

ANNUAL ADMINISTRATION REPORTS

ANNUAL REPORT OF THE KERALA LAW REFORMS COMMISSION FOR THE YEAR 2017-2018

INTRODUCTION

As per G.O.(M.S) No.45/2017/Law dated 09.03.2017, Government have constituted Kerala Law Reforms Commission under the Chairmanship of Justice K.T.Thomas, former judge of the Supreme Court. Sri.K.Sasidharan Nair is the Vice-Chairman and Dr.N.K.Jayakumar, Adv.M.K.Damodharan and Smt.LizammaAugustin are the members. Due to the death of Adv.M.K.Damodharan, Sri.K.GeorgeOommen, Retired District Judge was appointed as member of the Commission vide G.O.(M.S) No.24/2018/Law dated 16.02.2018. Commission Chairman, Vice Chairman, Members Dr.N.K.Jayakumar and Smt.LizammaAugustin took charge on 05.04.2017 and Member Sri.K.GeorgeOommen took charge on 07.03.2018.

The main objective of the Commission is to examine the existing laws and suggest amendments as are necessary according to the present day needs, to make recommendations for repealing obsolete and outdated laws, to recommend new laws as are necessary in the present day context and to systematically develop and reform law.

COMPOSITION

The Commission consists of Chairman, Vice Chairman and three Members. There is one Joint Secretary in the Commission and he is an officer of Law Department in the cadre of Joint Secretary. The Joint Secretary was posted as per

G.O.(Rt) No.195/2018/GAD dated 10.1.2018 and he assumed charge on 10.01.2018.

Vide G.O.(M.S) No.150/2017/Law dated 15.12.2017 the posts of one Private Secretary, one Office Superintendent, One office Attendant for the Kottayam office and one post of Joint Secretary and one post of Data Entry Operator cum Typist for the Trivandrum office was created. Sri.N.Thomaskutty, Sri.V.J.Joseph, Sri.K.T.Joseph, Sri.V.M.Chacko and Sri.P.Jagadeesa Prasad are working in the above posts. Out of the posts, Joint Secretary is working on deputation basis and others are on co-terminus basis. Except these officers, one office Attendant and one Part-Time Sweeper also working on daily wages at Trivandrum office.

WORKING OF THE COMMISSION

Commission's first sitting was held at P.W.D Rest House, Kottayam on 05.04.2017 and decisions were taken about the day to day functioning of the Commission and priority of the Commission also was fixed in the first meeting. Thereafter on 20.05.2017, 13.06.2017, 29.7.2017 and on 07.03.2018, Commission meetings were held and the office of the Commission's Kottayam office is functioning at Room No.I of the P.W.D. Rest House, Kottayam and Thiruvananthapuram office is functioning at C.S.I. Buildings, Puthenchantha, Thiruvananthapuram on rental basis.

FINANCE

Vide G.O(Rt) No. 1324/2018/Fin dated 21.02.2018, an amount of Rs.15,25,000/- was allotted for the expenses of the Commission. But due to the

delay in designating drawing and disbursing officer to the Commission, the entire amount was returned to the government on 30.03.2018. Hence no expenditure was incurred during 2017-2018.

RIGHT TO INFORMATION ACT-2005

Sri.V.M.Chacko, Joint Secretary of the Commission was designated as the Public Information Officer of the Commission. The voluntary disclosures to be made under Section 4 of the said Act was published through the official Web-Site of the Commission.

OFFICIAL LANGUAGE ACT

All the files in the office of the Commission are dealt with in the official language. But Commission prepared the Bills in English.

COMPUTERISATION

As part of modernisation, two computers and printers were purchased and installed at the office of Kottayam and Thiruvananthapuram. Commission has launched its own web site as www.lawreformscommission.kerala.gov.in and an e-mail as lawreformskerala@gmail.com .

(Sd)

Joint Secretary,
Law Reforms Commission

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2018-2019

INTRODUCTION

As per G.O.(M.S) No.45/2017/Law dated 09.03.2017, Government have constituted Kerala Law Reforms Commission under the Chairmanship of Justice K.T.Thomas, former judge of the Supreme Court. Sri.K.Sasidharan Nair is the Vice-Chairman and Dr.N.K.Jayakumar, Adv.M.K.Damodharan and Smt.LizammaAugustin are the members. Due to the death of Adv.M.K.Damodharan, Sri.K.GeorgeOommen, Retired District Judge was appointed as member of the Commission vide G.O.(M.S) No.24/2018/Law dated 16.02.2018. Commission Chairman, Vice Chairman, Members Dr.N.K.Jayakumar and Smt.LizammaAugustin took charge on 05.04.2017 and Member Sri.K.GeorgeOommen took charge on 07.03.2018.

The main objective of the Commission is to examine the existing laws and suggest amendments as are necessary according to the present day needs, to make recommendations for repealing obsolete and out-dated laws, to recommend new laws as are necessary in the present day context and to systematically develop and reform law.

COMPOSITION

The Commission consists of Chairman, Vice Chairman and three Members. There is one Joint Secretary in the Commission and he is an officer of Law Department in the cadre of Joint Secretary. The Joint Secretary was posted as per G.O.(Rt) No.195/2018/GAD dated 10.1.2018 and he assumed charge on 10.01.2018.

Vide G.O.(M.S) No.150/2017/Law dated 15.12.2017 the posts of one Private Secretary, one Office Superintendent, One office Attendant for the Kottayam office and one post of Joint Secretary and one post of Data Entry Operator cum Typist for the Trivandrum office was created. Sri.N.Thomaskutty, Sri.V.J.Joseph, Sri.K.T.Joseph, Sri.V.M.Chacko and Sri.P.Jagadeesa Prasad are working in the above posts. Out of the posts, Joint Secretary is working on deputation basis and others are on co-terminus basis. Except these officers, one Office Attendant and one Part-Time Sweeper also working on daily wages at Trivandrum office.

WORKING OF THE COMMISSION

During the report period, Commission held meetings on 11.04.2018, 26.04.2018, 07.06.2018, 27.06.2018, 02.08.2018, 14.09.2018, 05.10.2018, 09.11.2018, 07.12.2018, 18.01.2019, and 08.02.2019 at P.W.D. Rest House, Kottayam. In the meetings, decisions were taken to the day to day administration of the Commission and discussions were held regarding drafts of various enactments. Commission submitted two reports to the Government containing Kerala Vexatious Litigation (Prevention) Bill on 10.10.2018 and as per the direction the Hon'ble Supreme Court, proposals were submitted recommending to repeal discrimination and disqualification of Leprosy patients contained in 3 State Acts and 4 State Rules on 17.10.2018. The follow up actions of the decisions takes on the meetings and the administrative matters of the Commission was done in Thiruvananthapuram office.

On 17.01.2019, a one day workshop was held in collaboration with school of Legal Thought, Mahatma Gandhi University regarding the Emergency Medical

Care Bill and the same was inaugurated by Hon'ble Minister for Health and Family Welfare, Government of Kerala. A Bill will be submitted to the Government incorporating the suggestions and recommendations put forth by the participants in the workshop.

FINANCE

An amount of Rs.94,65,000/- was sanctioned vide G.O.(Rt) No.3541/2018/Fin dated 21.04.2018 and another amount of Rs.1,50,000/- was sanctioned vide G.O.(Rt) No.6931/2018/Fin dated 14.08.2018 for meeting the

Leave Travel Concession of the employees of the Commission through additional authorisation. From the amount following amounts were expended under various heads. They are

<u>Head of Account</u>	<u>Sanctioned</u>	<u>Expended</u>	<u>Amount</u>	<u>Amount</u>	<u>Balance</u>
1.2014-00-800-80-01 Salaries	17,33,000	20,22,833			+ 4,89,833
2.2014-00-800-80-02 Wages	43,67,000	43,45,931			21,096
3.2014.00-800-80-04 T.A	6,30,000	2,11,173			4,18,827
4.2014-00-800-80-05 Office expenses	6,25,000	62,932			5,62,068
5.2014-00-800-80-06 Rent, Rates & Taxes	8,00,000	4,48,600			3,51,400
6.2014-00-800-80-34 Other Charges	6,00,000	4,36,164			1,63,836
7.2014-00-800-80-97 Hire Charges	3,60,000	Nil			3,60,000
8.2014-00-800-80-99 Information Technology	5,00,000	1,91,342			3,08,658

RIGHT TO INFORMATION ACT-2005

Since there is no superior officer in the Commission to be designated as Appellate Authority, a request was made to the government to designate an Additional Law Secretary of the Government as the Appellate Authority for the Commission.

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(Sd)

CHAIRMAN

Law Reforms Commission

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2019-2020

INTRODUCTION

As per G.O.(M.S) No.45/2017/Law dated 09.03.2017, Government have constituted Kerala Law Reforms Commission consisting of Justice K.T.Thomas, former judge of the Supreme Court as Chairman, Sri.K.Sasidharan Nair as Vice-Chairman and Dr.N.K.Jayakumar, Adv.M.K.Damodharan and Smt.LizammaAugustin as members. Commission Chairman, Vice Chairman, Members Dr.N.K.Jayakumar and Smt.LizammaAugustin took charge on 05.04.2017. Due to the death of Adv.M.K.Damodharan, Sri.K.GeorgeOommen, Retired District Judge was appointed as member of the Commission vide G.O.(M.S) No.24/2018/Law dated 16.02.2018. and Sri.K.GeorgeOommen took charge on 07.03.2018.

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District Law Officer, Kottayam was given full additional charge of the Secretary of the Commission.

Vide G.O.(Rt) No.4725/2019/GAD dated 08.08.2019, Sri.V.M.Chacko was promoted to the post of Additional Law Secretary and transferred from the post and Smt.P.S.Shyla, Joint Secretary, Law Department was posted as Joint Secretary of the Commission. As per G.O (Rt) No.6514/2019/GAD dated 12.11.2019, the post of Joint Secretary at the Commission was upgraded to that of Additional Law Secretary and Sri.V.M.Chacko was posted as Secretary and he assumed charge as Secretary on 13.11.2019 and he is continuing.

Vide G.O.(M.S) No.150/2017/Law dated 15.12.2017 the posts of one Private Secretary, one Office Superintendent, One office Attendant for the Kottayam office and one post of Joint Secretary and one post of Data Entry Operator cum Typist for the Trivandrum office were created. Sri.N.Thomaskutty, Sri.V.J.Joseph, Sri.K.T.Joseph, Sri.V.M.Chacko and Sri.P.Jagadeesa Prasad are working in the above posts. Out of the posts, Joint Secretary is working on deputation basis and others are on co-terminus basis. Except these officers, one office Attendant and one Part-Time Sweeper also are working on daily wages at Trivandrum office.

The Co-terminus appointment of Sri.V.J.Joseph, Office Superintendent at Kottayam office was terminated w.e.f. 30.11.2019 and Sri.K.Manikantan was appointed in the newly created post of Drafting Expert w.e.f. 01.12.2019 with the same remuneration that was given to Sri.V.J.Joseph. Sri.Manikantan is still continuing. As directed by Government, the service of Part-Time Sweeper

engaged by the Commission was terminated and Smt.S.Santhakumari was engaged through Kudumbasree from 01.12.2019 and she is continuing in service.

WORKING OF THE COMMISSION

During the report period, Commission held meetings on 09.05.2019, 07.06.2019, 30.08.2019, 27.09.2019, 25.10.2019, 22.11.2019, 13.12.2019, 17.01.2020, and 14.02.2020 at P.W.D. Rest House, Kottayam and on 28.05.2019, 19.10.2019 and 05.03.2020 at Thiruvananthapuram. In the meetings, decisions were taken to the day to day administration of the Commission and discussions were held in drafting various laws. Commission submitted the following draft bills along with reports to the Government;

(1) The Kerala Prevention of Eradication of Inhuman Evil Practices, Sorcery and Black Magic Bill-2019:

Government vide Lr.No.7323/Spl-Cell/2019/Law dated 04.05.2019 had forwarded a proposal of the Home Department (File No.M2/117/2019/Home) requesting to submit opinion of the Commission regarding enactment of a law relating to Inhuman Evil Practice and Black Magic. Commission has prepared a bill and the bill is intended to prohibit and eradicate inhuman evil and sinister practices and black magic by conmen and to create scientific and social awareness among the people. These evil and inhuman practices are propagated and performed by people who claim to possess supernatural or magical powers so as to defraud and exploit innocent and ignorant people for money and sexual exploitation and to inflict pain and suffering on them.

(2) The Kerala Regulation of Procedures For Preventing Person-to-Person Transmission of Infectious Organisms Bill-2019:

This bill is intended for governmental intervention to regulate person to person transmission of infectious organism at times of diseases through virus outbreak. In 2018, seventeen people had died due to NIPAH Virus in Kerala and created a panic situation through out Kerala. Such viruses are spread due to the interaction of virus affected person with others.

(3) The Kerala Emergency Medical Care and Protection of Good Samaritans Bill-2019:

This bill is intended to provide immediate medical care to persons in emergency medical condition and also to victims of accidents. A large number of people are reluctant to help the injured for fear of harassment by police, payment of cost of medical treatment in hospitals etc. In the absence of suitable legislation to provide emergency medical care to the needy and to protect the Good Samaritans and also for a scheme for reimbursement of expenses to hospitals and ambulance services an appropriate legislation is necessary and hence the bill.

(4) Prevention of Damage to Public Property (Kerala Amendment) Bill-2019:

The Hon'ble Supreme Court in Kodungallur Film Society Vs. Union of India (Writ Petition © No.330/2018) has held that persons who have initiated, promoted, instigated or by any way caused to occur any act which results in loss of life or damage to public or private property either directly or indirectly shall be made liable to compensate the victims of such violence. Since there is no law to

compensate the state or other authorities for the loss sustained due to acts of violence to their property, and as there is no provision insisting for bank guarantee or deposit of money while releasing the accused on bail, commission has proposed necessary amendments in the PDPP Act, 1984 by way of this bill.

(5) Kerala Christian Cemeteries (Right to Burial of Corpse) Bill-2019:

In recent times, some cases are reported with respect to delay and obstruction in the timely and decent burial of corpses in some cemeteries of Christians. Some administrators of few churches refused and prevented the decent and timely burial of corpses in the church cemeteries of the deceased. Thus the family members are forced to preserve the corpse of the deceased persons indefinitely which affects the rites, custom and rituals of burial of the faithful and resulted in denial of human rights of the deceased. If this scenario is allowed to continue, it would become a grave social issue and would cause resentment among some sections of Christians. Considering the above grave situation, commission submitted the bill to the Government.

(6) The Malabar Hindu Religious and Charitable Institutions and Endowments Bill-2020:

Revenue (Devaswom) Department vide Lr.No.Rev.Dev.1/99/2019/Rev dated 23.03.2019 had forwarded a copy of the draft Malabar Hindu Religious and Charitable Endowments Bill 2019 and requested to submit Commission's suggestions or recommendations. After detailed discussions and deliberations with Malabar Devaswom Board Officials and others, the Commission submitted a modified draft Bill with a detailed note for the better administration and

governance of the Hindu Religious and Charitable Institutions and Endowments in the Malabar area of the State of Kerala to the Government.

(7) The Kerala Christian Marriage Registration Bill-2020:

Government vide Lr.No.913/201/Spl.Cell/2018/Law dated 31/1/2018 forwarded a proposal to the Commission for preparing a unified draft Bill of Christian Marriage Registration in Kerala. The Cochin Christian Civil Marriage Act 1095 (Act V of 1095) extends to the erstwhile Cochin State and the Indian Christian Marriage Act 1872 (Central Act 15 of 1872) extends to the erstwhile Malabar area and there is no enactment regarding registration of Christian Marriages applicable to the whole of the State of Kerala and so after elaborate discussions, Commission finalised the Bill and submitted to Government.

Govt.Vide Lr.No.26378/Spl-Cell/2017/Law dt. 27.04.2018 had forwarded a proposal of the Home Department regarding the amendment of Criminal Law Amendment Acts of 1908 and 1932 and sought the opinion of the Commission. After a detailed study of the matter, Commission recommends its opinion to the effect that Indian Criminal Law Amendment Act 1908 (Act 14 of 1908) and Criminal Law Amendment Act 1932 (Act 23 of 1932) need not be amended so as to extend their application to the Travancore and Cochin areas and instead steps may be taken to exclude the application of these Acts in the erstwhile Malabar area.

ACTION TAKEN BY GOVERNMENT

The Kerala Christian Cemeteries (Right to Burial of Corpse) Bill 2019 was promulgated as Ordinance No. 1/2020 by the Government as “The Kerala

Christian Cemeteries (Right to Burial of Corpse) Ordinance 2020” and the said Ordinance was passed by the Kerala Legislative Assembly as “The Kerala Right to Burial of Corpse in Christian (Malankara Orthodox – Jacobites) Cemeteries Act 2020 (Act 1/2020).

As desired by the Government, Vice-Chairman of the Commission, Member Dr.N.K. Jayakumar, Secretary and Drafting Expert of the Commission have discussed and drafted a Bill named “Kerala Regulation and Prevention of Epidemic Diseases and Infectious Organism Bill 2020” and submitted to the government. Government has considered the Bill and promulgated an Ordinance as Kerala Epidemic Diseases Ordinance 2020 (Ordinance No.18/2020) and published in the gazette dated 27.03.2020.

The follow up actions of the decisions taken on the meetings and the administrative matters of the Commission was done in Thiruvananthapuram office.

FINANCE

An amount of Rs. 84,14,000/- was sanctioned for meeting the expenses during the year. From the said amount, following amounts were expended under various heads. They are :-

<u>Head of Account</u>	<u>Sanctioned</u>	<u>Expended</u>	<u>Amount</u>	<u>Amount</u>	<u>Balance</u>
1.2014-00-800-80-01 Salaries	17,14,000	14,67,740			2,46,260
2.2014-00-800-80-02 Wages	39,60,000+6,00,000	44,44,825			1,15.175
3.2014.00-800-80-04 T.A	4,00,000	1,17,595			2,82,405

4.2014-00-800-80-05	Office expenses	6,40,000	2, 58,723	3,81,277
5.2014-00-800-80-06	Rent, Rates & Taxes	6,00,000	5,27,520	72,480
6.2014-00-800-80-34	Other Charges	6,00,000	reappropriated	0
7.2014-00-800-80-97	Hire Charges	3,00,000	1,29,706	1,70,294
8.2014-00-800-80-99	Information Technology	2,00,000	13,512	1,86,488

(Reappropriated Rs.6,00,000/- from the head “2014-00-800-80-34” to “2014-00-800-80-02”)

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CHAIRMAN
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