APPENDICES

APPENDIX - 1

*REGULATION V OF 1089 ME (AD 1914) - THE COCHIN VILLAGE PANCHAYAT REGULATION, COCHIN STATE, COCHIN. (Passed by His Highness the Raja of Cochin on the 16th day of Kumbhoom 1089 corresponding with the 27th day of Feb 1914).

Preamble. "Whereas it is expedient to provide for the organization of Village Panchayats in the Cochin State, with a view to render the principal and more intelligent subject of His Highness, the Raja usefully employing them in administering justice to their neighbours and also by entrusting to them certain public duties such as the construction and repair and maintenance of village roads, tanks and wells, the execution of repairs to and minor irrigation works and the distribution and regulation of water supply, improvement of sanitation, prevention of epidemics, the maintenance of water pandals the preservation in tact of all Porambokai paths, lanes and canals, the village reserves in local areas not included within the limits of any town constituted under Regulation I of 1085, the improvement and development of agriculture, prevention of cattle mortality and such other matters calculated to promote the health, comfort and prosperity of the inhabitants of such local areas," it is hereby enacted as follows:--

Chapter - I Preliminary

Short title and Commencement. [1] The Regulation may be called "The Cochin Village Panchayat Regulation and it shall come into force on the first day of Meenam 1089 ME.

[2] Interpretation: In this Regulation, unless there be something repugnant in the subject or context:

(i) 'Village' means a local area recognized in the recent revenue survey and settlement for purposes of Land Revenue Administration, as a village or group of such villages or a local area for which a Village Panchayat has been established under this Regulation.

[3] "Village Panchayat Court" means a civil court of original jurisdiction established under this Regulation for a village.

[4] "District Munisiff" or "District Judge" means the District Munisiff or District Judge within the local limits of whose jurisdiction the Village Panchayat Court is situated.

Chapter II. Establishment and Constitution of Village Panchayats

[5] The Diwan may from time to time by notification in the Government Gazette establish a Village Panchayat for one village or part of a village or group of villages and may at any time, in like manner, modify or cancel such notification.

[6] (i) A Village Panchayat established under this regulation shall consist of five members, one of whom shall be styled the President. The Pravarthikaran or Chief Village Officer of a revenue village

* The first Panchayat Act enacted by a Native State 

"i"
comprised in the jurisdiction of a *Panchayat* established under this regulation, shall be ex-officio member of the *Panchayat*.

(ii) If any doubt shall arise as to who is the *Pravarthikaran* of a revenue village, comprised in the jurisdiction of a *Panchayat*, established under this Regulation, it shall be competent to the Diwan Peishkar to declare by an order in writing who is such *Pravarthikaran* for the purposes of this Regulation.

[7] The President and the other members of the Village *Panchayat* shall be appointed by the Diwan according to such rules as the Diwan may, from time to time prescribe with the sanction of His Highness, the Raja in that behalf and they shall hold office for a period of two years provided that the Diwan may, by notification in the *Gazette* provide for all or any of the members other than the ex-officio members being elected, subject to such rules and conditions as may from time to time be prescribed by the Diwan with the sanction of His Highness, the Raja.

[8] The Diwan may suspend or remove the president or any member of a Village *Panchayat* for incapacity, neglect of duty, misconduct or other just and sufficient causes and shall do so on a requisition made by the chief court for like cause appearing in the judicial proceedings of such president or member.

[9] Any person appointed to be president or member of a *Panchayat* may tender his resignation to the Diwan and on such resignation being accepted, shall be deemed to have vacated his office.

[10] **Powers and Duties of a President:**

Subject to such rules as may be framed by the Diwan in this behalf, it shall be competent to the president of a Village *Panchayat* to appoint, degrade, suspend dismiss or otherwise deal with any member of the establishment sanctioned by the Government for that *Panchayat*. It shall be the duty of the president and in his absence of the senior member to control and supervise the work of the *Panchayat* and to carry on all correspondence connected there with.


A Village *Panchayat* shall, in the village or villages under its authority, subject to such rules as may from time to time be prescribed by the Diwan, with the sanction of His Highness the Raja, and under a notification published to that effect in the *Gazette* so far as the funds placed at its disposal will permit, have the control and administration of, and provide for one or more of all of the following matters as the Diwan may deem fit to fix with due regard to local conditions and circumstances.

(a) The construction, repair, and maintenance of irrigation works, denominated "Chiras" "Kappus" "Chals" "Thodus" etc., and the regulation and distribution of water supply to the lands commanded by such works.

(b) Constructing and repairing tanks and wells and such other works as will supply the inhabitants of the area over which the *Panchayat* has jurisdiction with a wholesome supply of water for drinking and other purposes.

(c) Preservation in tact of all *poramboku* paths, lanes and canals useful for purposes of communication, cattle - grazing grounds and village reserves.

(d) Control over vaccination and registration of vital statistics.
(e) Construction and repair of village roads and maintenance of road side avenues.

(f) Maintenance of *sarkar* water *pandals*.

(g) Attending to all matters relating to the improvement of village sanitation such as prevention of epidemic diseases, cleaning of roads, drains etc., and generally doing such things as may be necessary for the preservation of the health of the public.

(h) Formation of co-operative societies under Regulation IV of 1088.

(i) Supervision over elementary education.

(j) Improvement of agriculture, and agricultural cattle and prevention of cattle mortality.

(k) Maintenance intact and repair and renewals of survey and boundary marks.

[12] Provision of Funds required by a Village *Panchayat*.

The funds required by the *Panchayat* to carry out the purposes of this Regulation, shall be placed at its disposal by the Diwan in accordance with the rules that may be prescribed by the Diwan in this behalf from time to time.

[13] The Village *Panchayat* shall provide an office and shall meet for the transactions of business with reference to matters enumerated in section 11 at least once in a month.

[14] The president shall preside over each meeting and in his absence the members of the *Panchayat* shall elect one of their members present at the meeting to preside there at;

2. All questions coming before a meeting shall be decided by a majority and, in the case of equality of votes, the president or presiding member of the *Panchayat* shall have a second or casting vote.

3. No business shall be transacted at a meeting unless three of the *Panchayat dars*, then on the *Panchayat* be present.

[15] (1) Minutes of the resolution passed at each meeting shall be recorded in a book kept for the purpose and shall be signed by the president or the member of the *Panchayat* who presided at the meeting.

(2) Copies of the resolutions of the *Panchayat* shall be prepared and sent by the President within three days after the passing there of to Tahasildar of the *Taluq*.

(3) The resolution of the *Panchayat* shall be carried out by the president in whom the entire executive power of the *Panchayat* shall be vested and who shall be directly responsible for the due fulfilment of the purposes of the Regulation.

[16] The Diwan may from time to time with the sanction of His Highness the Raja, frame rules to regulate:

a) The administrative powers of the president and other member of a Village *Panchayat*.

b) Generally, all matters connected with the carrying out of the provision of this Regulation.
Chapter III Establishment and Constitution of Village Panchayat Courts

[17] The Diwan may from time to time by notification in the Cochin Government Gazette, authorize the members of any Village Panchayat to form themselves into a Village Panchayat Court and to be judges of that Court for the purpose of exercising original civil jurisdiction under this regulation, with in the local units of the village of which they form the Panchayat.

(18) Constitution of Village Panchayat Courts

"A Village Panchayat Court established under this Regulation shall consist of five judges one of whom shall be styled the president. Every suit instituted and every proceeding before a Village Panchayat Court shall be disposed of by a bench of at least three judges. In case of difference, the opinion of the majority shall prevail. When the judges are equally divided the opinion of the president, or in his absence the senior judge shall prevail.

For the purpose of this Regulation, the Diwan may nominate one of the judges other than the President as the Senior judge.


The following are the suits which shall be cognizable by village Panchayat Courts, namely - claims for money due on contract, or for personal property or for the value of such property, "When the debt or demand does not exceed in amount or value the sum of thirty rupees whether on balance of account or otherwise...."
CHAPTER -XIV; SUMMARY OF RECOMMENDATIONS : THE PANCHAYATS

(Abstract)

1. *Panchayats* should be made the basic units of administration at the village level.

2. The functions of *Panchayats* may be divided into three categories: -
   
   (i) those in respect of which they would have full devolution of powers; (ii) those for which the *Panchayats* will function with executive delegation of powers as agents of government; and (iii) those in respect of which the role of *Panchayats* will be mostly advisory.

3. There should be one *Panchayat* for each revenue village but where the population is less than five thousand, two or more villages may be conveniently combined.

4. Where the population is above 25 thousand the question of converting the unit into a Municipality may be considered, provided the area is small, compact and has distinct urban characteristics. ‘Townships’ may be formed in places which are distinctly urban, but have small population and area.

5. *Panchayats* should be constituted on the basis of direct election by adult franchise of one member for approximately one thousand voters. One woman member may be co-opted by the *Panchayat* if no woman is elected. But there is no need for co-option for any special groups or organizations.

6. *Panchayats* should have functional committees for different subjects consisting both of *Panchayat* members and others who are interested in public welfare. There could also be ward committees for each ward in the *Panchayat*.

7. The provisions regarding mandatory functions in the Kerala *Panchayat* Bill may be accepted. Registration of births and deaths may also be included among the mandatory functions.

8. In the exercise of these functions the *Panchayats* should have sufficient administrative powers to accord sanctions etc.

9. In the field of ‘social services programmes’ and ‘development work’ the *Panchayats* should function with executive responsibility as agents of Government.

10. In the field of education Government-owned primary schools should be maintained and run by the *Panchayats*.

11. In the field of health the *Panchayats* should have the responsibility to maintain and run the rural
dispensaries, primary health centres, child welfare centers and the maternity homes.

12. When new institutions are opened in the village as many of them as possible should be entrusted to the Panchayats.

13. It will be the responsibility of the Panchayats to formulate the programme of development work and to implement as many of them as would lie within their sphere.

14. There should be a continuous search to effect greater and greater delegation of executive responsibility to the Panchayats.

15. The Village revenue establishment may form part of the Panchayats and the Panchayats may be made the agents for the collection of land revenue.

16. 50% of the basic tax collected by the Panchayats may be allotted to them and the remaining 50% of the total for the State may be distributed to the Panchayats on the basis of needs.

17. The same revenue staff now attending to the collection of revenues should continue to do so in the new set up also. The present Village Officer may function as the Revenue Officer of the Panchayat and the Village Assistant or the ‘Menon’ as the Revenue Assistant.

18. The work of the revenue staff will as now be inspected, supervised and reviewed by the Tahsildars and the higher officers.

19. There is no need for continuing the conventional hereditary system of village officers now prevalent in the Malabar area.

20. In order to link the Panchayats organically with extension and development work, each Panchayat may be given service of a Gram sevak who will function as its extension and development assistant.

21. For the proper exercise of their mandatory functions the Panchayats may be assigned the sources of revenue listed in the draft Kerala Panchayat Bill.

22. For implementing the functions in respect of which the Panchayats will be given executive responsibility specific grants for each subject should be made which will be equivalent approximately to the amount of expenditure that would have been incurred by Government.

23. The Panchayat budget should be scrutinized by the Tahasildar before it is approved by the Panchayat. Once the Panchayat has accorded sanction to the budget, it should not be required to send it to a higher authority for approval.

24. If the Panchayat persistently defaults in its functions, the Collector should have the power to supersede it or to withdraw from it such of the functions as in respect of which the default has occurred.

25. The Panchayats will have to employ their own staff for performing their mandatory functions.

26. The Panchayat Executive Officer, Revenue Officer, Revenue Assistant, the Gram Sewak, the Health Assistant, and the staff of the institutions which will be transferred to the maintenance of the Panchayats may be recruited on the basis of a district cadre and their pay and allowances may be borne by the State.
27. A certain amount of administrative control over the staff should be vested with the *Panchayats*.

28. The powers of the *Panchayats* and the departmental officers over the staff should be clearly defined and there should be no room for conflict between the two.

29. There will be a complete re-shaping of the pattern and mobility of staff in the *Panchayats* and in the Revenue and the Local Bodies departments.

30. Village Courts should be formed by nomination from a panel of names suggested by the *Panchayats*.

31. There is no need to appoint a legal member to these courts.

32. The powers proposed to be vested in the Village Courts under the Kerala Village Courts Bill are adequate and may be accepted.

**Sub District Level**

33. The basic unit of all departments should as far as possible be a *Panchayat* or a whole number of *Panchayats*.

34. There should be some arrangement for co-ordinating the work of the several departments to ensure integrated development and avoid duplication and delay.

35. The revenue and development functions may be combined at the level of the *Taluq* in one officer.

36. An area consisting of about a lakh to a lakh and a half of population would be the optimum area as the charge of a *Tahasildar-cum-Development Officer*.

37. The integrated unit may be called a *Taluq* and its Chief Administrative Officer, the *Tahasildar*.

38. During the stage of intensive development, the *Tahasildar* should be given the assistance of an Additional *Tahasildar* to help him in his work relating to revenue and general administration.

39. The existing *Tahsildars* should be given an intensive course of training in National Extension Service Programmes and similarly the Block Development Officers who have been recruited from departments other than Revenue should be given suitable training in revenue work.

40. Future recruitment to the cadre of *Tahsildars* should be-

(i) by promotion from staff employed for general administration; (ii) by promotion of the Extension staff in Agriculture and Co-operation; and (iii) by direct recruitment from the open market.

41. The Block Advisory Committee may be reconstituted and called the 'Taluq Council'. It may be formed by indirect election of one member from each constituent *Panchayat*.

The representatives of *Panchayats* need not necessarily be the members of the *Panchayats*.

42. A woman member may be co-opted to the Council if no woman is returned by election.

43. The Chairman of the Council should be a non-official elected by the members of the Council.
44. The functions of the Council will be advisory.

45. The Tuluq Council will be the only council at the Tuluq level replacing all other ad hoc committees.

46. The Municipalities should also be given representation in Tuluq Councils.

47. The Revenue Firka system which now exists in the Malabar and Cochin areas of the State may be abolished.

48. The revenue divisions and the Revenue Divisional officers should be retained.

49. In view of the small size of the districts in the State, the system of attaching Revenue Divisional Officers to Collectorates instead of having separate Headquarters and offices for them may be tried.

50. There is need for an examination of the achievements of the Community Development Programmes in relation to the prescribed targets and objectives.

51. Officers of the General Administration and of the technical departments should work with mutual regard and understanding in the implementation of the Plan and Community Development Programmes.

THE DISTRICT

Two sets of recommendations have been made based on two different views. They are given separately in sections I and II below:-

Section I

52. It is necessary to have a non-official body at the district level.

53. All M.L.As. may be members of it, ex officio. It may also include representatives of Panchayats and Municipalities, to be returned by indirect election.

54. The Collector should be the Chairman of the Council.

55. The Council will function as an advisory body and as a co-ordinating agency in matters of development, and for the duration of the Plan period.

Section II

56. There should be a Council at the district level with a non-official President and a non-official Vice-President elected by its non-official members.

57. It may be constituted by direct election to be held simultaneously with the elections for Panchayats.

58. The Secretary to the Council should be an official.

59. All the District Officers of the Development Departments will be members of this Council without the power to vote.
The Council should not be merely an advisory body as at present, but should have power to take decisions and implement them so far as development work is concerned.

It should be given in the requisite finances and control over staff to fulfil this responsibility.

It should also have the necessary administrative and financial powers.

It will direct, co-ordinate and supervise the work of the Blocks and the Panchayats in regard to development.

The Collector will not be a member of the Council, but will be kept informed of the progress of its work from time to time so that he may take steps to improve it when necessary.

The Development Section of the Collectorate may form the nucleus of the Council’s office. A separate office and the requisite staff will have to be provided later.

The implementation of this reform should be phased in three stages.

REGIONAL OFFICES

Regional officers should be assigned specific powers and responsibilities in matters of financial and administrative control.

THE DEPARTMENTS

There should be wider delegation of powers to Heads of Departments and their subordinate officers.

The officers should be allowed to exercise the powers delegated to them.

Higher officers of Government and the Ministers should develop a proper attitude towards delegation of powers.

An Organization and Methods Unit should be set up in the offices of each major Head of the Department and of the Collectors.

The laws and rules enforced in the different parts of the state should be unified as early as possible.

Parity of procedure at least should be enforced immediately.

Some agency under the Chief Secretary should keep a watch on the progress achieved in this respect from time to time.

Heads of Departments should send periodical reports to Government showing particulars of the exercise of the delegated authority beyond a certain level.

The O & M Division in the Secretariat also should verify whether important orders issued by Government are promptly.
REPORT OF THE COMMISSION FOR DELIMITATION OF PANCHAYAT AREAS,
GOVERNMENT OF KERALA, TRIVANDRUM, 1960.
RECOMMENDATIONS

(Abstract)

In the G.P. No. LA. 8-2 939/57/L & LAD dtd. 23.9.1957, 30-10-1957, 11.11.1957 and 18.11.1957, the Government of Kerala ordered that Committees would be constituted at Taluq level and District level to examine the question of delimitation of Panchayat areas. The recommendations of the committee were considered by the Director of Local Bodies in May 1958. In the meanwhile the matter was considered by the Administrative Reforms Committee and their recommendations are contained in Chapter IV of their report on the basis of the following principle:

i) The Panchayat area and the revenue village should be co-terminous as this will form the future unit of administration.

ii) In rare cases, where having regard to the existing local conditions, the jurisdiction of a Panchayat has to include part of a revenue village, the boundaries of the latter should be altered suitably;

iii) The boundaries of Panchayats should not cut across revenue Taluq and revenue districts, if in any case, such overlapping is unavoidable the boundaries of the Taluq or the district should be altered suitably;

iv) A Community Development Block should comprise a number of whole Panchayats. In no case, should one Panchayat fall within two blocks. If having regard to local conditions, a Panchayat will fall within two blocks. If, having regard to local conditions a Panchayat will fall within two blocks, the block boundaries will be altered suitably.

v) The Population of a Panchayat area may be generally between 10,000 and 25,000.

In para (1) clause (2) of the terms of reference, it is stated that in rare cases, having regard to the existing local conditions - a Panchayat area has to include part of a revenue village, the village boundaries should be altered suitably. The Panchayats and villages should be co-terminous.

It is necessary to explain the exact approach made by the Commission to the question of delimitation of Panchayat areas and extension of municipal limits. Inaugurating the Conference of Provincial Local self Government Ministers, which was held at New Delhi in August 1948, the Prime Minister of India stated in the course of his address, that Local Self Government is and must be, the basis of any true system of democracy. We have got rather into the habit of thinking of democracy at the top and not so much below. Democracy at the top will not be a success unless it is built on this foundation from below. In his presidential address to the Provincial Local Bodies held in 1933, the then chairman of the Ahmedabad Municipality (the late Sardar Valabhai Patel) said as follows. "It is being said that the franchise of the electorate has been enlarged and the local bodies have been given very wide powers. True I accept it. But what good would come out of it unless and until the question of local finance is settled first. The extension of franchise and widening the scope of duties would be like dressing a dead woman! The type of local administration contemplated or introduced during the pre-independence days was different from the Gram Swaraj administered by the Indian National leaders in those days. The progressive evolution and establishment of decentralized bodies as efficient local administration..."
which is quite in keeping with the national genius of the country, was undoubtedly in the minds of those who were engaged in shaping the future set up, after the attainment of independence, and it is seen that the said concept or principle is enshrined in Article 40 of the Constitution under the heading Directive Principles of State Policy. In implementing the said policy Panchayati Raj has been inaugurated in some states, including the Kerala state. These circumstances have been referred to for the purpose of showing that the paramount consideration in the delimitation of Panchayat areas should be the creation of convenient and compact administrative units in such a manner as to enthuse the people and secure their co-operative efforts in the ameliorative or developmental activities of the Panchayats and this principle has to be kept in view wherever the question of the alteration of the boundaries of revenue villages or Taluq or even districts arises for consideration. At the same time, unnecessary difficulties in the reconstitution of villages or the realignment of boundaries have to be avoided.

There is no reference to economic viability of Panchayats in the terms of reference to the commission, Possibly because, the idea was to advance the necessary funds to the deficit Panchayats from the district pool, vide section 69 of the Kerala Panchayat Bill 1958. At the same, an attempt has been made to extent possible, to suggest economically viable Panchayat areas so that the administration could be carried on without waiting for the allotment of funds by the prescribed authority envisaged in the said section 69.

It would appear that the working of the National Extension Service Programme and other developmental activities will be entrusted to the Panchayats or at least the Panchayats would be playing a prominent role in such matters vide G.O. (MS) No. 2160 dtd. 1.1.1960. In these circumstances, it must be reasonably taken that the guiding principle in the delimitation of Panchayat areas is the formation of compact and convenient units in such a form as to infuse enthusiasm in the people comprised in the Panchayat areas to undertake effectively the developmental activities which would lead in establishment not in the distinct future of contended and prosperous villages or Panchayats. This has been well kept in view in recommending the delimitation of Panchayat areas and in suggesting the readjustment or realignment of village boundaries.
(Abstract)

1. The following considerations should weigh with Government in the context of introduction of Panchayati Raj:

(a) The lowest unit of administration should be the Panchayat, identical with a Revenue Village

(b) The Panchayat should have well-defined functions and adequate resources to discharge them.

(c) Panchayats should link up with the sub-district unit, which should take in a whole number of Panchayats.

(d) The democratic body at the sub-district level should have real powers.

(e) The nature of the democratic body at the district level should be decided on pragmatic rather than on theoretical grounds.

2. A fresh delimitation of Panchayats to make them co-terminous with existing revenue villages is not desirable, since delimitation of Panchayats has been completed only recently.

3. There is no need to accept the existing Panchayats as units of resurvey; the unit should be one, that is most convenient from the technical angle; if the size of a Panchayat has to be altered in future, the portion added on or taken away should be a whole number of the unit of re-survey.

4. All existing Panchayats as also the Municipal and Corporation areas should be notified as Revenue Villages.

5. The Guruvayoor Township should be deemed as part of the nearest village for general administrative and revenue purposes; for functions of local self-government it should retain its status as a Township.

6. There is no need to integrate the village staff and the Panchayat staff in the proposed set-up

7. The village and Panchayat Offices in the new unit should be housed in the same building.

8. The revenues of the Panchayat should be collected by the Panchayat's collection staff; the Village Officer should collect land revenue and other dues to Government as at present
9. *Panchayats* may utilize the services of Village Officers for the collection of their own revenues under Section 75 of the Kerala *Panchayats* Act, 1960.

10. Collectors have to be brought squarely into the picture of *Panchayat* administration.

11. All District Collectors should be notified as Directors of *Panchayats* in their respective Districts.

12. All Revenue Divisional Officers should be notified as Deputy Directors of *Panchayats* in their respective Divisions.

13. The Directorate of *Panchayats* and its regional offices should be abolished.

14. The District *Panchayat* Officers and subordinate staff should continue in their present form.

15. District *Panchayat* Officers should function as Personal Assistants to the Collectors in the *Panchayati Raj* wing which should be organized in all Collectorates.

16. The Directorate of Municipalities should be abolished and District Collectors should be notified as Directors of Municipalities in their respective Districts.

17. The staff of the Directorate and the regional offices of the Department of *Panchayats* and the staff of the Directorate of Municipalities should be distributed among the Collectorates.

18. *Panchayats* and Municipalities should be administered by the Agriculture and Rural Development Department at the Government level.

19. All mandatory functions under Section 57(1) of the Act should be undertaken by the *Panchayats*; the mandatory functions under Section 57(1) should not be abridged.

20. The list of discretionary functions in Appendix III should be notified immediately as mandatory.

21. Wherever such discretionary functions are now being discharged by departmental agencies, the necessary departmental funds should be made over to *Panchayats* and the concerned departmental officers made functionally responsible to the *Panchayats*.

22. In the circumstances that exist in the State at present, it would not be wise to entrust primary education to the *Panchayats*.

23. Government should go slow in the matter of entrustment of agency functions to the *Panchayats*.

24. Effective functional committees should be constituted in the *Panchayats* and the services of retired officials, technical men etc., should be utilized for the purpose.

25. If *Panchayats* should become effective units of local self-government their resources should be adequately built up.

26. Basic tax collected from all *Panchayat* areas should be treated as a common pool and distributed among *Panchayats* as follows:

(a) Grant towards meeting a part of the establishment charges should be given to all Third Grade
Panchayats subject to the following:-

(i) The staff engaged should conform to the pattern approved by Government.

(ii) The payment should be limited to the amount by which actual expenditure on establishment charges exceeds 25 per cent of the annual income of the Panchayat (excluding grants, loans and contributions)

(b) Grants should be given to Panchayats whose total annual income (including the establishment grant) is below Rs. 20,000, the quantum of grant being the difference between the total annual income and Rs. 20,000

(c) The remainder of the basic tax should be distributed to all Panchayats on the basis of population, a suitable per capita rate being determined for this purpose.

27. Section 67 of the Panchayats Act, 1960 should be suitably amended for the disbursement of grants to Panchayats on the above basis. When basic tax is made over to Panchayats, the payment of grants, ad hoc, should cease

28. Transfer of departmental funds to Panchayats for the performance of departmental functions should be outside the basic tax grants.

29. Surcharge on stamp duty should continue to be a source of revenue for Panchayats.

30. The collection of their own revenues by Panchayats is not quite satisfactory; as a mechanism to improve the collection of Panchayat revenues, Government may prescribe suitable provisions to withhold part of the admissible basic tax grant, if the Panchayat’s collection of its own revenues falls below 75% of the demand

31. The collection of Panchayat revenues should be constantly watched and systematically reviewed by the Revenue Divisional Officers and the District Collectors.

TALUQ SAMITIS & ZILLA PARISHADS

32. For the successful introduction of Panchayati Raj, the unit of general administration and development at the intermediate level should be one and the same

33. Blocks and Tuluq should be integrated, care being taken to ensure that the agency for development is retained and the size of the unit is manageable

34. The following principles should be kept in view while effecting the integration of Blocks and Tuluq:

(a) A unit should take in a whole number of Panchayats;

(b) A unit should comprise 10 to 15 Panchayats;

(c) The population in a unit should generally range from $1\frac{1}{2}$ to $2\frac{1}{2}$ lakhs, save in exceptions where rigid adherence to this size would not be practicable.

It should be possible to peg the number of integrated units at 70 to 80 as suggested in Appendix IV.
35. The integrated unit should be called a "Taluq" and the officer in charge of the unit should be called a "Tahasildar".

36. Eventhough the same officer will be responsible for general administration and development in the new unit, the existing machinery for the discharge of these functions should be kept largely intact.

37. The office of the new unit should have two wings- a general wing and a development wing.

38. In the general wing, the Tahasildar should be assisted by the Deputy Tahasildar and in the development wing by the Panchayat Extension Officer.

39. In the new unit, there is need only for one Extension Officer for subjects other than agriculture and co-operation.

40. Depending on the area under cultivation a new unit may require more than one Extension Officer for agriculture; in the same way, depending on the number of Co-operative Societies and the volume of statutory work a new unit may require more than one Extension Officer for Co-operation.

41. The full strength of Gram Sevaks and other field staff now in position in all the Blocks should be retained and suitably deployed in the new units.

42. All Block Development Officers who have been confirmed should be integrated with the category of Tahsildars; others should revert to their parent departments.

43. Block Development Officers should be given intensive training in revenue work for six months and similarly, Tahsildars who have not worked as Block Development Officers should be given training in Community Development and Extension.

44. The stage has been reached when development work in the Blocks should be transferred to a democratic body with the power to plan and to implement projects of local development at the sub-district level; this body should be called a Taluq Samiti.

45. The Taluq Samitis should prepare and sanction their own budget and should be able to formulate schemes and determine priorities for the implementation of the schemes.

46. Community Development Funds and Plan & Non-plan funds for the local sector of the State Plan, available for the Taluq Samitis should be indicated in the State Budget, Taluq-wise and communicated to the Taluq Samitis as soon as the State Budget is finalized.

47. The Collector should be empowered to cancel resolutions passed by Taluq Samitis which do not conform to law or are in excess of the powers conferred or whose execution will endanger human life, public health, public safety etc.

48. Taluq Samitis should be constituted in the manner laid down in clause 5 of the draft Panchayat Union Councils and Zilla Parishads Bill, 1964.

49. Associate membership in the Taluq Samitis for the Members of the Legislative Assembly is undesirable, since it is likely to inhibit the growth of local leadership.

50. The Chief Executive Officer of the Samiti should be the Tahasildar and his functions should be as prescribed in Clause 23 of the Panchayat Union Councils and Zilla Parishads Bill, 1964.
51. District level bodies called Zilla Parishads, which are advisory in character, should be constituted on the lines indicated in the Kerala Panchayat Union Councils and Zilla Parishads Bill.

DISTRICT ADMINISTRATION—THE COLLECTOR

52. For efficient plan implementation, it is necessary to clothe the Collector with sufficient authority.

53. In all areas of development covered by the District Plan, the Collector should have full responsibility for implementation.

54. The relationship between the Collector as the Chief Development Officer and Co-ordinator in the District and the other District Officers concerned with the implementation of the District Plan should be defined.

55. The Collector should have a special responsibility in regard to agricultural production.

The Deputy Director, Agriculture should become an integral part of the Collector’s organization.

The Collector should have control over minor Irrigation and Co-operation.

56. The Collector should not normally have additional Personal Assistants.

57. The appointment of Deputy Collectors to clear revenue arrears is unnecessary; where special staff is called for, special Deputy Tahsildars may be appointed.

58. It should generally be possible to handle additional land acquisition work by the appointment of Special Tahsildars with the necessary field staff.

59. Land acquisition work should be done with greater expedition; the appointment of field staff including survey staff and a more liberal application of the urgency provisions of the Act should help; Collectors should consider, land acquisition as an important item of work for which they are responsible.

60. The concept that the Collector is the Head of the District Police and is responsible for the maintenance of law and order should be respected and nothing should be done to curtail the Collector’s authority or to weaken his control.
STATUTORY COMMISSION IV - (V. RAMACHANDRAN COMMISSION, 1988)

REPORT ON THE MEASURES TO BE TAKEN FOR DEMOCRATIC DECENTRALIZATION AT THE DISTRICT AND LOWER LEVELS. GOVERNMENT OF KERALA, THIRUVANANTHAPURAM,

(Extract)

SALIENT FEATURES OF RECOMMENDATIONS

1. It is necessary to decide upon and establish a composite local government structure in the State in order to decentralize powers to the district and lower levels.

2. The local government structure in the State may consist of:

   - District Councils;

   - Urban Local Bodies (municipal corporation/municipal councils/township committees)

   - Taloq Samitis

   - Panchayats

3. For the present, the Taloq Samitis may have only limited powers but as development progresses, it will become necessary to delegate executive powers to them also.

4. A Kerala Local Government (Structure and General Provisions) Act may be enacted laying down the structure of local government in the State and consisting of general provisions regarding a common election body, electoral system, appointment of Finance Commission, powers of the Commissioner of Local Government and the like.

5. There is need for degree of order and stability over a period of time in the jurisdiction of villages, Panchayats, Blocks, Taloqs and districts. As recommended by the Administrative Reforms Committee, as early as in 1958, a single or a whole number of villages may form a Panchayat and a whole number of Panchayats, a block. A single or a whole number of blocks may constitute a Taloq and a whole number of Taloqs, a district. As the formation of Taloq Samitis will depend on this reorganization, early steps may be taken for the same.

6. The powers and functions of local government institutions may be said to fall under three categories:

   (i) Governmental and departmental functions which arise out of executive orders of Government and are not covered by statutes—a good part of plan schemes and welfare pensions, scholarships and allowances will come under this category;

   (ii) Powers and functions entrusted in the statute creating the LGI (Local Government Institutions) and its subordinate legislation; and
Powers and functions assigned and delegated to LGIs (different powers being delegated to different LGIs) in the subject-matter enactments and their subordinate legislation.

7. A study of Panchayati Raj legislation in other States as well as of the efforts made in Kerala to frame a law on district councils shows that the effort has been to list all the powers and functions of the local government body in the law creating that body. The Kerala District Administration Act, 1979 sought to improve upon this by making provisions enabling the delegation of Government's powers, except the rule-making powers in a number of enactments. However, such omnibus provisions do not help in specifying the functions and give excessive discretion to government-to do nothing or everything.

8. The functions of local government institutions, including district councils, can be defined clearly in statutory matters, only by making detailed provisions in the concerned enactments and their subordinate legislation.

9. Legislation to entrust powers and functions to local government institutions, like the district councils, cannot be a one-time exercise as has been attempted so far. It should be a continuous, evolutionary process in which powers and functions are assigned as and when new enactments are brought about.

10. In Part II of the report, amendments to the Kerala District Administration Act and its schedules are suggested. The revised schedules constitute the first set of powers and functions to be assigned to District Councils. The existing laws, not covered by the schedules (as amended) may be scrutinized during the next two to three years, for possible assignment of further functions to local government institutions.

11. It may be submitted to the Rules Committee of the Legislature that a specific requirement may be laid down that bills involving entrustment of functions to Government agencies or to newly created authorities or boards should be accompanied by a memorandum on decentralization, in addition to the memoranda on finance and subordinate legislation. This will ensure that consistent attention is given to the question of decentralization every time a law is enacted and will also avoid contradictions in legislative policy.

PART II

12. The Preamble to the Kerala District Administration Act may be expanded to make clear the intention, of bringing about people's participation in planning and development activities in the district and not merely in 'administration.' A more appropriate title to the Act may be “Kerala Decentralization Act.”

13. As it is already over eight years since the President's assent was received to KDAAct (Kerala District Administration Act), it may be laid down that all the provisions of the law, as amended, could be brought into effect by May 18, 1990 (ten years from the date of assent).

14. The amendments proposed in this report may be moved in two separate batches-those which require Government of India's concurrence and those which do not.

15. It is advisable to define a “district” as equivalent to a ‘revenue district’.

16. The district councils may also be brought within the definition of 'local government' as the Act has been passed in exercise of the powers under entry 5 of list II of the Seventh schedule of the Constitution relating to “local government” and District Councils will form an integral part of the local government structure in the State.
17. In view of the wide disparity in the number of members in each district council, that will arise from one district to another if the provisions in the Act are followed, a minimum and maximum number of members-20 and 40 respectively-may be laid down as in the case of *Panchayats*.

18. As elections to *Panchayats*, municipalities and municipal corporations have been held recently in the State on the basis of the existing electoral system, elections to the district councils may also be held on the same basis and the question of any change in the system, like bringing in proportional representation, may be discussed and decided upon in the context of the proposed Kerala Local Government (Structure and General Provisions) Act.

19. For the reasons stated by the V.K. Krishna Menon Committee in the context of nomination of Members of Parliament on the boards of public undertakings and other statutory authorities, membership of MLAs (Members of the Legislative Assembly) in executive bodies like district councils, may not be provided for.

20. It is a sound principle that there should be no dual membership in executive and decision-making bodies. This may be incorporated in the Act and a maximum period of three months' overlap allowed. The provision for ex officio membership of members of the district council in other local government institutions may also, therefore, be omitted.

21. The district council may be a fully elected body. Therefore, as regards women, 25% of the seats may be reserved for them, instead of going in for nomination.

22. The age of eligibility for membership in all local government institutions may be retained at 25 as at present.

23. An appropriate explanation may be added in the relevant section so that voters in the Guruvayoor Township area will also become eligible for voting to the district council.

24. In the case of employees of public corporations, the disqualification of membership should apply to all categories of employees.

25. The extension of the term of office of a district council should be an exception under unavoidable circumstances. It may be stipulated in the Act itself that the term should not be extended beyond one year in all.

26. The standing committees of the district council may be renamed and rearranged in order to indicate the range of responsibilities and objectives of each committee. The standing committees of the district council may be renamed as:

(a) Finance and Planning Committee,

(b) Production and Employment Committee,

(c) Social Justice and Welfare Committee,

(d) Infrastructure and Amenities Committee,

(e) Social Service Committee.

27. The present system of functioning of local government institutions through standing committees may
continue in the interests of wider participation of members in decision-making

28. The exact amount of monthly and other allowances of the President and members of the district council may not be stipulated in the Act, but may be such as may be prescribed in the rules.

29. No change is necessary in the provision that the Collector will also be the Secretary to the district council, considering the size of the districts in the State, the need for effective assistance to district councils in their functioning and the desirability of maintaining the composite nature of functions of the District Collector.

30. The fact that the functions of the District Collector are not merely secretarial but that he has responsibilities to execute the decisions of the district councils may be made clear by calling him the Chief Executive Officer of the Council.

31. Except in the case of finance and accounts, it is not advisable to mention specifically the subjects to which Joint Secretaries will be assigned.

32. Even if separate recruitment and appointment of staff are made to the district councils in future, for several years to come, the bulk of the employees under the councils will be the Government servants whose services are placed at their disposal.

33. The non-gazetted employees of the Government placed at the disposal of the district council may be permanently allotted to a district and may continue in the service of that district council so long as they continue in non-gazetted service.

34. Provision may be made in the law to enable the district councils to obtain the services of officers and servants from statutory corporations, boards and public corporations, depending upon the nature of work.

35. The disciplinary powers of the General Committee, the President, the Secretary and other officers may be laid down in the rules, instead of providing in the Act only the powers of the Secretary and the President.

36. Subject to the provisions regarding disciplinary proceedings and subject only to the general orders of Government for the purposes of technical control and maintenance of standards, the President of the district council may have full supervisory powers over the officers and employees placed at the disposal of the council.

37. Section 44 and the First schedule to KDA Act may be revised, as proposed in the report, in the light of the detailed discussions in the report and the methodology suggested for entrustment of powers and functions to district councils. The revised first schedule and detailed amendments to 24 Acts (7th to 30th schedule) are given in Annexure I to Part II B.

38. The District Planning function will be one of the important functions of the District Council. To assist the district council, a District Planning and Development Advisory Committee may be constituted with broad-based membership as recommended in the report.

39. Upon the constitution of district councils, the District Rural Development Agency of the district and the Fish Farmers' Agency, if any, of the district may be merged with the district council so that the district council shall be responsible for the functions of the said societies.
40. When we are decentralizing powers and functions, we may not reduce the existing status of field level local government institutions. Different local governments institutions may function in a complimentary way under the guidance of the State Government and it is not necessary to provide for control and supervision of Panchayats or other local government institutions by the district council. In actual working, a measure of consultation and mutual dependence will undoubtedly emerge and if the district councils are effective, the other local governments will naturally look upto them for guidance and assistance.

41. The district councils cannot have a financial year different from that of other levels of Government. The section of the Act declaring the financial year to be from the 1st day of July may, therefore, be omitted.

42. Since the term of office of district council is five years, the constitution of the Finance Commission may also be once in five years only.

43. It does not appear necessary to prescribe the qualifications of Chairmanship and membership of the Finance Commission in the Act.

44. Since the independent sources of revenue that could be thought of for the district councils are such as will yield only small amounts of money, it is inevitable that in the present scheme of things, almost the entire funds for the council are made available by the State Government.

45. An important question to be gone into by the Finance Commission will be the criteria of inter-district allocation of plan funds and this function may be included specifically in the Act.

46. As regards the budget of the district council, it may be specifically laid down in the Act that there should be no deficit in the transactions for a year.

47. The Legislature is competent to take a view on how a local fund should be audited and, therefore, no change is suggested to the provision made in the Act that the Examiner of Local Funds Accounts will be the Auditor for district councils. However, since the organization of the ELFA will have to take up vastly increased responsibilities, a retired Accountant General may be appointed immediately to study the ELFA's department and suggest improvements in organization and methods to enable it to cope up with such responsibilities.

48. The powers of revision of Government of the decisions of the District Council, as provided for in the Act are too sweeping and will defeat the whole purpose of decentralization. They may be limited to a few important types of cases as may be prescribed in the rules.

49. The powers of revision of Government of the decisions of the District Council, as provided for in the Act are too sweeping and will defeat the whole purpose of decentralization. They may be limited to a few important types of cases as may be prescribed in the rules.

50. In the context of the KDA Act, the amendments to the Kerala Panchayat Act may be limited to a new items as in the case of urban local bodies. Provision may be made for the entrustment of functions/ schemes/ works by the District Councils to Panchayats.

51. There are basic conceptual and practical difficulties in declaring the President of the Panchayat as the "Executive Authority" of the Panchayat. But the position of the President as the executive head of the Panchayat under whose general supervision and control, the officers, and staff will work, may be recognized and specific provision made in the Act.
52. It is Rules framed under the Kerala *Panchayats* Act that have severely hedged in the *Panchayat* between the Executive Officer on the one hand and the departmental officers on the other. A committee may be appointed to suggest comprehensive revision of the Rules, in order to enhance the functional freedom of *Panchayats*. 