



Defending Decentralisation in Kerala

Probing the Autonomy of Kerala's
Urban Local Bodies

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Abstract

More than 47 percent of Kerala's population live in urban areas. The high rate of urbanisation in the state spotlights the need for powerful Local Self Government institutions in urban areas. But the municipalities and corporations in Kerala are working in a highly restrictive environment, which hinders their functioning as autonomous institutions

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Executive Summary

Kerala is one of the few states in the country considered to have taken serious efforts in transferring powers to Local Self Government (LSG) institutions for strengthening the decentralisation process. The high rate of urbanisation in the state calls for powerful LSG institutions in urban areas. More than 47 per cent of the state's population live in urban areas. In such a scenario, institutions such as municipalities and corporations have an important role to play, as most of the urban issues can be best handled at the local level.

Even though the Kerala Municipality Act, 1994 entrusts the municipalities and corporations in the state with a list of functions, the institutions are not able to execute them efficiently. The Act, while laying down the provisions, gives the State Government overriding powers over LSG institutions. The operations of para-statal agencies in the domains of work parallel to LSG institutions lead to overlapping of powers, weakening the decentralisation process in the state.

The financial position of the municipalities and corporations in the state is very weak; they are highly reliant on grants from the Central and State Governments. The own revenue has only a meagre share in the total receipts of these institutions. While there is a large scope to increase the own revenue, the provisions in the Kerala Municipality Act giving excessive power to the State Government hinder its growth.

The municipalities and corporations in Kerala are functioning in a restrictive setting. The result is that they are unable to exercise the powers that are transferred to them. The paper aims at analysing the above issues and suggests measures to strengthen the process of decentralisation in Kerala.

A Brief History of Decentralisation in India

Local Self Government or LSG is the smallest unit of governance and administration in a country. The system upholds the true spirit of democracy by transferring the authority of governing a village, town or city to the locally elected representatives. The origin of LSGs in India is traced to the Indus Valley Civilisation that dates back to 3000 BCⁱ. The provision of basic services such as maintenance of streets, water supply and drainage was carried out by a system similar to that of the modern LSGsⁱⁱ. The practice of finding solutions to

local problems collectively has also found a mention in ancient texts such as the *Vedas*¹, *Upanishads*² and *Kautilya's*³ *Arthashastra*^{4&iii}.

M K Gandhi, the father of the nation, had conceived the idea of autonomous village republics, which would be federated into a national government with authority and jurisdiction delegated to it from below^{iv}. He dreamt of a decentralised state, consisting of self-sufficient and self-governing villages, where voluntary cooperation is the prerequisite for a dignified and peaceful existence^v. However, independent India adopted the parliamentary form of government in preference to the Gandhian proposal of a village-based democracy^{vi}. The centralised system was in continuance with the British system of top-down governance, which had culminated in the Government of India Act, 1935. The Constitution enacted by the Constituent Assembly also adopted the framework of the Government of India Act. Under the Act, most of the powers were concentrated at the union level and some at the state level^{vii}. The Act did not contain any provision for local governance at the village level. Hence, the organisation of village panchayats⁵ was included in Article 40 of the Indian Constitution, as a directive principle of state policy^{viii}.

The State Governments consistently ignored the directives of the Union Government to implement the constitutional provisions on LSGs. Though the Centre formed many committees to suggest means for effective local self governance in the country, none of the reforms was implemented. It was only in 1992 that the 73rd and 74th Constitutional Amendment Act incorporated the Panchayati Raj institutions into the Constitution, establishing them as a mandatory third tier of governance^{ix}. The amendments that came into force on April 24, 1993^x proposed three tiers of Panchayats - District Panchayats, Block Panchayats (intermediary panchayats) and Village or Gram Panchayats in states with a population over 25 lakh. States with a population below 25 lakh will follow a two-tiered structure, consisting of District Panchayats and Village Panchayats. A similar structure came into force for the urban India, comprising Municipal Corporation⁶, Municipal Council⁷ and Nagar Panchayat^{8&xi}.

¹*Vedas* are voluminous texts in Sanskrit that originated in the Indian subcontinent.

²*Upanishads* are a collection of Sanskrit texts of religious and philosophical nature that originated in India.

³Kautilya was an Indian teacher, philosopher, economist, jurist and royal advisor. He authored the ancient Indian political treatise, *Arthashastra*.

⁴*Arthashastra* is a treatise on statecraft, economic policy and military strategy written in Sanskrit.

⁵Institutions of local governance in the rural areas of India are referred to as panchayats.

⁶Article 243Q of the Constitution states: 'A municipal corporation shall be constituted for a large urban area ...'

⁷Article 243Q of the Constitution states: 'A municipal council for a smaller urban area ...'

⁸Article 243Q of the Constitution states: 'A nagar panchayat for an area, which is in the process of transition from rural to urban.'

Decentralisation and Kerala

This study focuses on the decentralisation process in the state of Kerala; one of the few states in the country, where a sincere and serious attempt has been made to ensure that local bodies⁹ can function as institutions of self governance^{xii}. Great political pressure from the people at the grassroots level has brought better devolution of local self governance in Kerala^{xiii}.

Under the British rule, Kerala was divided into three areas; Travancore and Cochin were princely states, while Malabar was part of the Madras Presidency. However, the social conditions in all the three areas were almost similar, with the upper castes dominating the lower castes¹⁰. Kerala witnessed a string of social reform movements in the late 19th and early 20th centuries. The reform movements at the grassroots helped the people to understand the rights, duties and responsibilities of the State and encouraged them to articulate their needs. This, in turn, played an important role in laying a strong foundation for decentralisation in Kerala.

Decentralisation after Kerala's Formation in 1956

E M S Namboodiripad, the first Chief Minister of Kerala, chaired the Administrative Reforms Committee in 1957 for the newly formed state of Kerala. The Committee, which submitted its report on July 26, 1958 tabled the need to set up panchayats (for rural areas) and municipalities (for urban areas), and empowering them with revenue administration and other regulatory functions. Taking into account the recommendations of the Administrative Reforms Committee, the Kerala Panchayat Act, 1960, the Kerala Municipalities Act, 1960 and the Kerala Corporation Act, 1961 were passed, unifying the laws governing the local bodies in the Travancore-Cochin-Malabar region^{xiv}. The first round of elections to 922 panchayats in Kerala took place in 1963. However, there was a long interval before the second round of elections to panchayats took place in 1979 and then the third in 1988^{xv}.

Even though the report submitted by the Administrative Reforms Committee called for a wider scope, the role of LSGs in the state was limited to civic duties. Though the successive governments in the state introduced several bills for empowering LSGs in Kerala, all the initiatives failed to meet the desired results, as they were poorly executed.

⁹ Local bodies are institutions of local self governance. The local bodies constituted for local planning, development and administration in the rural areas are referred to as Rural Local Bodies (Panchayats) and the local bodies constituted for local planning, development and administration in the urban areas are referred to as Urban Local Bodies (Municipalities).

¹⁰In Kerala, the caste system included complex rules of 'untouchability, un-approachability and un-seeability'. The people belonging to lower castes did not have access to public places, temples, bathing tanks, public paths, roads and educational institutions.

The political differences over the powers to be enjoyed by LSGs further slowed down the process of decentralisation in Kerala.

The 73rd and 74th Constitutional Amendments stipulated an amendment of the state laws by April 24, 1994 to conform to the constitutional requirements on LSGs. Kerala did not act upon it for several months since the amendments came into force in 1993, while ambiguity persisted on the enactment of a new law within the prescribed time. It was only in March 1994 that the State Government introduced the Kerala Panchayat Raj Bill in the State Legislature^{xvi}. The Bill was criticised from different quarters for being highly restrictive. As a result of strong public opinion against it, several changes were made to the Bill and a new version of the Kerala Panchayat Act was introduced. It was enacted in April 1994. The first election to the new panchayat raj system was conducted in September 1995 and panchayats came into force in Kerala on October 2, 1995^{xvii}.

The new State Government that came to power in 1996 actively pursued a policy of decentralisation. It launched the 'People's Plan Campaign' on August 17, 1996 with the objective of strengthening LSGs in the state. The Government also earmarked 35-40 per cent of the plan funds for development projects undertaken by LSGs. The campaign ensured maximum autonomy to the local bodies in preparing the development plans by providing them untied grants-in-aid. Apart from devolving funds and granting maximum autonomy, the campaign initiated mass participation through gram sabhas in rural areas and ward committees in urban areas. People's Plan Campaign ensured that public participation was not limited to elected representatives, but included ordinary people in gram sabhas/ward committees for preparing reports, formulating projects and drafting plans.

Against the background of a strong decentralisation drive in Kerala, this study attempts to understand whether Kerala has realised the basic ideals of decentralisation and local self governance. The study focuses on Urban Local Bodies (ULBs) in Kerala, with the Cochin Municipal Corporation as the case study.

Why Kerala needs Powerful ULBs?

Kerala is witnessing a rapid level of urbanisation with more than 47 per cent of its population living in urban areas. The state registered its highest level of urbanisation during the period 2001-2011 with a percentage increase of over 83.20 per cent compared to the previous decade^{xviii}. The increasing rate of urbanisation in the state is evident from the data provided in Table 1.

Table 1: Degree of Urbanisation in Kerala

Year	Statutory Census Towns	& Population	Urban (%)
1981	106	47,71,275	18.74
1991	197	76,80,294	26.44
2001	159	82,67,135	25.97
2011	520	1,59,32,599	47.72

Source: State Urbanisation Report 2011

The high rate of urbanisation is building pressure on the government to provide necessary services to the rapidly expanding and concentrated population. Urban Kerala also faces multiple challenges, ranging from public health issues to waste management. In this scenario, ULBs such as municipalities and corporations have an important role to play, as most of the issues can be best handled at the local level. At present, Kerala has 91 municipalities and six corporations.

Do ULBs in Kerala Enjoy Administrative Powers?

The decentralisation of power is an essential component of democratisation, good governance and citizen engagement. The devolution of real power to the local governing bodies is considered one of the most powerful mechanisms to establishing effective LSG institutions^{xix}. ULBs can act as institutions of self governance, only if there is a nexus between the three Fs: Functions, Functionaries and Finances^{xx}. The devolution of functions to ULBs is an important aspect in this regard. The Kerala Municipality Act, 1994 entrusts ULBs in the state with the following functions^{xxi}:

1. Urban planning, including town planning
2. Regulation of land use and construction of buildings
3. Planning for economic and social development
4. Roads and bridges
5. Water supply for domestic, industrial and commercial purposes
6. Public health, sanitation conservancy and solid waste management
7. Fire services
8. Urban forestry, protection of environment and promotion of ecological aspects
9. Safeguarding the interests of the weaker sections of society, including the handicapped and mentally retarded
10. Slum improvement and up-gradation

11. Urban poverty alleviation
12. Provision of urban amenities and facilities such as parks, gardens and playgrounds
13. Promotion of cultural, educational and aesthetic aspects
14. Burials, burial grounds, cremations, cremation grounds and electric crematoriums
15. Cattle ponds; prevention of cruelty to animals
16. Vital statistics, including registration of births and deaths
17. Public amenities, including street lighting, parking lots, bus stops and public conveniences
18. Regulation of slaughterhouses and tanneries

The devolution of functions to ULBs is only partial, as the Kerala Municipality Act, 1994 gives the State Government overriding powers over ULBs. Some of the provisions of the Act that allow the State Government to prevail over ULBs are listed below.

- Section 56, Kerala Municipality Act: *Government may, by notification in Gazette make rule to carry out all or any purpose of KM Act subject to approval by the State Legislature.*
- Section 64, Kerala Municipality Act: *Government may dissolve LSGIs if the Government is of the opinion that the LSGIs persistently make default in performing the duties imposed on it by law. The dissolution of the LSGIs is subject to approval by State Legislature.*
- Section 57, Kerala Municipality Act: *Government may cancel a resolution or decision taken by LSGIs if Government is of the opinion that it is not legally passed or in excess of the power conferred by KM Act/any other law or likely to endanger human life, health, public safety or communal harmony or in violation of directions issued by Government.*
- Section 58, Kerala Municipality Act: *The State Government have the power to issue directions to urban local bodies in accordance with the national and state policies in matters of finance, maintenance of accounts, office managements, selection of schemes, sites, and beneficiaries, proper function of ward sabhas and ward committees, welfare programs, environmental control etc.*

The above provisions illustrate that ULBs in Kerala are functioning in a restrictive setting. The result is that ULBs are unable to exercise the powers that are transferred to them.

The following case studies throw light on the limited powers enjoyed by ULBs in the state.

Case Study 1: Construction of Roads and Bridges

As per the Kerala Municipality Act, 1994, roads and bridges is one of the functions transferred to ULBs. The Public Works Department (PWD) of the Government of Kerala is also entrusted with similar responsibilities.

PWD is responsible for^{xxii}:

- Design, implementation and maintenance of all public works undertaken by the government
- Economic development of the state by providing required road infrastructure
- Development of interstate road infrastructure facilities
- Road safety
- Enhanced mobility of people, goods and services

This clearly shows that there is no clear demarcation of the responsibilities between ULBs and PWD. PWD being a state department has more power compared to ULBs in the state.

The report “Spat between the Cochin Mayor and PWD Minister over roads”, published by ‘The Hindu’ on July 16, 2016 give an account of a verbal spat between the Cochin Mayor and the PWD Minister of the Government of Kerala over the bad condition of roads in Kochi^{xxiii}. Such situation arises, because neither PWD nor ULB is held accountable, as both the entities lack clarity on their responsibilities. The result is a blame game between the two entities.

A similar example is the case of provision of public amenities such as bus stops and parking lots. As per the Kerala Municipality Act, 1994, these functions come under the purview of ULBs. However, PWD launched a Special Purpose Vehicle (SPV) called Pratheeksha Bus Shelters Kerala Limited (PBSKL)^{xxiv} for providing modern bus shelters. Thus, for most of the transferred functions of ULBs, the Government of Kerala has a department dealing with the same sets of functions.

Case Study 2: Water Supply

The Kerala Corporation Act, 1961 had authorised ULBs with the power of managing water supply. But the Kerala Water Supply and Sewerage Act led to the formation of the Kerala Water Authority (KWA) in 1984.

The Kerala Water Supply and Sewerage Act, 1986: *An Act to provide for the establishment of an autonomous authority for the development and regulation of water supply and*

waste water collection and disposal in the State of Kerala and for matters connected there with^{xxv}.

Upon the formation of KWA, all the municipalities and corporations were directed to transfer the power of water supply to it. The Kerala Municipality Act passed in 1994 again entrusted ULBs with the power of water supply for domestic, industrial and commercial purposes. However, the existence of KWA is preventing ULBs from exercising this power.

Water Auditing done in the Cochin Municipal Corporation found that 75 per cent of the households depended on KWA to meet their demands. Among them, nearly 40 per cent of the households complained about insufficient water supply by KWA, with only 25 per cent receiving uninterrupted water supply from KWA^{xxvi}.

KWA, being the single nodal agency for providing water services across the state, is known not for its competence in providing safe drinking water but for its inefficiency in delivering quality services. The challenges in water supply management can vary from region to region. Hence, dealing with local challenges requires the intervention of the local governing bodies. A 'Times of India' report, "Kerala Water Authority sleeps on ₹ 1000-crore project" on April 15, 2015^{xxvii}, stated that Kochi faced a demand-supply gap of over 120 million litres of water a day. Besides the frequent pipe bursts, KWA failed to initiate a project that would enhance water supply by 135 million litres a day. This proves that a centralised system for water supply management will only help to aggravate the water crisis in the state. The State Government is bearing a huge cost to maintain this centralised system. As of March 2015, the total investment by the Government of Kerala on KWA amounted to ₹ 112.26 billion with a total accumulated loss of ₹ 26 billion^{xxviii}.

The decentralisation of water management, including the use of water markets, can greatly improve the efficiency of water management in the state. Countries across the globe have utilised water markets to deal with water scarcity. This model can be emulated in Kerala by taking ULBs on board. Water markets are possible only when ULBs have a secure claim to water that is transferable through a right, a permit or an entitlement. The State Government can determine the quantity of water that should be allocated to each ULB in the state. Thus, ULBs will possess the right to use the water and to trade it with other ULBs in the state. Municipalities/Corporations in possession of surplus water can trade it with ULBs that are facing water shortage in their areas. This system will not only strengthen ULBs, but also aid the efficient utilisation of a scarce resource like water.

The existence of parallel agencies/departments can weaken the domain of ULBs and intensify the bureaucratic procedures in handling local affairs. An example in this regard is the existence of city development authorities in Kerala. For instance, the town planning department of the Cochin Municipal Corporation is responsible for enforcing master plan regulations, awarding building permissions and acquisition of land for various schemes. A statutory body called the Greater Cochin Development Authority (GCDA) in Kochi¹¹ is also entrusted with similar responsibilities. All the major cities in the state have a city development authority; for instance, Thiruvananthapuram Development Authority, Thrissur Development Authority and Kollam Development Authority. Most of these city development authorities were formed in the pre-1994 period. The city development authorities lost their relevance with the 73rd and 74th Constitutional Amendments. Instead of merging their functions with ULBs, the State Government is sustaining these institutions bearing a huge financial burden.

Had decentralisation been successful in Kerala, the number of departments working under the Government of Kerala would have come down, with ULBs in the state taking over the powers of the defunct state departments. However, in Kerala, a reverse trend is visible, with more state departments being added each year. At present, there are 110 departments working under the Government of Kerala.

An important concern with regard to LSGs in the country is that they do not have the power to legislate. In India, only the Central and State Governments can legislate based on the Union List¹², State List and Concurrent List. If LSGs had the power to legislate, decisive action upon local issues could have been taken more quickly, resulting in better management of the administrative system. Michael Bloomberg, who served three terms as the Mayor of New York, banned smoking in bars and restaurants in 2002. In 2007, Bloomberg undertook measures to reduce the consumption of trans-fats by giving directions to the restaurants to eliminate the use of partially hydrogenated vegetable oils and spreads. As a result, the consumption of trans-fats in each meal reduced from 3 grams to 0.5 grams^{xxx}. In 2013, New York banned the sale of cigarettes to those below 21 years of age^{xxx}. These measures show the effectiveness of local law making.

In India, either the Central or State Government intervenes on issues affecting a village or a town. When complaints were raised against online cab aggregators on surge pricing in Kerala, the issue was taken up to the State Government instead of the city corporations^{xxx}. The Kerala Transport Department under the Government of Kerala came

¹¹GCDA is the planning and development authority of the metropolitan area of Cochin.

¹²The Union List or List-I is a list of 100 items in the Seventh Schedule of the Constitution of India, on which the Parliament has exclusive power to legislate.

up with a draft policy to regulate online taxi providers in the state. Online cab aggregators operate from three cities in Kerala - Kochi, Thiruvananthapuram and Thrissur. The city corporations would have been more competent in handling the issue of surge pricing, having a better awareness of the local transport issues. But since ULBs did not have the power to legislate, the issue was taken to the State Government. The ability to legislate at the local level means decisions can be taken more quickly and effectively rather than waiting for the State or Central Government to act.

How powerful are our Mayors?

“In theory, city governments are led by mayors. In practice, however, the mayor is little more than the powerless chairperson of a municipal committee that is itself powerless. The mayor more often than not finds herself parked in a glorified position with titles like ‘Worshipful Mayor’ but with no executive authority and no budgetary power, while municipalities are headed by a state-appointed bureaucrat devoid of all democratic legitimacy.” (Shashi Tharoor, Congress MP)

The post of the mayor is just a ceremonial position with limited powers. As ULBs in the state are unable to exercise their powers, mayors enjoy only limited powers in making a decision related to local issues. Some global examples depict how powerful the position of the mayor can be, with influential personalities leading a city government. For instance, former New York Mayor Michael Bloomberg had considered running for the US presidential race in 2016. Likewise, in the UK, Boris Johnson, who was the Mayor of London, had been projected as prime ministerial candidate. However, Kerala has not had a single mayor, who could be considered to the post of Chief Minister.

The mayor's post is neither attractive nor lucrative in Kerala. A mayor does not enjoy any special powers or financial benefits. It was only in 2016 that the salary of the mayor was revised to ₹ 15,800 from ₹ 7900. The salary of councillors of a city corporation is ₹ 8200^{xxxii}. Hence, competent candidates are not attracted to the post of mayor or councillor; everyone wants to be an MLA, as the real power vests with the State Government.

In London, Transport for London (TfL), a local government body is responsible for the transport system of the city. The Mayor of London appoints the members of the board that controls TfL, which mainly works to implement the Mayor's transport strategy. Its responsibilities range from surface transport, which includes buses, taxis and roads, to underground transport and cross rail system. In the case of Kochi, the Mayor has only a limited role in dealing with the local transport issues. Consider the Kochi Metro Rail

Project that is meant to address the transport issues in Kochi. The Mayor of Kochi does not find a place in the Board of Directors, which includes the District Collector and other representatives of the Government of Kerala^{xxxiii}.

The mayors in cities like London and New York are more powerful because they are more accountable to the people. This is because of the direct mayoral election system practised in these cities. If mayors are elected directly by the people, he/she becomes the leader of the city and holds the responsibility to deal with the issues of the city. In a direct mayoral election system, the mayor candidate approaches the people with a set of election promises. When Sadiq Khan contested the post of the Mayor of London in 2016, one of his election promises, “Londoners would not pay a penny more in 2020 as transport fare^{xxxiv},” was widely discussed. In such a system, people will judge how well the mayor is able to fulfil his/her election promises. However, in Kerala, after the declaration of election results, it will take days for the winning political party to decide the right person for the mayor's role.

Do ULBs in Kerala have the adequate manpower to perform their functions?

The success of administrative decentralisation rides on the deployment of staff with necessary expertise and authority for discharging the functions that are devolved to the local bodies. Devolution of function and financial transfer requires capacity building at the local level. Transfer of functionaries is also important for the success of decentralisation. However, decentralisation can have a negative impact, if the local bodies lack the capacity and expertise needed to perform the functions devolved to them.

ULBs in the state have their own staff, but the State Government is responsible for staff recruitment and creation of posts. ULB staffs are recruited through the Public Service Commission (PSC). Yet, each ULB takes on the task of salary dispersal of its staff. Thus in the whole recruitment process, only the payment of salary comes under the purview of ULBs, while the Government of Kerala determines staff creation and other terms and conditions. Based on interviews conducted as part of the study, it can be inferred that the recruitment of staff for ULBs through PSC has a detrimental effect on the functioning of ULBs. A person recruited through PSC for the Cochin Municipal Corporation can be from any part of Kerala and hence may lack an awareness of local issues and challenges. The person may not equip himself/herself with the necessary knowledge, as he/she expects a transfer at any point of time, making it difficult to deliver the services on time. In these cases, one can be appointed from outside the limits of the LSG geographical boundaries

but the appointee has to own the position by ensuring his/her continuity in the system until the term ends.

Along with the own staff of ULBs, staff and institutions from 19 departments under the State Government were transferred effective from October 2, 1995. This was done to complement the transfer of functions to ULBs, as per the Kerala Municipality Act, 1994. ULBs were granted full managerial and part disciplinary control over the staff transferred. Here again, the Government of Kerala sees to the recruitment, post creation and salary dispersal of the staff transferred^{xxxv}. Even though ULBs are entitled to assign work to the staff transferred to them, state departments also have control over them. This leads to a conflict of interest, as the activities of the department and the local bodies are formulated independently. This makes it difficult for the transferred institutions to prioritise their activities/services. Since the State Government pays the salaries of the staffs in these institutions, they become more accountable to the State Government than the relevant ULB.

Urban planning including town planning is one of the important functions transferred to ULBs in Kerala. An interaction with the stakeholders revealed that none of the Municipal Corporations in Kerala has expertise (qualified town planners) in this field, as civil engineers and mechanical engineers are recruited or promoted to the post of town planners. This scenario is largely driven by the selection policies of the State Government, which looks into these issues with a different, even bizarre, outlook. In the process, ULBs are left inefficient, as they struggle to meet the deliveries expected by the public. Lack of manpower and expertise can lead to poor and inefficient service delivery by ULBs. Instead of the State Government getting involved in the recruitment process, ULBs in the state should be given the power to recruit their staff, according to their local demands and requirements.

The devolution of powers to ULBs has been restrictive and inadequate, and can hardly be exercised effectively. Along with this, many administrative and political powers remain with the State Government. The constraining nature of powers conferred on ULBs is often noted as one of the key reasons for their inefficient functioning.

Need for Fiscal Decentralisation

Financial responsibility is one of the core components of decentralisation. If local governments are to carry out decentralised functions effectively, they must have adequate level of revenues raised locally or transferred from the Central or State Government as well as the authority to make decisions about expenditure^{xxxvi}. Fiscal

decentralisation not only means the assignment of expenditure responsibilities to the local bodies but also depends on how these services are financed^{xxxvii}. Increased transfer from the Central and State Governments, development of new local taxes and delegation of tax authority are the major components of fiscal decentralisation^{xxxviii}.

The funds available to ULBs in Kerala comprise own fund (tax and non-tax revenues), grants given by the State and Central Governments and loans or aids. Decentralisation programmes that strengthen the revenue base of local bodies are considered more efficient than relying on grants-in-aid and other transfers^{xxxix}.

Does the Kerala Municipality Act, 1994 guarantee power to ULBs in taxation?

ULBs in the state are entitled to collect property tax, professional tax, entertainment tax, advertisement tax, service tax, surcharge, cess on conversion of land use and tax on animals, vessels, vehicles, timber and surcharge. Even though ULBs are entitled to collect certain taxes, the string of control rests with the State Government.

Section 243-X, Kerala Municipality Act: *The Legislature of a State may, by law, - (a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits; (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits.*

Even though the Kerala Municipality Act, 1994 lays down the need to revise tax rates regularly, the revision in many taxes under ULBs has not taken place for the last 20 years^{xl}. This is because the State Government takes the final decision in taxation matters, with the local bodies acting as implementing agencies. While there is a large scope for ULBs to increase their tax revenue, the provisions in the Kerala Municipality Act giving excessive power to the State Government hinder the growth of the local tax base. As per a report submitted by the Fifth State Finance Commission, own tax revenue and non-tax revenue of ULBs in Kerala constitute only 32.5 per cent of their total receipts. It shows that ULBs are highly dependent on the State Government for resources. The report recommends periodical revision of tax and non-tax revenue sources and improvement in the efficiency of tax collection as important steps to be taken for making ULBs financially independent.

There is a general notion that local bodies that depend on independent taxation are fiscally sovereign. In Kerala, the State Government collects most of the taxes, with only a

limited number of taxes assigned to the local bodies. As discussed above, the State Government has control over the few taxes assigned to ULBs.

The total tax revenue of the Government of Kerala for the fiscal 2016-17 is ₹ 38,628 crore. Ernakulam district contributed nearly 50 per cent of the total tax revenue for the government at around ₹ 19,000 crore. However, the tax revenue of the Cochin Municipal Corporation was a meagre ₹ 133 crore^{xli}.

Even though the Kerala Municipality Act, 1994 claims to widen the scope of ULBs in taxation, the status of ULBs in Kerala has not changed much since 1994. The Kerala Corporation Act, 1961 empowered ULBs to collect taxes such as property tax, professional tax, tax on animals, vessels and vehicles, show tax, tax on timber brought to the city, tax on advertisements, duty on certain transfers of property in the form of additional stamp duty and levy surcharge on tax. Panchayats and municipalities of the 19th century were also assigned with similar tax domains. This signifies that the current tax domains of local governing bodies are almost similar to those of the pre-1994 period, when the resources were insufficient to meet the responsibilities of the local bodies. This proves how ULBs are ill equipped in the matter of taxation to execute their functions effectively.

Is limited power in taxation leading to tax collection inefficiency?

The limited power of ULBs in taxation negatively affects their efficiency in the collection of taxes assigned to them. This in turn negatively affects the growth rate of own funds of ULBs. As per the Comptroller and Auditor General (CAG) report of 2015, the growth rate of own funds of 21 ULBs in Kerala declined from 23 per cent in 2010-11 to 8 per cent in 2013-14. The report also presented an analysis of the tax collection efficiency of ULBs in Kerala, taking a sample of 20 municipalities (out of 60) and one corporation (out of six). The report pointed out that around ₹ 22 crore was pending towards tax revenue from these ULBs for the financial year (FY) 2013-14.

Table 2 gives a better understanding of the inefficiency of ULBs in tax collection (sample of 21 ULBs).

Table 2: Tax Collection Efficiency (2013-14) (in lakh)

Tax Revenue	Demand	Collection	Balance	Collection Efficiency (%)
Property Tax	5594.74	3845.84	1748.90	68.74
Professional Tax	3403.93	2967.64	436.29	87.18

Entertainment Tax	815.48	815.31	0.17	99.98
Advertisement Tax	78.04	66.91	11.13	85.74
Total	9892.19	7695.70	2196.49	77.80

Source: CAG Report, 2015

ULBs were blamed for their inefficiency in collecting taxes, as they did not take any stringent measures to make up for the loss. However, Kerala follows a complicated taxation structure, and ULBs in the state are only assigned agencies and the primary control rests with the State Government.

Does increased plan allocation to ULBs guarantee fiscal decentralisation?

One of the main features of the People's Plan Campaign was the devolution of 35-40 per cent of the plan fund of the State Government to local bodies. If we go by this argument, Kerala should have been the most fiscally decentralised state in the country. But even in this increased transfer, the State Government exercises its control. ULBs must get the clearance of the State Government for any project with a budget above ₹ 5 lakh.

It can be also seen that plan fund allocation by the State Government is insufficient to fulfil the increasing needs of the city. The claims of increased plan fund allocation to ULBs are far from ground reality.

Table 3: Plan and Non-Plan Allocation to Municipalities and Corporations (2016-17) (in crore)

Sector	Municipalities		Corporations	
	Plan	Non-Plan	Plan	Non-Plan
General Education	0	1.1	0	0.3
Medical and Public Health	0	2.3	0	0.05
Urban Development	297	3.0	875	0
Labour and Employment	0.8	0.87	0	1.8
Welfare of SC/ST	0	0.39	0.5	0.10
Crop Husbandry	0	0	0	0.0044

Soil and Water Conservation	0	0	0	0
Animal Husbandry	0	0	0	0
Other Rural Development	0	0	0	0
Special Programmes for Rural Development	0	0	0	0
Village and Small Industries	0	0	0	0
Social Security Welfare	22	161	0.3	107

Source: Budget Documents

The grants received by the Cochin Municipal Corporation for the FY 2014-15 for specific purposes amount to Rs 150 crore. Add revenue grants to this amount and the total goes up to Rs 195 crore. Thus, grants for specific purposes (tied funds) have a share of around 40 per cent in the total revenue receipts of the Cochin Municipal Corporation^{xlii}.

Most of the grants transferred from the State Government are in the form of tied funds. Tied funds are non-discretionary in nature and can be utilised only for specific purposes. This means that ULBs must use them, according to the conditionality and limitations set by the State Government. The issue here is that often these conditions are set without consulting the local bodies. Thus, the state may be providing funds for a specific development project without taking into consideration the local needs.

Increased share of tied funds leading to underutilisation of funds by ULBs

The reasoning given for setting conditionality (tied funds) by the State or Central Government is that of accountability. By setting the exact terms for the use of funds, the State or Central Government can monitor fund usage. However, it has been observed that these funds are underutilised in most cases. For instance, the Cochin Municipal Corporation spent only 20 per cent of its total plan allocation by the State Government^{xliii} for the FY 2016-17.

As far as ULBs are concerned, the conditionality being set and bureaucratic procedures prevent the proper utilisation of funds. Table 4 clearly shows that funds allocated by the State Government are not fully utilised by ULBs in Kerala.

Table 4: Utilisation of Funds by ULBs

	Municipality (in crore)		Corporation (in crore)	
	Allocation	Expenditure	Allocation	Expenditure
2009-10	129	93	113	74
2010-11	162	102	154	72
2012-13	410	254	321	184
2014-15	631	404	562	301

Source: Economic Review, 2016

Thus, while ULBs in Kerala have access to funds, they are mostly tied funds, which do not serve the purpose of the local bodies. Similar to the grants-in-aid provided by the State Government, the local bodies cannot utilise the funds provided by the Centre to meet their specific needs. In most cases, Central funds are in the form of centrally sponsored schemes and missions. As these are developed to be implemented throughout the country, such allocations rarely address the particular requirements of each city.

Is poor fiscal condition of ULBs acting as an obstacle for floating municipal bonds¹³?

The weak financial condition of ULBs in Kerala prevents them from floating municipal bonds. Table 5 measures the performance of the Cochin Municipal Corporation in this regard.

Table 5: Performance of Cochin Municipal Corporation

Indicators	2009-10	2011-12	2012-13	2013-14	2014-15
Ratio of tax revenue to total revenue	0.244	0.283	0.331	0.46	0.209
Ratio of non-tax revenue to total revenue	0.075	0.069	0.072	0.08	0.062
Ratio of grants to total revenue	0.624	0.588	0.546	0.356	0.392

¹³Debt security issued by or on behalf of the local bodies

Ratio of capital expenditure to total expenditure	0.55	0.46	0.29	0.55	0.38
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Source: Calculated from Budget Documents

Table 5 shows that tax and non-tax revenues still form a small proportion of the total revenue receipts of the Cochin Municipal Corporation. There is considerable decline in the share of tax revenue to the total revenue receipts in the five-year period. The proportion of tax revenue assumes importance in assessing the fiscal autonomy of ULBs.

The share of non-tax revenue also declined from 0.075 in 2009-10 to 0.062 in 20 14-15. Grants still occupy the highest share (0.392) in the total revenue receipts of the Corporation. However, a declining trend is visible even under this head. Capital expenditure (excluding the repayment of loans) meant to create new stocks of infrastructure is also declining. The share of capital expenditure declined from 0.55 in 2009-10 to 0.38 in 2014-15. Thus, it can be concluded that the fiscal condition of the Cochin Municipal Corporation is deteriorating.

Credit rating is mandatory for the issue of debt instruments such as municipal bonds with a maturity exceeding 18 months. But the revenue and expenditure pattern of ULBs in Kerala prevents them from securing a good credit rating. Brickworks, a credit rating agency has assigned BBB for the Cochin Municipal Corporation^{xliv}. As per the report of Brickworks, the credit risk profile of the Cochin Municipal Corporation will be maintained over the medium term. Unless the Corporation is able to make substantial improvement in its revenue, there is little likelihood of any positive change in the rating^{xlv}. Major factors that prevent the Corporation from achieving high rating are heavy dependence on Central and State grants, low tax collection efficiency, shortage of trained and professional manpower, limited resource mobilisation strategies and large investment requirements of the city to improve its urban infrastructure. Given these constraints, it will be difficult for ULBs to enter into the debt market for mobilising resources. It is an irony that the state known for the success of its decentralisation drive is unable to tap the debt market, due to low credit rating.

Is low own-fund base limiting the role of ULBs in developmental activities?

The own funds have only a meagre share in the total revenue receipts of ULBs. With majority of the funds spent on salaries of corporation members and for day-to-day

expenses, ULBs have little to undertake developmental activities. In some cases, ULBs are not in a position to pay the salaries and pensions from their own funds, which forces them to divert the funds raised for development projects for paying salaries and pensions. The Audit report of the Cochin Municipal Corporation found out that the Corporation had diverted the funds borrowed from Housing and Urban Development Corporation (HUDCO) for the construction of solid waste treatment plant in Brahmapuram for clearing salary bills, pensions, bonuses and festival advances of the employees^{xlvi}. This was against Section 297 of the Kerala Municipality Act, 1994, which states that local bodies that raise loans for a specific purpose shall use the funds for the stated purpose. The issue portrays the weak financial base of ULBs in Kerala.

With ULBs struggling to find funds even for the payment of salaries, the local bodies have no option but to rely on external sources for undertaking developmental activities in their jurisdiction. Without any significant contribution from their part, ULBs will not be assigned a major role in these activities. The local bodies should strengthen their revenue base in order to carry out development projects from their own fund, with less reliance on external sources. However, in Kerala, ULBs have no fiscal or administrative powers and are able to act only on behalf of the State Government.

Conclusion

Rapid level of urbanisation in Kerala calls for the improvement of urban infrastructural facilities. In theory, the city government should be in charge of meeting the growing demands of a city. However, in Kerala, for every problem faced by a city, ranging from waste management to transportation, local bodies/mayors look to the State or Central Government for help, because the local bodies in the state are powerless and lacking in adequate resources.

ULBs can manage the needs of the cities, only if they develop into independent and autonomous institutions. To achieve this, more administrative and fiscal powers should be delegated to the local bodies.

Recommendations

- Direct mayoral election system should be adopted, which will make mayors empowered and more accountable
- ULBs should be given the power to recruit their staff

- ULBs should be given the power to make decisions on all matters (including hiring and firing) mandated by the Kerala Municipality Act, 1994, limiting the involvement of para-statal agencies in issues relating to a city
- Like the Union list, State list and Concurrent list, there should be a separate list of duties that gives ULBs the power to legislate
- ULBs must be given the power to decide tax rates and more taxes should be devolved to them
- The proportion of untied funds to ULBs by the State or Central Government should be increased; untied funds help local bodies to undertake developmental activities based on the needs of the city

References

- ⁱ Singh, Sahib & Sing, Swinder, *Local Government in India – A Study in Rural & Urban Development Administration* (2007), New Academic Publishing Co Mai Hiran Gate, Jalandhar-144008, p-57
- ⁱⁱ *ibid*
- ⁱⁱⁱ [http://www.arthapedia.in/index.php?title=Local_Governance_system_in_rural_India_\(Panchayati_Raj\)_and_the_73rd_ame ndment_of_the_Constitution65](http://www.arthapedia.in/index.php?title=Local_Governance_system_in_rural_India_(Panchayati_Raj)_and_the_73rd_ame ndment_of_the_Constitution65)
- ^{iv} Banerjee, Rahul, 2013, *What Ails Panchayati Raj*, Economic & Political Weekly, 27 July Volume: xlvi, Number 30:175-176
- ^v Kumar, Satish, *The Concept of State and Democracy in Gandhian Thought*, The Indian Journal of Political Association Volume: 65, Number 3 : 377-382
- ^{vi} Panday, Pranab Kumar, *Local Government System in Bangladesh: How far is it Decentralized?*, Lex Locals: Journal of Local Self Government, Volume: 9, No3 : 205-230
- ^{vii} Banerjee, Rahul, 2013, *What Ails Panchayati Raj*, Economic & Political Weekly, 27 July Volume: xlvi, Number 30:175-176
- ^{viii} *ibid*
- ^{ix} *ibid*
- ^x *ibid*
- ^{xi} [http://www.arthapedia.in/index.php?title=Local_Governance_system_in_rural_India_\(Panchayati_Raj\)_and_the_73rd_ame ndment_of_the_Constitution](http://www.arthapedia.in/index.php?title=Local_Governance_system_in_rural_India_(Panchayati_Raj)_and_the_73rd_ame ndment_of_the_Constitution)
- ^{xii} Aiyar, Manishankar, 2002, *Panchayati Raj: The Way Forward*, Economic & Political Weekly
- ^{xiii} Banerjee, Rahul, 2013, *What Ails Panchayati Raj*, Economic & Political Weekly, 27 July Volume: xlvi, Number 30:175-176
- ^{xiv} Kunjikananan, T P, 1958, *Adikaram Janagalku*, Kerala Sasthra Sahithya Parishad
- ^{xv} *ibid*
- ^{xvi} Vijayanand S M & Thomas Issac, 2000, *Status of Panchayati Raj in Kerala*, Institute of Social Sciences, New Delhi
- ^{xvii} *ibid*
- ^{xviii} Government of Kerala 2012, *State Urbanisation Report*. Department of Town and Country Planning
- ^{xix} Panday, Pranab Kumar, *Local Government System in Bangladesh: How far is it Decentralized?*, Lex Locals: Journal of Local Self Government, Volume: 9. Number 3: 205-230
- ^{xx} Aiyar, Manishankar, 2002, *Panchayati Raj: The Way Forward*, Economic & Political Weekly
- ^{xxi} Kerala Municipality Act, 1994
http://www.sanchitha.ikm.in/sites/default/files/KERALA_%20MUNICIPALITY_%20ACT_1994.pdf
- ^{xxii} <http://www.keralapwd.gov.in/getPage.php?page=About%20Us&pageId=256&link=About%20PWD>
- ^{xxiii} <http://www.thehindu.com/news/cities/Kochi/Spat-between-Minister-Mayor-over-roads/article14491688.ece>
- ^{xxiv} <http://www.deccanchronicle.com/141115/nation-current-affairs/article/hi-tech-bus-shelters-born-fanfare>

- ^{xxv} http://www.sanchitha.ikm.in/sites/default/files/WATERSUPPLY_SEWERAGE%20ACT_1986.pdf
- ^{xxvi} Suchitra, M, 2015, *Water Quality Deteriorating in Kochi, reveals audit*, Down to Earth, 07 September
- ^{xxvii} Kumar, Sunil M K, 2014, *Kerala Water Authority sleeps on Rs 1000-crore project*, The Times of India, 15 April
- ^{xxviii} Government of Kerala 2016, *Review of Public Enterprises in Kerala 2014-15*. Bureau of Public Enterprises
- ^{xxix} https://www.london.gov.uk/sites/default/files/a_new_agreement_for_london.pdf
- ^{xxx} *ibid*
- ^{xxxi} <http://www.livemint.com/Politics/vpnzlgxZ5HSL0PhbzxQ1yJ/Kerala-govt-comes-up-with-draft-rules-for-Ola-Uber-and-othe.html>
- ^{xxxii} <http://blog.panchayatguide.in/?p=467>
- ^{xxxiii} <https://kochimetro.org/board-of-directors/>
- ^{xxxiv} <http://www.independent.co.uk/news/uk/home-news/london-tube-bus-fares-sadiq-khan-mayor-transport-for-london-a7425101.html>
- ^{xxxv} Vijayanand, S M, *Kerala- A Case Study of Classical Democratic Decentralization*, Kerala Institute of Local Administration
- ^{xxxvi} World Bank (n.d), <http://www1.worldbank.org/publicsector/decentralization/fiscal.html>
- ^{xxxvii} Stein, E, 1999, *Fiscal Decentralization and Government Size in Latin America*, Journal of Applied Economics, Volume :2, 357-391
- ^{xxxviii} Falletti, Tullia G, 2004, *A Sequential Theory of Decentralization and its Effects on the Intergovernmental Balance of Power: Latin American Cases in Comparative Perspective*, Working Paper, The Helen Kellogg Institute for International Studies
- ^{xxxix} http://shodhganga.inflibnet.ac.in/bitstream/10603/6667/9/09_chapter%203.pdf
- ^{xl} Govind, Biju, *Confusion Continues Over Building Tax*, The Hindu, June 2, 2012
- ^{xli} ^{xli} Budget Documents
- ^{xlii} *ibid*
- ^{xliii} *Kochi Municipal Corporation spends only 20 per cent of plan funds*, Deccan Chronicle, December 30, 2016
- ^{xliv} Kochi Municipal Corporation, Brickwork Ratings, February 8, 2017
- ^{xlv} *ibid*
- ^{xlvi} Sudhi, K S, 2016, *Audit finds Kochi Corporation diverted loans for salary and pension*, The Hindu, March 7, 2016