



# Challenges to the Role of Private Participation in Public Transportation: A Case of Kerala's Private Buses

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## ABSTRACT

The State of Kerala in 2012 through a notification stopped issuing new permits to inter-district buses in Kerala while exempting state run Kerala State Transport Corporation. This was the beginning of the government's action against private operators as it eventually started taking up routes were private buses used to operate. Though a populist move, it is predicted to kill the private bus system in the state, one of the unique successful examples of private participation serving a public good in the country. The Author uses this scenario to analyse and illustrate how these interventions is going to affect the public transportation system of the country.

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## Executive Summary

The State of Kerala in 2012 published a notification to stop issuing permits to inter-district buses in Kerala. Interestingly, it was meant to end the operation of buses by private players and exempted State-run Kerala State Road Transport Corporation (KSRTC) from this rule. This was the beginning of the Government's action against private operators, as eventually KSRTC buses started plying the routes where private buses used to operate. The private operators approached the High Court of Kerala only to be disappointed, as the Court ruled in favour of the Government, citing the legality of the Government Order. The Motor Vehicles Act, 1988, which regulates and sets the framework for bus operation in the country, has entailed provisions, which give preferential treatment to State-run buses over private operators. The Rules implemented by the federal states, including Kerala, have given the power to the State, which eventually legalises state monopolisation of the public bus system. The matter is now under review again in the courts and would set the tone for future action and growth of public transport in the country. It is in this context that Centre for Public Policy Research (CPPR) discusses the role of the government in public transportation with a critical assessment of the Motor Vehicles Act, 1988, which has been detrimental to the involvement of private players. Public transportation serves as an integral element in developing the economy by meeting the mobility needs of the people for education, jobs and access to markets. Private participation is inevitable and needs a suitable environment for investments.

The case of Kerala stands here as one of the best public transport systems, thanks to its private-operated buses, which are now under threat due to inadvertent government policies. The case of banning private-operated buses from plying the inter-district routes has signalled the death knell of choice and competition in the public transportation sector. This is leading to a scenario, where more people shift to private cars and taxis, leading to increased traffic congestion, higher emissions and loss of man-hours. It is therefore important to revisit the rules of the game related to public transport providers to encourage private participation, develop healthy competition, improve public transport services and help the economy. In this report, CPPR aims to analyse the impact of the Government's restrictive policies on the mobility of people and the State economy. It further develops a case for the increased role of private players in the public transportation sector. The report is structured into two parts, with the first part assessing public and private bus transport in India and the state of Kerala, and the second part focussing on the implications of the Motor Vehicles Law on the private sector, taking the case of the demise of private buses in the state.

## Introduction

Transportation has been the key to mobility, which is directly connected to jobs and opportunities. Realising the huge potential of public transport, countries around the world have been investing huge amounts of money into the transportation sector every year. In India, the development of transportation sector accounts for 6.4 per cent in India's Gross Domestic Product (GDP)<sup>i</sup> and has drawn ₹97,000 crore of public money, as per the Union Budget, 2016. The major chunk is invested in developing roads through a host of government run schemes. Transportation is essentially a derived demand depending upon the size and structure of the economy and the demographic profile of the population, and hence the growth of the sector in India requires major investment. Greater the share of commodity producing sectors like agriculture and manufacturing, higher the demand for transport.<sup>ii</sup>

Development of public transportation system is costly. Thus, private investment is often critical and considered effective in delivering the required products and services. For instance, incentives and competition have enabled private players to provide highly efficient transport systems such as the Tokyo Rail systems<sup>iii</sup>, with local examples in India, largely at the para-transit level like auto-rickshaws and maxi cabs.

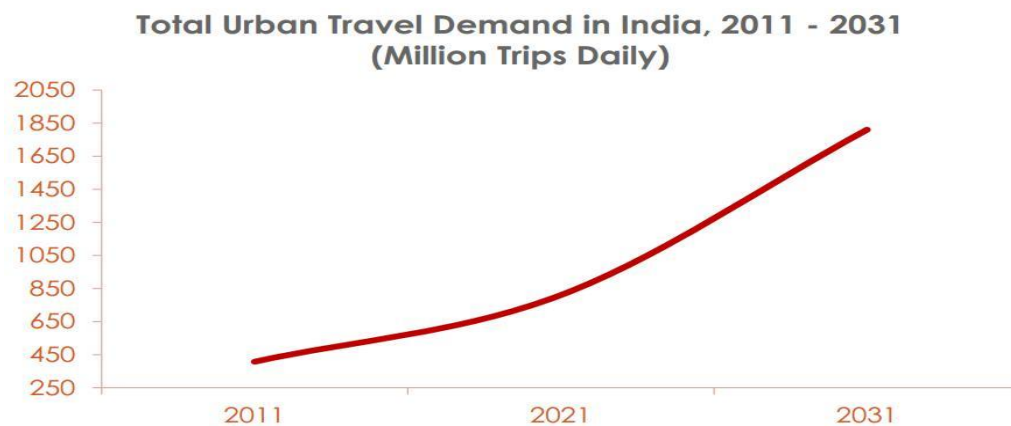
Private sector involvement in building and facilitating public transportation has generated positive outcome around the world. In the US, the cities of Austin and New Orleans have outsourced public bus transport management and operation to private players, thereby saving substantial government expenses every year. Public infrastructure is managed by private companies in many countries. Clifford Winston of the Brookings Institution in his seminal report on 'How the Private Sector can Improve Public Transportation Infrastructure'<sup>iv</sup> had argued how private management will bring efficiency inspite of its uncertain outcomes and that private sector will bring better technology into such system much faster than public sector.

Rachel Kyte of the World Bank at *The Global*<sup>v</sup> had argued about balancing public good needs with the operational efficiency of the private sector, which sets the role of government in public transport systems. However, India has been following a socialist doctrine of government monopolising public transport. The language and intent of the Central Act governing public transportation in India - The Motor Vehicles Act, 1988 - makes the case of how the government ordains a preferential treatment to State Transport Undertakings (STU). This exists inspite of the fact that government-led STUs have been

piling huge losses and considerably failing to provide an efficient public transport service. Two professors of the Indian Institute of Technology at Kanpur studied the efficiency of such STUs and found how majority of them have shown low economic profitability<sup>vi</sup>. Newspaper reports on the rising losses had attached this to the inefficiency of the government to manage such services with only three of 55 STUs making profits<sup>vii</sup>. This report seeks to analyse how government is pushing a mismanaged public bus transport system and destroying an efficient private bus system to the peril of public transportation. In this context, the private buses of Kerala assume significance as one of the success models for private sector efficiency. The state has one of the highest penetrations of private-operated buses, which has enabled it to score high on Public Transport Index and Accessibility Index. This, however, is all set to change because of a government decision to stop issuing new permits to private operators and take over routes for its STUs to ply. In this paper, the author aims to highlight the need for involving private participation in public transportation and why such restrictive rules would only push the country back on public transport usage and the mobility of its people.

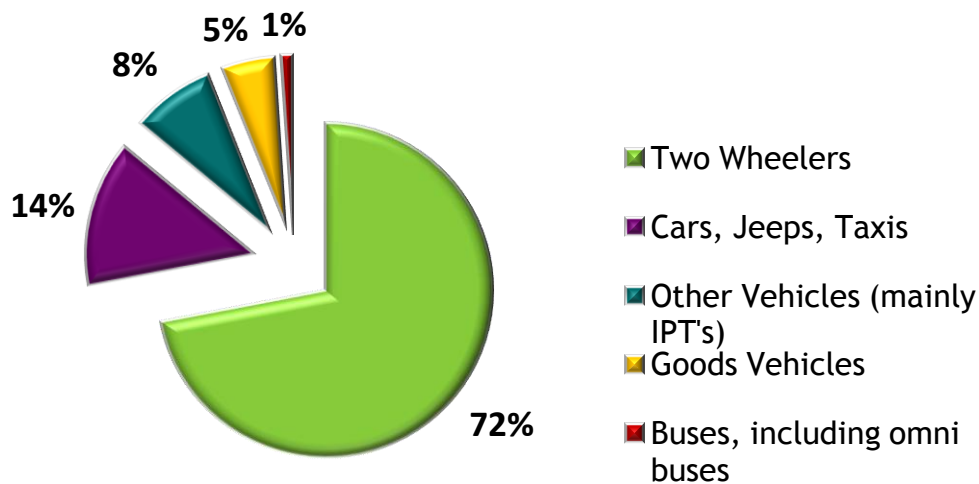
## Public Transportation in India: The Scenario

**Figure 1: Estimates of Urban Travel Demand in India**



India has been witnessing a significant explosion of motor vehicles, due to the liberal policies at the national level. Two-wheeler motorcycles dominate the market with a significant growth of car population (See Figure 2).

**Figure 2: Composition of Registered Motor Vehicles, as on March 31, 2011**



Source: Motor Vehicles Department

Meanwhile, the public-private modal share has tilted in favour of private transport, due to the inefficiency and absence of public transport systems for supporting people's transportation needs. Currently, cities in India do not have an efficient public transportation system, as more people use their cars or depend on private taxis. As per a study by the University of California, Davis, and the Institute for Transportation and Development Policy (ITDP), more than \$100 trillion in cumulative public and private spending and 1,700 megatons of annual carbon dioxide (CO<sub>2</sub>) with a 40 percent reduction of urban passenger transport emissions could be eliminated by 2050, if the world expands public transportation and encourages walking and cycling in cities<sup>viii</sup>. The study further notes how CO<sub>2</sub> emissions in India are expected to leap from about 70 megatons to over 500 megatons by 2050 because of growing wealth and urban populations. But this increase can be moderated to only 350 megatons by addressing crucial infrastructure deficiencies in India's public transport systems and slowing the growth in private car use. Between 1951 and 2011, people taking buses have reduced from 11.1 per cent to a meagre 1.1 per cent, showing the slow death of public bus systems in India and its possible impacts on pollution and economy. The table given below highlights these points.

**Table 1: Mode-based Vehicle Population in India in the Period of 1951-2011**

Composition of Vehicle Population (% of total)						
As on 31 <sup>st</sup> March	Two Wheelers	Cars, Jeeps & Taxis	Buses	Goods Vehicle	Other Vehicles	Total
(as % age of total vehicle population)						(Millions)
1951	8.8	52.0	11.1	26.8	1.3	0.3
1961	13.2	46.6	8.6	25.3	6.3	0.7
1971	30.9	36.6	5.0	18.4	9.1	1.9
1981	48.6	21.5	3.0	10.3	16.6	5.4
1991	66.4	13.8	1.5	6.3	11.9	21.4
2001	70.1	12.8	1.2	5.4	10.5	55.0
2002	70.6	12.9	1.1	5.0	10.4	58.9
2003	70.9	12.8	1.1	5.2	10	67.0
2004	71.4	13.0	1.1	5.2	9.4	72.7
2005	72.1	12.7	1.1	4.9	9.1	81.5
2006	72.2	12.9	1.1	4.9	8.8	89.6
2007	71.5	13.1	1.4	5.3	8.7	96.7
2008	71.5	13.2	1.4	5.3	8.6	105.3
2009	71.7	13.3	1.3	5.3	8.4	115.0
2010	71.7	13.5	1.2	5.0	8.6	127.7
2011	71.8	13.6	1.1	5.0	8.5	141.8

Note: 'Other Vehicles' include tractors, trailers, three wheelers (passenger vehicles)/LMV and other miscellaneous vehicles which are not classified separately

Source: Offices of State Transport Commissioners/UT Administrations

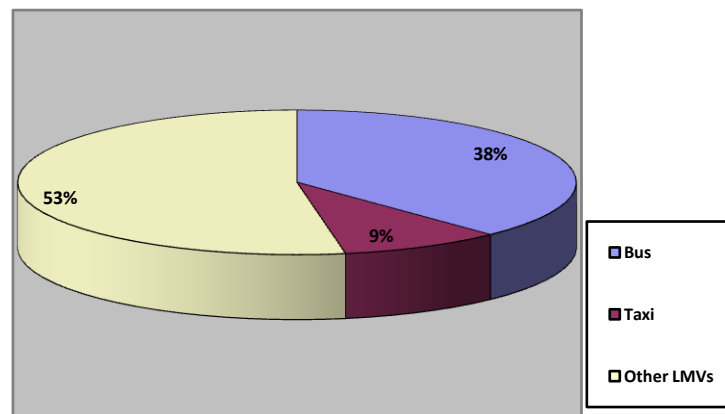
Even prior to Independence and during the British Rule, the Government was given a predominant role in passenger road transport operations because it was considered an essential public utility to meet the travelling needs of millions, both in urban and rural areas<sup>ix</sup>. The Road Transport Corporations (RTC) were formed with this objective and governed by the Road Transport Corporations Act, 1950. The Act allowed the State and Central Governments to take initiative to form the RTCs, which led to the formation of STUs in various states in India. The result being that all the states had government-run public buses on the streets. The bus transport system in India is now governed by the Motor Vehicles Act, 1988, which is, in fact, an amended version of The Motor Vehicles Act,

1950, to make special provision for STUs and further amended in 1969 for endorsing State monopoly in passenger road transport services. Due to the inefficiency of public bus systems, majority of the states have private-run para-transit systems like maxi cabs, share autos, tempos etc. The traffic and transport situation is dominated by two-wheelers, which constitute around 70-75 percent of the traffic, para-transit, comprising another 12-15 percent, 10-15 percent cars and remaining 1 percent constituting buses (See Figure 2). The Central Motor Vehicle rules therefore set a model for a government-led public bus transportation system in India, with Kerala as one of the few notable exceptions (another state includes Rajasthan).

### Public Transport in Kerala

Kerala is one of the highly urbanised states in India (47.7 per cent as per Census 2011) and has a significant number of people covering long distances between 200 and 300km. Cities in Kerala rank high in Public Transport Accessibility Index and City Bus Transport Supply Index with a high penetration of public transport buses<sup>x</sup>. The composition of public bus system, 38 percent, is one of the highest in the country (See Annexure I and II). This also follows the fact that Kerala has the highest vehicle per population ratio of one vehicle for every five individuals with estimates showing that by 2017, every household will have a vehicle, on average<sup>xi</sup>.

**Figure 3: Modal Share of Vehicles in Kerala**



Source: Kerala Motor Vehicles Department

Kerala is unique for its high public transport modal share, thanks to the role played by private-operated buses. Kerala has two major public bus transport systems - State-controlled KSRTC and private-operated buses, which run inter-city, intra-city and inter-district (administrative) services. The private-operated buses constitute 77 percent<sup>xii</sup> of



the entire passenger transport segment in Kerala with KSRTC, the only STU, operating 5984 schedules in Kerala<sup>xiii</sup>.

Orissa, Rajasthan and West Bengal are the other states where private-operated stage carriage bus operation is higher, while there is a clear monopoly of State-owned buses in the bus passenger transport industry in states like Maharashtra and Tamil Nadu (See Annexure I and II). This report presents an assessment of inter-district transport based on the role played by private and government run bus systems from the data collected through personal interviews and available public data.

The graph in Figure 3 shows the massive growth of private-operated transports after the Motor Vehicles Act, 1988, came into force. However, ever since the restrictive rule banning inter-district private bus operations came about, the growth of private-operated buses has been static and is further declining. The total number of private stage carriages registered during April 2009 to March 2015 was 4884, while the total number of State-run KSRTC buses registered during April 2009 to March 2014 was 2714<sup>xiv</sup>, which shows an overall decrease in new private bus registrations.

## Part I: Private Sector Efficiency in a Public Good System

### Killing the Golden Goose - The Case of Private Buses in Kerala

Private-operated buses are efficient and add value to the Government's exchequer saving it from the liabilities of providing transport. The Government is gaining high through taxes on private-operated buses, with estimated earnings of ₹1,20,000 from each private bus annually by way of road tax. The Government earns around ₹750 crore from private bus operators every year.

Table 2 given below draws comparisons between public and private bus transport systems on various factors. It shows how the private bus transport sector brings in more efficiency and productivity, especially on factors like bus utilisation and earnings per kilometre, which are global metrics to measure the efficiency of public transport systems. While related numbers for inter-district buses are not available, the statistics can be applied for them. These comparisons highlight that restrictions on private operators will hamper the current transportation and mobility scenario. As per reports, non-renewal of private bus permits would affect about five to six employees of private buses adversely.

**Table 2: Public and Private Bus Sector Comparison in Kerala**

Sector	Avg. Age of Fleet (Years)	Over-aged vehicles (%)	Daily Bus Utilisation (km) (per bus)	Total Staff/Bus on Road	Fuel Efficiency (km/litre of HSD)	Passengers per Day	Paisa/km
Public* (KSRTC)	6.5	28.8	265.5	7.84	4.2	742	2410
Private**	2.5	0	250	4	3.25	800	3200

Source: \*IJTM April-June11 published by CIRT, \*\*Bus Operators Association District Level Officials, CPPR estimates

Driving private bus operators out of the market will leave thousands jobless. The case rests on the fact that private buses generate ₹20 Crore approximately as revenue every year. A huge part of this income goes to low-income and self-employed population, since about 10,000 of 15,000 private bus operators own one or two buses and depend on them for their livelihood. Thus, the Government policy not only disrupts a normal and healthy market mechanism but also kills the incentive for private and public operators to provide better service to passengers.

Assessing rural to urban trips of buses travelling from Idukki to Ernakulam and Kottayam to Ernakulam tells us that people of rural areas rely on private-operated buses for their daily commute. These districts have one of the highest penetrations of private-operated buses. Timely and efficient bus services offer them access to market and open doors for better job opportunities and income. Passengers rated the service of private operators higher than that of public operators, as they often provide better service and amenities. Instances of providing WiFi service<sup>xv</sup>, music system and comfortable seats show how market competition has helped the growth of public transport system in Kerala.

### **How State-run KSRTC is damaging the Economy and Public Transport Sector in Kerala**

The Planning Commission Report on 'Physical Performance of Major STUs' has revealed that KSRTC has the worst physical performance parameters like fleet utilisation, bus staff ratio and kilometres per litre. The assets position demonstrates a negative picture with a

liability of ₹960 Crore. The financial loss suffered by KSRTC annually is equal to the total vehicle tax collected in the state.<sup>xvi</sup>

KSRTC is the largest loss-making public sector undertaking in Kerala. In 2000, KSRTC incurred a loss of ₹3335.36 Crore. In 2011, the loss amounted to ₹5397.16Crore, with nearly 50 percent increase in its loss. In 1978, the share of KSRTC in the public transport system was about 35 per cent, whereas today the share of KSRTC has come down to 20 per cent, with only 11 percent of passengers depending on it (Sebastian, 2013). KSRTC is affected by an overall operational inefficiency caused by the mismanagement of the Government-run corporation, which has suffered from political appointments and favouritism<sup>xvii</sup> (Mridula, Srikanth and Dr. Ambily, 2015)<sup>xviii</sup>. The Government has therefore always stepped in to support and pump in money to KSRTC, despite its mounting losses every year<sup>xix</sup>.

In this scenario, it is not feasible for the State to takeover permits and monopolise the public transport sector. This will create gaps in accessing public transport for the population, while at the same time force people to use private modes of transport. The increase in private motor vehicle usage supports the fact that people have started shifting to private modes of transport in the event of lack of alternate systems to support. The inadequacy of railway systems and absence of airline systems further obliterate public transportation from the state because of Government monopolisation.

In several areas in Kerala, where KSRTC buses replaced private services, the passengers were forced to depend on parallel services like tempos, mini buses, jeeps<sup>xx</sup> or their own vehicles. Another problem identified was the overload of passengers in buses, given the limited supply and high demand from commuters. The bus system is set for a decline in efficiency and rise in maintenance cost due to this. With the absence of competition and monopoly structure existing in the public sector, the condition of public buses (STUs) will only get worse. Thus, the essence of a public utility service will be lost and the passengers will suffer due to long waiting periods at bus stands, accidents due to over-speeding and head running, low safety and quality standards of buses, overcrowding in buses due to less number of services etc. (Cox & Love, 1991).

The government-backed monopoly of public transportation service is therefore damaging to the economy. Public sector monopolies are plagued by inefficiencies and have failed to produce favourable results. The public cost for maintaining public buses is higher with a poor rate of return. In the case of KSRTC buses, when compared to private buses, they require more than 1000 Indian paisa (₹10) per kilometre to cover the cost pensions and

other social security schemes. This is mainly due to overstaffing, which escalates the cost. The average number of staff employed in KSRTC is around 5.5 per bus, whereas for private buses it is around three employees per bus. The inability to charge a higher price due to over-subsidisation and political reasons leads to low returns, ignorance of service standards and lack of technical expertise and innovation. The absence of incentive-based system and/or penalties for unproductive staffs has also been detrimental to its growth similar to other public sector entities. The importance of such a trend is not realised, which could actually give a remarkable boost to productivity (Venkatesan, 2007). Private sector efficiency is therefore the way forward for supporting the growth of public transport system in the state and in India.

## **PART II: The Unruly Motor Vehicles Act**

### **How the Government used the Motor Vehicles Act to Restrict Private Players**

The Central Motor Vehicles Act, 1988, is the main legislation governing transportation in India. The two main functions of the Act are ‘... the delegation of greater powers to State Transport Authorities, rationalising the role of public authorities in certain matters ...’ and ‘.....the simplification of procedures and policy liberalisation in the field of road transport ...’. It is interesting to see how State Governments flout these objectives through restrictive policies curtailing private players, leading to the eventual monopolisation of the public transportation system. The instance of Kerala State using the provisions in the Motor Vehicles Act to stop private buses from operating long distance buses in the state can be seen as a violation of and departure from the intentions of the Central Act.

This was initiated in 2012, when the State of Kerala issued a notification under Section 99 of the Motor Vehicles Act, 1988, stating that all long distance routes would be taken over by the State-run KSRTC under the premise of ‘providing a proper, efficient, economical and properly co-ordinated’ road transport service in ‘public interest’. In 2013, another notification was issued, amending the definitions of ‘Fast Passenger Service’, ‘Luxury Service’, ‘Super Deluxe Service’, ‘Super Express Service’ and ‘Super Fast Service’ in the Kerala Motor Vehicle Rules, in such a way that these categories of buses only included buses owned by the State, or KSRTC, in this case. This, in effect, meant that private operators of the identified categories were excluded from providing transport services on

long distance routes in Kerala. Private bus operators filed a complaint against the amendment and in 2014, the Kerala High Court upheld the Government's decision and directed that no superfast permits be given to private buses in Kerala.<sup>xxi</sup> This dealt a major blow to the private operators and led to a considerable dent in the public transport scenario of the state.

Over 180 permits of a total 241 long distance route permits operated by private bus operators were taken over by the State-run KSRTC<sup>xxii</sup>. As on July 2015, around 12,000 permits, including long distance route permits, of private buses plying on 31 routes across the state were set to expire<sup>xxiii</sup>. As a result, around 400 private buses were affected in Pathanamthitta, one of the major districts in southern Kerala. Private buses with existing permits have been allowed to continue in only 5 per cent of the routes they had plied earlier.<sup>xxiv</sup> This has considerably reduced the number of buses in the state, which has suddenly pushed people out of the public transport network. A decline in public road transport means higher expenditure for commute, higher usage of petroleum products and higher levels of emission.

### The Wrongness of the Motor Vehicles Act, 1988

The fact is that the Motor Vehicles Act, 1988, has given the trigger to the State Governments to be pulled at will. The provisions in the Act citing 'public interest' form a loose terminology applied freely to the whims and fancies of the government in power. As the implementation of the Act is left to the federal states, including Kerala that has framed the Kerala State Transport Corporation Rules, it has undermined the efficiency of competition in the sector. The provisions of the Act in 'essence' initiated policy liberalisation in the transport sector but in reality, it has been counterintuitive. A look at some of the major provisions of the Motor Vehicles Act like Chapter VI shows how there are several 'special provisions' for STUs, which legalise their preferential treatment over private transport systems. See Table 3 below.

**Table 3: Provisions in the Motor Vehicles Act affecting Private Bus Transport Operations**

Sl. No	Provision of the Law	What it Reads	What it Means
1	<b>Section 71 (3) (iii):</b> Provided that, other conditions being equal, preference shall be	Mentions how the government is bound	Preferential treatment

	<p>given to applications for permits from</p> <ul style="list-style-type: none"> <li>(i) State transport undertakings;</li> <li>(ii) Co-operative societies registered or deemed to have been registered under any enactment for the time being in force;</li> <li>(iii) Ex-servicemen;</li> <li>(iv) Any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary.</li> </ul>	<p>to give preference to STUs in the transport sector on the matter of permits</p>	<p>creating monopolies and distorting market</p>
2	<p><b>Section 71 (3)(iv):</b>The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.</p>	<p>Fixes a cap on permits to be issued to private players</p>	<p>Restrictions distorting market</p>
3	<p><b>Section 98</b>(Chapter to override Chapter V and other laws): The provisions of this Chapter and the rules and orders made there under shall have effect notwithstanding anything inconsistent therewith contained in Chapter V or in any other law for the time being in force or in any instrument having effect by virtue of any such law.</p>	<p>Provisions of the Chapter to be binding even if they go against the provisions of Chapter V</p>	<p>Higher risk of government intervention</p>
4	<p><b>Section 99 (1) (1):</b>Where any State Government is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest</p>	<p>Allows the State to make certain routes a complete or partial 'monopoly' of the STU. It allows the</p>	<p>Government monopoly</p>

	<p>that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Government may formulate a proposal regarding a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and other relevant particulars respecting thereto.</p>	<p>State to formulate a proposal allowing the STU, in public interest, to operate road transport services in general or a particular class of services in certain routes or areas. Sub-section 2 provides that no new permit (except temporary permit) shall be granted to any person after the publication of a proposal.</p>	
<p>5</p>	<p><b>Section 103: Issue of permits to State transport undertakings</b></p> <p>(1) Where, in pursuance of an approved scheme, any State Transport Undertaking applies in such manner as may be prescribed by the State Government in this behalf for a stage carriage permit or a goods carriage permit or a contract carriage permit in respect of a notified area or notified route, the State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case shall issue such permit to the State Transport Undertaking, notwithstanding anything to the contrary contained in Chapter V.</p> <p>(2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, the State Transport Authority</p>	<p>Speaks about the application for a permit in a notified route by an STU. Sub-section 1 states that when an STU applies for a permit under the scheme published, the State Transport Authority (STA) or the Regional Transport Authority (RTA) shall issue the permit to the STU even if it goes against Chapter V of the Act. Sub-section (2) states that, (a) the RTA shall refuse application for</p>	<p>Preferential treatment distorting market</p>

	<p>or, as the case may be, the Regional Transport Authority concerned may, by order,</p> <p>(a) refuse to entertain any application for the grant or renewal of any other permit or reject any such application as may be pending;</p> <p>(b) cancel any existing permit;</p> <p>(c) modify the terms of any existing permit so as to,</p> <p>(i) render the permit ineffective beyond a specified date;</p> <p>(ii) reduce the number of vehicles authorised to be used under the permit;</p> <p>(iii) curtail the area or route covered by the permit in so far as such permit relates to the notified area or notified route.</p> <p>(3) For the removal of doubts, it is hereby declared that no appeal shall lie against any action taken, or order passed, by the State Transport Authority or any Regional Transport Authority under sub-section (1) or sub-section (2).</p>	<p>grant or renewal of a permit</p> <p>(b) the RTA can cancel any existing permit</p> <p>(c) the RTA can modify the terms of any existing permit in such a way that the permit will be ineffective beyond a specified date, reduce the number of vehicles that can be used under the permit or curtail the area or route covered by the permit.</p> <p>Sub- Section (3) declares that no appeals will be allowed on any action taken under sub-sections (1) and (2).</p>	
6	<p><b>Section 104:Restriction on grant of permits in respect of a notified area or notified route</b></p> <p>Where a scheme has been published under sub-section (3) of Section 100 in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme.</p>	<p>Imposes a restriction on the grant of permits in a 'notified route'. It states that no permit shall be granted to any person in a notified route, unless the STU has not applied for a permit in the route. However, the permit granted in this case would only</p>	<p>Nationalisation that goes against the spirit of free market</p>



		<p>be a temporary one and would cease to be effective, when the STU applies for the permit in that area.</p>	
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The State of Kerala through its Road Transport Authority had previously invoked the powers under Section 71 (3)(iv) to impose a cap on buses in the cities of Kochi (700 buses) and Kozhikode (400 buses), which have the highest number of private-operated buses. However, the cap only applies to private buses rather than STUs or KSRTC. This meant that KSRTC had the liberty to introduce new buses in any route across Kerala as per its discretion, which it did in Kochi and Calicut, the two major cities of Kerala. This distorted the transportation market, as public-operated buses now had competitive advantage over their private counterparts, operating in routes where only a capped number of private players were allowed to ply. This could eventually drive many private operators out of the market, resulting in reduced choices for passengers, undermining the efficiency of private players and disincentivising people to use public transport.

After the rule came into effect, KSRTC buses were withdrawn from their routes and reassigned to ply in suburban areas, which has caused great trouble for city commuters. Several cases were reported in the city of Kochi, which has one of the highest penetrations of private-operated buses, as it saw an unprecedented introduction of Government-backed inter-city buses named 'Thiru-Kochi buses'. The passengers are now left with little option to use public transport, with private buses prevented from plying and State-run KSRTC buses failing to operate.<sup>xxv</sup> Nearly 60 Thiru-Kochi buses are said to ply in the city with KSRTC planning to introduce 30 more for a city of around 1.3 million people. It is also reported that less than 50 buses of this genre currently operate in the city, while 76 city bus permits operated by private operators were surrendered, which explains the grim situation<sup>xxvi</sup>.

Though the owners of private buses moved court over this discriminatory rule, the High Court of Kerala judged in favour of the State<sup>xxvii</sup>, highlighting the legal protection provided by the Motor Vehicles Act. The arbitrary provisions in the Act allow unabated restrictions to private operators and hence need urgent attention. Interestingly, the High Court had also pointed out the mismanagement of KSRTC buses, stopping short of policy suggestions.

## Conclusion

Given the large impact of the Government's move towards monopolisation of public transport system, it needs to rethink its strategy towards enabling mobility of the people. Restricting a public service system does not answer the call for an increase in public transport usage. Kerala has a favourable market for the growth of public transport, which is being distorted due to Government action. Public transport should not be left to the political whims and fancies and should tap the efficiency of private players.

The decision to deploy restrictive rules for private players will eventually sound the death knell of public transportation in Kerala known for its high public transport usage, thanks to private buses. As long as the Motor Vehicles Act is not amended and government norms over public transportation effectively liberalised, the chance of States granting monopoly status to State-run buses will be detrimental to the growth of public transport. The declining trend in public transport usage shows why the Government need to be bothered about the demise of its State-run institutions. Public transportation can only be built with the support of private players, who should take the lead to offer efficient and effective transport services. The success of private-operated buses in Kerala lies here and hence needs to be emulated in other states. Therefore, the rule related to banning private operators from inter-district operations needs to be lifted. This will give a strong positive signal to further private participation in Kerala and other states alike.

The State urgently needs to move out from bus operations and limit its operations to setting standards and monitoring transport systems. A progressive city like Hong Kong has an effective franchise model, where the Government neither owns nor runs buses. Around 6000 buses operate in the city, which has one of the highest public transport usages (90 percent) in the world (Lam, William H.K. [2003]). The Trans Milenio in Bogota, Columbia is considered one of the best Bus Rapid Transit (BRT) model. The Government awards contracts to private bus companies on a competitive basis to operate and run the BRT, which now has a fleet size of 1400 running over 120 km. These models are successful because of the effectiveness in tapping the efficiency of the private sector. Ease of regulations, transparency in awarding contracts and a competitive system will boost public transport usage, India being no exception to this rule. India stands poised to grow once it realises the potential of private sector in transportation. This requires an overhaul of the systems and processes, which strongly calls for limited governance and greater private engagement. This should start from amending the Motor Vehicles Act and State legislations to liberalise transportation sector in order to free it from the clutches of the Government.

Private investments will fill in the vacuum and reduce the burden of the Government in building infrastructure and support the growth of transportation.

Public transportation needs to be encouraged through a concerted action by the relevant stakeholders. The benefits of public transportation outweigh the negatives of high pollution and high cost intensive transport systems. Public investments in metro rails, highways and state roads have soared but have not translated into real time benefits for the people, as the infrastructure remains poor. This requires a robust system of private participation that will bring the efficiency of the market system and stimulate the economy by generating more jobs and increasing productivity. India can go a long way with the implementation of such concrete measures, which will lay the foundation for an emerging economy.

## Annexure I

State-wise Share of Public and Private Sector in Bus Fleet			
(As on March 31, 2000)(in numbers)			
States/UTs	Private	Public	Total
Andhra Pradesh	27800	18776	46576
Arunachal Pradesh*	434	231	665
Assam	7829	587	8416
Bihar	13082	1411	14493
Goa	3079	365	3444
Gujarat	31751	10966	42717
Haryana@	2149	3631	5780
Himachal Pradesh**	4062	1734	5796
Jammu & Kashmir*	11940	683	12623
Karnataka	40882	11630	52512
Kerala	49343	4093	53436
Madhya Pradesh	23280	2336	25616
Maharashtra	42391	21865	64256
Manipur	2023	25	2048
Meghalaya	2056	152	2208
Mizoram*	548	86	634
Nagaland	4092	184	4276
Orissa	12618	625	13243

Punjab**	10429	3394	13823
Rajasthan	42406	4326	46732
Sikkim	468	137	605
Tamil Nadu	18302	17006	35308
Tripura	1616	98	1714
Uttar Pradesh	29191	6464	35655
West Bengal	19498	2838	22336
Andaman & Nicobar Islands*	147	170	317
Chandigarh**	1075	417	1492
Dadra & Nagar Haveli*	180	Nil	180
Daman & Diu	246	Nil	246
Delhi	35018	3094	38112
Lakshadweep	4	Nil	4
Pondicherry	3584	NA	3584
<b>India (Provisional)</b>	<b>440773</b>	<b>118074</b>	<b>558847</b>
<p>NA : Not Available; * : Relates to the year 1996-97; ** : Relates to the year 1997-98; @: Relates to the year 1998-99</p> <p>Note: Public sector buses are owned by SRTUs, which are on road/in use. For the buses in the private sector, the data relates to registered motor vehicles, which are cumulative.</p>			

Source: Motor Transport Statistics of India 1999-2000, Ministry of Road Transport & Highways, Government of India

## Annexure II

Number of Buses Owned by Public and Private Sectors in India (1961, 1966, 1971, 1976, 1981, 1986 and 1991-2011)			
(In thousands)			
Year (As on March 31, 2011)	Public	Private	Total
1961	18	38.8	56.8
1966	26.5	47	73.5
1971	-	-	94
1976	52.2	62.8	115
1981	69.6	92.3	161.9
1986	84	143.3	227.3
1991	106.1	225	331.1
1992	106.9	251.3	358.2
1993	109.5	271.5	381
1994	109.7	282.4	392.1
1995	110.3	314.6	424.9
1996	111.1	338.7	449.8
1997	111	373	484
1998	113.8	424.2	538.0*
1999	116	424	540.0*
2000	118	444.3	562.3*

2001	115	518.9	633.9*
2002	114.7	520.3	635*
2003	114.9	605.9	720.8*
2004	111.4	656.2	767.6*
2005	113.3	779.4	892.7*
2006	112.1	879.9	992*
2007	107.8	1242.5	1350.3*
2008	113.6	1313.6	1427.2*
2009	117.6	1368	1485.6*
2010	118.8	1408.3	1527.1*
2011 (P)	122.3	1481.5	1603.8*
<p>*: Includes Omni-buses; -: Not Indicated</p> <p><b>Note i:</b> Public sector buses are owned and operated by SRTUs. The buses<sup>xxviii</sup> of private sector are derived from the total number of buses net of those in public sector (SRTU buses). <b>Note ii:</b> Public sector/SRTU bus fleet based on information furnished by reporting SRTUs.</p>			

Source: Ministry of Shipping, Road Transport & Highways, Government of India (ON285)

<sup>i</sup>Basic Road Data, Indian Road Congress, 2013

<sup>ii</sup> The Working Group Report on Road Transport for the Eleventh Five Year Plan, Government of India, Planning Commission, New Delhi

<sup>iii</sup> <http://www.citylab.com/commute/2011/10/why-tokyos-privately-owned-rail-systems-work-so-well/389/>

<sup>iv</sup> Brooking Institution, Conference Volume 2014

<sup>v</sup> <http://www.global-briefing.org/2012/07/a-good-public-transport-system-must-be-easy-and-convenient-to-use-fast-safe-clean-and-affordable/>

<sup>vi</sup>Comparing Efficiency across State Transport Undertakings: A Production Frontier Approach, Sanjay Kumar Singh and AnandVenkatesh, *Indian Journal of Transport Management* 27(3): 374-391

<sup>vii</sup> <http://timesofindia.indiatimes.com/india/Only-3-out-of-55-state-transport-undertakings-making-profit/articleshow/17880689.cms>

<sup>viii</sup> Lewis Fulton, Michael Replogele, A Global High Shift Scenario-Impacts and Potential for More Public Transport, Walking and Cycling with Lower Car Use , ITDP-University of California, September 2014

<sup>ix</sup>The Road Transport Corporation Act specifies that it shall be the general duty of the corporation to exercise its powers progressively to provide or secure or promote the provisions of an efficient, adequate, economical and properly co-ordinated system of road transport in the state or part of the state in which it is established. (Section 18 RTC Act, 1950) Also quoted in 'Public Sector Bus Transport in India in the New Millennium' by M.K.Thomas, Ebenezer Publishers, Pune, 2000, p.7 1'

<sup>x</sup> Traffic and Transportation Policies and Strategies in Urban Areas in India, MoUD 2008

<sup>xi</sup> Ibid 2

<sup>xii</sup> Kerala State Economic Review, 2013

<sup>xiii</sup> KSRTC Financial Estimates, 2014: <http://www.keralartc.com/html/financials.html>

<sup>xiv</sup> Official Statistics, Transport Department, Kerala

<sup>xv</sup> <http://www.thehindu.com/news/national/kerala/adding-pleasure-to-bus-journey-with-free-wifi/article7647458.ece>

<sup>xvi</sup> Challenges of KSRTC – A Critical Appraisal by Dr.Radhakrishnan, Consultant, KSRTC

<sup>xvii</sup> <http://indiatoday.intoday.in/story/top-kerala-cpim-leaders-accused-of-promoting-business-interests-of-their-relatives/1/276511.html>

<sup>xviii</sup> American International Journal of Research in Humanities, Arts and Social Sciences; ISSN (Print): 2328-3734, ISSN (Online): 2328-3696, ISSN (CD-ROM): 2328-3688

<sup>xix</sup> <http://archives.deccanchronicle.com/130920/news-current-affairs/article/high-staff-ratio-bane-ksrtc>

<sup>xx</sup> <http://www.thehindu.com/todays-paper/tp-national/tp-kerala/parallel-services-continue-operations-despite-vigil/article1912463.ece>

<sup>xxi</sup> Kerala Limited Stop/ Stage Carriage Operators Association vs State of Kerala (AIR 2014 KER 121)

<sup>xxii</sup> Government takes over Private Bus Permits, September 26, 2015, *Malayala Manorama*

<sup>xxiii</sup> Private Bus Strike on June 11, Kozhikode, June 3, 2015, *The Hindu*

<sup>xxiv</sup> Permit Restrictions: 400 Private Buses to get impacted, June 11, 2015, *Malayala Manorama*

<sup>xxv</sup> <http://www.thehindu.com/news/cities/Kochi/thirukochi-services-fail-to-improve-public-transport-scene/article3642355.ece>

<sup>xxvi</sup> <http://www.thehindu.com/news/cities/Kochi/thirukochi-services-fail-to-improve-public-transport-scene/article3642355.ece>

<sup>xxvii</sup> Kerala Limited Stop/ Stage Carrier Operators vs State of Kerala (2014)