

QUESTIONNAIRE ON CULTURAL RIGHTS AND PUBLIC SPACES

2. What are the diverse legal frameworks, trends and practices at the national level that either promote or impede actors from across the cultural ecosystem, including women and persons with disabilities, from accessing and using public spaces? What strategies are most useful in overcoming such challenges?

The following Fundamental Rights provided in the Constitution of India ensures and promotes free use and access of public spaces for its citizens including actors from across the cultural ecosystem, including women and persons with disabilities:

Article 15 of the Indian Constitution gives every Indian citizen the right to equality and prohibits discrimination on the grounds of religion, race, caste, sex, place of birth which would restrict or disable them to access places fully/partially funded by State, places dedicated for public use and other public places such as shops, restaurants etc.

Article 15 (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to - [\(a\)](#) access to shops, public restaurants, hotels and palaces of public entertainment; or [\(b\)](#) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

Article 19 of provides citizens the right to freedom of speech and expression; assemble peaceably and without arms; form associations or unions; move freely throughout the territory of India; and reside and settle in any part of the territory of India;

Article 19(1) - All citizens shall have the right - [\(a\)](#) to freedom of speech and expression; [\(b\)](#) to assemble peaceably and without arms; [\(c\)](#) to form associations or unions; [\(d\)](#) to move freely throughout the territory of India; [\(e\)](#) to reside and settle in any part of the territory of India; and [\(f\)](#) omitted and [\(g\)](#) to practise any profession, or to carry on any occupation, trade or business.

In case of persons with disabilities, the use and access to public spaces depends on the extent to which the spaces (be it physical or virtual) facilitate access to PwD through universal design. The Rights of Persons with Disabilities Act 2016, which is based on the UN Convention on the Rights of Persons with Disabilities, 2006, obligates Government to make physical infrastructure, transportation and communications, and all services provided to the public for free. It further obligates Government to ensure inclusive education to children with disabilities.

Article 29(1) guarantees to any section of the citizens residing in any part of India having a distinct language, script or culture of its own, the right to conserve the same, i.e. language, script or culture. A minority community can preserve its language, script or culture by and through educational institutions.

To further promote the accessibility of public space and other rights of persons with disability, the Parliament enacted recently the 'Rights of Persons with Disabilities Act, 2016 (the Bill) based on the UN Convention on Rights of Persons with Disabilities, 2006, by replacing the earlier 'Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Bill contains various provisions (Section 40-45) and empowers the Central Government to formulate rules for PwD for physical environment, transportation, information and technology and other facilities and services provided to the public in urban and rural areas.

To improve access to transportation, the Government shall take suitable measures to provide facilities at bus stops, railway stations and airports conforming standards related to parking, toilets, ticketing counter/machine. Further, all establishments are adhered to the rules formulated by Central Government to build any structure, and all the existing buildings shall be made accessible in 05 years period from the date of notification of the Bill.

To facilitate accessibility, Accessible India Campaign (AIC) was launched in December 2015. The goal of the initiative is to build an inclusive society through creation of universal accessibility in built environment, transportation and Information & Communication Technology (ICT) ecosystem. The Built Environment Accessibility component of Accessible India Campaign entails undertaking accessibility audit of important government buildings and making them accessible. Transport accessibility component of the campaign aims to make all international and domestic airports fully accessible. In terms of accessibility to Information and Communication Technology, the campaign aims to make all Central and State Government websites accessible.

3. What are the specific characteristics of public spaces that either are conducive to the realization of cultural rights, including of women and persons with disabilities, or are an impediment to them, including in relation to issues of discrimination, equal access, accessibility, availability and adequacy?

Following are some of the characteristics in public spaces which promote equal accessibility for persons with disability:

- As per Carriage by Air of Persons with Disabilities and/or Persons with Reduced Mobility Guidelines issued by the Directorate General of Civil Aviation, on request airways provide comfortable carriage of the Persons with Disabilities (PwDs), provision of signage and extra assistance by airport operators, free assistive aids such as wheel chairs, Ambu-lifts, stretchers, aisle chairs and facilities such as low floor buses, etc; ensures equal treatment in allocation and seating, provision of braille brochures and verbal instruction for briefing.
- Railway stations are made PwD friendly by provisions of various facilities like standard ramp with railing for barrier free entry, earmarking of at least one

parking lot for two vehicles used by PwDs, provision of a non-slippery walkway from parking lot to building, provision of at least one drinking water tap and one toilet on the ground floor suitable for use by a PwD.

- All Metro Rail systems have disabled friendly and accessible stations. The facilities like escalators, ramps, lifts engraved paths, braille symbols, auditory signals and warning signals are there at appropriate places. There is a separate coach reserved for women and in remaining coaches some seats are reserved for women and PwDs. In addition, a Help Line has been functioning to guide and address the issues of safety, security and redressal of grievances of women and PwDs.
 - Several buses sanctioned under Jawaharlal Nehru National Urban Renewal Mission (JNNURM) are low floor (400 mm) to allow for step less entry from bus stands / stops.
 - The PwDs are being provided concessions in while performing journey by bus, by railway and by air.
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