



Anti Competitive Practices in
PUBLIC TRANSPORTATION IN NEPAL



Dr. Dhruba Bhandari and Abyaya Neopane
Edited by Sarita Sapkota

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This publication is part of our series looking at transport syndicates in Nepal, and we hope that it provides some practical policy reform options to address the transport syndicate in Nepal.

- Dr. Dhruba Bhandari and Abyaya Neopane

■ ABBREVIATIONS AND ACRONYMS

CDO	Chief District Officer
DoTM	Department of Transport Management
FNNTTE	Federation of Nepalese National Transport Entrepreneurs
Km	kilometre
MVTMA	Motor Vehicle and Transport Management Act
TMC	Transport Management Committee

■ PAPER AT A GLANCE

Nepal's public transportation is mostly provisioned for by the private sector but new entrants have been increasingly facing systemic barriers imposed by the prevalence of non-competitive behavior in the current market. Transport operators are generally affiliated to a transport entrepreneurs' association that is organized geographically and on the basis of service such as taxi, buses, mini-buses, three-wheelers. These smaller associations and larger umbrella organizations are collectively referred to as 'syndicate system' in the country. These 'syndicates' lobby for several policies and practices including setting up price controls by imposing a 'common price' and creating entry barriers to prospective entrepreneurs in favor of their members.

Despite the presence of Competition Promotion and Market Protection Act, 2007 ruling out all anti-competitive behaviors as illegal, and the Supreme Court specifically declaring the syndicate-run public transport system illegal in 2008, the stronghold of cartel-run transportation service in Nepal makes the weak enforcement of rule of law in the country apparent. Thus, it is no surprise that public utility vehicles account only for around 3% of the total registered vehicles in Nepal (Thapa, 2013). The impact of the resulting undersupply has meant poor services at higher costs for the consumers. According to a survey by World Bank, 75% of passengers taking public transportation are concerned with overcrowding, 26% are concerned with personal insecurity (33% women, 16% men), 17% are concerned about reckless driving and fear of accidents (The World Bank, 2013).

Our attempt in this paper, a latest offering in the series to improve the quality of public transportation in Nepal through market-based reforms, investigates two parts of the problem.

The first part is the loopholes in existing legal provisions and administration. It scrutinizes the Motor Vehicle and Transport Management Act, 1993 that regulates the sector. This law effectively authorizes the Department of Transport Management to control all aspects of the business for a potential market entrant: designate, regulate, and mandate route permits, regulate specification of vehicles in the route, and finally regulate fares. We argue that regulating every aspect of the industry in such a way creates an enabling environment to foster the formation of cartels. Another entity created by the Act to regulate the sector, the Transport Management Committee, has strong representation from transport operators and laborers. Having transport operators in a committee that regulates, essentially, their own conduct is a clear case of conflict of interest. We argue that this further helps in fostering the cartel.

On the association(s) or syndicate's side, they exert great power on the government when it comes to formulating policies favoring their agenda. The associations often threaten to undertake a transportation strike, if necessary, and bring the country to a standstill when government actions potentially hurt their interests. These sets of informal rules take form of vandalizing of vehicles if non-members ply on 'their route', which the government has authorized them to. The cartels also designate the route themselves in certain parts of the country and control fares on those particular routes. This is illustrated with testimonies from the interview with people associated with the public transport sector and selected stories from newspaper articles in the paper.

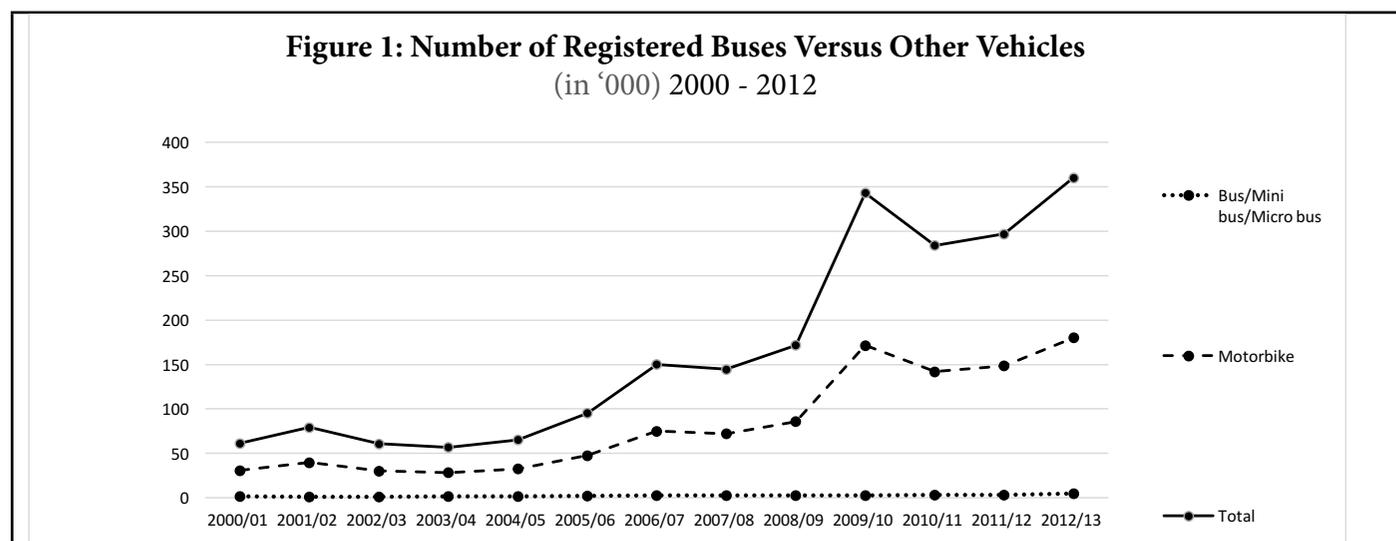
The problem is exacerbated when transport syndicate enjoys the support of powerful politicians. Based on this analysis, we propose two important workable recommendations, which are, allowing transport entrepreneurs the freedom to choose their own route and reforming the composition and role of Transport Management Committee by balancing through an equally strong representation from consumers of the transportation services. We also recommend not involving the existing transport operators in deciding route permits, if not getting rid of a centralized route permit system overall. Active involvement of syndicate members in the committee in route permit and rule designation is the locus which gives the syndicate the ability to restrict potential competitors legally.

1. SYNDICATE/CARTEL-RUN PUBLIC TRANSPORTATION SYSTEM IN NEPAL: AN INTRODUCTION

Public transportation in Nepal is almost entirely run by the private sector (barring the Sajha Yatayat¹ which runs on a cooperative model with participation of the government of Nepal). This includes local transportation in cities like Kathmandu as well as long distance transportation services connecting several towns and cities. City transportation services include services from taxis, buses, mini-buses, micro-buses and tempos (three-wheelers). Long distance public transportation services include buses, mini-buses, and micro-buses². These transport operators are generally affiliated to a transport entrepreneurs' association that is organized geographically and based on the type of vehicles (as mentioned). These associations promote common interests of the group and are commonly referred to as 'syndicate' in the Nepal. There are more than 500 transport associations throughout Nepal (R. Thapa, personal communication, Jan 4, 2016). They are registered under Ministry of Home affairs according to the National Direction Act of 1982. The Federation of Nepalese National Transport Entrepreneurs (FNNT) is an umbrella organization for most of these smaller local/regional associations, committees and companies of public transport operators from all over the country.

All these small associations, and the larger umbrella organizations are collectively referred to as 'syndicate system' in the country as these associations lobby for policies, work on setting up price controls by imposing a 'common price' and create entry barriers to prospective entrepreneurs (non-members) in favor of their members. Given these practices, this 'syndicate system' or 'syndicate' simply is used as a term to refer to existing cartel behavior in the sector in Nepal and should be understood in that light throughout the paper. The association(s) or syndicate typically lobbies for higher fares (for the government is authorized to set fares) and restricting or limiting new service providers from guaranteeing more profits for their enterprises.

From 2001 to 2011, the number of registered vehicles in Kathmandu valley increased by 3.75 times but among them, registration of public transport vehicles like buses and mini buses only accounted for 1.9% (Udas, 2012). Based on data from the Department of Transportation Management, registration of vehicles for public transportation purpose has been largely stagnant over the past decade in Kathmandu Valley due to pressure from the syndicate to limit the entry of new vehicles and high cost of doing business.



* Source: Department of Transport Management, Traffic Directorate, Nepal Police, 2013, as cited in Thapa, 2013

1 Sajha Yatayat is a cooperative public transportation organization.

2 Nepal does not have mass city transits such as trains.

An important case in point is the taxi service in Kathmandu Valley. Shrestha (2015) looks at taxi registration in Kathmandu Valley and finds that the number of taxis plying in the valley had dropped from 8000 taxis in the year 2000 to 5500 in 2015. All of those vehicles were over fifteen years old. This drop in the number of taxis came as a result of the decision made by the Department of Transport Management in 2000 to temporarily halt any additional permit i.e. not register new taxis until they did a study on whether the number of taxis had surpassed the capacity of Kathmandu's road infrastructure, within three months of having halted new registrations. The paper further states that no such study was done following the decision.

In 2015, an attempt was made to re-open the registration for new taxis in Kathmandu. This triggered strong resistance from taxi entrepreneurs and their associations. Despite protests, Bagmati Zone Transport Management Office accepted applications from interested individuals and allocated 700 taxi licenses for people wishing to be taxi entrepreneurs, 500 units for those with 'B' category driving license of four-wheelers and wishing to be self-employed, and 650 units for the then existing taxi operators whose vehicles had crossed the permissible 20-year operation limit (The Himalayan Times, 2015). The license granted was just 4 percent of the demand. According to a government report, 15,751 people had applied for registration of a new taxi out of which only 1850 received licenses through a non-transparent process (R. Thapa, personal communication, Jan 4, 2016).

It is estimated that about 15,500 vehicles that are more than 20 years old are being operated across the country (The Kathmandu Post, 2014). The government has been planning to remove old vehicles from the roads for more than a decade, but the plan has made little progress, largely due to strong objections from transport operators. Some of these operators have however now started to support this plan with the new provision that the entrepreneurs who scrap their vehicles would be allowed to keep their licenses, import new vehicles and operate them on the same routes. If so, the government's problem with older vehicles will be addressed but the operators who have been lobbying for not allowing new entrepreneurs into the industry will be the only ones benefitting from the policy, upholding the barrier to entry.

2. IMPACT OF THE SYNDICATE-RUN SYSTEM ON QUALITY OF PUBLIC TRANSPORTATION

Population in Kathmandu valley increased from 1.64 million to 2.5 million between 2001 and 2011 and is currently around 3.5 million (Shrestha, 2015). The population growth has naturally created higher demand for public transportation over the years. However, registration of public transportation vehicles has been kept relatively stagnant throughout the years through the introduction of a systematic barrier to entry in the public transport service market. Despite high demand for new public transportation services, the transport syndicate restricts entry of new vehicles (through lobby with government and imposing high membership costs to join the association), and sets up quota on trips per route.

This has caused the demand to exceed supply. Studies, however, are yet to be conducted with regards to by how many folds. This has a direct impact on the quality of transport service experienced by commuters on a daily basis.

2.1 SOME INDICATORS OF THE POOR QUALITY OF PUBLIC TRANSPORTATION IN NEPAL

Drivers and conductors work 12-hour shifts, often seven days per week, to address the increased demand despite Nepalese labor laws limiting working hours to 48 per week. Since there are not many competitors, the greater the working hours, the greater the profits for the operators.

According to the World Bank report on Gender and Public Transport in Nepal, *“Traffic regulations are incomplete, and breaches incur antiquated low penalties. Fines are not only low but inconsistent e.g. speeding incurs a fine of NRs. 200 and filling the bus beyond its capacity incurs a fine of NRs. 1000. Nevertheless the main problem with the regulations is weak enforcement.”* (The World Bank, 2013). Syndicate also plays a big role in defending their members in all kinds of misconducts. In the case of violation of traffic regulations, license from association members are less likely to be confiscated and more likely to be retrieved easily even in case of such rare events (The Economist, 2012).

Udas (2012) looks at the poor quality of public transportation in Kathmandu Valley and reports crowded and uncomfortable conditions in all kinds of public transport vehicle such as microbuses, minibuses and buses. The study reports that passengers face longer waiting time and longer travel time not because of distance travelled and traffic congestion, but because of tendency of transport operators to take on more passengers than its capacity.

According to a survey by World Bank, 75% of passengers taking public transportation are concerned with overcrowding, 26% are concerned with personal insecurity (33% women, 16% men), 17% are concerned about reckless driving and fear of accidents (The World Bank, 2013). According to a study from Transport Research Laboratory, between 1995-1996, a total of 3379 accidents were reported to the police nationally (urban and long distance) with bus accidents representing 14% of the total (Maunder et al., 1999). The situation has not changed much and road safety remains a major issue. Recent reports indicate that as many as 130 serious traffic accidents (and over 1000 minor accidents) are reported every day in Kathmandu (The World Bank, 2013).

3. ANALYZING THE BARRIERS TO ENTRY

3.1 LOOPHOLES IN LEGAL PROVISIONS AND ADMINISTRATION: THE STATE'S PART

3.1.1 Nepal Transport Management Act, 1965 – the Dawn of Transport Syndicate

The first major piece of legislation governing public transportation sector, the Nepal Transport Management Act, was enacted in 1965. The Act was formulated to regulate emerging transportation entrepreneurs by placing them under regulatory authority and by establishing a new office of transport authority called the Zonal Syndicate Office (Lawoti, 2007). A transport entrepreneur had to register with the office and upon registration, received a route permit. In addition, the entrepreneur's vehicle was placed in a queue to ply on the particular route that vehicle was registered for. This system supported the sequencing of vehicles and turn-taking system, such that all vehicles had an opportunity to earn some revenue rather than have entrepreneurs compete amongst each other. *“This emphasis on taking turns, of complementarity rather than competition, was central to Pahchayat State's corporatist ideology”* (Lawoti, 2007). This 'turn-taking' system was the advent of an anti-competitive environment in public transportation system in Nepal, both encouraged and enforced by a government policy.

3.1.2 Motor Vehicle and Transport Management Act, 1993 – Pressure to Organise

The existing Motor Vehicle and Transport Management Act (MVTMA), 1993 currently governs the public transportation industry in Nepal. The Act stipulates provisions for acquiring license, route permits, vehicle registration, punishments for road accidents/incidents, and also vests authority to Department of Transport Management (DoTM) and Transport Management Committee to oversee smooth operation of public transportation in Nepal.

The Act stipulates that the government will *“whenever deemed necessary, for the operation of the transport service by public motor vehicles, designate routes and publish a public notice thereof for the information of the general public”*.

Section 82 of the Act further reinforces it under the title “Power to refuse to grant route permit” and states,

“Notwithstanding anything contained elsewhere in this Act, if the competent authority is of the opinion that no further issuance of a route permit for the operation of another public motor vehicle on a particular route is desirable in view of the pressure of the flow of passengers and the number of public motor vehicles already plying on that route to operate such transport service or that, in view of pollution or any other reason, any further issuance of route permit for any public motor vehicle would be prejudicial to public interest, the authority may upon consultation with the management committee, refuse to issue a route permit.”

This discretionary power conferred on the bureaucracy has acted as a major barrier to entering the public transportation service sector. The Department can deny route permit to any vehicle by citing issues related to passenger flow, pollution, etc.

The syndicate takes advantage of this provision and lobbies with the government to start a new route, close down a route, or add vehicles on a route as per their own benefit (and that of their members). The MVTM Act, 1993 also authorizes the government to determine fares for public vehicles and makes it illegal to charge fares other than the ones determined by the Department. Regulating fares makes doing business more difficult since the operational cost of

doing business varies across various routes, road conditions, and on types of vehicles being used. Thus, the Act effectively enables the Department of Transport Management to control all aspects of the business for a potential market entrant: regulation of the route, regulation of number of vehicles in the route, and regulation of price as deemed necessary by the department.

Policies that designate, regulate, and mandate route permits, regulate specification of vehicles in the route, and finally regulate fares make it very difficult for entrepreneurs to operate individually. Potential entrepreneurs hesitate from entering the market if they are not allowed to charge for their services according to their own volition. Regulating every aspect of the industry creates an economic environment that fosters the formation of cartels, as entrepreneurs will have to negotiate with the government collectively on the issue of route-permits and fares. Once the association is formed, one could expect the transport syndicate to capitalize on that position by collectively bargaining for higher prices and restricting new entrants into the market.

If an entrepreneur spotted an opportunity to run a bus service targeting a route that is currently underserved, it is practically impossible for the single entrepreneur to appeal or apply for opening up the route for business without involving the syndicate or the association and exerting pressure. Again, aspiring entrepreneurs do not have the choice to operate a public bus without getting an affiliation to such an association as getting a permit from the government to operate a public transport service on a certain route requires a 'recommendation' from the association. This makes it effectively mandatory for the independent entrepreneurs to join the cartel by paying a high fee.

3.1.3 Anti-Competitive Spirit in the Legislation

The MVTM Act, 1993 before it was amended, had a provision stating “...no license shall be so issued as to allow the operation of transport service by public motor vehicles under the queue system, for the purpose of developing the transport business in a healthy competitive manner” which was again removed in 1993 by the Public Procurement Act, 1993 (Motor Vehicle and Transport Management Act, 1993, Article 168, pg. 64). It has not been reinstated to date. Stigler (1971) hypothesizes this very phenomenon where an industry may use (or rather abuse) the coercive public power of the state to establish and enforce rules in order to obtain private benefit.

“The syndicate pressurized and lobbied for suspending article 168. It has not been reinstated for the same reason”

-Testimony from a personal communication.
(Name not disclosed upon request.)

3.1.4 Powerful Oversight Bodies & Conflict of Interest

The MVTM Act also provisions a Transport Management Committee in each district comprising a Chief District Officer, Chief of District Police Office, a representative of transport entrepreneurs, a representative of transport laborers and Chief of Transport Management Office as its members. It has no representation from the consumers. The committee that is responsible for making recommendations for route permits thus has existing transport operators as members of the committee. Since new entrant into the industry would mean new competition for these operators; the operators could want to limit any competition to them.

Some of the roles of the committee, as per Article 155 of the Motor Vehicle and Transport Management Act, 1993, are:

- In the event of necessity, to fix a route for a certain period at a place where a route is not fixed within its area for the operation of the transport service on that route, to fix a temporary route and make a recommendation to the Department for the fixation of fares of the public motor vehicles plying on that route
- To inspect, or cause to be inspected, whether the public motor vehicles are operating the transport service within its area upon obtaining the route permit and have renewed the permit from time to time;
- To conduct study on matters including the pressure of passengers and the number of motor vehicles within its area, and if it appears necessary to operate the transport service at any place, to make recommendation to the Department for the determination of a route at that place

“Chief District Officer (CDO), as the chair of the management committee, has the authority to approve or disapprove route permit for public transport but is largely influenced by the association, and has often been swayed to decide policies favoring them. This composition of the committee is the provision that aids the association in imposing the barrier to entry.”

*- Testimony from personal communication.
(Name not disclosed upon request)*

Having transport operators in a committee that regulates, essentially, their own conduct is a clear case of conflict of interest. When existing entrepreneurs have a say in whether or not to issue the route permit, to monitor whether vehicles are complying with route permit, to monitor passenger pressure and to monitor number of vehicles on particular route, the association of transport entrepreneur, FNNTTE, can use this committee to influence the government to limit the entry of new vehicles into the public transportation market by citing several convenient justifications to limit the entry of vehicles into particular route.

3.1.5 Private Vehicles Barred from Offering Public Services

Another provision in the Act stipulates that any vehicle registered for one purpose cannot be used for another purpose. In other words, a vehicle registered as private vehicle cannot be used for providing public transportation services. This means that a person who has a vehicle registered as a private vehicle³ cannot use that vehicle if s/he sees prospects in the transportation sector. Instead, s/he would have to register it as a public vehicle in order to provide transportation services. In a low-income country, this could be a barrier to entry for transportation entrepreneurs. In addition to this, this article also directly violates freedom to enterprise.

³ The Act also specifies what can and cannot be registered as private motor vehicle: “Any motor vehicle with more than fourteen seats and with gross weight of four tons or more shall not be registered as a private motor vehicle except in the name of a national or international organization,” (Article 16 (1)).

3.2 LAWS OF THE STREET – THE CARTEL/SYNDICATE’S PART

Although the government decides routes, issues permits and controls prices, associations of transportation operators exert significant influence on the process and, are essentially on the driver’s seat when it comes to deciding routes and the number of vehicles plying those routes. Political connections of associations often make this possible.

Complying with requirements to enter the market as a public transport service provider thus has its challenges. In addition to this, there are barriers created by the syndicate system that come at the cost of competition and consumer welfare. Despite the Competition Promotion and Market Protection Act, 2007’s ruling out any anti-competitive behavior as illegal, and the Supreme Court’s specifically declaring the syndicate-run public transport system as illegal in 2008, the continuation of such practice makes the weak rule of law situation of Nepal apparent.

Public transportation system in Nepal runs on sets of informal rules or one could say the ‘rules of the street’ imposed by the associations. They also use force to enforce their ‘rules of the street’ and maintain control.

Again, on principle, anyone can become a member of the association(s) but the membership fees are very high. This dovetailing of a government provision (most likely enforced as a result of the lobby by the associations) with the syndicate system causes an effective entry barrier.

The associations exert great power on the government when it comes to formulating policies favoring their agenda. The associations often threaten to undertake a transportation strike, if necessary, and bring entire region’s transportation to a standstill when government actions potentially hurt their interests. For instance, Federation of Nepalese National Transport Entrepreneurs (FNNTTE) submitted a memorandum to the Department of Transport Management (DoTM) demanding the withdrawal of route permit issued to Sajha Yatayat (Nepalnews, 2013), a former government-operated popular bus service that was re-launched under a cooperative model.

In 2008, the Supreme Court of Nepal pronounced the transport syndicate as an illegal form of organization and issued an order of mandamus to the Government of Nepal to end all forms of anti-competitive practices (The Kathmandu Post, 2011).

Additionally, Article 3 of the Competition Promotion and Market Protection Act 2007, states,

“no person or enterprise that produces or distributes any goods or services shall, with an intention to limit or control competition,

“Legally one does not need a recommendation from the association to get a permit to operate a public transport service, and one can ply routes once s/he has the route permit. But it is different in practice. Chances are, the vehicle will be vandalized should s/he boycott this step. There was this instance where an entrepreneur who was not a member of any association received a route permit for a bus and started his service; he was then obstructed by the association citing reason that he was plying the ‘syndicated route’ and thus was required to be a member of the association i.e. the syndicate. His passengers were forced out of the bus and the bus was pushed down a cliff.”

- Testimony from personal communication, name not disclosed upon request.

“The court hereby quashes all decisions and agreements made on different dates between the government and the respective transportation entrepreneurs, since all those were against the constitution,” said the court verdict [ordering the end of syndicate/cartel run transportation system]. The apex court’s verdict is the second landmark decision made to end the syndicate system in transportation.

- The Kathmandu Post, 2011

enter into, or cause to be entered into individually or collectively, any agreement with any other person or enterprise that produces identical or similar goods or services”.

Despite these legal provisions, cartel behavior or syndicate system in the transportation sector prevails to date.

Restrictions upon economic activity give rise to rents, and agents (individuals or businesses) often compete for these rents. Sometimes, such competition is perfectly legal whereas in other instances, rent seeking takes other forms, such as bribery, corruption, smuggling and black markets (Krueger, 1974). When it comes to public transportation market in Nepal, rent is fully captured by the syndicate as they are erecting and enforcing the barrier to entry into the market. The rent is captured either through the association membership fee or through higher price for number plates in the case of sales of vehicle and change of ownership. For example, a taxi license plate sells for NRs. 900,000, which is much higher price than the amount required to register car, jeep, van or tempo (Shrestha, 2015). Strong barriers to entry and growing stronghold of associations have made them able to ask for any amount of money to new entrepreneurs to ply those routes. Newspaper articles also confirm that higher price is required to join the associations in addition to the information we have used from personal interviews. For example, there are cases where the association has charged exorbitant rates, from NRs. 400,000 to 500,000 to join the association (Gyanwali, 2011).

These sets of informal rules take form of vandalizing of vehicles that ply the route controlled by syndicate, pressuring the government not to issue the route permit, designating the route themselves and controlling the route and fares on the route. This is illustrated with testimonies from the interview with people associated with the public transport sector and selected stories from newspaper articles.

Apart from controlling entry into the route, transport associations are also defining and controlling the routes and fares themselves. At one point, transport entrepreneurs divided a 76-kilometer road from Beni to Jomsom into two sections—from Beni to Ghasa (41 km) and from Ghasa to Jomsom (35 km). There was no other option for passengers except local buses and jeeps, which were also crammed. Passengers had to change vehicles at Ghasa. Transport entrepreneurs also fixed fares themselves and charged as high as Rs 350 from Beni to Ghasa and Rs 400 from Ghasa to Jomsom. Until December 2013, the government had yet to issue any route permit in that route (My Republica, 2013).

Similarly, two vehicles carrying tourists returning from Upper Mustang were stopped by local youths

A testimony from Mr. Ram Thapa, a former taxi entrepreneur turned consumer rights activist during personal communication:

- 1. After becoming a member of the association by paying membership fees, which ranges from NRs 700,000 to 1.1 million, the association issues a recommendation letter to ply on the route they are controlling.*
- 2. The entrepreneur then goes to the Transport Management Office and submits documents required to obtain the route permit.*
- 3. The office then issues the route permit and then entrepreneur can safely ply that route under the protection of the association.*

“Nepal Yatayat, which is a successful privately-run public transport service now, also had difficulty entering the market. The major barrier they faced was getting the route permit. This was not because it did not fulfill requirements as per the law to obtain route permit, but because of pressure from transport association operating in and controlling the route Nepal Yatayat wanted to ply on. So, Nepal Yatayat operated on another route within the Kathmandu valley that was not controlled by the syndicate”

- Testimony from a personal interview

associated with the Mustang Jeep and Bus Entrepreneurs Association. They forced tourists to travel in their own vehicle (The Kathmandu Post, 2014).

Transport operators in Koshi zone have been operating public transportation vehicles in a newly-opened rough track without route permit. They have also admitted that they have been plying vehicles without a permit in the routes of Dhankuta's Jorpati to Chulachuli, Sidhuwa to Shukrabare, Jitpur, Hile to Chitang, Dharan to Rajarani, Budabare and numerous other rural villages (My Republica, 2015).

This practice is against existing transportation laws. One of the disadvantages of operating public transportation without route permit, in addition to its being illegal, is that in case of accidents, the entrepreneur cannot make insurance claims. Transport entrepreneurs are aware of the risk but still operate the vehicles in such un-safe road conditions without route permit. The government has not issued any route permits citing that the road is not safe to operate public transportation vehicles in. Entrepreneurs, on the other hand argue that they are operating not to violate the law but are simply responding to the demands of village folks of areas that are connected by the new track.

In some instances, being a member of transport association is not enough to enter the market; there is still a possibility of pressure from other powerful associations to block entry into the market. In Pokhara, transport operators associated with Bindabasini Transport Association were forced to keep their vehicles costing millions in the garage as the government did not issue route permits to the new company because of strong pressure from Prithvi Highway Bus Operators (The Kathmandu Post, 2014).

What is reflected from these systems of unwritten but enforced rules by the syndicate is that government's effort to regulate the route permit is ineffective and government is failing to enforce its own regulation, to protect the vehicles to safely ply roads of the country after the route permit is issued and to protect consumer's welfare. This reflects a weak rule of law and an uncertain environment of doing business.

Rule of law, and a government that is capable of both formulating better policies and enforcing them are necessary elements to stop such practice of informal rules. A strong rule of law would help reduce informal rules imposed by the syndicate, and security and protection of private property, would give aspiring entrepreneurs the confidence to make investments in Nepalese public transportation market.

Dang Yatayat Pvt. Limited entered public transport service in Dang with three buses. Previously, the transport service was under control of Rapti Anchal Public Transport Entrepreneurs' Association. "For security reasons the new buses of the company are kept in Police Base Camp in Tulsipur. The company is also planning to provide night bus service from Dang to Kathmandu in the future (Setopati, 2016)."

This example illustrates the insecurity that aspiring transport entrepreneurs face, and goes on to show that if the state can offer them that security, entrepreneurs are willing to enter the market.

4. RECOMMENDATIONS

4.1 ALLOWING TRANSPORT ENTREPRENEURS THE FREEDOM TO CHOOSE THEIR OWN ROUTE

Prospective entrepreneurs could be allowed to propose their own route according to market demand. Since different syndicates 'own' respective routes after being granted permission from the government to operate on a certain route, this recommendation would help gradually phase out the syndicate's stronghold, as new entrants would not require permission from the syndicate to operate their vehicle on that particular route.

As shown by the case of Dang Yatayat Pvt. Ltd., aspiring transport entrepreneurs are ready to challenge the syndicates should the state provide them the security that they are entitled to. The constitution guarantees freedom of enterprise to all citizens, and the competition law and the Supreme Court have clearly stated that all forms of anti-competitive practices are illegal. It is thus the duty of the state to enforce these competition laws and protect aspiring entrepreneurs from any kind of threat from the syndicate. The competition that will ensue will further guarantee a dynamic public transportation industry and enhance consumer well-being.

4.2 REFORMING THE COMPOSITION AND ROLE OF THE TRANSPORT MANAGEMENT COMMITTEE

With the current composition of the Transport Management Committee, there is a skewed representation—biased in favor of existing transport entrepreneurs, and no representation of consumers. The structure of the committee would therefore have to be reformed so that decisions made are not biased towards the benefit of the association members, especially when it means that consumers have no choice but poor services at higher prices. The new structure would have to ensure that the consumer interests are also protected.

It is also recommended that existing transport operators be removed from the process of deciding route permits. Active involvement of syndicate members in the committee in route permit and route designation is the locus which gives the syndicate the ability to restrict potential competitors legally. A deep reform, in its role, should focus on disentangling the relations between syndicate and the government, particularly in terms of granting route permit, and also giving independent entrepreneurs the freedom to decide the route they want to ply on.

4.3 REVOCATION OF REGULATIONS DISCRIMINATING AGAINST PRIVATELY-OWNED VEHICLES:

At the moment, private vehicles are not allowed to participate in the market as public transport providers. Allowing more private cars to function as public transport providers has a number of benefits. First, it would increase the market dynamics by meeting the market's unmet demand. Second, it offers an additional source of income to the people. Third, this would make the city less dependent on the syndicate-operated public transportation system. Fourth, overtime, as the public transport sector embraces competition through influx of new entrants, the stronghold of the syndicate would decrease. If this implementation is followed by a good market response, it might play an important role in breaking the syndicate/cartel.

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Samriddhi Foundation is an independent policy institute based in Kathmandu that focuses on economic policy reform. Established in 2007, Samriddhi aims at facilitating a discourse on pragmatic market based solutions for a free and prosperous Nepal.

Known for bringing together entrepreneurs, politicians, business leaders, bureaucrats, experts, journalists and other groups and individuals to make an impact on the policy discourse of Nepal, Samriddhi works with a three-tier approach - Research and Publication, Educational and Training, Advocacy and Public Outreach. Some of its highly successful efforts include the annual economic policy reform initiative named "Nepal Economic Growth Agenda (NEGAI)", a sharing platform for entrepreneurs named "Last Thursdays with an entrepreneur" and a regular discussion forum on contemporary political economic agendas named "Icon-ity". Samriddhi also hosts the secretariat of Campaign for a Livable Nepal, popularly known as Gari Khana Dera campaign.

One of Samriddhi's award winning programs is a five day residential workshop on economics and entrepreneurship named Arthalya, which has produced over 400 graduates over the past few years, among which more than two dozen run their own enterprises now.

The organization is also committed towards developing a resource center on political economic issues with its Political Economic Resource Center (PERC). Besides this, Samriddhi also undertakes localization of international publications on the core areas of its work. Samriddhi was the recipient of the Dorian & Antony Fisher Venture Grant Award in 2009 and the Templeton Freedom Award in 2011.

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