

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

Research Response Number: IND35202
Country: India
Date: 18 August 2009

Keywords: India – Kerala – Trivandrum – Elections – Valiyavila – Congress Party – Police – State protection – Political violence

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Questions

- 1. Was the INC in government or in opposition in Kerala on 26 May 1991? Did the situation change as a result of the postponed general election held the following month?**
- 2. Apart from the general elections for the Kerala Assembly in May 2006, what other elections (e.g. national elections, state by-elections, local elections etc) have been held in and around Trivandrum since 1 January 2001? What were the outcomes?**
- 3. Deleted.**
- 4. What are the names of the state and federal constituencies covering the Valiaveli area of Trivandrum?**
- 5. Is there any evidence to suggest that the Kerala police would not investigate instances of attacks on INC members?**

RESPONSE

Note: According to the website of the Government of Kerala, Trivandrum is the anglicised version of the name of the capital of the state of Kerala, Thiruvananthapuram; sources consulted for this response appear to use the names interchangeably ('Thiruvananthapuram' (undated), Official website of Kerala.gov.in <http://www.kerala.gov.in/knowkerala/tvm.htm> – Accessed 10 August 2009 – Attachment 1).

- 1. Was the INC in government or in opposition in Kerala on 26 May 1991? Did the situation change as a result of the postponed general election held the following month?**

Information sourced from the Government of Kerala's website states that the Indian National Congress (INC, or Congress) was part of the opposition United Democratic Front (UDF) coalition after the March 1987 Kerala Legislative Assembly elections. The INC would appear

to have been in opposition on 26 May 1991, as the UDF took power in Kerala after the victory of the UDF in the postponed elections of 12 June 1991.

The Communist Party of India (Marxist) (CPI-M)-led Left Democratic Front (LDF) coalition won the March 1987 Kerala Legislative Assembly elections, winning 78 seats to the 60 won by the INC-led UDF. At the 1987 election, the LDF consisted of: the CPI-M, the Communist Party of India (CPI), the Revolutionary Socialist Party (RSP), Indian Congress (Socialist) (IC(S)), the Janatha Party and Lok Dal; while the UDF was comprised of: Congress, the Indian Union Muslim League (IUML – also known as the Muslim League Kerala State Committee (MLKSC) in Kerala), Kerala Congress (Joseph) (KC(J)), Kerala Congress (Mani) (KC(M)), the Socialist Republican Party (S) (SRP(S)), the National Democratic Party (P) (NDP(P)) and the Revolutionary Socialist Party (S) (RSP(S)). The next Assembly elections were due to be held on 23 May 1991, but were postponed to 12 June 1991 due to the assassination of Rajiv Gandhi on 21 May 1991. The postponed election was won by the UDF (this time comprised of Congress, IUML, KC(M), the Kerala Congress (Balakrishna Pillai) (KC(B)), the Communist Marxist Party (CMP), the National Democratic Party (NDP) and associated independents) with 89 seats, casting the LDF into opposition ('Political Background of the State of Kerala' (undated), Kerala State Government Website <http://www.kerala.gov.in/knowkerala/political.htm> – Accessed 25 August 2006 – Attachment 2).

2. Apart from the general elections for the Kerala Assembly in May 2006, what other elections (e.g. national elections, state by-elections, local elections etc) have been held in and around Trivendrum since 1 January 2001? What were the outcomes?

Note: A February 2008 report from *The Hindu* notes that a redistribution of state and federal constituencies has taken place in Thiruvananthapuram district. The report also notes that “the LDF is holding its sway over a majority of the local bodies, including Thiruvananthapuram Corporation...the district panchayat, 12 block and 78 grama panchayats”; and that the Lok Sabha seat of “Thiruvananthapuram has been shifting its preferences between the UDF and the LDF” in recent elections. The report concludes that “the Congress and especially the CPI(M), will remain unaffected” by the redistribution”:

The Kuldip Singh-led commission took care to retain intact all local self-government institutions which formed the basic unit of the delimitation exercise. But by redrawing the boundaries, a new political map has now emerged here.

The commission carved out a new Lok Sabha constituency, Attingal, in place of Chirayinkeezhu. Five new Assembly constituencies – Chirayinkeezhu and Vattiyoorkavu, both reserved for Scheduled Castes, Thiruvananthapuram, Aruvikkara and Kattakada – have come into being.

...At present, the LDF is holding its sway over a majority of the local bodies, including Thiruvananthapuram Corporation, Varkala, Attingal, Nedumangad and Neyyatinkara municipalities, the district panchayat, 12 block and 78 grama panchayats. Following the delimitation exercise, the LDF strongholds of Kazhakuttam and Sreekaryam panchayats have been included in the Thiruvananthapuram Lok Sabha segment, while Varkala, Attingal and Nedumangad municipalities were added to the Attingal Lok Sabha constituency.

The existing Chirayinkeezhu segment had been returning LDF candidates, especially Varkala Radhakrishnan, during the last two elections. Thiruvananthapuram has been shifting its preferences between the UDF and the LDF, the latest winners being Pannian Ravindran of the

LDF. If the control over local bodies is an indicator, the LDF enjoys a clear edge over the UDF.

...The Nair and Nadar communities are the major forces to be reckoned with in Thiruvananthapuram. These, combined with the apolitical middle class voters, constitute a decisive factor in the elections.

The delimited Thiruvananthapuram constituency comprises the Kazhakuttam, Vattiyoorkavu (SC), Thiruvananthapuram, Nemom, Parassala, Kovalam and Neyyatinkara Assembly segments.

...The newly-formed Thiruvananthapuram Assembly segment covers 26 Corporation wards and Vattiyoorkavu, a reserved constituency, 18 corporation wards and Kudapanakunnu and Vattiyoorkavu grama panchayats.

...Thiruvananthapuram North, East, West and Aryanad now cease to exist. Many prominent LDF and UDF leaders will lose their pocket boroughs in the process. Congress leader G. Karthikeyan, who was returned from Aryanad, Law Minister M. Vijayakumar who was elected from Thiruvananthapuram North, former Mayor V. Sivankutty who won from Thiruvananthapuram East, and the Kerala Congress (J) which had been retaining Thiruvananthapuram East will have to explore other options.

...While drastic changes in the combination of panchayats at the grassroots level will affect the fortunes of the UDF and LDF partners, the major parties, the Congress and especially the CPI(M), will remain unaffected. Some of the allies in both fronts will be unable to stake their claims to more seats in future (Nair, N.J. 2008, 'A new political map for Thiruvananthapuram: Delimitation impact', *The Hindu*, 4 February <http://www.thehindu.com/2008/02/04/stories/2008020455660400.htm> – Accessed 10 August 2009 – Attachment 3).

Lok Sabha elections

Lok Sabha (federal) elections took place in 2004 and 2009. A May 2004 report on the Lok Sabha elections in Kerala, sourced from *Frontline* magazine, notes that the "LDF won an unprecedented 18 of the 20 Lok Sabha seats, most of them with margins of over 50,000 votes". The constituency of Thiruvananthapuram was won by the CPI candidate P.K. Vasudevan Nair; the *Frontline* report also notes the increasing popularity of the right-wing Hindu Bharatiya Janata Party (BJP) at this election, particularly around Thiruvananthapuram:

Compared to the results in the 1999 elections, among the constituencies that switched sides to the LDF were Thiruvananthapuram, Adoor, Mavelikkara and Alappuzha in south Kerala, Ernakulam, Mukundapuram and Thrissur in central Kerala and Manjeri and Kozhikode in the north. The LDF won an unprecedented 18 of the 20 Lok Sabha seats, most of them with margins of over 50,000 votes. The CPI(M) won all the 13 seats it contested, eight of them with high margins of between 60,000 and 1.2 lakh votes. Its ally, the Communist Party of India, won three of the four seats it contested. Victorious CPI candidates included former Chief Minister P.K. Vasudevan Nair, who won with 37.45 per cent of the votes polled in a tough three-cornered fight in the capital Thiruvananthapuram against the Congress(I)'s Sivakumar (30.39 per cent of the votes) and the BJP candidate, Union Minister of State O. Rajagopal (who won nearly 2.28 lakh votes, a never-before 29.86 per cent in any constituency in Kerala by the BJP).

...The BJP has continued to exhibit the trend of incremental increase in its vote share in Kerala, winning over 18.23 lakh votes in the State and coming first in the previously UDF-held Assembly strongholds of Thiruvananthapuram East, Thiruvananthapuram North, Pala

and Kanjirappally and the LDF-held Poonjar constituency in Muvattupuzha. O. Rajagopal won over 70,000 votes more than he did in 1999 in Thiruvananthapuram and lost to the second place Congress(I) candidate by just 3,402 votes (Krishnakumar, R. 2004, 'A red-wash in the South', *Frontline*, vol.21: no.11, 22 May <http://www.hinduonnet.com/fline/fl2111/stories/20040604006302600.htm> – Accessed 3 March 2009 – Attachment 4).

A full report on the 2004 Lok Sabha election results in Kerala, sourced from the website of the Government of Kerala, states that a by-election was required for the seat of "Thiruvananthapuram-20" due to the death the elected CPI candidate, P.K. Vasudevan Nair. The by-election was held in November 2005, and was won by the Communist Party of India candidate Pannyan Raveendran ('Lok Sabha Elections 2004 – Kerala' (undated), Government of Kerala website http://www.kerala.gov.in/ele_rep/loksabha.pdf – Accessed 11 August 2009 – Attachment 5).

In the 2009 Lok Sabha elections, the seat of Thiruvananthapuram was won by Shashi Tharoor of the INC. Overall, the INC won 13 seats in Kerala, the CPI(M) 4, Muslim League Kerala State Committee 2, and Kerala Congress (M) one (Election Commission of India 2009, 'List of Winning Candidates', ECI website <http://eci.nic.in/press/List%20of%20Winning%20Candidates%20Final%20for%2016th%20May.pdf> – Accessed 23 July 2009 – Attachment 6).

A full list of all 2009 Lok Sabha election candidates and results in the seat of Thiruvananthapuram is provided as Attachment 7 ('Indian Parliament Elections Results 2009 – Kerala State' (undated), Kerala Assembly Election Database http://keralaassembly.org/lok/sabha/poll_results.php4?year=2009&no=20 – Accessed 17 August 2009 – Attachment 7).

State Assembly elections

Other than the elections of 2006, the only State Assembly election to have taken place in Kerala since January 2001 was in May 2001. The Election Commission of India's 2001 report on the Legislative Assembly Election in Kerala provides results for assembly constituencies in and around Trivandrum; five seats were won by Congress, one each by Janata Dal (Secular) and the Communist-Marxist Party, and one seat went to an independent candidate:

133. KAZHAKUTTAM	ADV. M.A.VAHID	M	IND
134. TRIVANDRUM NORTH	ADV K.MOHANKUMAR	M	INC
135. TRIVANDRUM WEST	MV RAGHAVAN	M	CMPKSC
136. TRIVANDRUM EAST	B. VIJAYAKUMAR	M	INC
137. NEMOM	N.SAKTHAN	M	INC
138. KOVALAM	DR.A. NEELALOHITHADASAN NADAR	M	JD(S)
139. NEYYATTINKARA	THAMPANOR RAVI	M	INC
140. PARASSALA	N. SUNDARAN NADAR	M	INC

(Election Commission of India 2001, *Key Highlights of General Election, 2001, to the Legislative Assembly of Kerala*, ECI website http://eci.nic.in/SR_KeyHighLights/SE_2001/StatRep_KL_2001.pdf – Accessed 11 August 2009 – Attachment 8).

A full list of candidates for these seats is available in a report on the 2001 Kerala Assembly elections sourced from the website of the Government of Kerala; this report is provided as Attachment 9 ('2001 State Assembly Election Results' (undated), Government of Kerala website http://www.kerala.gov.in/ele_rep/2001.pdf – Accessed 11 August 2009 – Attachment 9).

Local elections

According to the website of the Government of Kerala, the “Thiruvananthapuram district includes 84 grama panchayats, 12 block panchayats, one district panchayat, four municipalities and one corporation” ('Thiruvananthapuram' (undated), Official website of Kerala.gov.in <http://www.kerala.gov.in/knowkerala/tvm.htm> – Accessed 10 August 2009 – Attachment 1).

In September 2004, a by-election for the grama panchayat of Vizhinjam, in the Thiruvananthapuram district, was won by the LDF ('LDF wins majority of seats in civic bypolls' 2004, *The Hindu*, 30 September <http://www.hindu.com/2004/09/30/stories/2004093011120400.htm> – Accessed 4 March 2009 – Attachment 10).

In municipal elections in September 2005, the only local poll held in Thiruvananthapuram between 2001 and the present, the LDF won 73 of 86 seats in the Thiruvananthapuram Corporation, in what an article in *Frontline* magazine described as the LDF's “near-total victory in Kerala's local body elections”:

Now, seven months before the next Assembly elections, the Opposition coalition has scored a near-total electoral victory at the grassroots, winning over 700 of 998 gram panchayats, 110 of 152 block panchayats, 11 of 14 district panchayats, 34 of 52 municipalities and all five city corporations (some results were yet to be announced at the time of writing).

Kerala, which ushered in a Congress-led government five years ago by electing the United Democratic Front (UDF) in 100 out of 140 Assembly seats, seems to have thoroughly repainted the signs, heralding a probable return of the LDF to power through the Assembly elections due in May 2006.

Since the local bodies elections in 2000, the LDF, which won only nine district panchayats, has now raised its tally. In all the 11 districts that supported the Left, the UDF won less than 10 seats. The LDF won with record majority in all the five city corporations in Kerala, including the Thrissur Corporation which was considered a UDF stronghold. In Thiruvananthapuram, another corporation where the UDF got a bad deal, the LDF-Democratic Indira Congress (Karunakaran) alliance won 73 of the 86 seats. Of these, Karunakaran's new party won eight seats, the same as the Congress. The UDF coalition as a whole was able to get only 10 seats. The rest were won by independent candidates, one of them with the support of the BJP.

It was certain that LDF presidents would rule in at least 65 per cent of the block panchayats and municipalities. While the LDF had won only 540 gram panchayats in 2000, it now emerged victorious in over 700. The UDF won a mere 224, the BJP won five and the election failed to provide a clear winner in 115 gram panchayats. The sweep of the LDF victory has been total this time, covering both rural and urban areas (Krishnakumar, R. 2005, 'Kerala's choice', *Frontline*, Volume 22, Issue 21, 8 October, <http://www.flonnet.com/fl2221/stories/20051021003603700.htm> – Accessed 11 April 2006 – Attachment 11).

Details of seats won by parties in the 2005 local government elections at a district and municipality level are provided in an overview produced by the Kerala State Election Commission; this is supplied as Attachment 12 (Kerala State Election Commission (undated), 'General Election Results at a Glance', State Election Commission website <http://www.electionker.org/glance.htm> – Accessed 17 August 2009 – Attachment 12).

A highly detailed seat-by-seat breakdown of candidates and votes in the 2005 local government elections, also produced by the Kerala State Election Commission, is provided as Attachment 13 ('Detailed Report on District wise Local Body Election Results' (undated), State Election Commission website <http://www.electionker.org/A05.pdf> – Accessed 17 August 2009 – Attachment 13).

Other by-elections in Kerala

Reports were located of other by-elections held in Kerala between 2006 and 2008, none of which took place in or around Thiruvananthapuram.

A by-election was held in December 2006 for the legislative assembly seat of Thiruvambadi in the northern Kerala district of Kozhikode, which was won by a slender margin by the LDF candidate from the CPI(M), George M. Thomas. The defeated UDF candidate in this by-election was from the IUML; the election took place due to the death of the sitting member, Mathai Chacko of the LDF, who won the seat at the 2006 legislative assembly elections ('LDF retains Thiruvambadi' 2006, *The Hindu*, 8 December <http://www.thehindu.com/2006/12/08/stories/2006120810810100.htm> – Accessed 19 August 2009 – Attachment 30; 'Thiruvambadi By-Election Results' (undated), Manorama online website <http://www.manoramaonline.com/advt/specials/bypoll/index.htm> – Accessed 19 August 2009 – Attachment 31).

In September 2007, municipal elections were held in Mattannur municipality, in Kannur District in northern Kerala. The LDF won 25 of 31 wards, with the UDF winning six ('LDF retains Mattannur municipality' 2007, *The Hindu*, 8 September <http://www.thehindu.com/2007/09/08/stories/2007090854610500.htm> – Accessed 19 August 2009 – Attachment 34).

In November 2008, a by-election took place in the Kondotty Division of District Panchayat in Malappuram following the death of UDF councillor Nanakkal Mariyumma. In Kondotty, "UDF candidate K.C. Abida registered a thumping victory at Kondotty by defeating her LDF rival Palliparamban Ramla by a margin of 14,797 votes". By-elections were also held to wards of Vettom, Thennala and Perumpadappu grama panchayats in Malappuram District, in which the sitting parties (the LDF, UDF, and LDF, respectively) retained their positions ('UDF, LDF retain seats in bypoll to four civic bodies in Malappuram' 2008, *The Hindu*, 7 November <http://www.thehindu.com/2008/11/07/stories/2008110756070300.htm> – Accessed 19 August 2009 – Attachment 33).

A by-election was held in December 2008 in Shoranur municipality, in Palakkad District in central Kerala. Eight of nine wards in this election were won by the Janakiya Vikasana Samiti, a breakaway party led by former CPI(M) local leader MR Murali ('Historic win for CPM rebels in Shoranur' 2008, AsiaNetIndia.com website, 17 December http://www.asianetindia.com/news/historic-win-cpm-rebels-shoranur_13197.html – Accessed 19 August 2009 – Attachment 32).

3. Deleted.

4. What are the names of the state and federal constituencies covering the Valiaveli area of Trivandrum?

Note: no 'Valiaveli' could be located in the Thiruvananthapuram area; the information below relates to Valiyavila, an electoral Ward of the Thiruvananthapuram Municipal Corporation.

Information sourced from the website of the Government of Kerala states that the Valiyavila area is part of the state Legislative Assembly constituency of Nemom and the Lok Sabha (federal) constituency of Thiruvananthapuram. The Lok Sabha constituency of Thiruvananthapuram is made up of seven Kerala Legislative Assembly Constituencies: Kazhakkootam, Vattiyoorkavu, Thiruvananthapuram, Nemom, Parassala, Kovalam, and Neyyattinkara. Valiyavila, as Ward 49 of Thiruvananthapuram Municipal Corporation, is part of the Kerala State Assembly constituency of Nemom:

20 THIRUVANANTHAPURAM

132-Kazhakkootam (Thiruvananthapuram)

Kazhakkootam and Sreekaryam Panchayats and Wards No. 1 to 12, 14, 76, 79 & 81 of Tvpm (M. Corporation) in Thiruvananthapuram Taluk.

133-Vattiyoorkavu (Thiruvananthapuram)

Ward No. 13, 15 to 25 & 31 to 36 of Tvpm (M. Corporation) & Kudappanakunnu and Vattiyoorkavu Panchayats in Thiruvananthapuram Taluk.

134-Thiruvananthapuram (Thiruvananthapuram)

Ward No.26 to 30, 40 to 47, 59, 60, 69 to 75, 77, 78 & 80 of Tvpm (M. Corporation) in Thiruvananthapuram Taluk

135- Nemom (Thiruvananthapuram)

Ward No.37 to 39, 48 to 58 & 61 to 68 Tvpm (M. Corporation) in Thiruvananthapuram Taluk.

137- Parassala (Thiruvananthapuram)

Amboori, Aryancode, Kallikkad, Kollayil, Kunnathukal, Ottasekharamangalam, Parassala, Perumkadavila and Vellarada Panchayats in Neyyattinkara Taluk.

139- Kovalam (Thiruvananthapuram)

Kalliyoor and Venganoor Panchayats in Thiruvananthapuram Taluk and Balaramapuram, Kanjiramkulam, Karumkulam, Kottukal, Poovar and Vizhinjam Panchayats in Neyyattinkara Taluk.

140- Neyyattinkara (Thiruvananthapuram)

Neyyattinkara Municipality and Athiyannur, Chenkal, Karode, Kulathoor, Thirupuram Panchayats in Neyyattinkara Taluk ('Parliamentary and Assembly Constituencies of Kerala as per Delimitation of Parliamentary and Assemble Constituencies Order, 2008' (undated), Official website of Kerala.gov.in http://www.kerala.gov.in/deli_cons_2009.htm#20 – Accessed 10 August 2009 – Attachment 14).

A seat-by-seat breakdown of candidates and votes in the 2005 local government elections, produced by the Kerala State Election Commission, lists Valiyavila as being Ward No. 49 of Thiruvananthapuram Municipal Corporation ('Detailed Report on District wise Local Body Election Results' (undated), State Election Commission website <http://www.electionker.org/A05.pdf> – Accessed 17 August 2009 – Attachment 13).

A map of the Lok Sabha seat of Thiruvananthapuram, and the seven Kerala State Assembly within Thiruvananthapuram, is provided as Attachment 15 ('Assembly Constituencies-Post delimitation – State : Kerala – District: Thiruvananthapuram' (undated), National GIS Web Portal http://gisserver1.nic.in/ecimaps/ECIPDF%5Ckerala_Maps%5CThiruvananthapuram.pdf – Accessed 11 August 2009 – Attachment 15).

5. Is there any evidence to suggest that the Kerala police would not investigate instances of attacks on INC members?

Sources indicate that the police in Kerala, like police throughout India generally, are subject to pressure from powerful local politicians, and opposition parties regularly accuse the currently governing parties of using the police to achieve political ends. The media in Kerala provides numerous instances of reports in which opposition leaders accuse the police of mistreating their members and supporters, and failing to investigate alleged crimes against them, or of providing protection for 'rowdies' from the ruling parties. No reports were located which provide 'evidence' that the Kerala police would not provide appropriate protection to INC members, or fail to investigate crimes committed against them; nonetheless, the available information suggests that, as the INC are currently in opposition at state level in Kerala, it is possible that these scenarios could come to pass. A comprehensive August 2009 report on the police in India from Human Rights Watch (HRW) states that the police in India are also under-resourced, underpaid and understaffed, which contributes to the lack of appropriate investigations of alleged crimes. Police will often fail to register a First Information Report (FIR) without the payment of a bribe. According to the HRW report, police "sometimes make arrests...due to political considerations or the influence of powerful local figures"; the report further claims of Indian police that "the public fears them as the strong arm of corrupt politicians" (for reports of political influence on the Kerala police, see: Question 2 of RRT Research & Information 2009, *Research Response IND34701*, 1 May – Attachment 16; Question 2 of RRT Research & Information 2008, *Research Response IND33942*, 11 November – Attachment 17; Question 1 of RRT Country Research 2007, *Research Response IND31446*, 19 March – Attachment 22; and: Question 2 of RRT Research & Information 2007, *Research Response IND32487*, 12 November – Attachment 23; for recent articles reporting accusations of police bias in Kerala, see: "'Goonda Act' used for detaining BJP, RSS workers: Pillai" 2009, *New Kerala*, 30 June <http://www.newkerala.com/nkfullnews-1-64918.html> – Accessed 18 August 2009 – Attachment 25; 'Shun violence, CPI(M) told' 2009, *The Hindu*, 27 April <http://www.hindu.com/2009/04/27/stories/2009042754730500.htm> – Accessed 19 May 2009 – Attachment 26; and: 'LDF has politicised police: KC(B)' 2009, *The Hindu*, 1 January <http://www.thehindu.com/2009/01/01/stories/2009010151270300.htm> – Accessed 17 August 2009 – Attachment 27; for the HRW on police in India, see: Human Rights Watch 2009, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, August, pp. – Attachment 29).

Previous research responses

A number of previous research responses have addressed the issue of the adequacy of state protection in Kerala, and the politicised nature of state police forces in India in general.

Question 2 of *Research Response IND34701*, of 1 May 2009, provides information on the police in Kerala, noting that reports appear regularly in the Indian press in which the Kerala police are praised or criticised by various political figures, and that reports of police corruption are also common (RRT Research & Information 2009, *Research Response IND34701*, 1 May – Attachment 16).

Question 2 of *Research Response IND33942*, of 11 November 2008, provides information on violence between the youth and student wings of the CPI(M) and Congress in Kerala, and claims of police and government bias against Congress members, or inaction against CPI(M) members accused of violence. Relevant extracts from sources quoted in this response follow below (RRT Research & Information 2008, *Research Response IND33942*, 11 November – Attachment 17).

- A June 2008 article from *The Hindu* reports on alleged police partisanship against Youth Congress workers, quoting “Union Minister for Overseas Indian Affairs Vayalar Ravi” as claiming that “the [Kerala state] Home Minister had given the green signal to...’ police attacks’ on Youth Congress members. The report also quotes Kerala Pradesh Congress Committee president Ramesh Chennithala, who claims that “the government had ‘unleashed the police’ to suppress political dissenters and frame false charges against Youth Congress and Kerala Students Union workers”:

Union Minister for Overseas Indian Affairs Vayalar Ravi on Saturday said that policemen who beat Youth Congress workers at protest marches across the State should know that the United Democratic Front would come to power.

He told reporters after calling on Youth Congress activists who were injured in Friday’s police lathicharge that the Home Minister had given the green signal to such “police attacks.” Addressing a press conference here on Saturday, Youth Congress State president T. Siddique condemned Friday’s police lathicharge.

The Youth Congress would lodge a complaint with the Kerala State Human Rights Commissions in this connection.

He demanded an investigation into the role of certain police officers in the attacks on Youth Congress activists at different parts of the State. Special Correspondent writes from Thiruvananthapuram: Kerala Pradesh Congress Committee president Ramesh Chennithala has condemned the police action on agitating Youth Congress workers.

In a statement here on Saturday, Mr. Chennithala said the government had “unleashed the police” to suppress political dissenters and frame false charges against Youth Congress and Kerala Students Union workers (‘Vayalar Ravi flays caning of activists’ 2008, *The Hindu*, 8 June – Attachment 18)

- A May 2008 article reports allegations that the government had registered false cases against Youth Congress workers “and beat them up brutally”:

Leader of the Opposition in the Kerala Assembly Oommen Chandy today alleged that the CPI(M)-led Left Democratic Front (LDF) Government had brutally suppressed public ire against scuttling Food Security project by it.

Stating that the public ire against the skyrocketing prices and food scarcity was reflected in the Youth Congress march to all the district headquarters in the state, he said the government registered false cases against workers and beat them up brutally.

...Though the agitating Youth Congress workers had not attacked police or any vehicles anywhere, nine people in Kozhikode and eight people in Alappuzha were injured in the police action, he alleged.

If the implementation of the project was delayed, the Left Government would have to face serious agitations, he warned.

In another statement, UDF Convener P P Thankachan said the lathicharge against Youth Congress workers without any provocation were ‘cruel and protestable.’

The public should isolate the officials and the CPI(M) leaders, who were behind the brutal action, he said (‘LDF Govt Suppressing Public Ire: Chandy’ 2008, *United News of India*, 27 May – Attachment 19).

- An October 2007 article also reports on the arrests of Youth Congress office-bearers and allegations of “political bias” of the police:

Leader of the Opposition Oommen Chandy on Tuesday called on 11 of his party men remanded and lodged in the District Jail here.

All the 11 were arrested by the police on Monday under charges of alleged rioting and violence during two incidents that took place at Sasthamcotta more than a month ago.

Those arrested include office-bearers of the Congress, the Youth Congress and the Kerala Students Union. One incident was a march to the Sasthamcotta Circle Inspector’s office organised by the Congress and the Youth Congress in protest against the ‘political bias’ of the police. Eight persons were arrested in this connection.

The second incident was in connection with the KSU activists of the Sasthamcotta DB College gheraoing the college Principal alleging an organised movement with support from some teachers against the KSU activities in the college. In this case, three had been arrested.

All had been charged under non-bailable offences. They were produced before court and were remanded to police custody for 14 days. In protest against arrests, the Congress had called for a dawn to dusk hartal at Kunnathur taluk on Tuesday. The hartal was incident-free.

Mr. Chandy, later, said that the arrests exposed the petty attitude of the LDF government (‘Chandy visits jailed party activists’ 2007, *The Hindu*, 24 October – Attachment 21).

- A September 2006 article in the pro-Hindu nationalist newspaper *The Organiser* claims police inaction against the Student’s Federation of India (SFI) (the youth wing of the CPI(M)) after an attack on a university lecturer (Chandrasekhar, S. 2006, ‘Lecturer attacked, abused for wearing Rakhi: SFI Goondaism in Campus’, *The Organiser*, 10 September

<http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=147&page=5> – Accessed 7 March 2007 – Attachment 20).

Question 1 of *Research Response IND31446*, dated 19 March 2007, provides information on student political violence in Kerala, focussing on clashes between the student wings of Congress and the CPI(M). It also addresses the issue of government influence on the police in Kerala, and the manner in which both sides of politics have been accused of using the police for partisan political ends while in power (RRT Country Research 2007, *Research Response IND31446*, 19 March – Attachment 22).

Question 2 of *Research Response IND32487*, of 12 November 2007, provides information on the structure of the Indian police force, and the level of influence exerted over the police at a state level by incumbent governments. This response also quotes sources claiming that police in many states are generally ineffective and unwilling to provide assistance without the payment of a bribe (RRT Research & Information 2007, *Research Response IND32487*, 12 November – Attachment 23).

Recent media reports on the police in Kerala

Several recent media reports quote claims from various opposition political figures that the CPI(M) is either using the police for its own political ends, that the police force in Kerala is ineffective in providing protection or investigating criminal acts, or that the government and police are colluding in arrests and/or violence against political opponents. These reports follow, in reverse chronological order:

- A 21 July 2009 report in *The Hindu* quotes claims from the leader of the “Kerala Youth Front (Jacob)” that: “internal squabbles in the CPI (M) have resulted in the collapse of the administrative control over the police”; that “the police were torturing people”; and that call on the LDF government to “take steps to prevent police excesses in the State” (‘Protest march against police excesses’ 2009, *The Hindu*, 21 July <http://www.hindu.com/2009/07/21/stories/2009072158780300.htm> – Accessed 18 August 2009 – Attachment 24).
- On 30 June 2009, *New Kerala* reported claims by a BJP leader in Kerala, P S Sreedharan Pillai, that the LDF government is using the “Goonda Act” (or ‘Kerala Antisocial Activities (Prevention) Ordinance’ of 2006) “to detain BJP and RSS workers” and “to settle political scores with its adversaries” (‘Goonda Act’ used for detaining BJP, RSS workers: Pillai’ 2009, *New Kerala*, 30 June <http://www.newkerala.com/nkfullnews-1-64918.html> – Accessed 18 August 2009 – Attachment 25).
- An article in *The Hindu*, dated 27 April 2009, reports that: “Leader of the Opposition Oommen Chandy has called upon the Communist Party of India (Marxist) to give up violence and instead adopt a democratic style of functioning”. Chandy also claimed that the “rulers and the law enforcement machinery had failed to protect the people from assailants” in Kerala, that “the efficiency of the police had weakened”, and that the “rule of law was under threat in the State” (‘Shun violence, CPI(M) told’ 2009, *The Hindu*, 27 April <http://www.hindu.com/2009/04/27/stories/2009042754730500.htm> – Accessed 19 May 2009 – Attachment 26).

- A 1 January 2009 report in *The Hindu* quotes “Kerala Congress (B) leader R. Balakrishna Pillai”, who reportedly claims that “the Left Democratic Front has politicised the police force” and that “police appear to have given up their job of crime investigation”. Pillai is also quoted as stating that “many police stations are being controlled by anti-social elements” (‘LDF has politicised police: KC(B)’ 2009, *The Hindu*, 1 January <http://www.thehindu.com/2009/01/01/stories/2009010151270300.htm> – Accessed 17 August 2009 – Attachment 27).
- In March 2008, the Kerala High Court stated that in Kannur District “police are pandering to the vicious instincts of influential politicians by shielding from punishment those who are really guilty and projecting innocent persons listed out from party office”, according to a report in *The Economic Times*. The report goes on to state that: “A large number of political murders have taken place in the state home minister Kodayeri Balakrishnan’s constituency”, and that “instances had been reported of people’s representatives going to the police to rescue their ‘party criminals’ from behind bars” (‘High Court has no confidence in Kodayeri Police’ 2008, *The Economic Times*, 12 March http://economictimes.indiatimes.com/News/PoliticsNation/High_Court_has_no_confidence_in_Kodayeri_Police/articleshow/2856586.cms – Accessed 17 August 2009 – Attachment 28).

Human Rights Watch report on policing in India

An August 2009 report from Human Rights Watch, titled *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, provides a lengthy analysis of the state of policing in India. While not referring specifically to Kerala, and noting that the nature and quality of policing can vary from state to state and district to district in India, this report highlights the political and other pressures under which police forces in India operate:

While India rightly touts itself as an emerging economic powerhouse that is also the world’s largest democracy, its police forces – the most visible arm of the Indian state – are widely regarded within India as lawless, abusive and ineffective.

A dangerous anachronism, the police have largely failed to evolve from the ruler-supportive, repressive forces they were designed to be under Britain’s colonial rule. While sixty years later much of India is in the process of rapid modernisation, the police continue to use their old methods. Instead of policing through public consent and participation, the police use abuse and threats as a primary crime investigation and law enforcement tactic. The institutional culture of police practically discourages officers from acting otherwise, failing to give them the resources, training, ethical environment, and encouragement to develop professional police tactics. Many officers even told Human Rights Watch that they were ordered or expected to commit abuses.

...Drawing on the extensive existing documentation of human rights abuses by the Indian police, Human Rights Watch conducted its own research and found four clusters of issues warranting attention, addressed in separate subsections of this report: police failure to investigate crimes; arrest on false charges and illegal detention; torture and ill-treatment; and extrajudicial killings.

Traditionally marginalised groups are especially vulnerable to each of the first three abuses. Though stemming from the discriminatory biases of police officers, their vulnerability is also the product of an abusive police culture in which an individual’s ability to pay a bribe, trade

on social status or call on political connections often determines whether they will be assisted or abused.

...officers also face frequent intervention in investigations by local political figures, who sometimes act to protect known criminals.

To get around these systemic problems many officers take “short-cuts.” Officers told Human Rights Watch they often cut their caseloads by refusing to register crime complaints. At other times, they use illegal detention, torture and ill-treatment to punish criminals against whom they lack the time or inclination to build cases, or to elicit confessions, even ones they know are false.

Such abuses contribute to a climate of fear. Many Indians avoid any contact with the police, believing not only that they will not receive assistance but that they risk demands for bribes, illegal detention, torture, or even death. Facing a reclusive public, the police are unable to get tips from informants or the cooperation of witnesses, which are both critical to solving cases and preventing crime. This, of course, creates a vicious cycle, as crimes go unreported and unpunished and the pressures on the police to deal with rising criminality increase.

...Although the police are tasked with battling India’s most pressing problems – including armed militancy, terrorism, and organised crime – a lack of political commitment and investment by the state has left the police overstretched and ill-equipped. There is just one civil police officer for every 1,037 Indian residents, far below Asia’s regional average of one police officer for 558 people and the global average of 333 people.

Police infrastructure is crumbling. Decaying, colonial-era police stations and posts across India are stocked with antiquated equipment and lack sufficient police vehicles, phones, computers, and even stationery. A severe police staffing shortage is compounded by additional demands on an already stretched force. Police are routinely diverted to protect “VIPs” – usually politicians, businesspeople, and entertainment figures. Senior police officials frequently use low-ranking staff as orderlies and even as personal family servants.

...Decades of partisan policing—politically motivated refusal to register complaints, arbitrary detention, and torture and killings sometimes perpetrated by police at the behest of national and state politicians—have resulted in an unprecedented level of public distrust and fear of the police. In a culture of *shifarish*, or favors, only Indians with powerful connections can be confident they will obtain police assistance. State and local politicians routinely tell police officers to drop investigations against people with political connections, including known criminals, and to harass or file false charges against political opponents. As one police officer told Human Rights Watch:

The problem is that law enforcement is only possible up to a limit. Anti-social elements are protected by the powerful. Police is supposed to be tough on criminals. But criminals are protected, supported and rewarded, so the police who act against them are helpless. No officer is in a position to protect anyone else. They are barely able to protect themselves. Police at all ranks say that they fear reprimand or punishment if, in the course of doing their jobs, they act against individuals with political connections.

In 2006, the Supreme Court handed down a landmark decision, *Prakash Singh and Others v. Union of India and Others*, that directed the central and state governments to enact new police laws to reduce political interference. Unfortunately, the central government and most state governments have either significantly or completely failed to implement the Court’s order. This suggests that key government officials have yet to accept the rule of law or the urgency

of undertaking comprehensive police reform, including the need to make police accountable for widespread human rights violations.

...Police officers sometimes make arrests in retaliation for complaints of police abuse, in return for bribes, or due to political considerations or the influence of powerful local figures.

...Individuals who are poor and socially or politically marginalized are especially vulnerable to prolonged detention and repeated ill-treatment because they are unable to bribe police to secure their release and are unlikely to have connections to local political figures who can intervene.

...The Indian police face an unprecedented level of public distrust. The media derides them as professionally incompetent and criminally negligent. Much of the public fears them as the strong arm of corrupt politicians.

...Since the late 1970s, senior police officers have remained at the mercies of state and local politicians who, acting on ambiguously worded supervisory authority in the Police Act of 1861, intervene in everyday police operations: officers are frequently told to drop investigations against people with political connections and sometimes told to harass or file false charges against political opponents. Refusal means transfer to remote areas, and with it the loss of prestige and the hardship of removing children from good city schools.

...A superintendent of police in Uttar Pradesh explained the pervasiveness of the system of political patronage:

It has become obvious that the police cannot be neutral. Either you comply with every order from the political masters, or you have some strong backing of a leader who protects you. That is how policing is done here.

To combat political interference, and for their own financial gain, senior police court politicians. Scholar David H. Bayley described the evolving situation in 1983:

[T]he intrusion of politics in matters of police management leads to solicitation of further political interference.... [I]n confrontations with politicians, individual self-interest will rarely be put aside. Some few are always prepared to seize what they perceive as a main chance to win influential political friends. This engenders defensive lobbying in others and, for most, calculated passivity as they try to remain as inconspicuous as possible.

This characterisation is consistent with the accounts of current and former senior police Human Rights Watch interviewed. At present, many officers say, corruption is pervasive among the senior and junior ranks. Police allegedly buy and sell appointments to positions in the areas most lucrative for extorting money from local businesses and embezzling police funds. Senior police are routinely accused of maintaining lavish lifestyles as “official expenses” as their political allies look the other way (Human Rights Watch 2009, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, August, pp. 6-10, 18, 36-37 – Attachment 29).

List of Sources Consulted

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)
ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)
RRT Library Catalogue

List of Attachments

1. 'Thiruvananthapuram' (undated), Official website of Kerala.gov.in
<http://www.kerala.gov.in/knowkerala/tvm.htm> – Accessed 10 August 2009.
2. 'Political Background of the State of Kerala' (undated), Kerala State Government Website
<http://www.kerala.gov.in/knowkerala/political.htm> – Accessed 25 August 2006.
3. Nair, N.J. 2008, 'A new political map for Thiruvananthapuram: Delimitation impact', *The Hindu*, 4 February
<http://www.thehindu.com/2008/02/04/stories/2008020455660400.htm> – Accessed 10 August 2009.
4. Krishnakumar, R. 2004, 'A red-wash in the South', *Frontline*, vol.21: no.11, 22 May
<http://www.hinduonnet.com/fline/fl2111/stories/20040604006302600.htm> – Accessed 3 March 2009.
5. 'Lok Sabha Elections 2004 – Kerala' (undated), Government of Kerala website
http://www.kerala.gov.in/ele_rep/loksabha.pdf – Accessed 11 August 2009.
6. Election Commission of India 2009, 'List of Winning Candidates', ECI website
<http://eci.nic.in/press/List%20of%20Winning%20Candidates%20Final%20for%2016th%20May.pdf> – Accessed 23 July 2009.
7. 'Indian Parliament Elections Results 2009 – Kerala State' (undated), Kerala Assembly Election Database
http://keralaassembly.org/lok/sabha/poll_results.php4?year=2009&no=20 – Accessed 17 August 2009.
8. Election Commission of India 2001, *Key Highlights of General Election, 2001, to the Legislative Assembly of Kerala*, ECI website
http://eci.nic.in/SR_KeyHighLights/SE_2001/StatRep_KL_2001.pdf – Accessed 11 August 2009.
9. '2001 State Assembly Election Results' (undated), Government of Kerala website
http://www.kerala.gov.in/ele_rep/2001.pdf – Accessed 11 August 2009.
10. 'LDF wins majority of seats in civic bypolls' 2004, *The Hindu*, 30 September
<http://www.hindu.com/2004/09/30/stories/2004093011120400.htm> – Accessed 4 March 2009.
11. Krishnakumar, R. 2005, 'Kerala's choice', *Frontline*, Volume 22, Issue 21, 8 October,
<http://www.flonnet.com/fl2221/stories/20051021003603700.htm> – Accessed 11 April 2006.

12. Kerala State Election Commission (undated), 'General Election Results at a Glance', State Election Commission website <http://www.electionker.org/glance.htm> – Accessed 17 August 2009.
13. 'Detailed Report on District wise Local Body Election Results' (undated), State Election Commission website <http://www.electionker.org/A05.pdf> – Accessed 17 August 2009.
14. 'Parliamentary and Assembly Constituencies of Kerala as per Delimitation of Parliamentary and Assemble Constituencies Order, 2008' (undated), Official website of Kerala.gov.in http://www.kerala.gov.in/deli_cons_2009.htm#20 – Accessed 10 August 2009.
15. 'Assembly Constituencies-Post delimitation – State : Kerala – District: Thiruvananthapuram' (undated), National GIS Web Portal http://gisserver1.nic.in/ecimaps/ECIPDF%5Ckerala_Maps%5CThiruvananthapuram.pdf – Accessed 11 August 2009.
16. RRT Research & Information 2009, *Research Response IND34701*, 1 May.
17. RRT Research & Information 2008, *Research Response IND33942*, 11 November.
18. 'Vayalar Ravi flays caning of activists' 2008, *The Hindu*, 8 June. (FACTIVA)
19. 'LDF Govt Suppressing Public Ire: Chandy' 2008, *United News of India*, 27 May. (FACTIVA)
20. Chandrasekhar, S. 2006, 'Lecturer attacked, abused for wearing Rakhi: SFI Goondaism in Campus', *The Organiser*, 10 September <http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=147&page=5> – Accessed 7 March 2007.
21. 'Chandy visits jailed party activists' 2007, *The Hindu*, 24 October. (FACTIVA)
22. RRT Country Research 2007, *Research Response IND31446*, 19 March.
23. RRT Research & Information 2007, *Research Response IND32487*, 12 November.
24. 'Protest march against police excesses' 2009, *The Hindu*, 21 July <http://www.hindu.com/2009/07/21/stories/2009072158780300.htm> – Accessed 18 August 2009.
25. "'Goonda Act' used for detaining BJP, RSS workers: Pillai' 2009, *New Kerala*, 30 June <http://www.newkerala.com/nkfullnews-1-64918.html> – Accessed 18 August 2009.
26. 'Shun violence, CPI(M) told' 2009, *The Hindu*, 27 April <http://www.hindu.com/2009/04/27/stories/2009042754730500.htm> – Accessed 19 May 2009.

27. 'LDF has politicised police: KC(B)' 2009, *The Hindu*, 1 January
<http://www.thehindu.com/2009/01/01/stories/2009010151270300.htm> – Accessed 17 August 2009.
28. 'High Court has no confidence in Kodayeri Police' 2008, *The Economic Times*, 12 March
http://economictimes.indiatimes.com/News/PoliticsNation/High_Court_has_no_confidence_in_Kodayeri_Police/articleshow/2856586.cms – Accessed 17 August 2009.
29. Human Rights Watch 2009, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, August.
30. 'LDF retains Thiruvambadi' 2006, *The Hindu*, 8 December
<http://www.thehindu.com/2006/12/08/stories/2006120810810100.htm> – Accessed 19 August 2009.
31. 'Thiruvambadi By-Election Results' (undated), Manorama online website
<http://www.manoramaonline.com/advt/specials/bypoll/index.htm> – Accessed 19 August 2009.
32. 'Historic win for CPM rebels in Shoranur' 2008, AsiaNetIndia.com website, 17 December
http://www.asianetindia.com/news/historic-win-cpm-rebels-shoranur_13197.html – Accessed 19 August 2009.
33. 'UDF, LDF retain seats in bypoll to four civic bodies in Malappuram' 2008, *The Hindu*, 7 November
<http://www.thehindu.com/2008/11/07/stories/2008110756070300.htm> – Accessed 19 August 2009.
34. 'LDF retains Mattannur municipality' 2007, *The Hindu*, 8 September
<http://www.thehindu.com/2007/09/08/stories/2007090854610500.htm> – Accessed 19 August 2009.