Road Safety and the Law

Core Problem

- Road traffic crashes lead to the deaths of about 1.5 million people in the world each year
- About 150,000 of these traffic deaths occur in India
  - About 50 to 55 thousand of those who die in road accidents in India are pedestrians (Mohan et al., 2015)
  - Another 15 to 20 thousand are cyclists
  - Two-wheeler riders account for another 35 to 40 thousand fatalities
- According to a survey conducted by the Central Road Research Institute, of India nearly 90% of pedestrians on urban roads feel unsafe
Silent Tsunami on Indian Roads
Pedestrians: Walk? or Live?

- Mix of high-speed motorised traffic and vulnerable road users
- The number of people in India who commute by walking outnumber those who use motorized vehicles
- Poorly designed and maintained roads and footpaths
  - Little to no provision for safe accessibility by non-motorized traffic and pedestrians
  - Pedestrians forced to walk on the carriageway because sidewalks are too narrow, too high, uneven, and strewn with obstructions
- Rudimentary accident investigation – so no lessons are learned
- Unresponsive road-related systems

Pedestrians in Urban Spaces
Walk? Or Live?

MODAL SHARE OF WALKING IN KEY CITIES OF INDIA

<table>
<thead>
<tr>
<th>City Size</th>
<th>Percentage walking</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 500,000 (hill terrain)</td>
<td>34</td>
</tr>
<tr>
<td>&lt; 500,000 (plain terrain)</td>
<td>57</td>
</tr>
<tr>
<td>500,000 – 1 million</td>
<td>32</td>
</tr>
<tr>
<td>1 – 2 million</td>
<td>24</td>
</tr>
<tr>
<td>2 – 4 million</td>
<td>25</td>
</tr>
<tr>
<td>4 – 8 million</td>
<td>25</td>
</tr>
<tr>
<td>&gt; 8 million</td>
<td>22</td>
</tr>
<tr>
<td>National average</td>
<td>28</td>
</tr>
</tbody>
</table>

Source: Study done by Wilbur Smith Associates for MoUD in 2008
Modal Share of Travel to Work

• Census 2011 was the first Indian census to record any sort of travel information – provides a baseline to assess the change in pattern in the coming decades
• A plurality of Indian workers travel on foot or by bicycle – 58.1% in rural areas and 48.9% in urban areas
• The share of motorized two-wheelers in urban districts is nearly 20% while the modal share of cars (including jeeps/vans) is less than 5%
• Users of para-transit have a minimal share (less than 5%)

Modal Share of Travel to Work (cont’d)

• With more than 20% share, use of public transportation modes (bus and train) for travel to work is significant in urban as well as rural districts
• The proportion of workers who travel a distance of less than 5 kilometer is almost 70% for both rural and urban districts
• Only a little above 10% workers in rural as well as urban areas have work location farther than 10 kilometers
• The proportion of trips involving longer distances (more than 10 km) is very low across all the states
Modal Share of Travel to Work (cont’d)

• The proportion of trips involving more than 10 km is highest in NCT of Delhi (25%) and Goa (22.8%)
• 24.5% workers in urban areas and 38.8% workers in rural areas do not travel at all to get to their workplaces
• Nearly one-fifth of male workers and one-third women workers in urban India do not leave home for their work
Statutory Road Safety Protection in India

- Road safety in India needs a coordinated response, crisis-level response
- Response of the Centre and the States is incremental at best
- **No specific road safety legislation in India**
- The *Motor Vehicles Act of 1988* (MVA 1988), as modified by the *Motor Vehicles (Amendment) Act 2019* (MVA 2019) is the principal legislation by which road transport, and by extension, road safety, is regulated in India

Statutory Road Safety Protection in India (cont’d)

- Direct Statutory Road Safety Protection – None
- Indirect Statutory Protection
  - Provisions of criminal law as codified in the *Indian Penal Code, 1860*
  - Provisions of the *Motor Vehicles Act, 1988*, as amended by the *Motor Vehicles (Amendment) Act, 2019*
  - Provisions of the *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*
Statutory Road Safety Protection in India (cont’d)

- Even when the MVA does ‘regulate’ road safety:
  - It does so by imposing penalties in the form of punitive fines and incarceration – apparently based on the assumption that road safety is almost entirely a function of ‘Driver Behavior’
  - Or by deferring the ‘punishment’ to the criminal justice system
Motor Vehicles Act – Sections Relevant to Road Safety, and Questionable Sections

- Relevant:
  - § 112 – Limits of Speed
  - § 129 – Helmet Wearing
  - § 185 – Drunk Driving

- Questionable: §§ 2(10), 2(19), 3, 8, 9, 10, 15, 16, 19, 21, 22, 181, and 182 – Licensing regulations

Motor Vehicles Act – Sections Which Are Somewhat Relevant to Safety

- Relevant, but rarely (very) enforced: § 122 – Leaving Vehicle in Dangerous Position
  - No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers

- Relevant, but largely unused: § 138 empowers state governments to make rules for:
  - Prohibiting the use of foot-paths or pavements by motor vehicles
  - Generally, the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic
Criminal Law – Comes into play whenever there is injury

- Relevant laws from the criminal code
  - IPC § 279 – rash or negligent driving
  - IPC § 304 – causing of death due to negligence
  - IPC § 336 – endangering life or personal safety of others
  - IPC § 337 – causing hurt
  - IPC § 338 – causing grievous hurt
Does the Motor Vehicles (Amendment) Act 2019 Enhance Road Safety?

- The Ministry of Road Transport and Highways (MoRTH) claimed that the primary driver for amending the 30+ years old Motor Vehicles Act was to address urgent issues related to road safety.
- The Amendment introduces some useful provisions for compensating accident victims.
- Streamlines driving license and vehicle registration procedures.
- But it does not do anything much to improve road safety.

Does the Motor Vehicles (Amendment) Act 2019 Enhance Road Safety? (cont’d)

- The law is extremely problematic.
- Continues to see road safety as a “driver behavior” issue.
- Dramatic increase in penalties w/o any thought to the likely impact.
Does the Motor Vehicles (Amendment) Act 2019 Enhance Road Safety? (cont’d)

But where it matters and where fines could be an actual deterrent, the fines are ridiculously low: for instance, a new provision, purportedly to improve road construction quality, imposes a penalty of 100,000 rupees if a contractor fails to comply with road design standards.

One lakh rupees is a miniscule amount when one realizes that it costs about 8 to 10 crore per km to build a four-lane highway and around 15 crore per km for six-lane highways.
# Penalties Imposed by the Amended MVA

<table>
<thead>
<tr>
<th>Section</th>
<th>Violation</th>
<th>Old Penalties</th>
<th>New Minimum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>177</td>
<td>General violations</td>
<td>₹ 100</td>
<td>₹ 500</td>
</tr>
<tr>
<td>179</td>
<td>Non Compliance of orders</td>
<td>₹ 500</td>
<td>₹ 2000</td>
</tr>
<tr>
<td>181</td>
<td>Driving without licence</td>
<td>₹ 500</td>
<td>₹ 5000</td>
</tr>
<tr>
<td>182</td>
<td>Driving despite disqualification</td>
<td>₹ 500</td>
<td>₹ 10,000</td>
</tr>
<tr>
<td>183</td>
<td>Over speeding</td>
<td>₹ 400</td>
<td>₹ 1,000 for LMV, ₹ 2,000 for Medium passenger vehicle</td>
</tr>
<tr>
<td>184</td>
<td>Dangerous driving</td>
<td>₹ 1,000</td>
<td>Up to ₹ 5,000</td>
</tr>
<tr>
<td>185</td>
<td>Drunken driving</td>
<td>₹ 2,000</td>
<td>₹ 10,000</td>
</tr>
<tr>
<td>189</td>
<td>Speeding / Racing</td>
<td>₹ 500</td>
<td>₹ 5,000</td>
</tr>
</tbody>
</table>

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<th>New Minimum Penalties</th>
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</thead>
<tbody>
<tr>
<td>192 A</td>
<td>Vehicle without permit</td>
<td>Up to ₹ 5,000</td>
<td>Up to ₹ 10,000</td>
</tr>
<tr>
<td>194 B</td>
<td>without Seat belt</td>
<td>₹ 100</td>
<td>₹ 1,000</td>
</tr>
<tr>
<td>194 C</td>
<td>Overloading of 2 wheelers</td>
<td>₹ 100</td>
<td>₹ 2,000, disqualification for 3 months for licence</td>
</tr>
<tr>
<td>194 D</td>
<td>Without Helmets</td>
<td>₹ 100</td>
<td>₹ 1,000 disqualification for 3 months for licence</td>
</tr>
<tr>
<td>194 E</td>
<td>Not giving way to emergency vehicles</td>
<td>No Provision</td>
<td>₹ 10,000</td>
</tr>
<tr>
<td>196</td>
<td>Driving Without Insurance</td>
<td>₹ 1,000</td>
<td>₹ 2,000</td>
</tr>
<tr>
<td>199</td>
<td>Offences by Juveniles</td>
<td>No Provision</td>
<td>• Guardian / owner shall be deemed to be guilty</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>• ₹ 25,000 with 3 years imprisonment</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td>• Juvenile to be tried under Juvenile Justice Act</td>
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<td></td>
<td></td>
<td></td>
<td>• Registration of Motor Vehicle to be cancelled</td>
</tr>
<tr>
<td>210 B</td>
<td>Offences committed by enforcing authorities</td>
<td>No Provision</td>
<td>Twice the penalty under the relevant section</td>
</tr>
</tbody>
</table>
Policy, Rules & Enforcement

- **Policy**
  - The *National Urban Transport Policy* of 2014 was the first time that the Ministry of Urban Development made substantive recommendations concerning pedestrian access and safety.
  - But the focus is still on motorized transport – the word “pedestrian” occurs just 10 times in the 22 page document, in just 4 of the 56 sections.

Policy, Rules & Enforcement (cont’d)

- The only regulation where the term “pedestrian” appears is the *Rules of the Road Regulation, 1989*.
- The *Regulations* actually recognize a right of the pedestrian:
  - “The pedestrians have the right of way at uncontrolled pedestrian crossing.”
  - “When any road is provided with footpath or cycle tracks specially for other traffic, except with permission of a police officer in uniform, a driver shall not drive on such footpath or track.” [Rule 11]
Policy, Rules & Enforcement (cont’d)

- The *Rules of the Road Regulation, 1989* impose certain obligations on the driver of a motorized vehicle with respect to non-motorized traffic and pedestrians:
  - the duty of the driver to slow down when approaching a pedestrian crossing (Rule 8)
  - Not to drive on the footpath or the cycle lane (Rule 11)
  - No driver shall park a motor vehicle near a traffic light or on a pedestrian crossing or a footpath (Rule 15)

Residential Parking Rules in Delhi

- Parking will only be permitted in demarcated areas in residential areas
- Vehicles parked on footpaths will be towed away
- On residential streets, a lane must be earmarked for unhindered movement of emergency vehicles – no parking will be allowed on this lane
- Open areas other than parks and green areas in residential areas can be used as parking lots against a fee
- A shuttle service may be provided from these parking lots, charges of which will be included in the parking in the parking fee
- Owners having vacant plots will also have to give up their space for parking against a fee
Statutory Protection for Pedestrians in India

*Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*, the government must provide for:

- Auditory traffic signals
- Engravings on the surface of zebra crossings and on the edges of railway platforms
- Slopes at sidewalk/footpath intersection points for easy wheelchair access
- Warning signals at appropriate places

*Disabilities Act* recognizes pedestrians and their interests – but in a very fragmented and disjointed manner (and most of these provisions have not been implemented in the more than 25 years since the act came into force)