# CHAPTER VI

THE KERALA STATE HUMAN RIGHTS COMMISSION - THE PROTECTOR OF HUMAN RIGHTS IN KERALA

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6.1 Protection of Human Rights by the K.S.H.R.C. During the Period Between 1st April 2001 and 31st March 2002

During the period between 1st April 2001 and 31st March 2002, the Commission did strive to perform the functions conferred on it under Section 12 of the Protection of Human Rights Act 1993. Issues concerning violations of human rights and efforts at making people conscious of the safeguards available to them for the protection of human rights always remained the primary areas of the Commission’s activities. The number of petitions received by the Commission during the period between 1st April 2001 and 31st March 2002 was 3724, of which the Commission (K.S.H.R.C.) disposed of 1984 petitions.

On receiving a petition, the Kerala State Human Rights Commission inquires into the matter in accordance with the prescribed procedure and takes a decision on it. If it is found that the intervention of the Commission is warranted, the Commission forwards its recommendations to the Government or the authority concerned. Some important cases that came before the K.S.H.R.C. during 2001-2002 are mentioned below. Matters dealt with by the Commission may generally be classified into three. They are: (a) action taken suo motu (b) action taken on petitions (c) visits conducted by the Commission.

Action Taken on Petitions

6.1.1 H.R.M.P. No. 413/99

A hapless widow complained that her husband was found dead in a paddy field and that the Police conducted no proper investigation into the unnatural death. The Commission directed the Chief Investigating Officer to investigate into the complaint. After a scrutiny of the relevant records, the Chief Investigating Officer recommended an investigation of
the case by the CBCID. On the basis of the report submitted by the Chief Investigating Officer, the Commission recommended to the Kerala State Government to give necessary directions to the authority concerned to get the crime investigated by the CBCID.2

6.1.2 H.R.M.P. No. 2080/2001

In this petition the grievance of the petitioner was that the Peerumade Grama Panchayat did not give widows pension to the petitioner. In the report sent by the panchayat it was admitted that the petitioner was entitled to the said pension. The Kerala State Human Rights Commission directed the Peerumade Grama Panchayat to disburse the pension to the petitioner as early as possible.3

Action Taken on Suo-Motu Basis

6.1.3 H.R.M.P. No. 133/1999 (Pollution in the Meenachil River)

On the basis of a report in the Malayala Manorama daily about the filthy condition of the Meenachil River, the Commission suo motu took cognizance of the matter and called for reports from the Secretary of the Erattupetta Grama Panchayat, the Assistant Executive Engineer of Water Authority, Erattupetta, and the reporter of the Malayala Manorama daily. The Commission conducted an inspection to gather first hand information about the matter. After examining the circumstances and the statements of the inhabitants the Commission made the following recommendations to the Government.4

a) Install a water treatment plant for treating the drinking water supplied

b) The Erattupetta Grama Panchayat authorities should take necessary steps to have more comfort stations, taking into consideration the density of the population, permanent as well as floating.
c) The Panchayat authorities should see that wastewater is not allowed to flow into the river or deposited in the public road.

d) Septic tank effluents should not be allowed to go into the river.

e) In case the Panchayat experiences any financial constraints for setting up the waste treatment plant, it was up to the Panchayat to approach the State Government for financial assistance. People should be made conscious of the need to keep their premises neat and clean and above all they should see that neatness and cleanliness prevail in the Panchayat.

6.1.4 H.R.M.P. No. 1636/2001 (Deplorable Conditions of Health Centres in Thrissur District)

A report in the Mathrubhumi daily regarding the deplorable conditions of the health centres of Killimangalam, Desamangalam, Velur, Varavoor and Chelakkara alerted the Commission to take cognizance of the matter suo-motu and register a case and enquire into the matter. After scrutinizing the report and assessing the conditions of the health centres referred to above, the Commission made recommendations to the State Government for improving the deplorable conditions of the above said centres.⁵

6.1.5 H.R.M.P. No. 1779/2001

A report in the 'Madhyamam' daily dated June 13, 2001 about the pathetic condition of the Government Girls High School, Perumbavoor due to lack of drinking water caused the Commission to take cognizance of the matter suo-moto, counting it as a petition and called for a report from the District Educational Officer, Kothamangalam. In the report it was admitted that there was scarcity of drinking water during summer and that a tube well was very much needed. The Perumbavoor Municipality sanctioned Rs. 1 lakh for boring a tube well for the School. The matter was thus settled.⁶
Visits Conducted by the Commission

Based on newspaper reports, the Commission conducted many visits. During the period 2001-2002 the Commission inspected twenty-two hospitals, three jails, one juvenile home, various Police Stations and other institutions making important recommendations to the Kerala State Government for their betterment.

On 14th June 2000, the Commission visited the Government Mental Health Centre, Thrissur, after giving notice to the State Government. They noticed the miserable conditions prevailing in the hospital and submitted a detailed report to the Government with certain recommendations.

6.1.6 H.R.M.P. No. 1305/2000

On the basis of news in the Mathrubhumi daily regarding the deplorable condition of the Government Hospital at Moothamkunnam in Ernakulam District, the Kerala State Human Rights Commission visited the hospital on 17th October 2000. The visit disclosed many shortcomings. The Commission made certain recommendations to the Government of Kerala for making improvements.

The Commission visited the sub jail at Ernakulam on 19th December 2000 and noticed many deficiencies in the jail and made certain important recommendations to the Government. The Kerala State Human Rights Commission visited the Juvenile Home at Thrissur on 19th February 2001. The visit exposed certain serious drawbacks in the juvenile home. On 12th October 2001 the Commission visited the Kollam District Jail and recommended certain improvements. On 17th October 2001 the Commission made a visit to the Medical College, Kottayam and noticed the pathetic conditions prevailing in the hospital and submitted a detailed report to the Government.7
6.1.7 Human Rights Awareness Programmes Conducted by the K.S.H.R.C.


In association with the Department of Forests, the K.S.H.R.C. held a workshop on Human Rights on the 30th and 31st December 2001 at Aryamkavu in Thenmala in Kollam District. Another seminar on Human Rights was organised at Perumbavoor on 21st January 2002 by the Kerala State Human Rights Commission.
6.1.8 Committees Constituted under the Commission

The Supreme Court of India in its order in Crl.M.P.No. 12704/2001 inter-alia directed that each State Human Rights Commission should constitute a sub-committee to monitor or oversee whether the eleven requirements laid down by the Supreme Court in D.K. Basu's case were being complied with by the Police and also to take all further necessary steps to ensure that those requirements were met. Accordingly, the Commission at its meetings, held on 03-12-2001 considered the matter and resolved to constitute such a committee. As decided by the Commission at the meeting the following orders were issued.

1. The Kerala State Human Rights Commission shall have a sub-committee.

2. The sub-committee shall consist of two members of the Commission. The Chief Investigation Officer and the Registrar of the Commission shall render to the sub-committee such assistance as it may require.

3. The Chief Investigation Officer may exercise the powers under Section 14 (2) of the Protection of Human Rights Act, 1993, while investigating whether the eleven requirements of D.K Basu's case are compiled with.

4. The Chief Investigating Officer and the Registrar shall collect such information as may be required by the committee.

As per the direction of the sub-committee, the Registrar of the Commission addressed the Home Secretary, Government of Kerala, and the State Director General of Police on 13-12-2001 forwarding copies of the 11 requirements of the Supreme Court in Malayalam and requested them to take necessary steps to circulate it among the Police Officials of
the various Police Stations in the State with directions to conspicuously exhibit a copy of the same at the Police Stations for the information of the general public. The Commission (vide its letter dated 14-12-2001) addressed the Director of Public Relations, requesting him to give the requirements wide publicity through the print media for the information of the general public. Communications in this regard were also forwarded to the Director of Doordarsan Kencra and All India Radio, Thiruvananthapuram, requesting them to telecast the same at frequent intervals.

The sub-committee held its first meeting on 02-01-2002 at the office of the Commission. The Chief Investigating Officer and the Registrar were also present at the meeting. The sub-committee took the following decisions.

1) To frame guidelines in Malayalam on the basis of the decisions in D.K Basu's case, the guidelines issued by the National Human Rights Commission and the directions issued by the Director General of Police, Kerala State from time to time in the matter.

2) To conduct surprise checks of Police Stations in the State by the sub-committee members. No media persons shall be allowed to be present at the time of such surprise inspections. If necessary, the media persons can be briefed after the inspection, outside the Police Stations.

3) The Chief Investigating Officer or Registrar might conduct periodical random record check-up in selected Police Stations.

4) To prescribe and prepare forms and registers to facilitate surprise checks of Police Stations.
On the basis of the above decisions the sub-committee started surprise visits to Police Stations from 10th January 2002. The members of the sub-committee visited Police Stations at Kollam East, Sakthikulangara, Chavara, Museum Police Station, Palakkad North, Palakkad South, Hemambika Nagar (Palakkad), Puthukkad, Mannuthy, Nedumpuzha, Ernakulam Central, Ernakulam Kasaba, and Mattancherry. During the visit the Commission noticed that in certain Police Stations, the directions issued by the Supreme Court were not exhibited prominently. Records were called for from forty Police Stations in the State.

The following chart clearly indicates the position of the K.S.H.R.C. regarding the number of petitions received and the number of the same disposed of.10

**Table 6.1**

**Number of Petitions Received and Number of Petitions Disposed of (1999-2002)**

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of petitions received</th>
<th>No. of petitions disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>1655</td>
<td>1338</td>
</tr>
<tr>
<td>2000</td>
<td>3602</td>
<td>2639</td>
</tr>
<tr>
<td>2001</td>
<td>4013</td>
<td>2087</td>
</tr>
<tr>
<td>2002 (upto 31st March)</td>
<td>769</td>
<td>94</td>
</tr>
<tr>
<td>Total</td>
<td>0039</td>
<td>6158</td>
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</table>
6.2 Governments Response to the Recommendations Submitted by the Commission

6.2.1 H.R.M.P No. 43/99 (HRMP No. 297/99)

<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
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<tbody>
<tr>
<td>The petitioner was not paid his DCRG amounting to Rs. 54,250/- even after 13 months after his retirement as Headmaster of an aided School at Varkala. The Commission recommended to the Secretary, General Education Department, to take immediate steps to disburse the amount to the petitioner within a month, with interest @12% on the amount from 01-07-1998 till the date of the disbursement.</td>
<td>The Government in its letter dated 09-11-2000 intimated its inability to comply with the recommendations of the Commission for payment of interest, as Government could not fix the responsibility for the delay in the disbursement of DCRG and that it was therefore not possible to recover this amount from any one.</td>
</tr>
<tr>
<td>Recommendation of the Commission</td>
<td>Response of the Government to the Recommendations of the Commission</td>
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<tr>
<td>Based on press reports in various Malayalam dailies on 07-02-2000, touching upon the death of a young man in the Sree Padmatheertham pond, Thiruvananthapuram, at the hands of a person alleged to be mentally deranged, the Commission suo motu took cognizance of the matter and enquired into it. After enquiry the Commission recommended to the Government to include swimming as one of the items in the training to be given to the Police Constables, when they are recruited to the post.</td>
<td>A letter, dated 25-08-2001 from the Principal Secretary, Home Department, stated that swimming was proposed as an item of training in the revised syllabus for the recruits to the Police Forces and that it was under the active consideration of the Government and that the revised syllabus would be issued at the earliest.</td>
</tr>
</tbody>
</table>
**Recommendation of the Commission**

The complaint was that no steps had been taken by the Kodassery Grama Panchayat to provide water supply to Elanjipara area in Ward No.1. After considering the facts and circumstances of the case the Commission recommended to the Government to direct the Kodassery Grama Panchayat to take effective steps for providing water to the area with the assistance of Kerala Water Authority and to give instructions to the Panchayat to approach the Government and Block and District Panchayats for necessary financial assistance.

**Response of the Government to the Recommendations of the Commission**

Letter dated 12-06-2001 received from the Secretary Kodassery Grama Panchayat stated that a decision was taken in the Panchayat Committee to solve the problem of drinking water in the Panchayat. A direction was given to the Assistant Executive Engineer, Kerala Water Authority, Chalakkudy to prepare an estimate for a scheme to solve the drinking water problem. The Government and the Presidents of District and Block Panchayats were requested to provide necessary financial assistance for the scheme. A request was also made to the Ground Water Officer, Thrissur, to select a suitable place in the area for making a new bore well. The member of the ward concerned was requested to enlighten the people about the need to properly maintain the place where water is stored.
6.2.4 H.R.M.P. No. 468/2000

<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
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<tbody>
<tr>
<td>The complaint was that the narrow passage to the Sakthan Thampuran bus stand, Thrissur, could not cope with the large number of buses using the bus station and that the passage was hardly sufficient for the commuters to enter the bus stand since its width was only 3 meters. The Commission recommended to the Government to direct the Thrissur Municipality to comply with its order, to demolish the 3 obstructing rooms and to widen the passage.</td>
<td>The Government in its letter dated 19-05-2001 informed that six shop rooms on the narrow passage to the Sakthan Thampuran bus stand had been demolished by the Municipal authorities in accordance with the direction of the Government and that the width of the access road had been increased.</td>
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<tr>
<td>Recommendation of the Commission</td>
<td>Response of the Government to the Recommendations of the Commission</td>
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<td>Based on a petition put in by Justice T. Chandrasekhara Menon depicting the plight of Nayadis, a Scheduled Tribe living at Karamkode in Palakkad District, the Commission after considering the backwardness of this community recommended to the Government to grant a monthly stipend to the students to continue their education and to provide day care centre attached to the Schools having substantial number of &quot;Nayadi&quot; students. It also recommended providing housing facility, financial assistance and occupational training to the members of the tribe.</td>
<td>The Government (vide letter dated 10-07-2000) intimated the Commission the action taken in the case. In addition to the annual lump sum grant, a monthly stipend was given to the &quot;Nayadi&quot; students in order to encourage them to attend School regularly. A proposal for enhancing the monthly stipend was under the consideration of the Government. Adequate financial assistance was provided by the Government for solving the problem of housing facilities of this community. A project was being implemented for giving occupational training to the ‘Nayadi’ women with the financial assistance from the Coir Board for training in coir-yarn spinning. Another scheme for giving training to the Nayadi youths in furniture manufacturing was being implemented by “Samridhi Kendra” at Mangalam Dam under Scheduled Caste Development Department.</td>
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6.2.6 H.R.M.P. No. 995/99

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<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
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<tr>
<td>(Police Station Kanjirappally)</td>
<td>The Government (vide its letter dated 14-07-2000) informed the Commission that the Director General of Police had been directed to take necessary steps expeditiously to carry out the recommendations of the Commission. In its letter dated 28-08-2000 the Government further informed the Commission that a jeep had been allotted to Kanjirappally Police Station on 17-05-2000, and that necessary preliminary steps had also been taken by the Director General of Police for the construction of the Kanjirappally Police Station building.</td>
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6.2.7 H.R.M.P No. 1037/1999

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<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
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<tr>
<td>The case was that obscene cinema posters were on display within the Municipal areas of Punalur. The Commission recommended to the Government to issue circulars to the District Collectors and Police Authorities of all Districts directing them to ensure through effective use of penal and other appropriate statutory provisions that obscene films were not shown in theatres and obnoxious posters were not displayed in public places.</td>
<td>As per Government letter dated 07-07-2000 it was stated that the Government had examined the matter in detail and issued instructions to all District Collectors and Police Authorities to ensure that the recommendations made by the Commission were carried out strictly.</td>
</tr>
</tbody>
</table>
### Recommendation of the Commission

The complaint was that buses, lorries and other vehicles plying in Aluva were using air-horns indiscriminately in violation of rules and regulations. The Commission recommended to the Government to take steps to control sound pollution by insisting upon the use of box amplifiers for advertisement and publicity purposes in vehicles and to prohibit the use of air horns, especially near hospitals and Schools.

### Response of the Government to the Recommendation of the Commission

The Government in its letter dated 12-06-2001 informed the Commission that the Police department was the responsible authority for restricting the use of loud speakers in vehicles and that motor vehicles department was taking effective measures for the prevention of sound and atmospheric pollution caused by vehicles. It was also stated that fitness certificate to transport vehicles were issued only when the vehicles were found fit on inspection by authorised officers of motor vehicles department and that traffic signs restricting the use of air horns and over speeding of vehicles had been installed near Schools and hospitals.
### Recommendation of the Commission

The Commission visited the Kuttichal Grama Panchayat and Kottoor Government Ayurvedic Hospital on 16-05-2000 and made the following recommendations.

a) The Panchayat shall take immediate steps to maintain the well at Kuttichal junction properly.

b) The Panchayat shall address the Public Works Department (Roads) to clear the drain at Kuttichal junction across the Kuttichal - Aryanad road.

c) The waste dumped into the drains is to be cleared every day.

d) With regard to the non-availability of medicines, the Director of 'Indigenous' medicines was to be asked to visit the Kottoor Government Hospital and to take steps to make available supply of medicines and water to the hospital. The Secretary, Kuttichal Grama Panchayat, was asked to take necessary steps to have the pump set repaired and adequate water supplied.

e) Panchayat Authorities shall also take urgent steps to use bleaching powder in and around the filthy areas in the market.

f) Kottoor Ayurvedic Hospital comes under the jurisdiction of Kuttichal Grama Panchayat. The water supply in the Kottoor Ayurvedic Hospital being unsatisfactory, the Panchayat should immediately take steps to undertake the repair of the water pumping motor and ensure an adequate water supply system for the hospital.

### Response of the Government to the Recommendation of the Commission

Letter dated 24-12-1999 from the Secretary, Kuttichal Grama Panchayat states that the drains in the Kuttichal junction were repaired and cleared by spending an amount of Rs. 7,500/-. In another letter dated 14-09-2000 it is also stated that the motor pump set for water supply was repaired and the water supply system to the hospital was set right. The well in the hospital compound also was made neat and clean. The Director of Indian Systems of Medicines in her letter dated 13-07-2000 informed the Commission that she had visited the Government Ayurvedic Hospital, Kottoor and that she had requested the local authority concerned to take urgent steps for the supply of water to the hospital. She also stated that the Pharmaceutical Corporation Kerala Ltd. (Oushadhi), Thrissur was the authorised agency to distribute medicines and that it supplied medicines to the hospital.
6.2.10

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<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
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<tr>
<td>Based on a report regarding the complaints of the inmates and the staff of the sub jail, Palakkad, the Commission visited the sub jail on 14-02-2000. The Commission made some recommendations to the Government to improve the conditions prevailing in the sub jail.</td>
<td>Of the 12 recommendations, the Government (vide its letter dated 31-03-2001) informed the Commission, three were complied with and the rest were under the consideration of the Government.</td>
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<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
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<tr>
<td>In order to ascertain the truth about the pathetic conditions alleged to exist in the Government District Hospital, Palakkad, the Commission visited the Hospital on 23-02-2000. After the inspection, the Commission made eleven recommendations to the Government.</td>
<td>The Government, (vide its letter dated 28-09-2000), intimated the Commission that out of the eleven recommendations made by the Commission with regard to the existing condition in the Government District Hospital, Palakkad, six were complied with and the rest were under the consideration of the Government.</td>
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</table>

During 2001-2002 the Commission organized 10 seminars and 22 meetings with the help of NGOs regarding human rights awareness.
6.3 Activities of the K.S.H.R.C. from April 2002 to March 2003

The year 2002-2003 did not witness any change in the composition of the Commission. Mr. Justice M.M. Pareethu Pillay continued as its Chairperson and Dr. S. Balaraman and Sri. T.K. Wilson as members. Sri. C.P. Jayachandran continued as the Secretary of the Commission. Smt. P.V. Padmini took charge as Registrar on 05-06-2002. Sri. Jacob Punnoose IPS, Inspector General of Police, continued to be the Chief Investigating Officer. The number of petitions received by the Commission during the period 2002-2003 was 4469. Out of these 2196 were disposed of by the Commission. Out of the 2392 petitions received during the year 2004, the K.S.H.R.C. has disposed of 1018 cases. Upto June 2005 the K.S.H.R.C. received a total number of 2055 petitions and it has disposed of 416 cases.

Action Taken on Petitions

6.3.1 H.R.M.P No. 1573/99

The case of the petitioner was that he had been in possession of a small strip of land measuring 5 cents at Koorkancherry in Thrissur District. He alleged that he was not granted 'Pattayam' for this property despite the fact that he had been in uninterrupted and absolute possession of the property for the past 40 years. Reports were called for from the Secretary, Koorkancherry Grama Panchayat and the Corporation of Thrissur. In the report it was stated that the matter at issue would be finalised by the Corporation Council. This assurance made by the Secretary, Thrissur Corporation was recorded and the HRMP was disposed of.
6.3.2 H.R.M.P. No. 554/2000

The petitioner in this H.R.M.P. was physically handicapped with more than 50% disability. His grievance was that the KSRTC declined his application for travel at concession rates aboard the buses operated by the Kerala State Road Transport Corporation.15

In the course of the enquiry by the Commission it transpired that the application of the petitioner was declined by the Kerala State Road Transport Corporation on account of an error as to the annual income of the petitioner with reference to the ceiling limit of Rs. 15,000/. The actual annual income of the petitioner being Rs. 5,720/- as per the report of the Revenue Division Officer, Kozhikode, the Kerala State Road Transport Corporation went wrong in concluding that his income was Rs. 36,000/.

Convinced of the genuineness of the case of the petitioner and the error committed by the Kerala State Road Transport Corporation, the Commission made the following recommendations to the Government.

"The Government may direct the Managing Director, Kerala State Road Transport Corporation to allow the petitioner concessional rate for travel on board the stage carriages operated by the Corporation as is being done in the case of physically handicapped persons with more than 50% disability."

6.3.3 H.R.M.P. No. 1650/2001

The petition pertained to the deplorable condition of the private bus stand at Mala in Thrissur District. It was stated that the drains near the bus stand were not covered with slabs and that it posed a potential danger to the pedestrians. Reports were obtained from the Executive Engineer, Public Works Department and Secretary, Grama Panchayat, Mala.
The Executive Engineer stated that estimate had already been prepared for covering the drains with slabs that it had been sent to the Chief Engineer for approval, and that on receipt of the approval work would commence. The reply of the Secretary, Grama Panchayat, was on the same lines as the report of the Chief Engineer. Based on the assurances made by the respondents, the petition was allowed.16

6.3.4 H.R.M.P. No. 1796/2001

In this H.R.M.P. the petitioner drew the attention of the Commission to the indifference of the Perumbavoor Police in the case of the death of one Karim under mysterious circumstances. The complaint of the petitioner was that although the local Police had registered a crime for unnatural death the investigation was not making any headway.

During the course of the inquiry it came out that the investigation of the crime was entrusted to the Crime Branch, as the investigation of the case by the local Police was perfunctory. In the report of the Deputy Superintendent of Police CBCID, Ernakulam, to the Commission, it was stated that the death of late Karim turned out to be a case of homicide and that a final report would be laid before the Judicial First Class Magistrate arraigning the accused. The Commission recorded this assurance and the H.R.M.P. was allowed.17

6.3.5 H.R.M.P. No. 2353/2001

The grievance of the petitioner in this case was that a cow dung pit right in front of his house in the property owned by the respondent created environmental pollution and made the petitioner's life miserable.

The Commission called for reports from the District Medical Officer, Kannur, and Secretary, Kunhimangalam Grama Panchayat. In the District
Medical Officer's report it was admitted that the cow dung pit caused environmental pollution. However, the Secretary of the Grama Panchayat reported that there was no cow dung pit in the property owned by the respondents. The Commission examined the matter in detail and came to the conclusion that the report of Grama Panchayat Secretary was not correct and allowed the petition and recommended to the Government to give direction to the Secretary Kunhirangalam Grama Panchayat to fill the cow dung pit with earth, thereby stopping the environmental pollution.\(^6\)

**Action Taken Suo-Motu by the Kerala State Human Rights Commission**

A few examples are cited below.

**6.3.6 H.R.M.P. No. 3101/2000**

A news item in the Mathrubhoomi daily, dated 18-10-2000, highlighting the deplorable condition of the Chowara Railway Station road near Aluva attracted the attention of the Commission to register this petition suo motu and inquire into the matter.

The Commission summoned the President of the Chowara Bus Passengers Association to ascertain the veracity of the newspaper report. He corroborated before the Commission what was stated in the newspaper report. His evidence described the miserable condition of the road. In the report of the Public Works Department, it was stated that an estimate for Rs. 24 lakhs was submitted to the Executive Engineer (Roads), Ernakulam for sanction and on getting the sanction the work would be started.\(^7\)

The Commission was convinced of the urgent necessity of repairing the road and made the following recommendations to the Government: "The State Government should take necessary steps to effect repairs and maintenance of the road leading to Chowara Railway Station from Kondotty junction at the earliest."
A news item in the ‘Kerala Kaumudi’ daily dated 18-06-2001 with the caption “Justice is denied to a College teacher by clinging on to technicalities” prompted the Commission to take suo-motu cognizance of the matter. It was alleged in the paper report that the victim Dr. K. Sasidharan, who was denied the benefit of revised pay by the authorities, had been suffering from bone cancer. The Commission lost no time to call for the report of the Director of Collegiate Education. In response to the notice seeking report, the authorities concerned disbursed the revised salary to Dr. Sasidharan who sent a letter to the Commission expressing his deep sense of gratitude.

This is a case taken cognizance of by the K.S.H.R.C. suo-motu based on a news item published in the ‘Madhyamam’ daily dated 25-11-2001. It related to a suicide attempt made by a cook attached to the Government Homeo Medical College, Kozhikode allegedly due to inhuman treatment meted out to her by her superior officers. A report was called from District Medical Officer (Homeo), Kozhikode, and in the report it was stated that the cook was not harassed by the superior officers and that the attempt made by the cook was only a stage managed show to counter the Superintendent’s strict enforcement of regulations, pertaining to culinary matters and supply of the prescribed quantum of food to the patients. From the facts and circumstances of the case the Commission came to the conclusion that the statements in the report of the District Medical Officer were not without substance and that it was unnecessary to pursue the matter further and hence closed the H.R.M.P.
6.3.9 H.R.M.P. 2363/2002

Based on a news item in the Malayala Manorama daily dated 24-08-2002 regarding the deplorable condition of the Kalady private bus stand, the Commission took suo-motu cognizance of the matter.

After registering the H.R.M.P. the Commission called for a report from the Secretary, Kalady Grama Panchayat. The Grama Panchayat in its report stated that steps were taken to repair the road near the bus stand and Rs. 2,14,875/- was set apart to repair the road and that technical sanction had also been obtained. Since the Commission was satisfied that prompt action would be taken by the Panchayat to renovate the bus stand there was no need to pursue the matter further and the H.R.M.P. was disposed.

6.3.10 Visits Conducted by the K.S.H.R.C. During 2002-2003

A report in the Madhyarnam daily dated 22-05-2001 describing the appalling inadequacies in the Government Hospital, Karuvelippady, Ernakulam alerted the Commission to take cognizance of the matter suo-motu and collect first hand information by inspecting the hospital after registering H.R.M.P. No. 1463/2001. The visit revealed many shortcomings and inadequacies of which the following were serious: (a) shortage of basic medicines (b) acute shortage of drinking water (c) want of service of a full time doctor in the casualty (d) failure to provide a driver for the ambulance (e) failure of the X-ray machine and refrigerators (f) absence of a medico-record library and librarian (g) failure to attend to the repairs of the hospital building for the past 5 years.

To remedy the inadequacies the Commission made the following recommendations to the Government: (a) maintenance works of the hospital buildings may be done urgently (b) steps should be taken to supply basic
medicines (c) drinking water facility be provided (d) service of a full time doctor be made available in the casualty (e) three refrigerators may be supplied to the hospital (f) one post of plumber-cum-electrician be created and filled (g) the two old X-ray machines in the hospital be replaced (h) a Police aid post may be provided in the hospital.


Human Rights Awareness Programmes Conducted by the K.S.H.R.C.24

6.3.11 Commemoration of the Universal Declaration of Human Rights Day

The Commission commemorated the Universal Declaration of Human Rights on 11th December 2002 at the Municipal Town Hall Thrissur. Though the meeting was slated for 10th December 2002 it had to be postponed to 11th December owing to a call for observance of hartal in the District on that day.
In connection with the events, a meeting and seminar were held. The meeting was presided over by Mr. Justice M.M. Pareed Pillay, Chairperson of the K.S.H.R.C. and was inaugurated by Mr. Justice K.T. Thomas. In the seminar, Sri. T.K. Wilson, member of the Commission, presented a paper on 'Women and Human Rights.'

6.3.12 Human Rights Awareness Seminar at Kasargod

The Commission organised a Human Rights Awareness Programme at the Corporation Town Hall Kasargod, on 8th October 2002. The meeting was presided over by Sn. T.K. Wilson, member of the Commission and was inaugurated by Sri. M.M. Pareed Pillay, Chairperson of the Commission. In the seminar that followed Dr. S. Balaraman presented a paper on 'Human Rights - Past Present and Future.' Prof. V. Gopinathan, Head of the Department of Geology, Government College, Kasargod presented a paper on 'Environmental Pollution,' Sri. Jacob Punnoose IPS, Chief Investigation Officer of the Commission, presented a paper on 'Human Rights and the Police.' Dr. S. Balaraman read a paper entitled 'Human Rights - Yesterday, Today and Tomorrow.'

6.3.13 Human Rights Seminar at Kozhikode

Sponsored by the K.S.H.R.C., a seminar was conducted at the Town Hall Kozhikode on 08-10-2002. The function was presided over by Sri. T.K. Wilson, member and was inaugurated by Sri. M.M. Pareed Pillay, Chairperson of the Commission. In the seminar that followed, Dr. S. Balaraman, member of the Commission, presented a paper on the 'Role of the Human Rights Commission in Combating Torture.'
6.3.14 Human Rights Awareness Seminar at Idukki


6.3.15 Seminar on Human Rights Awareness at Kottayam

A seminar on 'Human Rights Awareness' was organized under the auspices of the Commission at the Municipal Town Hall, Kottayam on 01-11-2002. The meeting preceded the seminar and was inaugurated by Mr. Justice M.M. Pareed Pillay, the Chairperson of the K.S.H.R.C. Dr. S. Balaraman, member of the Commission, presided over the function.

6.3.16 The Seminar on Human Rights Awareness at Kannur


6.3.17 Foundation Course in Human Rights Awareness

The Commission under its aegis conducted a foundation course on 'Human Rights' at Sree Narayana College, Kollam, with the co-operation of the Post-Graduate and Research Department of Political Science and Human Rights awareness Forum, Kollam. The course was from 27-02-2003 to 01-03-2003.
6.4  Response of the Government to the Recommendations


<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendation of the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Police Constables of Chittar Police Station in Pathanamthitta District led by the Sub Inspector arrested one Mathew Thomas and manhandled him on 01-05-1999 and shaved off the left half of his moustache. On the same day the same Sub Inspector accompanied by a Police Constable arrested one Baby and caused him bodily harm. As the allegations were prima-facie established, the Commission awarded interim relief of Rs. 15,000/- each to the victims and also asked the Government to recover the amounts from the delinquent officers.</td>
<td>The Government (vide G.O(Rt) 2375/02/Home dated 02-12-2002) had accepted the recommendations of the Commission and ordered to pay Rs. 15,000/- each to the victims. The Director General of Police in his order no. L3-2 5356/02 dated 09-02-2003 implemented the direction of the K.S.H.R.C. and sanction was accorded for the payment of Rs. 15,000/- each to the victims.</td>
</tr>
</tbody>
</table>
### 6.4.2 H.R.M.P. 3101/2000

<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
</tr>
</thead>
</table>
| The Commission was seized of the deplorable condition of the road leading to Chowara Railway Station from Kondotty junction, Ernakulam District. The Commission recommended to the Government to take necessary steps to effect repairs and maintenance of the roads expeditiously. | The Executive Engineer PWD (road) Division, Ernakulam (vide letter No. A - 10- 1535/2001 dated 13-03-2002) reported that the estimate for the work had already been submitted to the Government (vide letter No. C 647365/01/E dated 26/03/2002 of Chief Engineer, PWD, Thiruvananthapuram) and the work was proposed in the budget 2003-2004.  

### 6.4.3 H.R.M.P. 426/2000

<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>The grievance of the petitioner was that her deceased husband was a teacher in Varappuzha, St.Joseph’s Girls’ High School during 1929-1948 and that no family pension was granted to her till date despite requests. On enquiry, the Commission found that she was eligible to get family pension and accordingly recommended to the Government to grant her family pension.</td>
<td>The Deputy Director of Education, Ernakulam [vide letter No. D5 - 9968/2000 dated 23-03-2001] reported that though the application and certificates from the applicant were received in time, there was delay in getting the service particulars of the deceased and that as soon as those particulars were received the department as per order D5-19968/2000 dated 21/03/01 granted family pension to the petitioner Smt. Kunjamma.</td>
</tr>
</tbody>
</table>
### 6.4.4 H.R.M.P. No. 3297/2000

<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendation of the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>The grievance of the petitioner was that dumping all sorts of waste and rubbish in the paddy field at Kutty Road in Cheranallor Panchayat on the bank of the River Periyar was creating environmental as well as water pollution. The Commission called for reports from Secretary, Kochi Corporation and Secretary, Cheranalloor Grama Panchayat. As the allegations were established in the inquiry, the Commission made certain recommendations to Government on 10-01-2003 to redress the grievances of the citizens.</td>
<td>The Government (vide letter No. T 07/G3/03/LSGD, dated 08-01-2003) reported that the Government had given direction to the Secretary, Kochi Corporation, to take speedy steps for finding out methods for the disposal of waste as is the wont in modern metropolitan cities.</td>
</tr>
</tbody>
</table>

### 6.4.5

<table>
<thead>
<tr>
<th>Recommendation of the Commission</th>
<th>Response of the Government to the Recommendations of the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>The prisoners under Narcotic Drugs and Psychotropic Substances Act were not granted parole while other prisoners were given the benefit. Section 452 BB (VI) of the Kerala Prison Rules prohibits granting of paroles to these convicts. The Commission considered the matter in detail in the light of the judgement dated 12-10-2000 of the Supreme Court in Writ Petition No. 169199 with Writ Petition No. 243/99, where the Apex Court held that the prisoners convicted under Narcotic Drugs and Psychotropic Substances Act are at liberty to avail themselves of parole. Accordingly, the Commission allowed the petition and recommended to the Government to grant parole to Narcotic Drugs and Psychotropic Substances Act Prisoners.</td>
<td>Section 452 BB (vi) of the Kerala Prison Rules has to be amended and that the request of the prisoners convicted under Narcotic Drugs and Psychotropic Substances Act would be considered favourably as soon as necessary amendment has been made to Rule 452 BB (vi) of the Prison Rules.28</td>
</tr>
<tr>
<td>Recommendation of the Commission</td>
<td>Response of the Government to the Recommendations of the Commission</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>The petitioner Kaliyamma was the unfortunate mother of a 13 year old boy Amavasi, who, while collecting scraps from the road margins in December 1998 at poovakunnu in Kannur, inadvertently picked up an explosive substance which exploded depriving him of his left palm and right eye. The Commission called for a report from the Revenue Division Officer, Thalassery. The Commission heard the petitioner, perused the report and found that the State was vicariously liable for the incident and recommended to the Government payment of an interim relief of Rs. 50,000/- to the victim.</td>
<td>The Government have accepted the recommendations in toto.</td>
</tr>
</tbody>
</table>

The following chart clearly indicates the position of the K.S.H.R.C. regarding the number of petitions received and number of petitions disposed of.
Table 6.2
Number of Petitions Received and Number of Petitions Disposed of (1999-2003)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of petitions received</th>
<th>Number of petitions disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>1655</td>
<td>1338</td>
</tr>
<tr>
<td>2000</td>
<td>3602</td>
<td>2639</td>
</tr>
<tr>
<td>2001</td>
<td>4013</td>
<td>2087</td>
</tr>
<tr>
<td>2002</td>
<td>4136</td>
<td>2422</td>
</tr>
<tr>
<td>2003 (up to 31st March 2003)</td>
<td>1090</td>
<td>228</td>
</tr>
<tr>
<td>Total</td>
<td>14496</td>
<td>8714</td>
</tr>
</tbody>
</table>

6.5 Recommendations of the Kerala State Human Rights Commission to the Government of Kerala Regarding Road Accidents

The five Human Rights Miscellaneous Petitions regarding road accidents (H.R.M.P.s) were heard together by the ‘Full Bench’ of the K.S.H.R.C. and delivered its order with certain important recommendations to the Government.31

Facts of the case

During the last ten years, 25000 people died in traffic accidents in Kerala. Nearly five-lakh people sustained injuries in accidents during the same period. The right to life is nowhere more in danger than on our roads. The death of a large number of innocent persons on the roads for no fault of their own is a matter of serious human rights concern. When drivers violate safety norms without any concern for the consequences and the authorities that should vigorously enforce the law are negligent in their duties, the right of the citizen to expect safety on the roads is
seriously jeopardized. It is quite enlightening to compare the statistics relating to deaths in traffic accidents in Kerala with the same in developed societies where speeds are faster, traffic heavier and dependence on motor transport more widespread. Roads in developed countries are far safer than those in Kerala. Road safety is one of the primary concerns in developed societies.

Table 6.3

Road Accidents - International Comparison - Fatality Rate

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of vehicles in lakhs</th>
<th>Persons killed in year 2000</th>
<th>Persons killed per lakh vehicles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>119</td>
<td>1824</td>
<td>15</td>
</tr>
<tr>
<td>Belgium</td>
<td>57</td>
<td>1470</td>
<td>26</td>
</tr>
<tr>
<td>France</td>
<td>342</td>
<td>8079</td>
<td>24</td>
</tr>
<tr>
<td>Germany</td>
<td>513</td>
<td>7503</td>
<td>15</td>
</tr>
<tr>
<td>Italy</td>
<td>378</td>
<td>6410</td>
<td>17</td>
</tr>
<tr>
<td>Japan</td>
<td>786</td>
<td>10403</td>
<td>13</td>
</tr>
<tr>
<td>Holland</td>
<td>79</td>
<td>1082</td>
<td>14</td>
</tr>
<tr>
<td>Portugal</td>
<td>74</td>
<td>1860</td>
<td>25</td>
</tr>
<tr>
<td>Spain</td>
<td>233</td>
<td>5776</td>
<td>25</td>
</tr>
<tr>
<td>Sweden</td>
<td>47</td>
<td>591</td>
<td>12</td>
</tr>
<tr>
<td>Switzerland</td>
<td>46</td>
<td>592</td>
<td>13</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>295</td>
<td>3580</td>
<td>12</td>
</tr>
<tr>
<td>United States of America</td>
<td>2170</td>
<td>41821</td>
<td>19</td>
</tr>
<tr>
<td>Kerala</td>
<td>19</td>
<td>2590</td>
<td>136</td>
</tr>
</tbody>
</table>

The fatality rate in Kerala is seven times the rate in the United States of America and eleven times the rate in the United Kingdom.
The above-mentioned five Human Rights Miscellaneous Petitions are as follows:

a) On a perusal of the petition in H.R.M.P. No. 1046/99 regarding the alarming rate of motor accidents in the State, reports were called for from the Superintendents of Police of all districts. Reports were obtained from Superintendents of Police of Kannur, Kochi, Palakkad, Kozhikode and Pathanamthitta. In their reports the Superintendents of Police have given details with regard to the numerous fatal and non-fatal accidents that occurred in the Districts.

b) In H.R.M.P. No. 571/2000 petitioner contended that no effective action had been taken by the authorities concerned to prevent increasing road accidents in the State and as a result, thousands of precious human lives were lost.

The report from the Principal Secretary to Government, Transport Department was obtained on the matter. In the report it was admitted that with the introduction of the Motor Vehicles Act, 1988 the number of transport vehicles had increased tremendously owing to the liberal policy of granting permits. It was stated that this could not be taken as the sole reason for increase in road accidents; that violation of traffic rules, rash and negligent driving, overloading, aged vehicles, driving of vehicles under the influence of alcoholic beverages, lack of good and sufficient roads and the shortage of required personnel for enforcement were the factors that contributed to the increase in road accidents.

c) In H.R.M.P. 1603/2000 it is stated that a driving licence has become a licence for killing any number of people without any punishment; that the authorities concerned do not bestow proper attention and care necessary to alleviate the misery of the pedestrians; and that traffic rules are more observed in their breach than in their
compliance. A report was obtained from the Regional Transport Officer, Ernakulam (respondent). The report recommends necessary amendments in the Act to enhance punishments.

d) In H.R.M.P. 2768/2000 the contention of the petitioner is that it may not be fair to accuse the drivers alone for the accidents as several other factors contribute to the occurrence of the road accidents. The petition states that the signal system followed in Kerala is absolutely wrong; that there is no proper signal system in towns like Thiruvananthapuram, Ernakulam, Kozhikode, Kollam, Thrissur and Palakkad, that even if there is a signal the drivers are unable to see it as the signal system is often fully covered with advertisements of companies and institutions and also by political parties, who use the signal system for pasting their posters.

e) In H.R.M.P. 3178/2000 it is stated that majority of the accidents involve stage carriers and that it is rather shameful to note that during the past few years hundreds of lives were sacrificed in road accidents in Kerala. In the petition it is averred that the main reason for accidents is over speeding by heavy vehicles in general and private stage carriers in particular and that there is no effective system to control the rash and negligent driving of the vehicles. In the study report it is stated that intoxicated drivers of vehicles have contributed to several accidents. The report mentions that the penalty for drunken driving has remained static, that most of the drivers are not trained in a scientific way by any recognised driving school and wrong practices followed by one driver are passed on to the new drivers. The above study shows that the number of road accidents in the State has been growing rapidly in the past. 8590 bus accidents including those involving mini buses and mini lorries were reported in the State in 1994. This accounted for 24.45% of the total number of accidents that year.
The study noted that 90% of the bus accidents were caused by the fault of the drivers whereas mechanical causes such as brake failure, tyre burst, fire, etc., were reported in only 2% of the cases.

Traffic accident accounts for as much as 35 to 40% of the total crimes reported annually in Kerala. About 2700 lives are lost in motor accidents every year. Similarly, about 50000 people are injured in accidents, leaving a number of them physically crippled.

Table 6.4

The Figures of Accidents and Fatalities in Kerala for Some Recent Years are Given Below

<table>
<thead>
<tr>
<th>Year</th>
<th>Accidents</th>
<th>Injured</th>
<th>Dead</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994-95</td>
<td>37980</td>
<td>53400</td>
<td>2708</td>
</tr>
<tr>
<td>1995-96</td>
<td>35731</td>
<td>51780</td>
<td>2780</td>
</tr>
<tr>
<td>1997-98</td>
<td>33820</td>
<td>47668</td>
<td>2668</td>
</tr>
<tr>
<td>1998-99</td>
<td>33296</td>
<td>46397</td>
<td>2506</td>
</tr>
<tr>
<td>1999-00</td>
<td>34387</td>
<td>47860</td>
<td>2590</td>
</tr>
<tr>
<td>2000-01</td>
<td>37252</td>
<td>48967</td>
<td>2730</td>
</tr>
</tbody>
</table>

A casual drive through any road in Kerala for a length of one or two kilometres will show that practically every stretch of road is used for at least eight or nine of the following purposes, some authorised, some unauthorised - but all posing danger but tolerated:

1. As storage area for house construction material both by those who build as well as those who sell. One can see bricks, metal, timber, steel, sand, marble, stones, granite etc. unloaded and stored for long periods of time.
2. As storage area for road construction and repair material and for water pipes, telephone and electricity poles and material belonging to K.S.E.B., telephone and water authority.

3. As a route for telephone cable or lines or for water pipeline or for sewage or for electric supply or for channel Television cables. Many of the telephone poles, junction boxes, K.S.E.B. poles of various sizes, stay wires, transformers and lines are put in such a way as to obstruct pedestrians, cyclists and even motor traffic.

4. As a waste and garbage dumping area by municipal authorities as well as by households. The stench emanating from these is dreadful.

5. As an area for commercial activity for open air selling and purchasing fish, clothes, and trinkets and for setting up 'pettikkada,' milk booths, meat shops and pavement shops.

6. As an area for erecting various semi-permanent sheds or structures for cenotaphs, trade union/political party/religious establishments.

7. As a vehicle repair area and as a garage near workshops.

8. As an advertising area by erecting signboards, hoardings all supported by poles fixed on the road.

9. As a meeting and procession and rally area.

10. As an area for erecting arches, illuminated signs and conducting firework displays.

11. As a grazing area for cattle.

12. As an area for conducting cattle fairs.

13. As a playing area for children.

14. As an area for drying agricultural produce like hay or rice or pepper.

15. As a bathing, cleaning and toilet area, where there are water taps.

16. As taxi-auto-stands, bus stands and bus stops located at congested points, without a separate bay or enclave away from the traffic stream.
17. As an area for conducting morning and evening exercise.

18. As unauthorized parking areas. People park their vehicles everywhere. Actually parking should be done only where parking is permitted.

19. As an area for establishing check posts and tollbooths. It is only rarely that a separate holding area away from the road is earmarked and developed for check posts and toll collections.

20. As a storage and holding area for seized property, particularly those of a large and heavy nature. The Police themselves do this.

6.5.1 Recommendations and Guidelines for Action by the K.S.H.R.C.

The following steps, which require no new legislation or policy decision, are suggested to be implemented by the Police, Motor Vehicle and Public Works Departments, in consultation with the Government and local bodies for the purpose of ensuring reduction of accidents.

1. Police authorities should immediately identify those stretches of roads in each district from where more fatal motor accident cases have been reported during the last 5 years.

2. Intensive and daily checking of traffic has to be launched all over the State on National Highways, State Highways and major roads by the Police authorities, in areas which have been identified as highly prone to fatal motor accidents. Special attention in this regard should be paid towards:
   a) Over speeding and violating speed limits
   b) Driving without proper lights
   c) Non-dimming of head lights
   d) Overtaking on the wrong side and at bends and at places where overtaking is prohibited
   e) Failure to give signals before turning or stopping
   f) Parking vehicles in dangerous fashion
g) Unsafe projecting loads, particularly steel or timber
h) Overloading by goods vehicles
i) Not having proper lights, tyres, brakes, wipers
j) Jumping stop signals/red lights and not taking proper care at junctions
k) Using vehicle in unsafe condition with defective mechanical equipments
l) Driving without license
m) Drunken driving
n) Playing of loud music while vehicle is in motion
o) Driver using mobile phone while vehicles is in motion

3. Rigorous checking of stage carriage should be done to ensure that they strictly adhere to their timing schedule.

4. The Police Department should take action in fit and deserving cases under Section 19 of the Motor Vehicle Act and Rule 21 of the Central Motor Vehicle Rules 1989 for disqualification of driving licensees and under Section 53 of Motor Vehicles Act read with rule 104 of Kerala Motor Vehicles for suspension of registration of Motor Vehicles. Similar action should be taken by the Motor Vehicles Department also in deserving cases by involving powers under the Motor Vehicles Act.

5. 24-hour Traffic control booths are to be set up at the rate of one for every 30 km stretch on the National Highways.

6. Every district should be provided with one speed checking radar per 10000 vehicles registered in the District and one breath-analyser for every 10000 driving licenses issued in the district.

7. Lights and reflectors on cycles and carts must be insisted upon. Initially this should be rigorously enforced on national highways, then on State highways and then on other roads.

8. The Police should encourage pedestrians to walk on the right hand side of the road.
9. The Police with the help of the PWD/Municipal/Corporation authorities should immediately evict encroachments on all NH and SH road margins and footpaths which obstruct safe movement of pedestrians, children and cyclists.

10. All trees and advertisement boards which obstruct clear vision on the NH and other roads should immediately be removed.

11. A large number of bus stops, taxi/auto rickshaw stands etc. at busy junctions on the National/State Highways are situated dangerously as they are located at junctions or on very narrow stretches of road. They should be moved to safer locations.

12. Telephone/electricity poles should be relocated beyond one metre from the edge of the tarred surface of roads.

13. Wherever width permits, medians may be constructed to physically separate opposing streams of traffic. Adequate number of reflectors should be put up on road dividers and traffic islands.

14. PWD should put up humps/rumble strips with proper markings and advance warning signboards on small roads.

15. Similarly, punitive action should be taken against those erecting stages/ pandals/ arches or those disfiguring signboards on National Highways and State Highways.

16. The Regional Transport Authority and the Kerala State Road Transport Corporation should immediately revise the time schedule of all stage carriages keeping in mind not only the maximum speed of 60 km, but also the prescribed speed limits in municipal areas, built-up areas, ghat roads, educational institutions etc.

17. Motor vehicle department should initiate immediate action to ensure that the testing standards for issue of driving licenses are very strict and rigid.
18. Motor vehicle department should ensure that the mechanical condition of vehicles, particularly vehicles used as stage carriages are good.

The following, which require new legislation/ policy decision/ detailed discussion, are brought to the attention of the Government for taking urgent follow-up action to examine the suggestions and for detailed consultations.

1. It is suggested that a State Traffic Police Training Institute may be started.

2. Traffic Police Stations/traffic units with sufficient strength may immediately be sanctioned to all Districts.

3. Traffic wardens could be selected for less important places to assist the Police and they could be deemed special Police Officers for regulating traffic.

4. Separate path may be constructed for cycles, two-wheelers, carts etc. whenever four-lane traffic is planned on the National Highway.

5. Speed governors may immediately be made compulsory in all Kerala State Road Transport Corporation and heavy public transport carriages.

6. Fine collected by the Police by way of compounding motor vehicle offences may be placed in the Road safety Fund of the District for making immediate traffic improvements like road engineering measures, traffic signboards and better equipping the Traffic Police.

7. The existing Motor Vehicles Act rules and notifications have to be made more stringent particularly in the matter of punishments. The fines prescribed under the Act are to be reviewed urgently particularly in view of inflation and the resultant fall in real value of money.

a) As per the existing Motor Vehicles Act fine amounts are very meagre when compared to the real value of money.
b) Five years of accident-free driving experience should be made a mandatory condition for obtaining a heavy transport licence and under no circumstance should it be issued to a person below 30 years of age.

c) Licence to drive a public transport vehicle may be issued only after obtaining a Police verification report regarding the conduct and character of the driver.

d) All licences for driving public transport vehicles should be reviewed every 10 years taking into account the accident-record of the driver.

e) An entry relating to every accident caused by a driver should be made in his driving licence irrespective of whether he has been found guilty.

f) Licence of a driver causing fatal motor accident may be deemed suspended for a period of 30 days from the date of occurrence.

g) Re-test of the accused driver may be conducted in all death cases by a Board which may be authorised to cancel the driving licence if the driver fails in the test.

h) Similarly, Police verification certificate may be made compulsory for renewal of licences to drive public transport vehicles.

i) Annual medical check-up of drivers of public transport vehicles should be made compulsory.

j) Record of involvement of a person (as driver) in accidents and traffic offences may be maintained in such form as may be prescribed by the State Government.

k) Many offences carry enhanced punishments on second offence but the manner of proving first punishment is not clarified and the records to be maintained for this are not instituted.
1) The Regional Transport Authority of every District should be made competent to fix the limit for the total number of permits in any sector or route if need arises.

m) The total number of auto rickshaw and taxi permits in every town/area of the District may be specified and restricted.


6.6 Recommendation of the Kerala State Human Rights Commission to the Government of Kerala Regarding Corruption

6.6.1 H.R.M.P. No. 2660/2000

In this H.R.M.P, the petitioner Sri. A.K. Abdul Nawab submitted a petition that the Commission should take necessary steps to tackle the problem of increasing corruption in society. Section 12 of the Protection of Human Rights Act, 1993 defines the functions of the Human Rights Commission. Section 29 states that Sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission, except clause (f) of Section 12. Under Section 12 (d) the Human Rights Commission is duty bound to review the safeguards provided for the protection of human rights under the Constitution and Statutes and recommend measures for their effective implementation and under Section 12 (e) the Commission is to review factors, which inhibit the enjoyment of human rights and recommend appropriate remedial measures. The Kerala State Human Rights Commission, therefore, finds it necessary to examine the effectiveness of the existing legislation in checking human rights abuse by public servants and their cohorts, who indulge in and connive at acts of corruption.
1. **The Plea of the Petitioner:** The petitioner, Sri. A.K.Abdul Nawab, moved the Commission with the request that the Commission should take necessary steps to tackle the problem of increasing corruption in society. In his petition, he points out several areas where reform is required. He has also suggested that the present Prevention of Corruption Act should be elaborately modified and amended. He has not made any specific allegation against any particular officer. Instead he mentions the prevailing corruption as a general problem, which requires corrective intervention.

2. **Checking Corruption - A Human Rights Concern:** Every citizen has the right to expect that the services of public servants be rendered with efficiency, integrity and impartiality. Decisions must be made and actions taken without fear or favour and in accordance with the principle that all are equal before the law. Corruption threatens the rule of law. It assails the very foundations of the edifice of democratic governance and respect for human rights. In a corruption ridden system, the man with the means ensure that he himself and the public servant jointly profit from the fruits of corruption and ride roughshod over the law-abiding citizen who is unwilling to pay up. On the other hand, due entitlement is denied to a poor man because of his inability to grease someone's palm. This is true for an honest man who does not budge from his principles and who refuses to be an accomplice in corruption. Social justice becomes a chimera under such circumstances. Corruption endangers good governance and can lead to anarchy and social insecurity. Economic development itself is hindered.
The honest entrepreneur fails and the businessman who is a past master in the art of evasion and fraud flourishes. Ultimately, unbridled dishonesty corrupts both the ruler and the ruled and comes to command a certain degree of silent social tolerance and passive universal acceptability. The road to power and high public office would be paved by the gains of wheeler dealing. Once this happens the nation and society will fall into a quagmire from which there is no escape. The corrupt will govern the honest; Honesty will no longer be the best policy. Ultimately the right to live with dignity, equality and conscience is endangered by the rampant growth of corruption. Checking, preventing, eliminating and punishing acts of corruption thus become an abiding human rights concern.

3. Corruption - a Collusive Enterprise: Corruption has become a matter of international concern. Trans-national agencies, both governmental and non-governmental, have been giving serious attention to the problems created by corruption in national economies and international business. Organisations like Transparency International have conducted studies on the prevalence of corruption in different countries. Unfortunately India is perceived as one of the most corrupt countries in the world. Corruption is widespread because in the majority of instances both the corruptor and the corrupted benefit. In most cases, the private person benefits in an equal or higher degree than the public servant. In the few cases where the man who gives the money is an unwilling giver, he may not have sufficient motivation to complain. This may be either because the amount involved is too trivial or because the fear of
reprisals by the public servant and his colleagues is of great magnitude or because he is too lazy to take the trouble of complaining formally with proper follow-up action. The Central Vigilance Commissioner had once observed that corruption "is either a case of financial rape or financial adultery. Financial rape is where an Inspector visiting a factory can demand his cut for giving the requisite clearance. The industrialist at that time is a victim. Wherever there are cases of financial rape, probably arranging traps will be easy. Financial adultery is where the public servant and the citizen collude to cheat the system. It could be the Chairman of a bank and a corrupt industrialist or it could be a corrupt minister or a corrupt secretary or a corrupt Managing Director of a public sector colluding." The law on corruption and the procedures prescribed for dealing with the crimes of corruption must take due note of these facts and due provisions for it.

4. **Efficacy of the Present Law:** The Prevention of Corruption Act, 1988, is the primary law dealing with the corruption of public servants. Stringent punishments are prescribed therein for proven offences. However, neither this Act nor the former Act of 1947 has been successful in tackling corruption. The scope and amplitude are of supreme importance. The number of public servants is very large. It is a matter of common experience that corruption in its myriad forms is a continuous daily occurrence in several offices, agencies, and departments. It is reasonable to presume that hundreds of crimes defined in the Prevention of Corruption Act do occur every day in Kerala.
Recommendations made by the Kerala State Human Rights Commission to the State Government in H.R.M.P.No. 2660 of 2002

i. Amend Prevention of Corruption Act to enable confiscation and attachment of properties acquired through or derived from corruption

ii. Levy of interest on fine amounts and deposit of fine mandatory before appeal

iii. Court to order preliminary enquiry, its expeditious completion and mandatory registration of case if offence is prima facie established

iv. Court to prescribe time limits for investigation and to order further investigation

v. Speedy procedure for sanction

vi. Single trial for series of offences spread over many years

vii. Action in respect of property even if public servant is dead or if property has been transferred to relatives or if loss has been sustained to Government

viii. Imposition of bail conditions on transfer of assets and on foreign travel

ix. Government to include functionaries of societies within the ambit of public servants

x. Recording of signed statements by witnesses examined by anticorruption investigation agency

xi. Filing of written statement by the accused after the framing of charges mandatory

xii. Compensation to victims of corruption

xiii. Government to insist on public servants to report on acts of corruption and secure protection of such public servants from harassment

xiv. Protection to honest officials from false complaints

xv. Strengthening of the investigative machinery
6.7 Summary of Personal Interviews

The acting Chairperson of the K.S.H.R.C., Justice V.P. Mohan Kumar and the members Justice A. Lekshmikutty and Professor S. Varghese unanimously acknowledged during the interview the valuable services being rendered by the K.S.H.R.C. in curbing human rights violation and in creating a sense of human rights among the people of Kerala. Since the procedure of the K.S.H.R.C. is simple and transparent and that no court fees are to be paid by the petitioner, people’s faith in the Commission is gradually increasing. A petitioner is free to approach the Commission directly without the help of a legal practitioner. The former Chairperson Justice M.M. Pareed Pillay, held the same view. The acting Chairperson strongly disagreed with the allegation of some critics that K.S.H.R.C. is an impotent body. He pointed out that the Government implements many of the important recommendations of the Commission regarding human rights violations.

The Secretary to the Commission, Olina S. Thampy, opined that though the Commission is rendering valuable services for the protection of human rights in Kerala, it has certain inherent weaknesses. T.K. Wilson, former member of the K.S.H.R.C. emphasised the need for effecting amendments in the Protection of Human Rights Act, 1993. Prof. S. Varghese, member of the K.S.H.R.C. pointed out the necessity of effecting changes in the definition of “human rights” expressed in the Act. Dr. S. Balaraman remarked that the Commission might be given the power to execute its orders. He also stressed the need for amending the relevant provision of the Act to enable the appointment of a retired High Court or Supreme Court judge as Chairperson of the Commission. Justice V.P. Mohankumar is of the opinion that the non-judicial member
of the Commission shall be a person with special legal qualifications. Justice A. Lekshmikutty expressed the view that majority of petitions received by the Commission were against human rights violation by the Police and other State agencies. All the present and former members of the Commission agreed with the statement. The former acting Chairperson Dr. Balaraman suggested that the Government should take adequate measures for the speedy execution of the orders and recommendations of the Commission. T.K. Wilson also held the same view. Prof. S. Varghese has admitted that a good number of cases are pending in the Commission, owing to camp sitting, jail and hospital visits and site inspections. The former Secretary to the Commission, C.P. Jayachandran, admitted that the K.S.H.R.C. is overburdened with work. Olina S. Thampy, Secretary to the Commission, pointed out the paucity of staff in the K.S.H.R.C.

The acting Chairperson, Mr. Justice V.P. Mohan Kumar, strongly denied the allegation of any political or administrative interference in the activities of the Commission. He further added that the Commission was functioning with the maximum degree of independence and impartiality. The present members of the Commission including the acting Chairperson do not agree with the proposal for enhancing the membership of the K.S.H.R.C. from three to five and of constituting two additional benches at Kochi and Kozhikode for the convenience of the general public. But the former Chairperson, Justice Pareed Pillay, expressed his opinion in favour of the proposal. The power of the Commission under Section 18(2) to approach the High Court or the Supreme Court for the enforcement of its orders has not been applied so far. Prof. S. Varghese has clarified that invoking this provision as and
when necessary is under the active consideration the K.S.H.R.C. The Secretary to the Commission, Olina S. Thampy, and Dr. S. Balaraman are strongly in favour of notifying a *Court of Sessions* for each District as a human rights court for the purpose the providing for speedy trial of offences arising out of human rights violations. All the present and former members of the K.S.H.R.C. unanimously stressed the need for imparting human rights education to all civil servants including the police. It is of utmost importance that human rights awareness is provided to the general public through conferences and seminars with the co-operation of Non-Governmental Organisations.

6.8 Conclusion

It is gratifying indeed that the Kerala State Human Rights Commission that began functioning in 1998 has done a commendable job during the short span of time. It has succeeded in no mean measure in instilling a deep awareness of human rights in the general public. That the marginalized sections of the population of the state fall back upon the Commission for the redress of their grievances is a positive development indeed, which speaks volumes for the benefits and effectiveness of the Commission. Hopefully, the functioning of the Commission will go a long way in fulfilling the promises enshrined in the eloquent preamble of our Republican Constitution.
References and Notes

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8 Annual Report: 107 & 128
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