

THE ANNUAL SURVEY OF STATE LAWS IN INDIA

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KERALA

NOOR AMEENA* and UDIT SINGH♦

Introduction

The Kerala Niyamasabha, hereinafter referred to as the Kerala Legislative Assembly or the Legislative Assembly or the Kerala Assembly, was first constituted in April 1957. Kerala has a unicameral legislative system. The 15th Kerala Legislative Assembly came into existence on 3 May 2021. By 31 December 2023, this Assembly has convened a total of 9 sessions, with 120 functioning days. In 2023, the Kerala Legislative Assembly convened two sessions, with 29 functioning days.

This survey documents the performance of the Kerala Legislative Assembly for the year 2023. All the necessary data for the research is digitally available on the website of the Kerala Legislature.¹ All the Bills, Ordinances, Committee Reports, etc. are updated on the website. The daily proceedings of the Assembly are available in brief in Bulletin 1, which is published both in Malayalam and English.² The detailed proceedings of the Legislature are available in Proceedings³ published in Malayalam. The webcasting of the Assembly proceedings is available live through the Sabha TV,⁴ as well as through on-demand webcasting through the Niyamasabha website, where they are archived in a searchable format.⁵

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¹ The websites of the Kerala Legislative Assembly can be accessed at <http://niyamasabha.org/> and <https://www.niyamasabha.nic.in/>.

² Bulletins Part 1, Kerala Legislative Assembly, available at <http://niyamasabha.org/codes/bulletins-pt1.htm>.

³ Proceedings, Kerala Legislative Assembly, available at http://niyamasabha.org/codes/15kla_proceedings.sessions%20.htm.

⁴ Live-stream of Legislative Proceedings, Kerala Legislative Assembly, available at <https://sabhatv.com/live-show>.

⁵ Debate Archives, Kerala Legislative Assembly, available at <http://ondemandwebcast.niyamasabha.org/>.

Quantitative Legislative Survey

In 2023, the Kerala Assembly convened two sessions, from 23 January to 8 March and from 7 August to 14 September, respectively. The effective functioning days in these two sessions cumulatively are 29, with 21 days in Session 8 and 8 days in Session 9. The effective functioning hours for Session 8 and Session 9 are 87 hours 34 minutes⁶ and 64 hours 58 minutes,⁷ totalling to 152 hours 32 minutes. The time spent on legislative business is 31 hours and 43 minutes.

In 2023, the Kerala Assembly passed a total of 23 Bills. The Assembly promulgated four ordinances - The Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Amendment Ordinance, 2023, The Kerala Taxation Laws (Amendment) Ordinance, 2023, the Kerala Panchayat Raj (Amendment) Ordinance, 2023, and the Kerala Municipality (Amendment) Ordinance, 2023. The Healthcare Service Persons Ordinance was later converted into an Act, the Taxation Laws (Amendment) Bill was passed by the Assembly and received the Governor's assent on 18th September 2023. The other two ordinances were issued after the House was adjourned *sine die*.

Of the 23 Bills passed, 14 Bills were sent for consideration of the Subject Committee, 3 Bills were sent for consideration of the Select Committee, and 5 were finance and appropriation Bills passed without being sent to Committees. The Kerala Private Forests (Vesting and Assignment) Bill, 2023 is the only Bill, apart from Finance & Appropriation Bills, which was passed without being sent to either Subject Committee or Select Committee.

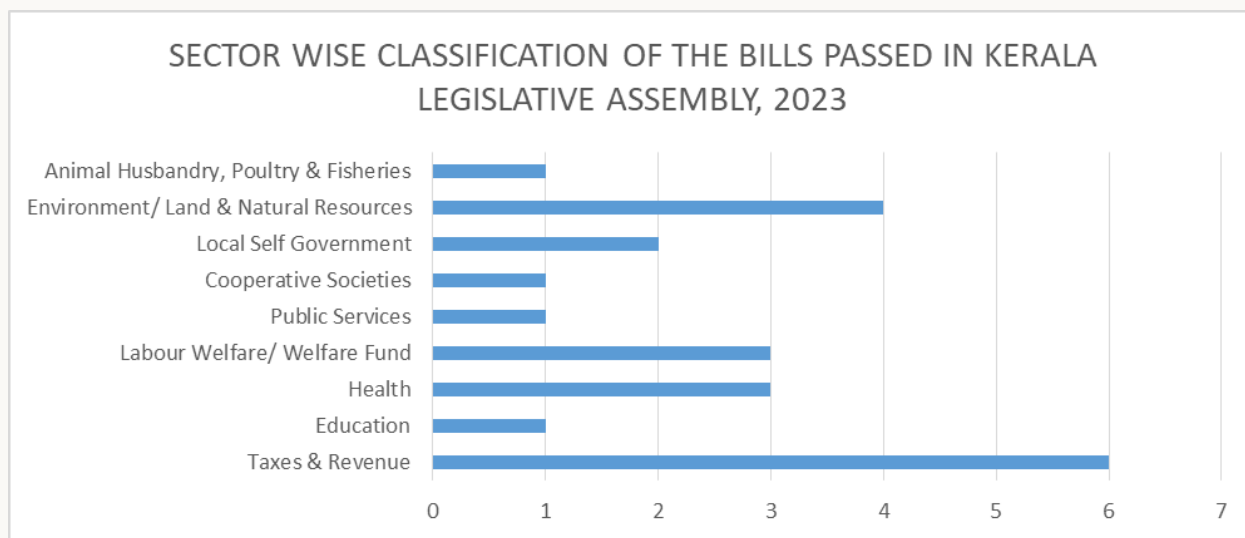
The Government issued two resolutions under Rule 118, one against the proposal for the Uniform Civil Code by the Union Government, and the other regarding the change of the name of the State to Keralam in official records. The private members issued two resolutions - one on the assault on the principles of federalism by the Union Government policies by eroding the financial capacity of the state, affecting the development and welfare activities of the State Government, and another on the neglect of minority scholarships by the Union and the State Governments.

⁶ Resume of Business Transacted during the Eighth Session, 15th Kerala Legislative Assembly, Kerala Legislature Secretariat, 2023, available at <http://niyamasabha.org/codes/resume/15th%20kla/Resume%208th%20Session.pdf>.

⁷ Summary of 9th Session of the 15th Kerala Legislative Assembly, Unedited Proceedings, 15th Kerala Legislative Assembly, Session 9, 14 September 2023, available at https://www.niyamasabha.nic.in/files/business_unedited_proceeding__15__31__2023-09-14_658d3a000c6c7.pdf

Subject-wise Classification and Evaluation of Legislative Activity

This part covers a sector-wise classification and analysis of Bills and Ordinances. The legislations are broadly classified under the heads of education, health, taxes and revenue, labour welfare, public services, cooperative societies, local self-government, environment/land & natural resources and animal husbandry, poultry, and fisheries, and the details of these legislations are briefly discussed. The figure below gives an overview of the substantive areas of legislative intervention in the year.



Finance and Taxation

The Kerala Legislative Assembly passed the Kerala Finance Act and the Kerala Taxation Laws (Amendment) Act,⁸ to implement the financial proposals of the Government of Kerala for the year 2023-24. Several of these proposals involved raising the fees and fines collected by the Government. The list of services that caused a rise in user fees includes registration and allied services of charitable societies and partnership firms, conveyance fee (stamp duty) of property transactions, court fees on original petitions, etc. Additionally, the electricity duty on industrial/ commercial units was hiked, and the one-time tax and cess on newly purchased vehicles were raised.

The Government has constituted a Social Security Seed Fund with a commitment to provide social security for the vulnerable sections of society. To populate this seed fund, the

⁸ The Kerala Finance Act, 2023; The Kerala Taxation Laws (Amendment) Act, 2023; The Bills sought amendments of The Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 (XII of 1955), The Kerala Stamp Act, 1959, The Kerala Court Fees and Suits Valuation Act, 1959, The Kerala General Sales Tax Act, 1963, The Kerala Electricity Duty Act, 1963, The Kerala Motor Vehicles Taxation Act, 1976, The Kerala Value Added Tax Act, 2003, The Kerala Road Safety Authority Act, 2007, The Kerala Finance Act, 2008, and The Kerala State Goods and Services Tax Act, 2017.

Government introduced a Social Security Cess on petrol and diesel (at the rate of Rs. 2 per litre) and foreign liquor (at the rate of Rs. 20 per bottle worth Rs. 500-999 and Rs. 40 per bottle worth Rs. 1000 and above).⁹

The Government also proposed revision of property taxes and introduced fees for services issued by the Local Self Governments (LSGs), including licenses, permits, and registration to augment the revenue of LSGs.¹⁰ Steps are also taken to flatten the tax collection by introducing measures, including extension of the e-stamp facility to court fees.

The Central Goods and Services Tax Act of 2017 created an integrated system of taxation of goods and services. The State Governments have enacted the State GST Act in consonance with the Central GST Act, and periodically update the same, congruent with the recommendations of the GST Council, and restructure the State Departments accordingly. In 2023, amendments were brought in to change the nomenclature of the designations in the State Departments in tune with the Central enactment,¹¹ and to reorganise the tax governance infrastructure by constituting a GST Appellate Tribunal.¹² A dissent note was circulated in the Subject Committee in relation to the constitution of the GST Appellate Tribunal. In the current scheme, the number of experts and technical members nominated by the Central Government outweighs the judicial members. It was proposed that the number of judicial members be increased to two. Another suggestion was to open camp sittings in Kozhikode to aid the traders and entrepreneurs in the Malabar region.¹³

The Government amended the Abkari Act to increase the fine for the offences of unlawful advertisement, showing the scenes of alcohol, or consumption or exhibition of liquor in theatres without warning, and illegal drawing of toddy, and converted these offences into compoundable offences.¹⁴ This received criticism as encouraging the alcohol industry and alcohol consumption, and as a counter-productive revenue-generating measure.¹⁵

In the Subject Committees for these legislations for generating revenue, a few members expressed their dissent over the Government's policy to increase the tax burden of the people by raising fees and taxes instead of improving the tax governance by addressing the

⁹ The Kerala Finance Act, 2023, §10,

¹⁰ The Kerala Finance (No.2) Act, 2023; The Kerala Building Tax (Amendment) Act, 2023. Discussed in detail in the sub-section Local Self Government.

¹¹ The Kerala Finance Act, 2023.

¹² The Kerala Taxation Laws (Amendment) Act, 2023.

¹³ The Subject Committee Report for The Kerala Taxation Laws (Amendment) Bill, 2023, [http://niyamasabha.org/codes/15kla/bills/The%20Kerala%20Taxation%20Law%20\(Amendment\)%20Bill%20As%20Reported%20by%20Sub%20Com.pdf](http://niyamasabha.org/codes/15kla/bills/The%20Kerala%20Taxation%20Law%20(Amendment)%20Bill%20As%20Reported%20by%20Sub%20Com.pdf)

¹⁴ The Abkari (Amendment) Act, 2024.

¹⁵ Dissent Note in Subject Committee for The Abkari (Amendment) Bill, 2023.

tax evasion and recovering the tax dues. A few measures, like the introduction of e-way bills for gold, were proposed to improve tax collection.

Health

Revamping the Public Health Infrastructure of the State

In the wake of the spread of communicable diseases like Covid and NIPAH, the need for a unified system to coordinate the activities of various departments was felt more than ever. The Kerala Public Health Bill, 2021 was introduced to replace Travancore-Cochin Public Health Act, 1955 and the Madras Public Health Act, 1939, unifying the existing legislations, to create a comprehensive legislation for public health governance.

It envisages a three-tier public health system by constituting State, District, and Local Public Health Committees, and designates the existing health officials as public health authorities (Director of Health Services as State Public Health Officer; District Medical Officer (Health) as District Public Health Officer;¹⁶ Health Officer of the local body as Local Public Health Officer).¹⁷ These Committees have representation from various departments including Health, Health & Family Welfare, Medical Education, Homeopathy, Food Safety, Agricultural Development & Farmers Welfare, Animal Husbandry, Fisheries, and Dairy Development to ensure coordinated action in public health planning and implementation of schemes for the proactive and reactive requirements for preventing and controlling emerging diseases, outbreaks of communicable diseases and increased prevalence of non-communicable diseases.

SPHO can collect public health-related data from the public and private healthcare establishments to monitor the public health situation in the state.¹⁸ However, the Act does not specify any safeguards for such data collection and processing. The Public Health Officers may recommend to the State Government or the District Magistrate, respectively, to declare a public health emergency in the State or the District. They can issue a common protocol for health care providers for the prevention or treatment of notified diseases, and issue health protocols for the public for surveillance, prevention, and control of notified diseases.¹⁹

It lays out the responsibilities of the State and local health authorities in many new areas, including NCD (non-communicable disease) control and creating a conducive environment

¹⁶ The Kerala Public Health Act, § 5.

¹⁷ *Id.*, § 6.

¹⁸ *Id.*, § 7.

¹⁹ *Id.*

(including the creation of open spaces and facilities to help people become physically active) to embrace lifestyle changes, checking zoonotic disease outbreaks, welfare of migrant labourers, food safety, checking the quality of drinking water, blood banks and blood safety, biomedical waste management, tackling antimicrobial resistance and even ensuring adequate toilet facilities in public spaces.²⁰ It also prescribes for the said authorities to prepare an annual action plan for public health for the area under their jurisdiction based on the Annual Health Status Report of the area before the commencement of every financial year.²¹

While this legislation focuses on conferring statutory powers to the Health Department to coordinate departments to combat epidemics and assign public health-related functions to existing medical officers, it is silent on how to equip these medical practitioners to perform such functions. Contrary to this, Tamil Nadu has created a separate cadre for public health, with different qualifications, education and training, and a service track.²²

Protection from Violence against Healthcare Service Persons and Institutions

The Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Amendment Ordinance was issued in the context of the death of a young woman doctor, who was stabbed by a patient in Kollam District in Kerala.²³ The High Court of Kerala, on the application of Kerala Private Hospitals Association ordered necessary measures, including legislative action, to reduce the incidence of violence against healthcare service persons and prevent damage and loss to property in healthcare service institutions.²⁴ The Government amended the definition of 'healthcare service persons' to include 'para medical students and para medical workers, security guards, managerial staff, ambulance drivers and helpers employed and working in medical service institutions, to extend the protection of the Act to these services. The offences under the Act were further classified based on the gravity of offence, and separate punishments were imposed. Verbal abuse may be punished with 3 months imprisonment or a fine of Rs. 10000/- or both. Any act of violence or incitement of violence less than grievous hurt is punishable with a

²⁰ The Hindu Bureau, *Kerala Assembly passes new Kerala Public Health Bill*, 21 March 2023, <https://www.thehindu.com/news/national/kerala/kerala-assembly-passes-new-kerala-public-health-bill/article66646890.ece>

²¹ The Kerala Public Health Act, 2023, § 7(3).

²² The Tamil Nadu Public Health Act, 1939.

²³ The Indian Express, *23-yr-old Kerala doctor stabbed to death while on duty, protests across state*, 11 May 2023, <https://indianexpress.com/article/india/crime/kerala-kottarakkara-woman-doctor-stabbed-to-death-by-accused-in-hospital-8601345/>.

²⁴ *Kerala Private Hospitals Association v. Advocate Sabu P. Joseph*, R.P. No.379 of 2021 in W.P.(C) No.10659 of 2021 and W.P.(C) No.11820 of 2021.

minimum punishment of 6 months imprisonment and a fine of Rs.50,000/- extendable up to five years imprisonment and Rs. 2 lakhs. Any act of violence or incitement of violence resulting in grievous hurt punishable with a minimum punishment of 1 year imprisonment and a fine of Rs.1 lakh, extendable up to seven years imprisonment and fine of Rs.5 lakhs. Apart from the criminal prosecution, the offenders are also liable to compensate for the loss of the healthcare person or the institution twice the amount of the damage caused. Provisions are incorporated for speedy investigation and trial, expansion of the security of the hospitals by deploying of security personnel, installing CCTV cameras, and safety and security devices/equipment, arrangement of control rooms and alarm systems, display of important information addressing stakeholders, evolving protocols for the safety of healthcare workers etc. The major criticism against the Bill is that it fails to provide patient protection rights.

Medical Education

The Government of India enacted the National Medical Commission Act, 2019, repealing the Indian Medical Council Act, 1956, replacing the Medical Council of India with the National Medical Commission. Consequently, the State Government amended the Kerala Medical Education (Regulation and Control of Admission to Private Medical Educational Institutions) Act, 2017, to reflect this change of nomenclature.²⁵

Labour

Welfare Funds

Welfare Funds is a unique social security mechanism devised by the Government of Kerala to provide minimal social security to the unorganized sector, by pooling the contributions of employees, employers, as well as the government, and select levies towards a common fund. Welfare Fund Boards manage the Welfare Funds as per the functions laid down in the respective legislations. In an important move, the Government decided to systematise the appointments of the Workers' Welfare Boards constituted under various legislations. The majority of the posts in these Welfare Boards were made as temporary appointments, and the Government faced allegations of political intervention in the job recruitment to Welfare Boards. In this context, the Government decided to conduct appointments to these Boards through the Kerala Public Service Commission. In 2023, the appointments to the following Welfare Boards are brought within the purview of the Public Service Commission: the Kerala Agricultural Workers' Welfare Fund Board, the Kerala Building and Other Construction

²⁵ The Kerala Medical Education (Regulation and Control of Admission to Private Medical Education Institutions) (Amendment) Act, 2023.

Workers' Welfare Board, the Kerala Shops and Commercial Establishments Workers' Welfare Fund Board, the Kerala Abkari Workers' Welfare Fund Board, and the Kerala Fishermen's Welfare Fund Board.²⁶

In 2023, the Government took steps to reconstitute the Kerala Dairy Farmers' Welfare Fund Board, constituted for the purpose of providing pensions, to grant relief, and ensure the welfare of the farmers engaged in cattle rearing in Kerala. Recognizing the absence of representation from Anand Pattern Milk Producers Co-operative Societies (APCOS) in the Board which constitute 85 percent of the total milk societies in the aggregate, the Government sought to increase the number of members in the Board from 12 to 15 to include three nominated members from the Presidents of APCOS functioning in the State. The amendments also sought to improve the transparency and accountability of the functioning by making the process of application for membership online, and mandating the maintenance of registers recording the details of the members availing schemes, and the pensioners. Another important measure introduced by the Government is to appoint an officer not below the rank of Joint Director in the Dairy Development Department as the Chief Executive Officer of the Board, and to realise the amount with interest from the responsible officer in the society if the contribution paid by the dairy farmers is not paid to the Fund by the societies in the same month to curb mismanagement.

Payment of Fair Wages

The Government enacted the Kerala Motor Transport Workers' Payment of Fair Wages (Amendment) Act 1971, to ensure the payment of fair wages to the motor workers in Kerala. As per the original Act, the redressal authority for claims arising from non-payment of fair wages is Labour Commissioner. The Government seeks to appoint any Commissioner for Employee's Compensation or an officer not below the rank of a Deputy Labour Commissioner of the State Government for select areas and redesignate Labour Commissioner as the Appellate Authority.

The Deputy Commissioner may order the payment of the difference of wages paid and fair wages with interest, along with compensation not exceeding 10 times such difference. The punishment for non-payment of fair wages without reasonable cause is punishable with imprisonment with a fine of Rs. 500/-. The fine amount is revised to Rs. 2000/-.²⁷

²⁶ The Kerala Public Service Commission (Additional Function as Respects certain Corporations and Companies) (Amendment) Act, 2023, <http://niyamasabha.org/codes/15kla/bills/KPSC%20amendment%20bill%202023%20as%20psd.pdf>.

²⁷ The Kerala Motor Transport Workers' Fair Wages (Amendment) Act, 2023.

Local Self Government (LSG)

Revision of Property Tax

The government proposes a comprehensive revision of property tax at the behest of the LSG, including permit fee for the construction of residential and non-residential buildings. Wide powers are provided for the assessment and taxation of the buildings, multiple ownership of houses by a single individual, and newly constructed houses that are not put to any use.²⁸

The Kerala Building Tax (Amendment) Act, 2024, is intended to improve the tax collection of the LSGs. The one-time building and luxury tax is collected on the basis of the plinth area of the building levied and collected by the Revenue Department. However, due to manpower shortage in the revenue department, a number of buildings remain unassessed, resulting in a heavy shortfall in revenue. The impugned legislation is amended to enable tax collection on the basis of the assessment report submitted by the LSGs.

The State Government is also levying an annual luxury tax on residential buildings with a plinth area of more than 278.7 m² as per entry 49 of the State List in the 7th Schedule to the Constitution of India. However, the 101st Constitutional Amendment omitted the tax on luxuries from entry 62 of the State List. Thereafter, several writ petitions were filed before the High Court questioning the authority of the State Government to collect luxury tax. To avoid liability over the tax collected after the said Constitutional amendment, this amendment clarifies the legal position, with retrospective effect.

The amendment Act also states that those who make false statements or declarations under this Act shall be punished with a fine of 50 percent of the building tax, instead of proceeding under §177 of the Indian Penal Code.²⁹ The government policy to generate revenue by increasing fees for various services, including building permits, received criticism.³⁰

Amendments were also issued to facilitate the regularisation of illegal constructions, by shifting the date set for condonation of the offences from July 2017 to November 2019.³¹ Any unlawful constructions made on or before 7 November 2019 can be regularised upon payment of a compounding fee prescribed by the Government.

²⁸ The Kerala Finance (No.2) Act, 2023.

²⁹ The Kerala Building Tax Act, 1975, §21.

³⁰ The Report of the Subject Committee on The Building Tax (Amendment) Bill, 2023 [http://niyamasabha.org/codes/15kla/bills/Kerala%20building%20tax%20\(Amendment\)%20bill%20\(as%20reported%20by%20Sub%20Com.\).pdf](http://niyamasabha.org/codes/15kla/bills/Kerala%20building%20tax%20(Amendment)%20bill%20(as%20reported%20by%20Sub%20Com.).pdf)

³¹ The Kerala Panchayat Raj (Amendment) Act, 2023; The Kerala Municipality (Amendment) Act, 2023.

Solid Waste Management

The High Court of Kerala in several cases pointed out the importance of awareness creation among citizens to ensure proper compliance of the Solid Waste Management Rules, 2016. The State Government announced a campaign for waste management, “Malinyamuktam Nava Keralam” (Litter-free Kerala), with the objective of making the state litter-free by the month of March 2024. In the backdrop of this campaign, the Government introduced two ordinances for making periodical changes in the provisions relating to waste management in the Kerala Panchayat Raj Act, 1994, and the Kerala Municipality Act, 1994, and to incorporate penal provisions for those who infringe the provisions of the Act.³² Both the Ordinances were replaced with bills that were passed in February 2024, and were assented to by the Governor and notified on 2 March 2024.³³

Cooperative Societies

The Cooperative sector in Kerala has grown tremendously over time, with the total deposits reaching Rs. 2 lakh crores. At the same time, several incidents of undesirable practices in the cooperative sector surfaced in the recent past. In this context, the Government passed the Kerala Co-operative Societies (Third Amendment) Bill, 2022, to undertake a complete revamp of the cooperative sector, to improve the management and transparency of the societies and to promote the interference of the Government.

The Bill revises the minimum share capital required for registration of credit societies to Rs. 2,50,000/- and for non-credit societies to Rs. 1,00,000/-. However, this requirement does not apply to cooperative societies of Scheduled Castes/ Scheduled Tribes, fisheries, women, and traditional industrial cooperative societies.³⁴

The Bill proposes several changes in the governance of the cooperative societies to augment government control over the cooperative societies. The Bill proposes that the Registrar of Cooperative Societies shall be an officer of the State Government. The Bill further empowers the Registrar to suspend the governing body of any cooperative society, after a preliminary inquiry by himself, a financing bank, or the Vigilance and Anti-Corruption Bureau, upon prima facie evidence on wilful disobedience or misconduct, or misappropriation of evidence, for a period not more than 6 months.

³² The Kerala Panchayat Raj (Amendment) Ordinance, 2023; The Kerala Municipality (Amendment) Ordinance, 2023.

³³ The Kerala Municipality (Amendment) Act, 2024; The Kerala Panchayat Raj (Amendment) Act, 2024.

³⁴ The Kerala Cooperative Societies (Amendment) Act, 2022, §4.

The amendment eases the process of merger, transfer of assets and liabilities, and division of societies by a resolution of the General Body of society by a simple majority of the members present and voting, as against a two-thirds majority of the members present and voting. Detailed guidelines are also introduced in the regulation of subsidiary institutions promoted by the societies, and the partnership of cooperative societies.

The Bill seeks to diversify the governing body by reserving two seats for those who are 45 years old or younger,³⁵ and by nominating two members with significant banking experience, who have been in paid service of the banking institutions, by the societies. If the societies fail to nominate such members within the designated time, the Government will nominate them.³⁶ The Bill limits the re-election of members to the governing body for more than three consecutive terms.³⁷

The Bill also proposes a common software platform for all cooperative societies to streamline operations, and to curb mismanagement.³⁸ Stricter regulations are imposed on the sanction of loans to promote better health of the societies by curbing inflated valuations and risk of default. The sanctioning loans exceeding the individual maximum borrowing limit set by the Registrar is made a punishable offence; and the valuation of the immovable property pledged for loans exceeding Rs. 10 lakhs shall be done by a panel of five members including two officers including the CEO of the society, two members of the Committee, and an independent valuer.³⁹ The Bill also proposes setting up a Cooperative Fund for reviving societies that are weak or dormant.⁴⁰

The Bill received strong dissent in the Select Committee for excessive government interference resulting in diminution of the autonomy of societies, with little or no effort to strengthen the cooperative sector. The higher state control through Registrar, who is an officer of the State Government, and the reorganisation of governing bodies to have nominated members with professional skill is also critiqued as a measure to increase government control by introducing nominees of the state. The limitation of membership to not more than two consecutive terms is also conceived as an anti-democratic measure. The common software platform proposed for all cooperative societies, and the added limitations in running subsidiary institutions is also critiqued to affect the decentralized management

³⁵ *Id.*, §5.

³⁶ *Id.*, §17.

³⁷ *Id.*, §28.

³⁸ *Id.*, §24.

³⁹ *Id.*, §30.

⁴⁰ *Id.*, §19.

of the societies and that it would augment the burden of the economically struggling societies.⁴¹

Land and Forests

The Kerala Government Land Assignment Bill, 2023 was introduced in the wake of multiple court proceedings pertaining to unauthorised land encroachment, construction activities, and land use other than the purposes for which it was originally assigned, violating the conditions attached to patta. This amendment Bill seeks to regularise the unauthorised construction and land use. The Subject Committee welcomed the Government's move to ease the difficulties of the people who were limited by their patta only to do agriculture, but expressed dissent over the inadequate steps taken by the Government to prevent misuse.⁴²

The Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971 deals with the lands hitherto controlled by the Sree Padmanabhaswamy Temple. "Sree Pandaravaka land" means any land owned by the Sree Padmanabhaswamy Temple and registered in the revenue records as "Sree Pandaravaka".⁴³ The Act extinguishes the right, title, and interest of the Temple held by the landholders, and vests the same in the Government of Kerala (barring the exceptions). The State Government makes an annuity to the Temple as compensation for the extinguishment of its right, title, and interest in the lands, which is fixed as Rs. 58,500.⁴⁴ The Government amended this enactment to enhance the annuity being paid to Sree Padmanabhaswamy Temple to thrice the amount, and to provide for periodic revision of the annuity by adding a clause for reviewing this amount after 10 years.⁴⁵

The Kerala Conservation of Paddy Land and Wetland Act, 2008 was enacted by the Government to conserve the paddy land and wetland and to restrict the conversion or reclamation, to promote growth in the agricultural sector, and to sustain the ecological system in the State. The Act confers powers and functions on the Revenue Divisional Officer; however, it does not define the term 'Revenue Divisional Officer'. Hence, the Government issued an amendment to define RDO, to include any officer appointed as Revenue Divisional

⁴¹ The Report of the Select Committee on The Cooperative Societies (Third Amendment) Bill, 2022, [http://niyamasabha.org/codes/15kla/bills/THE%20KERALA%20CO-OPERATIVE%20SOCIETIES%20\(THIRD%20AMENDMENT\)%20BILL,%202022.pdf](http://niyamasabha.org/codes/15kla/bills/THE%20KERALA%20CO-OPERATIVE%20SOCIETIES%20(THIRD%20AMENDMENT)%20BILL,%202022.pdf)

⁴² The Kerala Government Land Assignment Bill, 2023 <http://niyamasabha.org/codes/15kla/bills/Kerala%20Land%20Assignment%20Bill,%202023%20as%20rep%20sub%20com%20.pdf>

⁴³ The Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971, §2 (i).

⁴⁴ *Id.*, §6.

⁴⁵ The Sree Pandaravaka Lands (Vesting and Encashment) Amendment Bill, 2022.

Officer by the Government, or any officer not below the rank of Deputy Collector appointed to exercise the powers of RDO.

The Kerala Private Forests (Vesting and Assignment) Act, 1971 (“Act of 1971”) was enacted as part of Kerala’s larger land reform programme to provide for the vesting of private forests in the State and for the assignment of land to agriculturalists and agricultural labourers. The Act contains a protection clause that exempts from vesting those private forests which, on the appointed day (10 May 1971), were under the personal cultivation of the owner or were held by a cultivating tenant.

Section 72K(2) of the Kerala Land Reforms Act, 1963 (“LRA”) provides that a certificate of purchase issued by the Land Tribunal shall be conclusive proof of the assignment to the tenant of the right, title, and interest of the landowner and any intermediaries in respect of the holding or the relevant portion thereof.

In *State of Kerala v. Mohammed Basheer* (2019),⁴⁶ the Supreme Court held that, on the facts of that case, a certificate of purchase issued under the LRA was sufficient to treat the respondent as having been in possession as a cultivating tenant and therefore such land is would be exempt from vesting under Section 3(2) of the Act of 1971. The State Government took the view that if this interpretation were applied broadly, a substantial proportion of the pending forest-vesting dispute could potentially be decided against the State, with serious implications for forest conservation.

To address the consequences of the aforesaid judicial interpretation, the State amended Section 3 of the Act of 1971 through the Kerala Private Forests (Vesting and Assignment) Amendment Act, 2023, with retrospective effect from 10 May 1971. The amendment clarifies that a certificate of purchase issued under the LRA may be treated as a relevant piece of evidence, but shall not constitute conclusive proof of personal cultivation for the purpose of claiming exemption from vesting. Before the passage of this Amendment Act, similar provisions were promulgated by an ordinance in 2020 which was kept operable by being repromulgated seven times.

This ordinance was not taken up during the ordinance-clearing session convened by the Kerala Legislature in 2021 to consider Bills replacing the ordinances then in force. The Bill relating to the Private Forests ordinance was subsequently introduced as the final item on the last day of the 8th Session of the 15th Kerala Legislative Assembly and was passed without discussion and without reference to the Subject Committee.

⁴⁶ *The State of Kerala v. Mohammed Basheer*, AIR 2019 SC 2994.

Poultry

The public and cooperative sector produces less than 50 percent of the poultry and livestock feed requirement in Kerala, by two major institutions, MILMA and Kerala Feeds Limited. The rest of the requirement is catered to by the private sector, and the feeds brought from other states. The raw materials required for the production of livestock and poultry feed are also procured from other states. However, there existed no quality control mechanism to ensure the safety of the livestock and poultry feed and supplementary feeds, produced or sold in the State. Hence the Government passed The Kerala State Livestock and Poultry Feed and Mineral Mixture (Regulation of Manufacture and Sale) Bill, after extensive consultations with the stakeholders, to ensure safe and quality feed and to regulate manufacture, storage, distribution and sale of feed stuff, livestock and poultry feed and mineral mixture in the State of Kerala. The provisions of the Bill were introduced for the first time by an ordinance in February 2021, and thereafter the provisions were kept alive by re-promulgating the ordinance, until it was finally passed in the Assembly.

Non-Statutory Interventions

The members of the Assembly raise concerns about their constituency as well as the general well-being of the state through systematic interventions as provided by the Rules of Procedure of the Legislature. This part highlights concerns raised by the Government as well as individual members in relation to Centre-State relations.

Resolutions

The Kerala Legislature passed two Government resolutions in 2023. These resolutions urged the Central Government to take steps to withdraw the move to implement a Uniform Civil Code. In another resolution, the Chief Minister urged the Central Government to rename the State of Kerala as 'Keralam' in the Constitution and all official records.

The private members also invoked the resolutions on matters of public interest. C.H. Kunhabu, MLA, moved a private member resolution demanding the Union Government to rectify its policies curtailing the developmental and welfare activities of the State and to uphold the constitutional values of federalism. The Union Government policies strangle the state financially — implementation of GST in a manner violative of the federal tenet of 'strong Centre and strong States. The Union Government continues to levy cess on petrol and diesel which is outside the purview of GST, reduces the legitimate shares of the states from the divisible pool of taxes, stopping of revenue deficit grants, reducing the Central shares of Central Sector Schemes, non-payment of compensation for the revenue loss arising from the implementation of GST despite specific cess being collected on that

account, reduction of the permissible debt limit of the states, denying permission for KIFBI and Social Welfare Pension Ltd. to take loans by categorising the debt of these institutions as public debt despite the Centre continuing to take such measures, to list a few.⁴⁷

N. Shamsuddeen, MLA, moved a resolution to take corrective measures against the neglect of minority students by the Union and State Governments. The resolution called on the Central Government to reconsider the revocation of Maulana Azad Scholarship for collegiate students, the limiting of Pre-Matric Scholarships to students from IX and X students. These scholarships were introduced for the social upliftment of minorities after the Sachar Committee Report in 2006. The resolution also critiqued the State Government for not spending any amount on different heads of minority welfare, including Joseph Mundassery Scholarship, Mother Theresa Scholarship, A.P.J. Abdul Kalam Scholarship, and ITC Fee Reimbursement Scheme.⁴⁸

Executive vs Legislature: Role of Governor in Lawmaking

The role of the Governor in lawmaking was seriously debated in the Kerala public sphere. The legislature-executive tussle when two different parties are in power in the Union and State Governments is not unusual. However, during the past few years, Kerala witnessed a series of unprecedented events on the part of the Governor. Key issues involved the Governor's assent to bills, and his powers as *de jure* Chancellor of universities.

Governor Sitting on Bills Passed by the Legislature

The Kerala Government approached the Supreme Court with a writ petition under Article 32, contending that the Governor has failed in his constitutional duties by causing unreasonable delay in giving assent to the Bills. The submissions by the Government to the Supreme Court reveal that the Governor unusually delayed clearing eight Bills, spanning 7 months to 23 months, five of which were University (Amendment) Bills. The other Bills on which assent was withheld included the Cooperative Societies (Second) Amendment Bill, 2022, the Lok Adalat Bill, 2022, and the Public Health Bill, 2021. The Supreme Court, in a similar case concerning the State of Punjab and its Governor, clearly said,

“The Governor, as an unelected Head of the State, is entrusted with certain constitutional powers. However, this power cannot be used to thwart the normal course of lawmaking by the State Legislatures. Consequently, if the Governor decides to withhold assent under the

⁴⁷ 15th Kerala Legislative Assembly, Eighth Session, Bulletin Part I (Brief Record of the Proceedings) No. 104, 7 March 2023, available at <http://niyamasabha.org/codes/15kla/bulletins/Bulletin%20Part%201%20No.%20104.pdf>.

⁴⁸ *Id.*

substantive part of Article 200, the logical course of action is to pursue the course indicated in the first proviso of remitting the Bill to the state legislature for reconsideration.”

The Supreme Court, on 26 November 2023, observed that no reason or justification has been adduced before it as to why the Governor kept the Bills pending for an inordinately long period of time before exercising the power under Article 200. Subsequently, the Governor cleared these Bills - the Governor gave assent to The Public Health Bill, 2021, and sent the remaining seven Bills for the consideration of the President.

Governor as *de-jure* Chancellor

The intervention of the Governor in the appointment of Vice Chancellors (VCs) in the state universities as the *de-jure* Chancellor created a political debate in the Kerala public sphere. This Governor-Government row began in 2021, when the term of office of the VCs in eight State Universities expired; the Search Committee for the appointment of VCs commenced its operation. Thereafter, a decision was made to reappoint the current VCs, and the Search Committee was dissolved. The Governor, as Chancellor, approved the decision, but later in a press release stated that such appointment was made after intervention of the Minister of Higher Education and the Chief Minister, followed by the legal opinion from the Advocate General approving the *vires* of such decision. The appointment of the VCs of two universities was challenged before the High Court as violative of UGC Regulations. In one of these cases, the Supreme Court struck down the appointment of the VC as violative of UGC Regulations (anomaly in the process followed by the Search Committee). Consequent to this, in an unusual move, the Governor sought the resignation of the Vice-Chancellors of nine universities.⁴⁹

In the meantime, the Legislature introduced an ordinance to remove the Governor from the position of Chancellor of the Universities, which was returned unsigned by the Governor.⁵⁰ Later on, in December 2022, the Kerala Legislative Assembly passed two University Laws (Amendment) Bills, 2021, which sought to amend eight Acts relating to different universities to remove the Governor as the *ex-officio* Chancellor of the Universities and to empower the State Government to appoint a Chancellor. However, in December 2023, the said Bills were reserved by the Governor for consideration of the President of India.

⁴⁹ Kerala Governor asks nine VCs to resign in 24 hrs, government says don't, 23 October 2022, <https://www.onmanorama.com/news/kerala/2022/10/23/kerala-governor-arif-mohammed-khan-asks-vice-chancellors-resign.html>.

⁵⁰ Kerala Governor returns ordinance to remove him as chancellor without signing, 23 November 2022, <https://www.newindianexpress.com/states/kerala/2022/nov/23/kerala-governor-returns-ordinance-to-remove-him-as-chancellor-without-signing-2521320.html>.

Executive Lawmaking

A total of 4230 entries in the Extraordinary Gazette were published by the Government of Kerala from 1 January 2023 to 31 December 2023. The entries included constitution of Industrial Single Window Clearance Boards, revision in land value, notification for land acquisition and fair value compensation, constitution of Welfare Boards, Welfare Societies, Harbour Welfare Societies, announcement of state lotteries, corrections in Data Bank to mark change in land use, notification of urban development plans, street vendors' policy, Master Plan of municipalities, announcement of new courts, routine appointments, amendments to rules formulated under different enactments etc.

Conclusion

The predominant theme running through the legislative and non-legislative business of the Assembly is a disdain towards the Union Government for cutting down the funds for the State Government. The conflict between the State Government and the Union Government, acting through the Governor, reached another level when the Governor stifled the state legislative machinery by withholding assent to the Bills for more than a year. A majority of legislation was intended to raise the revenue of the State Government by increasing fees and fines, and introducing compounding of offences. The substantive legislations included the legislations for public health governance, protection of health workers, rise of fair wages, systematization of Labour Welfare Fund Boards, etc. Legislation was also enacted to remedy situations created by the orders of the court.