Government either annually or at such other time as the Commission may deem fit, and to monitor their timely implementation.
- To cause studies to be undertaken into various problems arising out of discrimination towards minorities and recommend measures for their removal.
- To conduct studies, research and analysis and to organize seminars, symposium and awareness classes on the issues relating to the social, economic and educational advancement of minorities.
- To suggest appropriate measures to be adopted by the Government in respect of minority.
- To submit report to the Government periodically on any matter pertaining to minorities, particularly in respect of difficulties being faced by them and their remedial measures.
- To discharge such other functions for the protection, welfare, development and advancement of minorities, as may be prescribed.
- To take necessary steps to ensure representation of minorities proportionate to their population in various employment projects and social development projects.

- To ensure efficient functioning of the law and order system in communal conflict-prone areas and to bring lapses to the notice of Government.
- Any other matter pertaining to minorities entrusted by the Government.

Number of complaints received and settled during the period 2014-2017 range from 681 in 2014-15 to 219 in 2016-2017. On receipt of a complaint, the Commission inquires into it and if found necessary takes further steps. The Commission seeks report/opinion from the responsible officer or individuals of the concerned organisation for this purpose. The Commission issues orders after hearing the complainant and authorities concerned and makes necessary recommendations.

During the 3-year period (2014-2017), less than 50 percent of the complaints received were redressed and orders issued. Complaints registered Suo moto and received from various establishments (including voluntary agencies) is less than 10 percent of total complaints.

As per the annual reports of 2014-15, 2015-16 and 2016-17, grievances addressed by the Commission include-grievances related to delay in appointment under reservation in government services, non-granting of permission for prayers on Fridays, denial of treatment at hospitals, making communal statements that disturb harmony in school, denial of admission, denial of service, transfers in government, denial of grants for minority students, issues in the reservation for minority students, matters concerning right to worship etc.

The Commission also studied status of various minority communities in the state and submitted recommendations to government. These include:

- Recommendations to improve conditions of backwardness among the Christian community.
- Recommendations to overcome various issues faced by minorities in the state.

3.2.7 Kerala State Women Commission

Corresponding to the National Women's Commission, the Kerala Women's Commission Act, 1990 (Act 17 of 1995) was passed in 1995. It is an Act to provide for the constitution of a Women Commission to improve the status of women in the State of Kerala and to enquire into unfair practices affecting women and for matters connected therewith or incidental thereto.

The Commission functions as a statutory body on all matters relating to issues of women. Investigations relating to issues concerning women are carried out by the head of the investigation wing, Director of KWC.

The Commission is responsible to improve social status of women. It ensures guarantee of equal opportunity to women in state public service and state public undertakings in the matter of promotions and recruitment and if necessary, the commission report or recommend to government to take action. The Commission processes complaints received verbally or in writing / postal mail / online. It has an online facility for submitting complaints. It also takes into account *suo moto* notice of issues related to women. Complaints received relate to various categories of

crimes against women such as domestic violence, harassment, dowry, torture, murder, kidnapping, abduction, complaints against NRI marriages, desertion, bigamy, rape, police harassment, brutality, cruelty by husband, deprivation of rights, gender discrimination, sexual harassment at workplace and so on.

The complaints are acted upon in the following manner:

- i. Specific cases of police apathy are referred to the police authorities for investigation and filing cases.
- ii. Family disputes are resolved, or compromises arrived at through counselling.
- iii. Disaggregated data are made available to various state authorities to facilitate action.
- iv. In complaints of sexual harassment at work places, concerned organisations are urged to expedite cases and the disposal is monitored.
- v. For serious crimes of violence and atrocities, the Commission constitutes an Inquiry Committee to provide immediate relief and justice to the victims.

Number of cases registered in the Commission range between 6200-6750. 6952 cases were registered in the year 2014, in 2015 it was 6255, 6400 in 2016 and 6737 in 2017. 6694 were registered in 2018. Number of suo moto cases by the Commission increased from none in 2014 to one in 2015, 3 in 2016, 26 in 2017 and 82 in 2018. However, the number of cases disposed of decreased from 6907 in 2014 to 2655 in 2018.

Types of cases received by the Commission include mental and physical abuse by husband and his family, dowry demands, boundary disputes, harassment by children and daughter-in-law etc.

According to Annual report of the Commission, the number of cases registered in the Commission in 2013-14 is 7070, in 2014-15 it was 6619 and in 2015-16, 6373. It is also seen that in 2013-14 the Commission was able to settle 3395 cases, in 2014-15 3499 cases and in 2015-16 the number of cases settled was 3649.

It is seen that during the years mentioned, the Commission could settle about 50 percent of the cases registered. In addition to the settlement of cases, activities undertaken by the Commission include - providing free legal services, organising and conducting seminars, empowering “Jagratha Samithis”, creating awareness in educational institutions on various safety aspects related to women, marriage counselling and conduct of research and publications.

The Commission conducts awareness classes in educational institutions every year. These classes facilitate participants to take appropriate decisions in crisis situations and for ensuring their safety. These are conducted in all districts in the state.

3.2.8 State Commissionerate for Persons with Disabilities

State Commissionerate for Persons with Disabilities is a statutory body constituted under the Persons with Disabilities Act (PwD Act) of 1995. Main function of the Commissionerate is monitoring implementation of the Act in the state. The Commissionerate is a quasi-judicial body that can exercise the power of a Civil

Court under Section 63 of the Act for the redress of grievances of Persons with Disabilities.

The Commissionerate for Persons with Disabilities functions in a single-tier mode, i.e., only at the State level. The area of operations extends to the whole State of Kerala. Co-ordinating programmes implemented by different departments and monitoring utilisation of funds for benefit of the disabled in the State are functions of the Commissionerate. Other functions are conducting awareness camps, redress of complaints received from disabled persons, inspection of institutions for disabled, etc. The Commissionerate holds medical camps for issuing disability certificates to persons with disabilities. Seminars, workshops etc. are convened to create awareness among the public and elected members of Local Self Governments about rights and privileges of persons with disabilities.

A person with disability may send their grievance in writing addressed to the Commission either through post or submit directly at the Commission office.

The number of cases registered by the Commission in 2014 is 1372, 868 cases were registered in 2015, in 2016 number of cases registered was 1212, in 2017 it was 2320 and 2864 cases were registered in 2018. The Commission was able to dispose of 885 cases in 2014, 566 cases in 2015, 560 cases in 2016, 1105 cases in 2017 and 1003 cases in 2018²⁰. The Commission also actively takes up suo moto cases. Considering the number of cases registered and disposed of in the past five years, it is seen that except in 2014 and 2015, only less than 50 percent of the cases were disposed of.

²⁰ Details provided by the State Commissionerate for Persons with Disabilities

Types of cases addressed by the Commission include disabled employee not getting sufficient special allowance, denial of light-duty to disabled employees, transfer issues, issues on admissions in professional colleges etc.,

3.2.9 Kerala State Commission for Protection of Child Rights

The Commissions for Protection of Child Rights Act, 2005 (No.4 Of 2006) is an Act to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and establishment of Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto. The Kerala State Commission for Protection of Child Rights (KeSCPCR) started functioning in June 2013 as a statutory body under the Commissions for Protection of Child Rights Act, 2005 (Central Act 4 of 2006) [CPCR Act] and the Kerala State Commission for Protection of Child Rights Rules, 2012.

Objectives of the Commission are -

- protect, promote and defend child rights in the State.
- examine and review safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.
- present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards.
- inquire into violation of child rights and recommend initiation of proceedings in such cases.
- examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence,

HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures.

- look into the matters relating to children in need of special care and protection including children in distress, marginalised and disadvantaged children, children in conflict with the law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures.
- study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children.
- undertake and promote research in the field of child rights.
- spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means.
- inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for treatment, reformation or protection and take up with these authorities for remedial action if found necessary.
- inquire into complaints and take suo motu notice of matters relating to
 - ❖ Deprivation and violation of child rights.
 - ❖ Non-implementation of laws providing for protection and development of children.
 - ❖ Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring the welfare of the children and

to provide relief to such children or take up the issues arising out of such matters with appropriate authorities.

- ❖ such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

In the year 2015-2016, around 197 (13%) of the grievances were related to Right to Education (RTE), 46 (3%) grievances were related to POCSO and grievances related to violation of Child Rights was about 1339 (84%). In 2016-2017, 128 (5%) grievances related to RTE, 118 (5%) was on POCSO and 2260 (90%) grievances were concerned with violation of child rights and in 2017-2018, 170 grievances were related to POCSO, 12 of the cases were on JJ, 282 of the grievances related to Violation of Child Rights and 1958 of the grievances were about RTE.

3.2.10 State Police Complaints Authority

Obtaining an effective remedy for complaints against the police has been an arduous, daunting and time consuming, struggle in India. Making the police accountable for their actions is a recurrent theme in the reports submitted by police reforms commissions and committees constituted by the Indian Government over the years. First Report of the National Police Commission released in 1979 stressed the need for an independent authority to look into complaints against the police. This call was repeated by the Ribeiro Committee in 1998 and the Padmanabhaiah Committee in 2000. Subsequently provisions for complaints authorities at the state and district levels were included in the Model Police Act by the Police Act Drafting Committee (PADC) headed by Soli Sorabjee, in 2006.

Culmination of all these reports was the landmark Supreme Court judgment in September 2006 directing all state governments and the central government to immediately reform the way police forces are functioning in the country. The Supreme Court gave seven directives for changes. The sixth directive ordered that Police Complaints Authorities (PCAs) be set up in all states. It was intended that these would function as robust, independent mechanisms designed to make the police accountable for their actions.

Government of Kerala constituted the State Police Complaints Authority as per provisions in Section 110 of the Kerala Police Act, 2011. The authority started functioning from 22nd February 2012 and inquires into complaints on misconduct by police officers of and above the rank of Superintendent of Police, grave complaints against officers of other ranks in respect of sexual harassment of women in custody or causing the death of any person or inflicting grievous hurt on any person or rape, etc.

District-level authorities comprising of district police chief, district collector and headed by retired district judge hold sittings at district headquarters every two or three months, depending on the number of complaints.

Data from the Police Complaints Authority shows that the number of cases registered in 2014 is 671, in 2015 644, 626 in 2016, 808 in 2017 and 435 in 2018. Number of cases disposed in these years is, 670 cases in 2014, 642 cases in 2015, 618 cases in 2016, 793 in 2017 and 406 cases in 2018. Average time taken to

dispose a case is 6-8 months. Type of cases addressed by the Authority includes threatening and arrest of petitioner in POSCO cases by the police, assault of petitioner.

3.2.11 The Non-Resident Indians' (Keralites) Commission

The Non-Resident Indians' (Keralites) Commission is formed under the Non-Resident Indians' (Keralites) Commission Act, 2015 for Non-Resident Indians hailing from Kerala to protect and safeguard their interests in the State of Kerala and to recommend remedial measures for their welfare.

Functions of the Commission are:

- Help Non-Resident Indians' (Keralites) and their family in protecting their rights, particularly on issues of life and property in the State of Kerala.
- Pursue interests of Non-Resident Indians' (Keralites) with the State and Central Governments.
- Help to safeguard investments of Non-Resident Indians' (Keralites) in all forms within Kerala.
- Facilitate social service organisations for the Non-Resident Indians' (Keralites) and their spouses and parents living in Kerala for community life and health care.
- Inquire into unfair practice, against Non-Resident Indians' (Keralites) and make recommendations to concerned government departments or agencies on the action to be taken in the matter.

- Report to government inadequacies or shortcomings in existing laws which affect their rights under the Indian constitution to equality and fair treatment and suggest remedial legislative measures.
- To enquire into unfair practices of recruitment agencies and to ensure that interests of Non-Resident Indians' (Keralites) are protected;
Findings of the Commission on any inquiry conducted under this Act needs to be communicated to government with recommendations for appropriate action/relief to the parties to the dispute.

Data from the Commission shows that the number of cases registered in 2016 was 5. In 2017 it increased to 110 and in 2018 to 295. Average time taken for disposing of a petition is 3-6 months. Grievances that are addressed to the Commission include non-receipt of benefits of welfare schemes intended for Non-Resident Keralites, non-receipt of building/house number and completion certificate from the local bodies, illegal acquisition of land, easement rights etc.

3.3 OMBUDSMAN INSTITUTIONS

3.3.1 Kerala Electricity Ombudsman

Ombudsman is an official who is charged with representing interests of the public by investigating and addressing complaints of maladministration or violation of rights. Ombudsman is appointed by government, public sector undertakings, utility suppliers, nongovernmental organisations or professional regulatory bodies, but has significant level of independence from the appointing authorities. Duties of the ombudsman include investigation of complaints and its resolution through recommendations or mediation.

The State Electricity Ombudsman is appointed by the Kerala State Electricity Regulatory Commission (SKERC) based on Section 42(6) of Electricity Act 2003. Any consumer, who is aggrieved by non-redress of grievance by Consumer Grievance Redressal Forum (CGRF) established by licensees as per Section 42(5) of Electricity Act 2003, may represent for redress of grievance to the ombudsman. As far as Kerala is concerned almost all the representations (appeal petitions) received by the ombudsman are from KSEBL consumers.

The following Acts, Rules, Regulations govern functioning of the State Electricity Ombudsman.

1. Electricity Act 2003
2. Kerala Electricity Supply Code 2014
3. KSERC (CGRF & Electricity Ombudsman) Regulation 2005
4. The Central Electricity Authority (installations & operations of metres) Regulations 2006
5. The Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010.
6. Consumer Protection Act of 1986

Regulations applicable to the functioning of State Electricity Ombudsman are Regulations 14 to 28 of KSERC (CGRF & Electricity Ombudsman) Regulation 2005.

Activities performed by State Electricity Ombudsman include (1) dealing with representations (appeal petitions) received from the consumers who are appellants against orders issued by CGRF and (2) processing and deciding on matters raised

in complaints received over the telephone, through e-mail and by post/courier. These petitions are forwarded to concerned senior officers of the licensee for suitable action. Action by licensee is to be taken by 1. conducting immediate hearing with representatives of the licensee and 2. advising the complainants to file petitions before concerned CGRF, which is done only as a last resort.

Perusal of the summary report of petitions received by the State Electricity Ombudsman for previous years shows main areas from which appeal petitions are received relate to additional/back assessment billing of consumers, followed by arrear billing, abnormal billing, disconnection/reconnection, change of tariff category, complaints on low voltage and variation in voltage, etc. It can be seen that majority of petitions are disposed of in favour of consumers. For instance, during 2016-17 total petitions with the ombudsman, pending and received during the year were 137. Likewise, during the year 2017-18, State Electricity Ombudsman considered 151 petitions and out of 133 petitions disposed 91 were in favour of the consumers and only 42 petitions disposed of in favour of the licensee. In 2018-19, 114 appeal petitions were received by the ombudsman. Out of the 99 appeals disposed of, 52 appeals were in favour of consumers and 47 appeals in favour of the licensee.

3.3.2 Ombudsman for Local Self Government Institutions

Ombudsman for Local Self Government Institutions is formed as per Ombudsman Rules for the Local Government Institutions of 1994 and as contemplated in the Kerala Panchayat Raj Act Chapter XXV B, to redress grievances by conducting special or general inquiry about any allegations that the staff and officers and

members including the President of the Panchayat have committed maladministration or corruption in carrying out their duties.

- Ombudsman is a high powered quasi-judicial body functioning at the State level. Under the present law, only a former judge of a High Court can be appointed as Ombudsman.
- Ombudsman can conduct investigations and enquiries into instances of maladministration, corruption, favouritism, nepotism, lack of integrity, excessive action, inaction and abuse of position on the part of officials and elected representatives of LSGIs (Corporations, Municipalities, and Panchayats of all three levels) following the provisions of the Kerala Panchayat Raj Act, 1994 (Act No.13 of 1994).
- She can register cases Suo moto if instances of the above kind come to her notice.
- Sittings can be held anywhere in the State and at the discretion of the ombudsman. She is not strictly bound by the rigid provisions of the Indian Evidence Act and Civil Procedure Codes.
- A person can represent the case in the forum without the help of an Advocate.
- Advocates can appear in the cases before the Ombudsman only if specifically permitted to do so for stated reasons. These provisions make functioning of Institution flexible and enable conduct of cases fast and inexpensive.
- Grievances can be presented in person to the secretary of Ombudsman or sent in the notified address.

Functions of the Ombudsman are:

- i. Conduct enquiry about allegation mentioned in grievance petition or mentioned by government.
- ii. Enquire about grievances, corruption or maladministration of any public servant or local government institutions.
- iii. Enquire about allegations and pass proper orders.
- iv. In a matter involving criminal offence, conduct trial and send case to concerned authority for further action.
- v. If a citizen sustains loss or inconvenience, she/he shall be given compensation through the local self-government institutions concerned and the loss should be recovered from those who are responsible for the offence.
- vi. If the misuse or overspending of the funds of the local self-government is involved, the loss is recovered from those who are responsible for the offence.
- vii. If any omission has been committed due to corruption or negligence, advise to rectify the mistakes and fill in the void.
- viii. If it is felt that the grievance would sustain loss or injury due to the action of the local self-government, prevent the organisation from doing anything against the interest of the Aggrieved Person.
- ix. If it is felt that the corruption was committed for individual gain, impose fine in addition to compensation of loss.

Office of the Ombudsman for LSGIs is in Thiruvananthapuram. At present, sittings of Ombudsman are held at Thiruvananthapuram, Ernakulam, and Kozhikode. Occasionally sittings are also held at other places like Kannur and Palakkad.

3.4 TRIBUNALS

3.4.1 Tribunal for Local Self Government Institutions

Under section 276 of Tribunal for Local Self Government Institutions Act and Section 509 of the Kerala Municipality Act, 1994 government is mandated to constitute a Tribunal for every district or more than one district, to consider and dispose of appeal/ revision filed against decisions of Local Self Government Institutions.

The Tribunal is also empowered to comment on directives from government about legitimacy of decisions made by Local Self Government Institutions. If the aggrieved person is not satisfied with grievance redress measures taken by the Grama Panchayat or feels that the grievance has not been redressed, she can move the Tribunal for redress. The Tribunal, being a quasi-judicial authority appointed by the government, can consider the revision or appeal submitted against decisions taken by LSGIs.

A Tribunal consists of one judicial officer of the rank of a District Judge, appointed by the Government in consultation with the Chief Justice of the High Court of Kerala and by notification in the Gazette.

A Tribunal shall have the same powers as are vested in a Civil Court under the code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit in respect of the following matters:

- Summoning and enforcing attendance of any person and examining her on oath

- Demanding discovery and production of any document or other material object producible as evidence
- Receiving evidence on affidavits
- Requisitioning any public document or a copy thereof from any court or office
- Appointing commissions for examination of witnesses or documents.

Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (Central Act 45 of 1860).

The appeals should be submitted in Form-C, within 30 days from the date of the decision. If the appeals submitted to the Local Institution are not considered within 60 days, petitions can be submitted before the Tribunal within 90 days. The petitions with certified documents can be submitted either directly or through registered post. The fees are Rs.50. Headquarters of the Tribunal is at Thiruvananthapuram. English or Malayalam may be used in any petition submitted before the Tribunal, and its trial and other proceedings, orders thereto.

Discussions reveal that average time taken to dispose grievances range from 6 months to 3 years. It is observed that many cases are pending for more than three years. Reasons stated for delay in finalisation of cases are lack of information from the concerned authorities, failure of the client to attend hearing etc.

3.4.2 Vigilance Tribunals

Like any other category of human being government employees are also prone to follow corrupt practices, for various reasons including complex and adverse social conditions. Several measures are introduced by government under various Acts, Rules, etc., to check these tendencies. There are Central and State Acts and Rules and guiding principles, and the Constitution itself provides for action to be taken against delinquents and punishments to be given.

‘Disciplinary Proceedings Tribunal’ which functioned as a department was re-designated as Vigilance Tribunal as per the Kerala Civil Services (Disciplinary Proceedings Tribunal) Rules 1960 and the rules itself renamed as Kerala Civil Services (Vigilance Tribunal) Rules 1960, as per GO (P)134/90/vig. dated 7.9.90. As per Section 4(1) of KCS(VT) Rules 1960, Government may refer to the vigilance Tribunal any case or class of cases, which they consider should be dealt with by the Vigilance Tribunal provided that all cases relating to gazetted officers in respect of matters including corruption on the part of such officers in the discharge of their duties shall be referred to the Vigilance Tribunal. According to Rules 5(b) of KCS (VT) Rules 1960, the departmental authorities can also send to the government records of cases other than corruption cases which they consider fit to be tried by the Vigilance Tribunal and government shall decide whether such cases shall be tried by Vigilance Tribunal or not.

On an evaluation of disciplinary cases against government employees in the state, it is seen that large number of cases with different levels of gravity are pending with concerned disciplinary authorities of government/heads of departments and subordinate authorities. These authorities handle disciplinary action cases in

addition to other responsibilities entrusted to them and handling the cases affects their normal functions. Minor irregularities can be enquired and finalised by them. But more serious irregularities can be enquired and concluded by Vigilance and Anti-corruption Bureau, EC & SJs, Vigilance Tribunals, etc.

As per KCS (DPT) Rules 1960, a Tribunal shall be a Judicial Officer who is eligible to be appointed as District and Sessions Judge or a person with not less than 10 years' experience in the administration or conduct of prosecution/disciplinary cases. Subsequently, experience was reduced as 7 years (G.O(P) 134/90/Vig dated 7.9.90) and upper age limit was raised to 62. It may be noted that raising of age limit, etc., lacks logic as the Tribunal is a person with only 7 years' experience as an advocate and most of the time the appointment will be on political consideration. Also to be noted that the retirement age of District Judges is 60.

As per Rule 8 (i) (iv) of Kerala Police Departmental Inquiries, Punishment and Appeal Rules 1958, cases against Kerala Police Service and Kerala Police Subordinate Service employees can be enquired into and reported by Vigilance Tribunal.

Even though KCS (VT) Rules and the government circulars contain instructions for referring cases of the above nature by the Tribunal only few cases are referred/reach Vigilance Tribunal. Nature of cases referred is:

1. Enquiry/quick verification/preliminary enquiry cases where recommendation for Vigilance Tribunal is made.
2. Cases wherein FIR filed in the court of EC&SJ by VACB and after investigation, it is found that no criminal prosecution is required, and Vigilance Tribunal Enquiry will suffice.
3. Cases in which VACB submitted reports to government with recommendation for prosecution in which government decide that Vigilance Tribunal Enquiry would suffice as there is no scope for successful prosecution.

3.4.3 Kerala Administrative Tribunal

Administrative Tribunals are constituted by amending Article 323A and 323B of the Indian Constitution. These deal exclusively with service matters of civil servants. Administrative Tribunal is quasi-judicial but is assigned with adjudicate authority in matters referred to them.

The Administrative Tribunals Act, 1985 is an Act to provide for the adjudication on trial by Administrative Tribunals of disputes and complaints concerning recruitments and conditions of service of persons appointed to public services and posts in connection with the affairs of the union or of any state or any local or other authority within the territory of India or under the control of Government of India or of any Corporation (or Society) owned or controlled by Government (in pursuance of Article 323-A of the Constitution) and for matters connected therewith or incidental thereto.

The establishment of Administrative Tribunal under the aforesaid provision of the constitution became necessary as a large number of cases relating to service

matters are pending before various courts. It is expected that the setting up of such Administrative Tribunals to deal exclusively with service matters would go a long way in not only reducing the burden of H'ble High Court and thereby giving them more time to deal with other cases expeditiously but would also provide persons covered by the Administrative Tribunal speedy relief in respect of their grievances.

Consequent on the notification issued by Central Government, under Section 4 (2) of Administrative Tribunals Act, the jurisdiction of the High Court to deal with the matters of the Government employees ceased to exist.

3.5 Issues

Focus of the report is to provide comprehensive recommendations to improve policies and processes concerning grievance redress mechanisms rather than immediate solutions to service-related issues. Grievance Redress mechanisms that relate to issues of large sections of the society is selected for the study. Issues are prioritised and recommendations made for quick and quality redress of the grievances, based on discussions with Commissions, Tribunals and Ombudsman Institutions.

Grievances of the public are received by the institutions through post, physical submission, emails and even through phone calls and messages. However, there has been an increasing trend towards using email, mobile phones for registering complaints. In most cases grievances received are forwarded to chairpersons of the Commissions and then to the members who deal with the subject linked to the

grievance, for redress under intimation to the complainant. The Commissions receive an average 1000 grievances every year and follows them regularly till final disposal. In most of the cases, the grievance redress mechanisms receive grievances by post or through in-person contact.

Grievance redress mechanisms focus mostly on individual grievances and issues of social relevance. Core functions include awareness creation, monitoring institutions which come within the purview of their activities, suggestion of measures for social/economic development and prevention of atrocities against the vulnerable groups. Complaints relate mostly to promotions, discrimination and harassment, disciplinary proceedings, transfers to far off places, police atrocities, medical negligence and other similar instances. Suo moto cases are taken by the institutions on issues that impact society.

- The grievance redress mechanisms have been successful in handling individual cases and recommending actions to resolve cases. However, they have not been equally successful in suggesting measures for fundamental changes that can eliminate/reduce reasons for the grievances, or in analyzing causes for discrimination and inequalities in the society and reasons for atrocities etc.
- All grievance redress institutions are facing shortage of human resources especially those with required skills for timely address of grievances received by them. The public grievance mechanisms have not moved towards online/web-based systems because of lack of human resources

capable of handling new technologies and manage changes properly through timely interventions. Secretaries/registrars and other administrative staff in most of the Commissions are deputed from the Secretariat. They bring administrative experience to the Commissions. But frequent change of personnel, as they are deputed for one year at a time and long gaps in filling up vacancies that arise on transfer of employees on deputation cause hurdles in the smooth and efficient functioning of the Commissions. Shortage of human resources is an important constraint faced by the Grievance redress mechanisms in the state.

- People are not aware of the existence of many of the grievance redress systems and about where and how to approach them. The system remains inaccessible to many of the aggrieved people.
- There are standing instructions for acknowledging complaints, petitions and applications received in Government offices including the Commissions for public grievance redress. This is not being scrupulously followed. There is no time limit fixed for approval or rejection of applications based on publicised and uniformly applied criteria. Time taken for disposal of complaints varies from 15 days to 1 year.
- In many cases, there is delay in gathering information about the cases from concerned persons/organisations. Despite being a Commission with quasi-judicial powers, many organisations/ institutions are not willing to share information and this in turn delays settlement of issues brought before the Commissions. In some cases, the Commissions had to seek assistance of police to summon authorities of organisations. Many departments/institutions are reluctant to respond to enquiries from the Commissions as they consider that the Commissions do not have such authority. To quote an example, State Bank of India did not sanction loan to

an NRI. Even after repeated reminders by the NRI Commission, SBI authorities did not share details sought by the Commission by citing the reason that the Commission does not have authority to request for information from the Bank. This is not the case with Human Rights Commission, Women Commission and SC/ST Commission. Communications received from these commissions are responded fast.

- All Grievance redress organisations work towards improving public interface mechanisms. Significant mechanisms of public interface like Adalaths have been institutionalised by these organisations. However, more needs to be done to make them easily approachable and people friendly.
- Accountability of the Commissions on redress of grievances is ensured through their annual report which includes information on grievances, number of grievances disposed of and pending, analysis of nature and reasons for specific type of grievances and action plan to redress and prevent these. The grievance redress organisations are expected to present these details to the Legislative Assembly. However, there is pendency in the submission of annual reports of most of the Commissions.
- There is no formal follow up mechanism on orders issued by the commissions. In some cases, the complainant out of courtesy informs the commission regarding settlement of an issue. Orders passed by the Commission often remain unimplemented compelling aggrieved persons to come back to the Commission with the same complaint. This results in accumulation of complaints before the Commission and increase in workload. Only few departments/ institutions do regular follow up to ascertain that orders issued are implemented. Prevalent perception is that recommendations of the Commissions are not binding. This also adversely affects implementation of recommendations of the Commissions.

- An important function of Public Grievance Redress Mechanisms is to undertake comprehensive studies to evaluate status of the target group and prepare reports based on the study. Socio-economic conditions, educational standards, representation of the communities in decision making bodies etc., of the target group is to be studied. However, most of the Grievance redress institutions do not have in-house research and development team or financial strength to engage experts from outside the organisation to conduct research studies of good quality.
- Grievance redress organisations are usually not involved in policy formulation of the groups that they are responsible for. The fact that there is no time limit for the government to respond to their recommendations and also because the recommendations are not binding on governments makes these institutions mere recommendatory bodies. To quote examples, the NRI commission recommended amendment to certain clauses in the Rent Act that adversely affect interests of the NRIs. So far government has not taken any action to consider the recommendation. Similarly, recommendations on housing scheme for NRIs, old age home etc., are still pending with the government. The Human Rights Commission visits jails to interact with the inmates and assess conditions prevailing in the jails. Similarly, Women Commission and Child Rights Commission visit institutions that are formed for the benefit of women and children in the state. Based on the visits and discussions, recommendations are given to the government. But these normally remain on paper.
- Performance of these organisations varies according to the interest taken by the Chairperson and members in its functioning. Initiatives are taken, and

how they are taken depends largely on personal charisma/dedication. Institutional arrangements to ensure continuity of work done is not ensured.

- Cases in which the State Government is a respondent, usually there is reluctance on the part of concerned official to attend the hearing causing postponement of the case. On the contrary, if the complainant is absent for the hearing due to unavoidable reasons cases are dismissed. This leads to denial of natural justice.
- Certain grievance redress mechanisms like Minority Commission and Kerala State Commission for Economically Backward Classes among Forward Communities (KSCEBCFC) have limited responsibilities. The role of Minority Commission has substantially reduced after the recent High Court judgment that this Commission should only take up cases related to impingement on minority rights. For example, earlier they used to take up cases filed by a person belonging to a minority group against human rights violation by police or denial of any other right. At present their work is limited to issues like creation of crematorium facilities for various religious minorities. Disputes about reservation in institutions and for jobs are considered by the Minorities Welfare Directorate leaving the Commission with limited responsibilities.
- KSCEBCFC conducted its first sitting on 25.02.2016. However, the Commission is yet to identify its target group (forward communities). The Commission conducted a study and submitted a list of forward communities to the government for approval. Government is yet to approve the list of forward communities and fix target groups.
- In the case of NRI (Keralites) Commission petitions/ grievances received are mostly on issues of general nature like building permit, electricity

connection, land acquisition etc., which are to be dealt by other organisations, and not specific issues of an NRI (Keralite).

- In several cases same grievances are addressed to more than one institution at the same time. Overlapping jurisdictions and duplication of efforts in dealing with complaints and addressing grievances is also common.
- Lack of adequate infrastructure, mainly buildings with easy access is a constraint cited by all the organisations. Most of them are functioning in private buildings without proper infrastructure.

3.5.1 Specific issues

Grievance Redress by government departments/CMO Portal

- Government have issued circulars for setting up enquiry counters in all the offices. However, well planned and well executed enquiry counters/help desk is a rare sight in many of the offices visited by the study team. Separate arrangements are not made for the purpose.
- Directions are seen issued to all offices to make different levels of officials responsible for different types of grievances and to update status of complaints received at specified intervals to the complainant. Information technology-based grievance redress support systems like toll free number, WhatsApp numbers, mobile applications, web portal etc., are developed by the departments/organisations/agencies for redress of public grievances. These facilities are accessible to the public. However, efficacy of these facilities remains unproved.

- Collated and published information regarding existing instructions on grievance redress is not available. Subject-wise classification of grievances is not being done at department/office level. It is also noted that there is no mechanism to mark public grievance cases in the personal register in any of the offices visited. None of the department or offices has appointed nodal officers for monitoring public grievance redress mechanisms.

State Information Commission, Kerala

State Information Commission in Kerala is constituted based on the Central Act and hence ARC has limited scope to suggest reform measures. It is learned that RTI Commission and departmental/ office level/ institution level Information officers and appeal mechanisms are functioning satisfactorily and as envisaged. Majority of people in Kerala are aware of the functioning of the Commission and are making use of the mechanism to avail information based on their need and choice. However, some of the issues brought to the attention of ARC are discussed below:

- One of the major issues is that Section 4 of the RTI act is yet to be implemented in the state. PIO's have not published S.4(VI) and XIV - statement of the categories of documents that are held by it or under its control, details of information available or held by it, reduced to an electronic form. Hence it is not possible to reduce RTI application in the State aided by suo motto dissemination of information.

Kerala Right to Services Act

- Studies reveal that implementation of Right to Service Act in the state has not been effective. Disposal within specified time limits is not enforced effectively. There is lack of awareness among the public on provisions of the Act. So far only few services and cases have come for consideration of appellate authorities. Visit to a public office reveals name board of Public Information Officer and 1st appeal authority under RTI. However, it is not possible to see any information about designated officer and first appeal authority under Right to Services Act.

Kerala State Electricity Ombudsman

- In exercise of the powers conferred under the Section 50 of Electricity Act 2003, Kerala State Electricity Regulatory Commission notified a comprehensive code viz., Kerala Electricity Supply Code 2014 regulating affairs of distribution licensees and all consumers and users in the State. Awareness of distribution licensee and its employees about their duties and responsibilities and their performance in the defined manner on petitions can minimise/avoid petitions in the Consumer Grievance Redressal Forum (CGRF) and appeals in the ombudsman. Decision of Ombudsman may be challenged either by the licensee or consumers in the H'ble High Court if they desire so. It is seen that KSEBL, the distribution licensee challenges orders of CGRF also in the High Court in many cases.
- Billing for the period when meter is faulty and realisation of cost for providing electric connections is reverse related. Assistant Executive engineers are the officials entrusted by the KSEBL to file their versions and to attend hearings conducted by the Ombudsman. Revenue related 'hearing'

is a space for settlement, but the Assistant Executive Engineer is not authorised to take decisions in the hearing.

- Timely disposal of appeals is needed in every case, otherwise, due to delay in the disposal, consumers tend to move to Consumer Forums under the Consumer Protection Act.

Vigilance Tribunals

- From Administration Report of Vigilance Tribunal in the State i.e., at Thiruvananthapuram and Kozhikode it is seen that number of cases enquired and recommendation made is quite small. In 2016-17, number of cases filed was only four in Thiruvananthapuram. At the beginning of the year, 19 cases were pending in Vigilance Tribunal, Thiruvananthapuram of which only four cases were disposed in this year.
- Government have issued directions regarding significance of Vigilance Tribunals and procedure for referring cases to Vigilance Tribunals in circulars no.5681/C2/98/vig dated 31.12.2001, Cir.No.6395/C2/2014/vig dated 30.6.2014 etc. But most of the Administrative Departments and HODs have not taken cognizance of the circulars and referred cases to Vigilance Tribunal for enquiry.

Kerala Administrative Tribunal

- The aim of the setting up of Administrative Tribunals is speedy relief in respect of the grievances of the concerned and for reducing the burden of various courts and giving them time to deal with other cases expeditiously. So far only Government employees are coming under KAT and the ultimate aim of the Act is not achieved.

- In exercise of the powers conferred by Sub Section (2) of Section 15 Government of Kerala applied provisions of Sub Section (3) of Section 15 of Administrative Tribunals Act 1985 to be exercised by KAT to all service matters of teaching and non-teaching staff of Aided Schools in the state from effective date of notification. Notification was issued as per GO (P) 14/2014/P&ARD dt. 10.12.2014. But till now adjudication of matters relating to teaching and non-teaching staff is not vested with the KAT. The reason stated for this situation is that notification issued by Government is stayed by the Hon'ble High Court.
- KAT has developed an excellent case information system, CISKAT, that facilitates KAT to track applications from receipt to the disposal. Required reports, queries, summaries, status, etc. can be generated from the system. KAT is taking steps to digitise its functioning making use of available ICT to ensure more transparency in its functioning. KAT also intends to enable electronic filing of applications through its electronic portal. This will make functioning of the Tribunal more users friendly. Kerala Administrative Tribunal Procedure Rules 2010 needs to be amended for bringing in this change. Necessary proposal is sent to the Ministry of Personnel, Public Grievances & Pensions, GoI for amending the rules, through Government.

Police Complaints Authority

- Most of the cases in the Police Complaints Authority are dismissed due to absence of evidence as complainants are unable to produce necessary evidence. The Authority does not have separate investigation team. Burden of proof is on the complainant. In most of the cases, the complainants do not get any relief as cases are disposed due to nonappearance of complainant.

3.6 Recommendations

- 1. Facility for online registration of complaints needs to be made available in all grievance redress institutions. Commissions and other grievance redress mechanisms in the state needs to develop online portals for this purpose. ARC recommends that government needs to consider grievance redress through quasi-judicial institutions as a priority and provide sufficient resources, including human resources with required skills for the purpose.***
- 2. Grievance redress mechanisms need to assess the nature of grievances received by them, analyse it and recommend measures to address reasons for grievances by the government. This is essential to prevent recurrence of grievances. They need to recommend mechanisms for continuous improvement of the system. Government needs to encourage/prompt redress mechanisms to provide feedback periodically for taking up systemic reforms.***
- 3. The employees recruited needs to be imparted required training before posting to the Commissions. The staff maybe liable for transfer between the Commissions. Special rules may be framed in this regard at the earliest.***
- 4. ARC recommends to undertake wide publicity through state, regional and local media as well as through digital media to create awareness regarding grievance redress mechanisms among people, particularly among vulnerable and marginalised groups of people including women, persons with disability, scheduled castes, scheduled tribes and people living in remote areas of the state. Periodic advertisements in media, publishing and distribution of bulletins, pamphlets on the organisations, and publishing relevant information on the website of the organisations etc., needs to be done.***
- 5. Every office needs to display its organisational structure at a prominent place, indicating names of officers and their functions.***

6. *Efforts need to be taken to create awareness among the school and college students. A panel of experts may be created to take awareness classes in schools and colleges. Civil rights shall be made part of school curriculum. Seminars need to be conducted for senior functionaries of the Education department. Services of advocates, willing officials may be considered for voluntary services for the purpose.*
7. *State wide campaign for propagation of the relevance of quasi-judicial public grievance redress organisations needs to be initiated. Seminars, awareness camps etc., also need to be held. Government training institutions like IMG, KILA, ILDM etc., shall include modules on Grievance Redress Organisations in every course conducted by these institutions. LSGIs need to play a prominent role in awareness creation.*
8. *Time limits shall be fixed for approval or rejection of petitions. The Commission recommends that grievance mechanisms need to specify standards for services and time limits that are reasonably acceptable to the public. The Public Grievance Redress Commissions are committed to timely redress of grievances filed before them. It will be appropriate to prescribe time limit for each stage of redress and types of grievances.*
9. *ARC recommends that officials responsible for delay in furnishing required information needs to be held accountable and suitable action taken against them. Orders issued by the Commissions/Ombudsman etc., needs to be binding if they are not in conflict with existing legal framework. Authority may be vested on the Commissions to impose penalty for noncompliance. This will facilitate better implementation/acceptance of recommendations of these organisations.*
10. *ARC recommends that social audit needs to be carried out in the Commissions to understand their functioning and analyse areas of public interface to make necessary suggestions for changes in procedures etc., to enable public grievance redress organisations to be more people-friendly.*

11. *It is recommended that a system for periodical review of the functioning of the public grievances redress organisations needs to be evolved. It may be an internal mechanism in Government or a committee of the Legislature.*
12. *Data on public grievances received by the organisations needs to be analysed at regular intervals to understand nature of cases, cause of complaints etc., and to give feedback to the departments/authorities concerned on the areas that require interventions. Based on the feedback from the Commissions, the concerned departments need to take policy/legal/structural reforms to address the issues and to ensure reduction in public grievance.*
13. *ARC recommends formation of a mechanism by the Government for monitoring implementation of recommendations of public grievance redress Commissions/organisations. Amendments need to be made in the concerned Acts for inclusion of monitoring mechanism. This is essential to realise potential of the organisations and to improve their effectiveness.*
14. *Government needs to take steps to institutionalise mechanisms to undertake qualitative studies to help analyse and document contemporary changes and transitions in the social structure for initiating necessary interventions for the benefit of the target group. This will help in making the institutions more responsive to larger issues in society and contribute to socio economic development related debates in the state. ARC recommends that a reasonable allocation of funds shall be provided as grants to these organisations to take up qualitative research. Reports thus prepared, along with recommendations need to be considered as policy recommendations and needs to be followed up by concerned departments and action taken reported to the Commission.*
15. *Majority of these organisations are functioning in rented buildings without required infrastructure facilities. Frequent change of place and office address is common. Considering the importance of these institutions, it is recommended to provide sufficient infrastructure including buildings with proper access.*

- i. ARC suggests that a common office for accommodating all the organisations in one place needs to be considered by government. (Another recommendation for creating a common establishment facility for Commissions/ Ombudsmen will be in line with this recommendation).*
- ii. Government may, in consultation with the Grievance Redress organisations have common designations for similar posts. If government implements the recommendation for constructing a 'Parathi Parihara Bhavan' for accommodating various GRIs in Thiruvananthapuram, a common establishment/common secretariat maybe considered for these organisations. Pooled system for CAs, attenders and other supporting staff may also be considered with common Tapal, Website, vehicle pool, messenger service, IT wing and security arrangements etc. Posts of Assistants/ clerks and other positions may be continued as of now with each Grievance Redress Institutions.*

16. It is important for these organisations to have employees who have required qualification and aptitude to facilitate their functioning. ARC recommends that government may take steps to ensure that at least one-third of the employees in Grievance Redress organisations are permanent staff. Creating separate cadre of permanent employees for each Commission/quasi-judicial body is not advisable, as times go on permanent staff may become obsolescent due to absence of transfers and lack of promotional avenues. An alternate may be creating a separate cadre of officials for all the grievance redress organisations, through common recruitment and provision for transfer between the institutions. This specially recruited and qualified staff will assist in increasing effectiveness and efficiency of grievance redress mechanisms to deal with

grievances of the public. Government needs to study the issue of staffing of these organisations urgently and address their issues concerning human resources.

- 17. It also needs to be ensured that employees posted to the organisations are selected on the basis of aptitude, commitment and qualification for handling public grievance redress function of the Commissions.*
- 18. Separate or common Websites needs to be developed for the commissions/ombudsman. This can be a common web portal with links to each organisation or separate for each. Provisions for registering complaints, tracking complaints, facility for online payment of fees and provision for downloading relevant documents/judgments needs to be provided on the website. It is preferable to exempt Tribunals from charging fees. Government may consider exempting payments from service charges. Possibility of developing mobile applications also needs to be explored.*
- 19. The Commissions/Ombudsman needs to conduct sittings in all the districts in alternate months to ensure access to all people. Venues like conference hall of District collector, District Panchayat and District Revenue Tower may be utilised for the purpose. Files pertaining to each district may be kept at the district offices to avoid delay in transfer of files. The Staff at the State office may be redeployed to District offices.*
- 20. Cases in which the State Government is a respondent, there is reluctance on the part of concerned officials to attend the hearing and cases gets postponed indefinitely However, if the complainant could not report for hearing due to unavoidable reasons cases are dismissed without further notice. This practice needs to be curtailed. Nonappearance by government officials shall attract penal action and adjournments may not be given.*
- 21. Guidelines, with clarity need to be issued fixing criteria for appointment of members in various public grievance redress organisations. This is essential to ensure proper functioning of these organisations and robustness of the mechanisms.*

3.6.1 Specific Recommendations

a. Grievance Redress by government departments

- *ARC recommends that government needs to review existing grievance redress mechanisms and take steps to improve their efficiency. Steps need to be taken to create awareness among the people regarding systems established for redress of public grievances.*
- *Categorisation of grievances/petitions based on subjects needs to be done with the assistance of Information technology tools. This is essential for identifying reasons for grievances and their redress by amending rules / regulations / procedures and through policy initiatives, if necessary.*
- *Apart from remedy through regular grievance redress systems, government needs to consider holding Adalaths on specific issues at the district/taluk/village levels once in six months or as required. District Collectors may be entrusted with the responsibility to identify issues where grievances are high and take steps for immediate redress.*

b. Kerala State Human Rights Commission

- *The post of IG in the inspection wing of the Commission is vacant for many years.*
- *Relevance of investigating wing in the Commission needs to be reassessed/relooked.*

c. State Information Commission, Kerala

- *The Information Commission needs to establish a website in Malayalam by linking all the government departments/institutions and PIOs. Facility for*

online submission of applications and payment of fees shall be provided and government may consider exempting the fee from service tax. All applications received may be published on the website as a public document to avoid black mailing and repeat submissions. To ensure the responsibilities of the public authority as specified in section 4, all information about an organisation shall be published on the website. Adalaths may be organised to clear pending applications.

- *At present, there is no time frame for disposal of second appeal as per section 19 of the Act and for settling of complaints as per section 18. Time frame needs to be fixed for these and a citizen charter prepared for the Commission.*
- *It may be ensured that funds allocated by the State for awareness creation about RTI Act among the people is spent in all the districts.*
- *RTI register needs to be maintained in all the public offices and the registers shall be duly filled by indicating date of receipt of application and dispatch of reply. Possibility of sending reply including files through email may be explored. While rejecting applications, relevant clause for rejection under section 8 is not mentioned by the PIOs. Suitable training needs to be imparted to the PIOs. Penalty imposed against erring PIOs shall be recovered without delay.*
- *There are repeated cases of denial of certified copies, plans and court documents by many PIOs. Such cases may be examined, and the State shall take a decision in this regard.*

d. Kerala Right to Service Act,2012

- *In spite of the fact that various grievance redress mechanisms including different commissions are functioning in the country, the number of grievances filed at various commissions are increasing day by day. This indicates that to minimise/eliminate grievances and ensure that prompt services are provided to the citizens effective steps need to be taken to study the nature and cause of*

grievances. Initiatives like citizen's charter, RTS etc., aims at achieving this. A relook about the functioning of these mechanisms and evolution of a more effective system that suits the requirements of the people is essential.

- *All necessary steps as stipulated in the Act are already taken by government for implementation of the Act. Services of almost all departments have been notified under this Act. (A list of Notified services under Right to Service Act,2012 may be seen at Annexure I) But unfortunately, the public and civil servants are unaware of the presence of the Act. Main reason for this state of affairs is considered to be the absence of an independent supervisory authority as in the case of State Information Commission.*
- *There is an urgent need to amend the Act to make it more effective. The amendment in the Act can be combination of measures to overcome implementation failures. It needs to aim to improve public service implementation in the long-term. Government may constitute a committee to study existing legislations on 'Right to Services Act' and constitution of 'Right to Services Commission' and effect necessary amendments to make the Act capable of ensuring time bound services to the people. This will be an effective step towards better governance and people centered service delivery. ARC has drafted a proposal for formation of a 'Right to Services Commission' and is at Annexure II.*
- *Awareness Creation on Right to Service Act and Right to service Commission is essential. To create broader awareness on the RTS Act a topic on RTS may be introduced in the school syllabus and questions on RTS may compulsorily be included examination for recruitments by Public Service Commission.*

e. Kerala State Women Commission

- *For providing free legal advice to the needy in-person/over the phone and for providing Free Legal Aid for BPL cardholders free Legal Aid cell needs to be*

constituted in all the districts consisting of a panel of three women advocates (with 5 years Bar practice and socially committed to the cause of women).

- *There is alarming increase in internet related crimes against women. The Commission needs to be enabled to access services of experts in cyber security.*
- *Mahila Jagratha Samithi at the local level needs to be strengthened. The Commission can play an important role in creating awareness at the local level.*

f. Police Complaints Authority

- *ARC recommends to government to amend the Police Act 2011 and ensure clarity in its provisions. At present the Act has many provisions which are vague and lacks clarity. The Act shall include specific time frame for getting sanction from Government to prosecute police officers.*
- *The Authority may be given the power to instruct DGP to withdraw cases charged without factual basis. The authority shall be given the power to conduct enquiry on custodial death.*

g. Kerala Electricity Ombudsman

- *Delegation of financial authority to settle disputed claims in KSEBL need to be enhanced. KSEBL needs to consider delegating authority to the Assistant Executive Engineers of KSEBL to decide if the amount under dispute is under Rs.1 lakh, and above that by senior officers.*
- *Appointments in CGRF need to be through a transparent process as in Consumer Forums. Special attention needs to be given to post technical officers with adequate experience in electricity distribution activities in the Consumer Grievance Redressal Forum (CGRF). Officials in electricity distribution activities need to be given training at regular intervals.*

- *KSEBL has to review subject of dispute of each petition and give suitable direction to the field officers to redress grievances of the consumers and thereby avoid repetitive filing of petitions of similar nature by consumers. At the same time, KSEBL can approach KSERC for modifications of any regulations to assist in implementation.*
- *All officials of the licensee need to be given intensive training on laws/regulations on electricity supply periodically as they are the first level to redress grievance of the consumers.*
- *Consumers are the major stakeholders in supply of electricity. Sensitising consumers on laws and regulations on electricity distribution is urgently needed. Provisions of the Electricity Act 2003, Kerala Electricity Supply Code 2014, etc. needs to be disseminated among the public through mass advertising campaigns on their rights and entitlements along with their duties and responsibilities.*
- *Currently the Electricity Ombudsman is functioning only as an appeal authority for Consumer Grievance Redressal Forum (CGRF). The Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman Regulations, 2005) section 22 needs to be amended to enable ombudsman to directly receive complaint.*
- *The prescribed fee of Rs. 10,000/- for filing appeal directly before Kerala State Electricity Regulatory Commission needs to be suitably reduced.*
- *All services provided by KSEBL needs to be brought under Rights to Service Act.*

h. Ombudsman for Local Self Government Institutions

- *Website to be designed and provision for online tracking needs to be included.*
- *In addition to the present system of receiving appeal based on notices, orders and actions, the LSG Ombudsman may admit appeals on the basis of information received.*

- *Government may consider dispensing with fee for filing appeal.*
- *All services provided by LSGIs shall be brought under Right to Service Act, time frame for settling appeal needs to be reduced and the ombudsman may be empowered to impose penalty.*

i. Tribunal for Local Self Government Institutions

- *Charge of LSGI Tribunal is held by additional district judge in Thiruvananthapuram. Government needs to consider the possibility of giving charge to additional Judge in each district instead of special judge at Thiruvananthapuram. This will be more advantageous to public.*

j. Vigilance Tribunals

- *As per the Prevention of Corruption Act, 1988 cases are tried by the Special Judges appointed by Government. In Kerala, there are six EC&SJs and their Head Quarters are at present at Thiruvananthapuram, Kottayam, Muvattupuzha, Thrissur, Kozhikode and Thalasserry. These EC & SJs are also appointed as Vigilance Tribunals with a specified area of jurisdiction and are appointed in this position in the exercise of powers conferred by Rule 3 of KCS (VT)Rules,1960. While issuing orders of appointment as EC & SJs, separate notifications are issued designating them as Vigilance Tribunal specifying the area of jurisdiction. This practice is being followed as these Special Judges are also Enquiry Commissioners. But the paradox is that cases are not referred by government to Enquiry Commissioner for enquiry, exercising the powers. EC&SJs are judicial officers and they can enquire into allegations involving major punishments efficiently and can recommend to government action to be taken. EC&SJs in the state are active with the trial and disposal of several prosecution cases. In 2018-19 number of cases at the beginning of the year with*

EC&SJ, Thiruvananthapuram was 204, 21 cases were filed in 2018-19 and 46 disposed. The 179 pending cases include cases from 2007 to 18.

- *Considering the above government may consider dispensing with the services of Vigilance Tribunals and designate Enquiry Commissioner & Special Judges (EC&SJ) as Vigilance Tribunals and establish 2 more courts of EC&SJs. Cases pending with the tribunals and their personnel may be transferred to them. EC&SJs may be able to conduct administrative adjudication under Prevention of Corruption Act 1988 and enquiries under KCS (VT) Rules more effectively.*
- *On dissolution of the Vigilance Tribunals, the officials may be considered for appointment/deployment in similar positions under Government such as Industrial Tribunals, etc. It may be noted in this connection that government have not declared probation, confirmation, etc. of persons appointed as Vigilance Tribunals.*
- *Government needs to ensure that cases in respect of Gazetted Officers attracting major penalty, and other important matters are referred to EC&SJs (on dissolution of offices of V.T) for enquiry. This will enable the Secretaries to Government/HODs to focus their attention on developmental activities of the department.*
- *Time taken for giving prosecution sanction by government to initiate action against public servants may be limited to 30 days. If sanction is not received within 30 days it may be treated as sanctioned.*

k. Kerala Administrative Tribunal (KAT)

- *More institutions need to be brought under the purview of KAT to achieve the objectives for its formation. Service matters of PSUs, Boards and similar institutions may be brought under the purview of KAT. This will help in speedy redress of the grievances of employees of these organizations, and Courts including H'ble High Court will be able to reduce pendency of cases. As a first*

step, statutory corporations in the state - KSRTC, KSEB, KWA etc., may be notified under Section 15 (2) of Administrative Tribunals Act 1985 for speedy adjudication of service matters of these organisations.

- *Support of government and NIC needs to be ensured to enable KAT in increased use of ICT for benefit of its stakeholders. KAT needs to have systems in place for eliminating delay in taking decisions on all appeals. Appeals related to PSC needs to be given priority.*
- *Government may consider if facilities can be made available for conducting sitting of the Tribunal in all the districts.*

Chapter 4

Conclusion

Accountability and Public Grievance mechanisms of government help in improving performance of state departments and institutions and assist in people centered delivery of services. They have the potential to provoke innovations that encourage efficiency and transparency in the functioning of government organisations. Continuous improvements to these institutions are essential to ensure their robustness and efficacy. This requires will of policy makers.

Major challenge in enforcing accountability and public grievance redress strategies is the difficulty in breaking established conventions and strangle hold of vested interests over administration. There is urgent need for a paradigm shift in the system of governance to ensure accountability and speedy redress of public grievance. Good governance is possible only when information, transparency and accountability is ensured and redress of public grievances is a priority.

Efficient and effective public institutions provide the foundation on which public trust can be developed and public satisfaction with administration and service delivery are ensured. Ensuring accountability and redress of public grievances have remained domineering and complex challenges before any government, requiring multipronged/multilayered interventions. Transparency and objectivity in the functioning of government institutions and accountability of civil servants and political executives through efficient and effective accountability mechanisms can assist governments in achieving grievance free governance. Along with accountable governance, it is also necessary to create space for expressing

grievances and effective redress of grievances by creating robust redress mechanisms.
