GOVERNMENT OF PAKISTAN
MINISTRY OF COMMUNICATIONS
NATIONAL TRANSPORT RESEARCH CENTRE (NTRC)

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THE EXISTING PUBLIC TRANSPORT SYSTEM – 3RD PARTY INSURANCE

(SUPPLEMENTARY REPORT)

Report prepared for the Senate Standing Committee on Communications & Railways

April, 2006

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1. INTRODUCTION

As a result of decision on Motion under Rule 194 titled "The Existing Transport System in the Country" introduced by Senator Raza Muhammad Raza in the House on 21st September, 2004, a meeting of the Senate Standing Committee on Communications (Communications and Railways) was held under the chairmanship of Senator Kamil Ali Agha on 21st December, 2004 in the Committee Room, Parliament House, Islamabad. The Senate Standing Committee Members and representatives of various concerned federal and provincial government departments attended the meeting.

It was decided to set up a Technical Committee comprising representatives from all the Provinces and other concerned departments with Chief, National Transport Research Centre (NTRC), Ministry of Communications as its Coordinator for preparing the draft Report on the subject. The draft Report was prepared by NTRC and circulated among all the concerned members in January, 2005.

A detailed Presentation was made to the Senate Standing Committee on Communications (Communications and Railways) in its meeting held under the chairmanship of Senator Kamil Ali Agha on 15th March, 2005 by the Chief, National Transport Research Centre (NTRC), which was also attended by the representatives from the provinces and Small and Medium Enterprise Development Authority (SMEDA). In the light of the observations of the Senate Standing Committee, the draft recommendations were prepared in May, 2005 and subsequently presented to the Senate Standing Committee on Communications on 12th July, 2005. As a result of detailed deliberations, the Senate Standing Committee on Communications adopted several recommendations of the Technical Committee, which were approved by the Senate Standing Committee in its meeting on 29th November, 2005. It was, however, decided that a Supplementary Report will be prepared to deal with the subject of 3rd Party Insurance. This Supplementary Report deals with the subject of 3rd Party Insurance for motor vehicles.

2. **MOTOR VEHICLE INSURANCE**

The road transport system in Pakistan has grown manifold over the years. It accounts for well over 90 per cent of total passenger transport and 95 per cent of total freight transport in the country. Accidents are inevitable and the passengers/road users need to be protected against accidents. There is a need to introduce an effective country wide insurance scheme that covers human lives and provides for timely and adequate compensation to the affectees.

The primary purpose of motor vehicle insurance is to provide compensation for theft, certain types of loss and damage to the vehicle, and loss and personal injury due to road accidents. Loss due to road accidents include damage to vehicles, injury and death of vehicle occupants and third parties, collateral damage to property and the costs incurred by the health services and the police.

The main types of insurance covers are as under:

- **Act Only**. The insurer will indemnify the insured in respect of all sums including claimant's cost and expenses that he is legally liable to pay in respect of death and bodily injury only to third parties.

- **Third Party Liability**. The insurer will indemnify the insured in respect of all sums including claimant's cost and expenses that he is legally liable to pay in respect of death and bodily injury to third parties as well as third party property damage.

- **Comprehensive.** It is the widest possible cover. Every thing is covered unless specifically excluded including insured's own medical expense.

At present, insurance of vehicles against third party risks is provided under Motor Vehicles Act, 1938. The fault of the driver involved in the accident has to be established and the policy insurance covers a liability of upto twenty thousand rupees in which passengers are carried. However, in most cases even this meager compensation is not provided. The third party insurance system is not being enforced and is considered to be an in-effective tool.

The National Highway Safety Ordinance (NHSO) 2000 has provided for 'No Fault Accident Compensation' by a registered insurance company. However, no specific rules have been framed to operationalize the NHSO-2000.

3. REAL PROBLEM

As mentioned earlier, the third party insurance is in-effective. Although there are reportedly a number of fake companies, it is adopted by many users because of the following reasons:

(1) Very low and un-realistic premium (easy to pay)
(2) Perception of accident risk for one-self is very low
(3) It fulfills the legal requirement
(4) It 'minimizes' the perceived operating cost

The result is that there is no effective 3rd party insurance system and almost no compensation is paid.

4. NEED FOR AN EFFECTIVE INSURANCE SYSTEM

There is a definite need to introduce an effective insurance system in the country, which should ensure timely payment of compensation to the affectees on a no-fault basis. This is possible only if determined efforts are taken to revamp the existing in-effective system. Revamping the existing system is not a straight-forward operation because of the reasons mentioned earlier in section 3 above.

5. INTERNATIONAL PRACTICES

Insurance relies on many small contributions providing sufficient revenue to compensate the minority who suffer loss. Most countries require those responsible for death or injury to compensate the victim, or the victim's family. Since few people can afford to do this from their own resources, they either choose - or are required by legislation - to insure against the risk of a claim. Most countries require at least compulsory third party insurance, although there are wide variations in compliance. In developing countries vulnerable road users and public transport passengers account for most road casualties and are the people who should benefit most from third party insurance.

Insurers in many countries offer comprehensive cover against loss or damage even when the driver is at fault. Insurance may be provided through a private company, or through a state-operated fund.

Insurance premiums can either be paid directly by the insured person, or indirectly through a charge related to road use, e.g., by way of a levy added to the price of fuel. Premiums are typically based on the type of vehicle, type of use, where the vehicle is used and claims history. Some countries base insurance premiums solely on the type of vehicle. Others take account of the characteristics of the driver, particularly age and history of motoring offences. This can result in high premiums for young drivers and those with poor driving records.

Private insurers are the main providers of third party insurance in high-income countries. In low-income countries, the state plays a more dominant role and, in many countries, a state-owned company is the sole provider of third party insurance.

Many countries report that income from vehicle insurance premiums does not cover the cost of claims. This often happens when government sets third party premiums and keeps them artificially low for political reasons. The same applies to insurance levies added to the price of fuel, since governments often find it politically difficult to raise the levy. For example, the Road Accident Fund in South Africa is reported to be in severe financial difficulties, because costs far exceed the income generated by the fuel levy.

Insurance compliance is a major problem in low-income countries (Table 1). It typically varies from 5 to 80 per cent. This means that many road accidents are not insured and the victims and their families rarely receive compensation for injury and loss. In industrialized countries, compliance is generally well over 90 per cent. This high level is achieved by:

(1) Requiring evidence of insurance before a vehicle can be licensed and/or requiring all vehicles to carry a windscreen decal which shows that they are insured;

(2) Collecting the premiums as part of the annual vehicle licence fees (as in Victoria, Australia); or

(3) Combining the administration of licensing and insurance within one agency (as in British Columbia, Canada). In South Africa, the Road Accident Fund, which provides third party insurance for personal injury, collects its fees by adding a levy to the price of fuel. Five other African countries have adopted this same payments system. This effectively makes payment compulsory. New Zealand has a public sector 'no fault' system to cover personal injury. The Accident Compensation Corporation (ACC) administers the system which provides cover for all New Zealand citizens, residents and temporary visitors. For its motor vehicle account, ACC receives a fixed yearly levy taken with the annual vehicle licence fee and in addition, there is a levy per litre of petrol, collected at the pumps and paid to ACC.

Where it is up to the individual to purchase insurance, there will always remain a risk of non-compliance. Law enforcement is often sporadic, and subject to corruption in poor countries, uninsured drivers will continue using the roads. Even where enforcement is strong, and a penalty point system for offenders can lead to disqualification from driving, not all drivers comply.

Table 1: Reported levels of compliance with mandatory third party vehicle insurance

Industrialized Countries	**Compliance (%)**
British Columbia	98-99
Sweden	98
UK	90-95
Low Income Countries	
Costa Rica	84
Ghana	70
Peru	22
Pakistan	3-5
Zambia	15

Source: Aeron-Thomas (2002).

In India, under the provisions of Motor Vehicles Act, all the vehicles, which are plying in public places have insurance policy at least to cover third party liability as specified under the Act. There are two types of policies available for motor vehicles – third party insurance (Policy 'A')and comprehensive insurance policy (Policy 'B'), as described below:

(1) **Third party policy (Policy – 'A')**: This covers the insured's liability for death and bodily injury caused by an accident involving the motor vehicle. This refers to the minimum risks that are to be covered under the Motor Vehicles Act 1938 (Act Liability). The risk or damages caused to the third person are covered. Personal injuries and personal vehicle damages will not be covered by this policy. For two wheeler vehicles this policy can be taken for life time. For other vehicles, this policy has to be renewed annually. This is the cheapest available motor vehicle insurance policy. This policy can be renewed two months in advance of its expiry.

(2) **Comprehensive policy (Policy – 'B')**: This policy is wider in scope and covers not only accidental damage to the insured's own

vehicle, but also liability to third parties for bodily injury and/or property damage caused as a result of an accident involving the insured vehicles (Own Damage Losses and Act Liability). The policy can be extended to cover additional liabilities (as provided in the Tariff). This is a costly policy. It covers both personal and third party risk. This policy is renewed annually, and it can be renewed two months in advance anywhere in India.

There are four Motor Vehicle Insurance Companies, namely:

(1) New India Assurance Co. Ltd.
(2) Oriental India Insurance Co. Ltd
(3) United India Insurance Co. Ltd.
(4) National Insurance Co. Ltd.

The premium rates for motor vehicle insurance in India are governed by tariffs, which is the same for all the four companies operating in India.

For the purpose of insurance, motor vehicles are divided into three classes:

(1) **Motor cycles**: This includes motorcycles with or without sidecars, pedal cycles, mechanically assisted pedal cycles and motor scooters with or without sidecars.

(2) **Private cars** : This category comprises cars, including station wagons, used for social, domestic, business or professional purposes (excluding those used for the carriage of goods).

(3) **Commercial Vehicles**: All vehicles excluding private cars, motor cycles and vehicles running on rails come under this category.

6. AVAILABLE OPTIONS

The following four options have been considered for premium collection and to meet the operating expenses for providing 3rd party insurance cover on no-fault basis to all categories of motor vehicles. The first three options focus on effectively replacing the existing system in an 'obligatory' and yet 'imperceptible' manner besides removing all exemptions to various categories of vehicles. The fourth option focuses on revamping the existing system of third party insurance.

6.1 OPTION ONE

Collecting the premium at the time of vehicle registration and its periodic renewal. This will require that all the motor vehicles are included and there will be no exemptions. The amount of premium to be paid on an annual basis shall be as per the Tariff proposed by the Insurance Association of Pakistan and will vary from Rs 1200 – 3500 for Act Only Liability as detailed in Annex-I. Tariffs for private vehicles like motor cycles, private cars, etc may have to be determined. There is also a need to accurately structure the tariff as per the vehicle type with due regard to its passenger / load carrying capacity.

This system may be difficult to administer due to the following reasons:-

(1) Including the exempt vehicles will create administrative problems and may be difficult to implement.

(2) Collection of fees for renewal is a provincial subject and collection chain could be cumbersome and may be very difficult and costly to manage.

(3) Vehicle tax is based on type and usage of vehicle, which means that tariff structure will be different for different types of vehicles. This diversification of tax on vehicles will add further to complication and inefficiency in the collection chain.

(4) Reliance on local traffic police will be necessary to check whether a particular person has renewed his vehicle's registration or not.

(5) Lump-sum payment of premium may not be readily acceptable to the public and may also encourage fake companies.

(6) The vehicle tax collection authorities have, at present, no proper computerized system, which would hinder the execution of check and balance system for ensuring timely premium collection from all the concerned.

6.2 OPTION TWO

There are some serious limitations in option one as described above. These pertain to limited coverage of vehicles, dependency on a number of agencies, cumbersome procedures, and inhibition to pay lump-sum amounts, etc. In order to overcome these problems, it may require introduction of a scheme not entirely on considerations of commercial insurance only. For their funding, such compensation schemes have universally relied on the taxing power of the government, which may be exercised in the form of compulsory levies to finance the scheme. The degree and method of funding for compensation schemes may vary and will depend on the scale of government support. The rate of levy may be reviewed periodically on the basis of actual experience over the years.

A number of effective mechanisms exist in the world to provide compensation to the victims of traffic accidents. Considering the number of registered vehicles and number of casualties reported in traffic accidents, it is possible to introduce a much-improved level of compensation under Act Only insurance to the victims of traffic accidents.

The basic philosophy of this scheme is to avoid dependency on other departments like Excise & Taxation Departments, Post Offices, Traffic Police, etc. Besides, full advantage will be taken from the fuel and gas distribution companies like PSO, SNGPL, etc, which have proper computerized accounting system in place and would help to ensure proper remittance of premium.

A levy on gasoline and CNG @ 10 paisas per liter / Kg may be imposed to raise the premium amount. Estimated annual premium and annual expenditure may be seen in Annex – II. The rationale of the proposal is as under:

(1) The coverage will be provided on all Pakistan-basis irrespective of area / zone and vehicle type.

(2) Premium will be on risk exposure. High consumption of fuel will attract high premium as it is more exposed to risk.

(3) It simply implies that there is direct correlation between exposure and contribution.

(4) As the collection of premium will be direct from Oil/Gas Companies, administrative problems will be fewer.

(5) This unique method is self-financing. Every vehicle in Pakistan will automatically find itself covered under this scheme irrespective of individual choice and motives.

6.3 OPTION THREE

This may be a combination of options one and two to enlarge the premium base and minimize the amount of Tariffs proposed under Option One. The proposed levy may be reduced to less than half the amount mentioned in option two. Besides, mandatory collection at the time of vehicle registration and its periodic renewal, it may also include voluntary contributions from philanthropists (contribution to be exempted from income tax), enhancement in learner's driving licence fee, driving licence fee and similar other sources for the '3rd Party Motor Vehicle Insurance Fund'.

6.4 OPTION FOUR

This relies on improving the effectiveness of the existing system on insurance as provided for in the Motor Vehicles Act, 1938 which has unfortunately, received a major setback by the present practice of bogus documents/policies issued by the road-side vendors / representatives of fake insurance companies.

This option does not provide for monopolization of insurance business by the Government owned insurance company namely the National Insurance Company Limited (NICL) either in the initial start-up phase or in the subsequent phases and the mandatory collection of premium at the time of vehicle registration / renewal or the imposition of levy on the CNG and Petroleum Products.

Section 125 of the Motor Vehicles Act 1938 imposes mandatory insurance of vehicles against Third Party Risks which include the liability incurred by the driver or owner of the vehicle in respect of the death of or bodily injury to any person caused by or arising out of the vehicle in a public place in Pakistan. The punishment for driving un-insured vehicle as provided for under Section 125 of the Act ibid provides for imprisonment which may extend to three months or with fine which may extend to Rs 500/- or with both.

There is a need for amendment in the Motor Vehicles Act 1938, not only to the extent of the deficiency of the 'authorized insurer' but also the amount of fine for driving an uninsured vehicle or for not obtaining an insurance from a duly registered insurance firm with SECP. The amount of premium and compensation payable on death / injury, 'modus operandi' for the claim and payment of compensation to the legal heirs of the persons killed in a motor vehicle accident and the persons who get injured need to be judiciously determined. The provision of no-fault accident insurance as contained in Section 41 of the National Highways Safety Ordinance, 2000 should also be included in the said Act.

The avenue of insurance should be kept open for all insurance companies duly registered under Insurance Ordinance, 2000 with the Securities & Exchange Commission of Pakistan (SECP). The rules and regulations should be amended and the open market competition for insurance companies should be established. These insurance companies may also launch awareness campaign for the general public so that all the owners of motor vehicles obtain insurance against third party risks from duly registered insurance firms of SECP.

7. IMPLEMENTING MECHANISM

7.1 For options one to three

The implementing mechanism for options one to three may be as under :-

(1) Whichever option is adopted for premium collection, to begin with, NICL should cover all vehicles in Pakistan for Act Only Coverage on no

fault basis and operate the 3rd party motor vehicle insurance fund in two phases :

(a) Only death for the first two years caused by any motorized transport including motorcycles.

(b) Permanent Disability and Injury after streamlining of the system

(2) Depending on the option preferred for adoption, the amount of compensation payable to the victim may be prescribed at an affordable level by the NICL.

(3) For ensuring speedy compensation to the affected person(s), it is proposed that:

(a) *Carrying of National Identity Card (NIC)* specially by all the travelling public should be made obligatory.

(b) *Claim Processing Procedure*: The compensation will be paid on the FIR Report of Police and Medical Report of the Doctor.

(c) *Determination of legal heirs to whom compensation will be paid*: This will be done on the basis of Succession Certificate or a Certificate indicating the Legal Heirs and duly signed and stamped by a Local / City Government Nazim or a Govt. Officer (BPS-17 and above). The person issuing an incorrect Certificate shall be liable to punishment under the rules.

(4) Private Insurance Companies can continue to underwrite Third Party and Comprehensive Motor Car Insurance Business. Once the system becomes fully operational, possibility of opening it to the private sector can also be considered in consultation with the Securities and Exchange Commission of Pakistan (SECP). Before NICL takes over Act only Liability Insurance, the following legal aspects may be considered:

(a) Definition of authorized insurer appearing in Section 93(a) of Motor Vehicles Act 1938 may be amended so that NICL is allowed to become the sole insurer for act only liability.

(b) The Ministry of Commerce / Securities & Exchange Commission of Pakistan (SECP) should issue rules under Insurance Ordinance 2000 whereby insurance companies are required to amend comprehensive insurance policies so that Act Only

Liability Cover is no more a part of such comprehensive insurance policies. This will also reduce the premium for comprehensive insurance.

7.2 **For Option Four**

For option four, the following mechanism may be adopted :

(1) SECP may indicate the prioritized list of insurance firms registered with them which may be capable to undertake 3rd Party Risk insurance on no-fault basis.

(2) In the initial phase, only a few (4-5) firms may be designated to undertake the business.

(3) The legal aspects as mentioned in para 6.4 above may be adequately amended.

(4) The amount of fine for driving an un-insured vehicle or for obtaining an insurance policy from an un-authorized insurance firm may be increased from Rs 500 to Rs 5,000.

(5) All vehicles whether government or privately owned should be included.

(6) The amount of premium and compensation amount to be paid on no-fault basis in the case of death or injury needs to be realistically determined.

(7) For ensuring speedy compensation to the affected persons, the procedure outlined in para 7.1 [(1) – (3)] above may be considered for adoption.

8. **RECOMMENDATIONS**

The existing in-effective system of 3rd party insurance for motor vehicles need to be revamped. The Committee has described the pros and cons of the available options to deal with it effectively. The options of charging the premium on a lump sum basis, or on a gradual basis or on a 'mixed basis' or through revamping the existing in-effective system have been described in this Report. The option of revamping the existing in-effective system deserves a serious consideration. The Committee recommends that the Ministry of Commerce should determine an effective modus operandi for revamping the existing system, a realistic assessment of annual premium and compensation amount to be paid in the case of death or injury on no-fault basis in consultation with the Securities and Exchange Commission of Pakistan (SECP), Ministry of Communications, Provincial Transport Departments, various stake holders and the Law, Justice and Human Rights Division for implementing an effective 3rd party insurance system on no-fault basis within a time frame of four months.

RATING SCHEDULE FOR COMMERCIAL VEHICLES

(Tariff of INSURANCE ASSOCIATION of PAKISTAN – IAP)

Carrying capacity/ seating capacity	Comprehensive Insurance Rs	Act only Liability Rs	Public risks third party Liability Rs
Not exceeding 2 M Tones	660 + 5.5% IEV	1200	1500
Exceeding 2 M Tones	810 + 5.5 % IEV	1400	1600
Up to 3 M Tones	3075+5.5% IEV	1500	1800
Over 3 M Tones	3075+5.5% IEV	1800	2000
SINGLE DECK			
Up to 14 passengers	1410+5.5 IEV	2500	3000
15 to 30 passengers	1530+5.5% IEV	2500	3000+100/seat
31 to 52 passengers	1800+5.5 IEV	3000	3000+100/seat
Exceeding 52 passengers	2070+5.5% IEV	3500	6000+100/seat

IEV - Insurance Estimated Value.

ESTIMATED ANNUAL PREMIUM AND ANNUAL EXPENDITURE

(OPTION TWO)

Annual Fuel Consumption on Transport

➢ Petrol	1622.30	Million Litres
➢ Diesel	8100.00	Million Litres
➢ CNG	361.25	Million Kg

Proposed Levy on Sale of Gasoline/Diesel/CNG on Behalf of NICL

- For Act only Liability and Passenger Liability
  - 10 paisa per litre/kg
- Premium Collection
  - Direct from Oil Companies / SNGPL / SSGC

Estimated Annual Premium

		Amount (Million Rs)
Petrol		
	10 paisa/litre	162
Diesel		
	10 paisa/litre	810
CNG		
	10 paisa/Kg	36
		1,008

Estimated Annual Expenditure

	No.	Amount (Million Rs)	
Death	5,400	540	@ Rs 100,000
Permanent Disability	5,000	250	@ Rs 50,000
Injuries	7,900	197	@ Rs 25,000
	18,300	987	