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WOMEN, CULTURAL RIGHTS, AND PUBLIC SPACES
Analysis and Recommendations to Advance
Women's Human Rights

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WOMEN, CULTURAL RIGHTS & PUBLIC SPACES

Analysis and Recommendations to Advance Women’s Human Rights

I. INTRODUCTION

Women and girls in Egypt are turning everyday bike riding into to a social movement to raise awareness for gender equality in their country. The women in Egypt send a powerful message that they are “reclaiming public space” and by extension, their right to participate in everyday activities, like riding their bikes to work or for pleasure, equally with men.¹ This report seeks to examine the ways in which women, like the Egyptian cyclists, are using public space to access and enjoy their cultural rights.

This report will introduce public space as a concept distinguished from other public modalities, such as the public sphere or civil space, and provide a definition of public space that international actors can then use to explore the legal, academic and social frameworks of public space. Next, the report will look at how public spaces are linked to cultural rights. A large portion of the report is devoted to examining how gender impacts use of and access to public space, focusing on women’s relationship to public space and the characteristics of public space that induce or inhibit women from using public space. Finally, this report asks how actors (including governments, international organizations and civil society) are addressing women, cultural rights and public spaces, highlighting policies that can inform and recommend in looking to support women’s use of public space to access and enjoy their cultural rights.

The study of women’s use of public space to access and enjoy their cultural rights is timely, as the United Nations recognized the importance of a woman’s access to public space as part of the Sustainable Development Goals (SDG). Sustainable Development Goal 11.7 seeks to ensure by 2030, “universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities.”² SDG 11.7, in combination with SDG 5 - achieve gender equality and empower all women and girls - places women at the forefront of the SDG platform and recognizes the impact that equality in all areas of human life, including public spaces, will have on the increased well-being of all people globally.³

¹Remy Tumin, “Girls in Egypt Are Biking for Equality,” Takepart, December 19, 2016, <http://www.takepart.com/article/2016/12/19/girls-egypt-are-biking-equality>; AWID, “Women reclaim public space through biking - an interview with Yara Sallam,” <https://soundcloud.com/awid-1/women-reclaim-public-space>; Ramadan Al Sherbini, “Egyptian women take on society with bike initiative,” Gulf News, January 18, 2019, <https://gulfnews.com/world/mena/egyptian-women-take-on-society-with-bike-initiative-1.61421469>.

² General Assembly resolution 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1 (25 September 2015), [udocs.org/A/RES/70/1](https://www.un.org/development/desa/pd/datastore/transforming-our-world).

³ Id.

The Sustainable Development Goals are significant because they represent a vision for the future that includes equality between women and men as a crucial element of sustainable living. In particular, the Agenda for Sustainable Development notes,

“Realizing gender equality and the empowerment of women and girls will make a crucial contribution to progress across all the Goals and targets. The achievement of full human potential and of sustainable development is not possible if one half of humanity continues to be denied its full human rights and opportunities. Women and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunities with men and boys for employment, leadership and decision-making at all levels. We will work for a significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels... The systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial.”⁴

This paragraph from the Agenda recognizes several key issues including: promoting equality between men and women in all human rights; equal access to the cultural pillars of education, economic opportunity, and political participation and decision making; closing gender gaps; and mainstreaming gender perspectives. These pillars fit into the concept of women accessing the cultural rights through public space in a myriad of way. Firstly, gender equality will mean women will have access to their cultural rights on an equal basis with men. This can be as simple as giving women more opportunities to work and play outside the home (see SDG 5.4 - recognizes shared responsibility within the household and the value of unpaid and domestic work). Another example includes women accessing their cultural rights in public space through political participation (see SDG 5.5 – recognizes women’s full participation in leadership and decision making in political, economic and public life; and see 5.a - includes reforms to give women equal property rights; and see also SDG 8.8 - includes protecting labor rights, especially for migrant women). Finally, the SDGs promote women’s access and enjoyment of her cultural rights through public space by recognizing the need for gender mainstreaming, including in urban design (see SDG 6.2 - includes access to sanitation, especially for women and girls in vulnerable situations; and see also SDG 11.2 - recognizes safe and accessible public transportation systems for women (with emphasis on disabled and aging populations)). In these ways the Sustainable Development Goals help to foster principles and policies that encourage women to access their cultural rights through public space.

From a review of international agreements, national legislation, academic literature and civil society working documents, it is clear that the intersection of women, cultural rights and public spaces is often overlooked. For example, the lack of a definition of public space codified in international law is significant because many of the major international human rights instruments codify rights that would be unachievable or significantly limited without a right to

⁴ Id.

access public space. Thus, this report analyzes this intersection of women, cultural rights and public spaces by quilting together information to understand the greater picture the intersection presents.

II. THE IMPORTANCE OF PUBLIC SPACE

The importance of public space is not to be overlooked. The United Nations Sustainable Development Goals Report for 2018 noted that “more than half of the built up areas in cities worldwide are public open spaces.”⁵ For urban areas (which make up three percent of earth’s land areas⁶) land use planners recommend that 15 to 20 percent of land be allocated to public space (excluding streets) and between 30 and 35 percent to streets.⁷ This is a dramatic portion of land, to which the exclusion, or inaccessibility to, significantly reduces a woman’s mobility and her use and enjoyment of that land and all experiences derived from the space.

Looking at the access to and enjoyment of public space through a gender lens is important because women use streets and public spaces more frequently and for a greater variety of purposes than men.⁸ Looking at ways in which public space facilitates a woman’s access to and enjoyment of her cultural rights is inherently important as public spaces can bring together communities and facilitate cultural expression and diversity.

A universally recognized legal definition of public space is important because a definition will be necessary as a tool by which to measure violations or impediments to access and enjoyment of public space. Further, the characteristics that come out of a definition of public space can be used to hone in on the ways in which public space is limited or expanded, and the ways in which public space supports other human rights.

A. Definitions of Public Space in International Law

The concept of public space, or more importantly a right to public space, is notably left out of the major international agreements. As previously mentioned, this lack of a definition is significant because many established human rights would be severely limited or unattainable without a right to access public space. Examples of these human rights include: the right to freedom of movement within the borders of each state;⁹ freedom of thought, conscience and

⁵ United Nations, Department of Economic and Social Affairs, *The Sustainable Development Goals Report 2018*, page 25, (New York, United Nations 2018), <https://unstats.un.org/sdgs/files/report/2018/TheSustainableDevelopmentGoalsReport2018-EN.pdf>.

⁶ Michael Schirber, *Cities Cover More of Earth than Realized*, Live Science, March 11, 2005, <https://www.livescience.com/6893-cities-cover-earth-realized.html>.

⁷ United Nations, Department of Economic and Social Affairs, *The Sustainable Development Goals Report 2018*, page 25, (New York: United Nations 2018), <https://unstats.un.org/sdgs/files/report/2018/TheSustainableDevelopmentGoalsReport2018-EN.pdf>.

⁸ United Nations Human Settlements Programme (UN-Habitat), *Global Public Space Toolkit: From Global Principles to Local Policies and Practice*, HW/034/15E (Nairobi: United Nations, 2015), page 18, <https://unhabitat.org/wp-content/uploads/2015/10/Global%20Public%20Space%20Toolkit.pdf>.

⁹ United Nations General Assembly, *The Universal Declaration of Human Rights*, Article 13(1), resolution 217A (III) (Paris, 10 December 1948), [https://undocs.org/A/RES/217\(III\)](https://undocs.org/A/RES/217(III)).

religion in public;¹⁰ peaceful assembly and association;¹¹ and the enjoyment and participation in the cultural life of the community.¹² However, in this way while a right to public space does not exist on its own, it becomes implied through the other identified rights.

Assuming the right to public space is an implied right, as detailed above, then recognized equality rights would also apply to public space. For example, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Article 3 mandates that States party to the convention will take appropriate measures to ensure equality in the exercise and enjoyment of human rights and fundamental freedoms. Additionally, Article 13 extends equal participation in cultural life while Article 7 seeks to guarantee equal participation in public life.¹³ We can infer from Article 3, Article 13, and Article 7 (among others) that when accessing cultural or public life in public spaces, that women should have equal rights to that public space as well.

The Preamble of CEDAW recognizes discrimination against women as “an obstacle to the participation of women, on equal terms with men, in the political, economic and cultural life of their countries.”¹⁴ In addition to Article 3, Article 7 and Article 13, CEDAW contains several articles that can be used to support women’s cultural rights through public space. Article 14 recognizes the problems faced by rural women, specifically mandating their participation in development planning, community activities, and to enjoy adequate living conditions including sanitation and transportation. Further, Article 10 seeks to eliminate discrimination in the education of women, and Article 1 recognizes discrimination against women in relation to their cultural rights. Taken together, the Articles of CEDAW provide a platform for the recognition of a woman’s right to access her cultural rights through nondiscrimination and equality in participation of many activities that are enhanced through public space.

B. Frameworks of Public Space from UN Agencies

Perhaps the most workable definition of public space is given by UN Habitat, although many UN Agencies provide some variation on the definition. Under the definition provided by UN Habitat, public space is defined as referring “to all places publicly owned or of public use. It

¹⁰ Id.

¹¹ United Nations General Assembly, *The Universal Declaration of Human Rights*, Article 20(1), resolution 217A (III) (Paris, 10 December 1948), [https://undocs.org/A/RES/217\(III\)](https://undocs.org/A/RES/217(III)). United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, Articles 21, 22, resolution 2200A (XXI) (16 December 1966).

¹² United Nations General Assembly, *The Universal Declaration of Human Rights*, Article 27(1), resolution 217A (III) (Paris, United Nations, 10 December 1948), [https://undocs.org/A/RES/217\(III\)](https://undocs.org/A/RES/217(III)); United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, Articles 3, 15(a), resolution 2200A (XXI) (16 December 1966), <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>. United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, Article 13(c), resolution 34/180 (New York, United Nations, 18 December 1979), <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>.

¹³ United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, Article 3, Part II Article 7, resolution 34/180 (New York, United Nations, 18 December 1979), <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>.

¹⁴ Id.

is accessible and enjoyable by all for free and without profit motive.”¹⁵ This includes streets, open spaces and public facilities. This definition sets forth four key indicators of public spaces: (1) publicly owned or of public use; (2) accessible and enjoyable for all; (3) for free; and (4) without a profit motive.

Of note is the fact that this definition comes from civil society. The Biennial of Public Space adopted the “Charter of Public Space” in May 2013. The UN Habitat at the Third Conference of the United Nations on Human Settlements (Habitat III) included in the Charter the articulation of the right to access and enjoy public space within the rules of civic coexistence.¹⁶ This articulated right is essential to bridging the gap between the rights codified in international agreements that depend on access to public space, and public space itself.

In particular, “public open space” is defined as “the sum of the areas of the built-up areas of cities devoted to streets and boulevards and the areas devoted to public parks, squares, recreational green areas, public playgrounds and open areas of public facilities.” This is a narrower definition than “public space” generally. UN Habitat also provides a negative definition of public open space. Public open space does not refer to devoted public facilities (e.g. schools, stadiums, hospitals, airports, waterworks or military bases) that are not open to the general public, nor spaces that are in private ownership or vacant lands in private ownership.¹⁷ The distinction between “public space” and “public open space” becomes necessary when there is a need for a distinct separation between public space that is open and public space that is open but might at some point be closed, like a public facility such as a library.

Public space may also include natural space, such as national parks or lands owned or operated by the government, or even cultural landscapes (natural interactions between humans and natural environments).¹⁸ The National Park Service of the United States (NPS) identifies several cultural landscapes important to women. For example, the NPS has identified the Hidatsa Women and Earthlodge of the Upper Missouri River and the Jacob Jackson home site of Harriet Tubman as important landscapes that are part of the cultural heritage of women in the U.S.¹⁹ Natural public space is also an important aspect of rural women’s interaction with public space. Factors such as age, religion, and socio-economic status can influence the natural public spaces a rural woman will engage with. For example, in rural Bangladesh in the 90s, elderly Muslim

¹⁵ UN Habitat, *supra* note 8, at 24,116.

¹⁶ Istituto Nazionale di Urbanistica, *The Charter of Public Space*, Article 43, III Biennial Spazio Pubblico, 21-24 May 2015, Rome, Italy, http://www.inu.it/wp-content/uploads/Inglese_CHARTER_OF_PUBLIC_SPACE.pdf.

¹⁷ United Nations Human Settlements Programme (UN-Habitat), *Adequate Open Public Space in Cities, A Human Settlements Indicator for Monitoring the Post-2015 Sustainable Development Agenda* (Kenya: United Nations 2015), https://unstats.un.org/unsd/post-2015/activities/egm-on-indicator-framework/docs/Background%20note%20by%20UN%20Habitat-%20Proposal%20for%20a%20public%20open%20space%20indicator-EGM_Feb2015.pdf.

¹⁸ UNESCO, Cultural Landscapes, <http://whc.unesco.org/en/culturallandscape/>.

¹⁹ National Park Service, Women’s History and Cultural Landscapes, https://www.nps.gov/subjects/culturallandscapes/womens_history_landscapes.htm.

women had the most autonomy, and poorer women had a more equal relationship to public space to her husband than well to do women based on necessity.²⁰ This is compared to the tribal women who had the most autonomy to access natural public space because tribal society did not control a woman's movements outside the home.²¹

UNESCO points to public space as being necessary to avoid spatial segregation. Therefore, the definition of public space provided by UNESCO is more liberal and pointed towards accessibility rather than public ownership or not-for-profit status,

“A public space refers to an area or place that is open and accessible to all peoples, regardless of gender, race, ethnicity, age or socio-economic level. These are public gathering spaces such as plazas, squares and parks. Connecting spaces, such as sidewalks and streets, are also public spaces. In the 21st century, some even consider the virtual spaces available through the internet as a new type of public space that develops interaction and social mixing.”²²

This definition also recognizes that some public spaces may not always be physical places and includes interaction and social mixing as indicators of a public space. This definition is also significant because it includes gender as an identifier in relation to equal access to public space.

C. Examples of National Legal Definitions of Public Space

As in the context of international agreements, codified definitions of public space are limited in national jurisprudence as well. From research, legal systems will define public space in the context and interpretations of regulations or zoning. Many jurisdictions have rights, such as speech and assembly, that are tied to public spaces even though that right is not legally recognized. Finally, most jurisdictions grapple with the privatization of public space, and thus there is an element of public space that falls under national property laws as well.

Many jurisdictions (especially state or local) will define public space for regulatory or zoning purposes. In Washington D.C., for example, public space is defined for the purpose of waste management, regarding public space as “including any street, avenue, alley, highway, footway, sidewalk, parking or other public space in the District of Columbia.” Definitions of public space are also found in national court cases interpreting municipal regulations.²³ In Indonesia, national laws make a distinction between public and private green open space for the

²⁰ Bimal Kanti Paul, *Female Activity Space in Rural Bangladesh*, *Geographical Review*, Col 82, No.1 (Jan. 1992), pp. 1-12, page 5.

²¹ *Id.* at 6.

²² UNESCO, *Inclusion Through Access to Public Space*, <http://www.unesco.org/new/en/social-and-human-sciences/themes/urban-development/migrants-inclusion-in-cities/good-practices/inclusion-through-access-to-public-space/>.

²³ D.C. Mun. Regs. tit. 24, § 2000. For a comparison see *People v. Zhou*, 51 Misc. 3d 1206(A), 36 N.Y.S.3d 409 (N.Y.Crim.Ct. 2016).

purposes of mandating the proportion of public green open space in city areas of at least twenty percent of a city area.²⁴ In India, several different national laws regulate activities in public spaces, such as prayer, smoking and street vending. The Street Vendors Act of 2014 indirectly gives a definition of public space when defining “street vendor.” Under this law street vendor “means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, sidewalk, footpath, pavement, public park or any other public place or private area...”²⁵ Thus we can infer that under the Act, public space includes, at least, streets, lanes, sidewalks, footpaths, pavements, and public parks.

Jurisdictions around the world have codified human rights linked to public spaces, i.e. rights that would be restricted or unattainable without public space. In the United States, the legal concept of public space is most closely tied to the idea of free speech and expression under the First Amendment to the United States Constitution. A right to public space can then be considered as existing impliedly from other guaranteed rights creating a penumbra.²⁶ In U.S. legal jurisprudence, public space falls under the “public forum” umbrella, which is more concerned with communication rather than physical space. When assessing the constitutionality of a restriction on free speech, the courts look to the policy and practice of the government, whether it is traditionally open to assembly and debate, and nature of the property in relation to the government's intent. These forums may be traditional, limited or designated.²⁷ Other jurisdictions that have rights, such as assembly, linked to public space include Canada, Mexico, and South Africa.

The privatization of public space, or the “publicization” of private space, means that in some jurisdictions defining public space falls out of the purview of the government and into the private sector.²⁸ Thus property law becomes the legal context through which to define public space. The United Kingdom is an example of a jurisdiction where rights to public spaces are heavily influenced by property law principles. Therefore, in the U.K., it can be acceptable to exclude those in spaces without a license (absent restrictions from equality based legislation).²⁹ An extension of the license framework comes in the form of Public Spaces Protection Orders used throughout the U.K. While intending to restrict nuisance behavior, these PSPOs may also

²⁴ Suryaningsih, Werdiningsih E, Chrisdanty F (2018), *The Role of the Surabaya City Government in Optimizing Green Open Space*, J Civil Legal Sci 2018, Vol 7(2): 248.

²⁵ Ministry of Law and Justice, *The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act*, 2014, New Delhi, India, <http://egazette.nic.in/WriteReadData/2014/158427.pdf>

²⁶ Gregory Smithsimon, *The Right to Public Space*, Metropolitiques, 10 March 2015, page 3, <http://www.metropolitiques.eu/The-Right-to-Public-Space.html>.

²⁷ *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788 (1985). See also, *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).

²⁸ Sarah Schindler, *The "Publicization" of Private Space*, 103 Iowa L. Rev. 1093 (2018).

²⁹ Antonia Layard, *Public Space: Property, Lines, Interruptions*, 2 J. L. PROP. & SOC'Y 1 (2016), <http://www.alps.syr.edu/journal/2016/08/JLPS-2016-08-Layard.pdf>. Page 9.

severely restrict civil liberties that come from the use of public spaces.³⁰ However the PSPO's are also a way to define public space because they must identify the public place to which the ordinance applies, and under that law, public place (interchangeable with "public space" in this context) is defined as "any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission."³¹ This definition of public space is again based on the concept of permission or license to be on the space resulting from the influence of property law. PSPO's in the U.K., as well as other mechanisms of privatization, tend to impact disadvantaged populations the most, such as the homeless or migrant populations.³² Because it has been shown that discrimination against women is twofold when adding another qualification such as homeless or migrant, the effect that privatization can have on public spaces is to further restrict the movement, access to resources, and enjoyment of the human rights of these women.³³

D. Academic Definitions of Public Space

An academic definition of public space is important to understanding the context of public space. Some academics searching for definitions of public space have categorized three approaches to defining public space. These definitions rest in political philosophy, urban planning and architecture.³⁴

From a political philosophy perspective, public space is a place where people can discuss "the common good" or a place where individuals can discuss public matters. The key to this definition lies on democratic principles of inclusion and participation. Finally, academics also focus on the relationship between space and politics, defining public space as "unconstrained space within which political movements can organize and expand into wider arenas."³⁵ For urban planning, public space is a physical one where people "come together to interact, join forces, and governing agencies are designed to evoke power."³⁶ From the perspective of architecture, public space is noted as building of government agencies intended to mark power. These buildings may or may not be open to the public - limited access being dependent on usage.

³⁰ Kevin J Brown, *The Hyper-regulation of public space: the use and abuse of Public Spaces Protection Orders in England and Wales*, Legal Studies, Vol. 37 No. 3, 2017, pp. 543–568, <https://onlinelibrary.wiley.com/doi/pdf/10.1111/lest.12175>.

³¹ Id. page 550.

³² Don Mitchell, *The End of Public Space? People's Park, Definitions of the Public, and Democracy*, Annals of the Association of American Geographers, Vol. 85, No. 1 (March 1995), pp. 108-133. Emma Patchett, *Protecting Public Space: The Gypsy and Traveller Community*, Critical Legal Thinking, 12 July 2017, <http://criticallegalthinking.com/2017/07/12/protecting-public-space-gypsy-traveller-community/>

³³ Gregory Smithsimon, *The Right to Public Space*, Metropolitiques, 10 March 2015, <http://www.metropolitiques.eu/The-Right-to-Public-Space.html>. United Nations Conference on Housing and Sustainable Urban Development, *Habitat III Policy Papers: Policy Paper 2 Socio-cultural Urban Framework* (New York: United Nations, 2017), page 29, www.habitat3.org. European Parliament Directorate-General For Internal Policies, *Empowerment of Roma Women within the European Framework of National Roma Inclusion Strategies*, European Union, Brussels (2013), page 15.

³⁴ Kimberly Collins, *Gobalization, Democracy, and Public Space: The Case of the U.S. Mexican Border Region*, Journal of Public Management & Social Policy, Vol. 24, No. 1, Article 5 (June 2017), pp. 6.

³⁵ Don Mitchell, *The End of Public Space? People's Park, Definitions of the Public, and Democracy*, Annals of the Association of American Geographers, Vol. 85, No. 1 (March 1995), pp. 108-133, page 115.

³⁶ Collins, *supra* 34.

Another way academics have defined public space is through the characteristics of a space, particularly differentiation according to ownership, control, access and use. However there tends to be a consensus around what is expected of all public spaces. These expected features include: opportunities for social life, ability to partake in various activities, convenient to use by access and linkage, and as having a unique identity with an image.³⁷ In comparing this analysis of public space to the definitions resting on political philosophy, urban planning and architecture, it is clear that former focuses on the identity of a public space by its defining features, whereas the latter focuses on definitions as a product of academic subject.

E. Public space as compared to civic space/public domain/public sphere

While a working definition helps to contextualize the concept of public space, equally important is distinguishing public space from, or comparing public space to, other public modalities, including civic space, public domain, and public sphere.

Public space can also be compared to civic space. The key distinction is the focus on the political and social features of civic space. CIVICUS defines civic space as the set of conditions that allow civil society and individuals to organize, participate and communicate freely and without discrimination, and in doing so, influence the political and social structures around them.³⁸ And Civic Space Watch goes further to say, civic space is the political, legislative, social and economic environment which enables citizens to come together, share their interests and concerns and act individually and collectively to influence and shape policy-making. Civic space encourages people to pursue multiple, at times competing, points of view.³⁹ Thus civic space is derived from a purpose, to encourage civic participation, while public space is not specifically derived from a single purpose.

The public domain is characterized more broadly, to encompass arenas where public discourse is held, not necessarily as being dependant on the where -“It designates a theater in modern societies in which political participation is enacted through the medium of talk...citizens deliberate about their common affairs... an institutionalized arena of discursive interaction.”⁴⁰ The public domain is then more focused on an arena for discourse, whereas public spaces may, but need not involve any discourse to still function as such.

The public sphere is largely defined as where “the public” is organized and represented. Under the public lens, public space then represents the “material location where the social

³⁷Elif Kutay Karaçor, *Public v Private: The Evaluation of Different Space Types in Terms of Publicness Dimension*, European Journal of Sustainable Development (2016), page 1.

³⁸ CIVICUS, *Civic Space* (2019) <https://monitor.civicus.org/whatis-civicspace/>.

³⁹ Civic Space Watch, *Civic Space* (2019), <https://civicspacewatch.eu/what-is-civic-space/>.

⁴⁰ Nancy Fraser, *Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy*, Duke University Press, Social Text, No. 25/26 (1990), pp. 56-80, pg. 57.

interactions and political activities of all members of the public occur.”⁴¹ This definition of public space by way of the public sphere brings up an essential element of this discussion - the making of “the public.” For if certain groups of citizens are not considered members of the public, then they are by definition excluded from the public sphere, and all that comes with it. Following from the idea of the “the public” it is apparent that the public sphere is more about building a public, which may take place in public space, but equally possible is the building of the public sphere in private places as well, such as religious centers, beauty salons, or shopping centers.

UN Habitat recognizes the following modalities not to be overlooked: the “space of the public,” the city itself, and cyberspace.⁴² UN Habitat defines the “space of the public” as the common spaces of the public, including places and the social pact people make when participating in society. The city itself contributes to public space through the view that the city is a public good and manifestation of a space for all those that live within it. Finally, cyberspace is important to recognize because while not a physical space, cyberspace enables and facilitates opportunities for connection and interaction – two hallmarks of public space. Cyberfeminism has become a new form of activism and in many ways, has allowed women to confront the patriarchal bias brought from reality to virtual reality.⁴³ Members of the Arab Women’s Solidarity Association International have connected through listservs to express solidarity and support each other within the larger global feminist movement.⁴⁴ However accessing cyberspace does not come without challenges. For example, women face challenges accessing cyberspace if they lack the education needed to read and write or to know foreign languages (as English is the dominate internet language), if internet connectivity is limited (from lack of wireless connection or government censoring of networking cities), or if their own connection to cyberspace is restricted through social norms that prevent women from controlling their own access (from needing a male guardian present to marginalization of opinions by majority populations on the internet).⁴⁵

III. LINKING CULTURAL RIGHTS AND PUBLIC SPACE

UNESCO recognizes the benefits to culture developed in and accessed through public space as “twofold.” On the one hand, it brings people together, and on the other it strengthens the national economy.⁴⁶ In the UNESCO report on Culture, UNESCO focuses on public spaces as

⁴¹ Mitchell, *supra* 35, at 116.

⁴²UN-Habitat, *supra* 18, at 27.

⁴³ Rita Stephan, *Creating Solidarity in Cyberspace: The Case of Arab Women’s Solidarity Association United*, Journal of Middle East Women’s Studies, Vol.9, No. 1(Winter 2013), pp. 81-109, page 83.

⁴⁴ Id. at 89.

⁴⁵ Id. at 85.

⁴⁶ UNESCO, *Culture in Public Spaces - Key for Shaping A New Urban Agenda*, <https://en.unesco.org/news/culture-public-spaces-key-shaping-new-urban-agenda>.

“cultural heritage assets for all citizens that foster social inclusion.”⁴⁷ Under this view, public space becomes more than just a way to partake in city life, public space also becomes a way to contribute and interact with one’s cultural and self-identification. For example, the city council of Galdakao, Spain, decided to rename city streets for women after acknowledging that while representing half of the city’s population only three public spaces were named after women (two streets and a park). The goal of the initiative was to “collect and disseminate the contributions made by women, to note their presence in the collective imaginary, and provide them with visibility through their presence in the street names of Galdakao.”⁴⁸ This is a prime example of the way public space can empower women’s equal access to their cultural history. To link cultural rights to public spaces, cultural rights must be understood conceptually, and then in the context of public space.

A. Cultural Rights

Cultural rights are protected through several international legal instruments. These include the International Covenant on Economic, Social and Cultural Rights, the Universal Declaration of Human Rights, and the Convention on the Elimination of all Forms of Discrimination Against Women.⁴⁹ Cultural rights may also be protected through national jurisprudence. For example, a right to culture is recognized in the constitutions of Nepal, Tunisia, Finland and South Africa.⁵⁰ Further, culture as a concept (as opposed to as right to culture) is recognized in many other constitutions, including Haiti and Afghanistan.⁵¹ Thus while some countries do not recognize an explicit right to culture, the concept of culture features in their constitutions as a complement to, and indicator of, other guaranteed rights.

To summarize cultural rights briefly, cultural rights protect an individual’s right to develop and express their humanity as self-expression or within the context of their communities. Cultural rights include values, beliefs, languages, knowledge, art, institutions and ways of life as well as sites of cultural heritage, communication and learning and places for the conduct of cultural practices.⁵² Thus the broad scope of cultural rights expands the ways in which public space might be important to or enhance cultural rights in different contexts.

⁴⁷ United Nations Educational, Scientific and Cultural Organization, *Cultural Urban Future, Global Report on Culture for Sustainable Urban Development*, (Paris: United Nations 2016) page 184, <https://unesdoc.unesco.org/ark:/48223/pf0000246291>.

⁴⁸ Council of European Municipalities and Regions, *Equality of Women and Men in Local Life*, Gender Equality (6 March 2016), <http://www.ccre.org/en/actualites/view/3298>

⁴⁹ United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, Article 3, 15(1)(a), resolution 2200A (XXI) (16 December 1966). United Nations General Assembly, *The Universal Declaration of Human Rights*, Article 27(1), resolution 217A (III) (Paris, 10 December 1948). United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, Article 13, resolution 34/180 (New York, United Nations, 18 December 1979).

⁵⁰ *The Constitution of Nepal*, Part III Section 32. *The Constitution of Tunisia*, Title I, Article 42. *The Constitution of Finland*, Chapter 2, Section 17. The Constitution of South Africa Chapter 2, Section 30.

⁵¹ *The Constitution of Haiti*, Preamble. *The Constitution of Afghanistan*, Chapter 1, Article 47.

⁵² General Assembly, Report of the Special Rapporteur in the field of cultural rights, A/67/287 (New York: United Nations 10 August 2012), page 5-6 section 7, <https://undocs.org/A/67/287>.

B. Why is public space important or necessary to the enjoyment of cultural rights?

The Global Public Space Toolkit recognizes that public spaces

“are a key element of individual and social well-being, the places of a community’s collective life, expressions of the diversity of their common natural and cultural richness and a foundation of their identity ... The community recognizes itself in its public places and pursues the improvement of their spatial quality.”⁵³

Thus, public spaces may not only be a way to access culture but also a part of building and contributing to an individual’s or society’s culture.

Three principle and interrelated components of the right to take part in cultural life are recognized: (a) participation in (b) access to and (c) contribution to cultural life.⁵⁴ Public space may facilitate participation in cultural rights when the public space is designated as a site for the participation in culture, such as a public park, public library or public museum. Well-designed public spaces may also facilitate access to cultural rights, such as improving the safety of public streets for the increased movement of women and other vulnerable populations. Finally, public space may facilitate contributions to cultural life, such as when a public space is the site of a cultural gathering, like a parade or protest. Cultural heritage is important because it can link a woman to her self-identity and to the society in which she lives. In public places, cultural expression may take the form of historical sites, art and performance in public places, institutions of learning and history, cultural practices, or even simple acts of interaction with others in open spaces such as parks. For example, women in Guatemala use farmlands to develop a health and nutrition project that preserves cultural identity through the Mayan-Achi food system.⁵⁵

Specific characteristics of public space may be conducive to, or restrict, women’s access to and enjoyment of their cultural rights. Returning to the base definition of public space, the characteristics of such space can be drawn out in four parts, (1) publicly owned or of public use; (2) accessible and enjoyable for all; (3) for free; and (4) without a profit motive (of course, depending on the particularities of a space there are likely to be more variables that will impact access to or the enhancement of cultural rights). Public space publicly owned denotes involvement of the government in the management and control of the space. There may also be spaces of public use that are not publicly owned but are for public use, such as shopping malls. This distinction is relevant because the ownership of the space may give rise to other constraints

⁵³ UN-Habitat), *supra* 18, at 116-117.

⁵⁴ General Assembly, *supra* 52, at 10.

⁵⁵ Groundswell, Women’s Project Preserves Cultural Heritage of Mayan Food System In Guatemala, 8 June 2018, <https://www.groundswellinternational.org/guatemala/womens-project-preserves-cultural-heritage-of-mayan-food-system-in-guatemala/>.

on the space, whether enforced or perceived.⁵⁶ When public space is publicly owned and controlled, cultural rights may be enhanced because the space will most likely have a civic purpose (as opposed to a commercial purpose for public space privately owned).⁵⁷ Accessibility is what “guarantees the free circulation of persons and goods. It is also what allows the emergence of collective or social representations wherefrom images of the city are produced.”⁵⁸ Accessibility thus ensures the enjoyment for all in public spaces. When public spaces are designed with accessibility in mind, the diversity of users is increased which allows for a more comprehensive social representation to be produced. Environments that do not “facilitate gatherings of people” tend to reinforce social exclusion.⁵⁹

When public spaces are not free to use, the monetary barrier to access can act as a way to exclude members of the public and decrease the diversity of the gatherings of people in those spaces. However, it should be noted that some communal spaces are generally considered public spaces even if they are not free, such as public transportation systems that operate for a riding fee or sports stadium that require a ticket to purchase, or museums that charge entrance fees. A profit motive to a public space denotes a departure from “social integration based on local history and meaning,” instead creating a more profitable “control-led diversity.”⁶⁰ An entrance fee, or other economic barriers to public space such as cost of transportation, also means the exclusion of women who cannot afford those fees; and those women therefore are excluded from the cultural benefits of that public space.

The Global Public Space Toolkit recognizes several constraints on public space that can also reduce a women’s access to and enjoyment of her cultural rights. These include commoditization of urban sociality, decreasing resources for the creation and maintenance of public spaces, declining inclination of citizens to affirm their rights, weakening of social cohesion, pressures from speculative real estate interests, lack of public leadership, vulnerability of public space to improper use, perceived or real insecurities in public spaces, and alternative “public spaces” such as the web and social networks.⁶¹ These constraints in their own right may also impact cultural rights that are dependent on access to or enjoyment of public space. For example, some exclusion may be direct. In 2017, UNESCO added Okinoshima, a Japanese Island, to the UNESCO World Heritage Sites. However, this island is only open for males,

⁵⁶ Smithsion, *supra* 26, at 2.

⁵⁷ Sarah Schindler, *The "Publicization" of Private Space*, 103 Iowa L. Rev. 1093, 1101 (2018).

⁵⁸ Karen Hinojosa Hinojosa, Carlos Estuardo Aparicio Moreno, *The Missing Public Domain in Public Spaces: A gendered historical perspective on a Latin American case*, *Urbani Izzi*, Vol.27, No.2 (December 2016), pp.149-160, 150.

⁵⁹ United Nations Conference on Housing and Sustainable Urban Development, *Habitat III Policy Papers: Policy Paper 2 Socio-cultural Urban Framework* (New York: United Nations, 2017), page 29, www.habitat3.org.

⁶⁰ Malcolm Voyce, *Shopping Malls in India: New Social 'Dividing Practices'*, *Economic and Political Weekly*, Vol. 42 No. 22 (June 2-8 2007), pp. 2055-2062, 2059.

⁶¹ UN-Habitat, *supra* 18, at 119.

women are prohibited due to the Shinto traditions.⁶² Other exclusion is indirect, such as women avoiding public spaces where cultural life takes place due to safety concerns or gender bias.

IV. WOMEN AND PUBLIC SPACE

In the spring of 2015, Women Public Space Prague launched as a response to the absence of women in urban design and planning in Prague, Czech Republic. This organization seeks to network women experts in community planning spaces, advocate for increased representation of women in public projects, carry out gender based research in issues related to urban design and inspire other women experts in cities around the world.⁶³ Women Public Space Prague is an example of women claiming a gender based approach to public space through community-civic partnership. A report by the Special Rapporteur on cultural rights notes,

“To enjoy equal cultural rights, women must become equal participants and decisions makers in all the cultural affairs of their own specific communities, and in the wider general society. For this, women’s other human rights must be ensured, in particular their rights to freedom of movement, freedom of opinion and expression, religion or belief, and freedom of association, and freedom to participate in social, economic and political life, including in the decision-making processes in these arenas.”⁶⁴

Public space facilitates equal cultural rights by providing avenues for women to be equal participants in the cultural affairs of their communities and public space supports free movement, free association, free participation and spaces for expression. Looking at public space through a gender lens allows for greater insight on how half of the world's population participates in community and cultural life.⁶⁵

Women face discrimination everyday while trying to access and enjoy their cultural rights though public spaces. Discrimination may formal (codified in law and policy), substantive (practical discrimination based on historical or persistent prejudice), direct (when a women is treated less favorably than another similarly situated man because of her gender), indirect (practices that while facially neutral have the impact of discrimination), and/or systemic (ingrained in practices of behavior).⁶⁶ Discrimination may happen in education, employment, or when participating in cultural activities. For example, the Open Stadium Campaign in Iran is

⁶² Anish Gawande, Okinoshima: World Heritage Site banned to Women, CNN, 10 July 2017, <https://www.cnn.com/travel/article/okinoshima-japan-unesco-men-only-island/index.html>. UNESCO, Sacred Islands of Okinoshima and Associated Sites in the Munakata Region <https://whc.unesco.org/en/list/1535>.

⁶³ Women Public Space Prague looks to engage women architects, urban designers and planners, community developers and artists. They provide networking opportunities, events and advocacy for increased women’s participation in public planning and projects. Women Public Space Prague, About the Project, <http://www.wpsprague.com/about-the-project>.

⁶⁴ General Assembly, *supra* 52, at 12.

⁶⁵ World Bank puts female population worldwide at 3.73 billion and men at 3.79 billion in 2017, <https://data.worldbank.org/indicator/SP.POP.TOTL>.

⁶⁶ United Nations Economic and Social Council, General Comment No. 20, E/C.12/GC/20 (Geneva; 2009), <https://undocs.org/E/C.12/GC/20>.

attempting to combat discrimination against women by campaigning for women to be allowed to attend sporting events with men.⁶⁷ Women may also be excluded from religious sites that act as public spaces for religious communities, such as exclusion from the wailing wall in Orthodox Judaism. One group, Women on the Wall, is advocating for equal prayer rights in Israel.⁶⁸ Gender discrimination is prevalent in many areas of a woman's life, including her cultural life in public space.

Further, many factors related to discrimination can also contribute to a woman's use and enjoyment of public space including accessibility, safety, urban design and regulation, ability to use public space for empowerment or activism, availability of alternative public space, economic factors as well as woman's multiple identities.

A. Equal Access

One woman social-geographer described the experiences of women in Amman Jordan as such,

“men control public space in Amman. This is true for nearly the entire city. Women are expected to follow a set of rules that are never explicitly laid out. First, wear loose cloths and dress with modesty...Second, avoid being alone at all costs: a woman should not be seen out by herself. And finally, avoid going out at night. It isn't socially acceptable for a woman to walk alone after sunset, except [in certain city areas].”⁶⁹

In order for women to access their cultural rights through public spaces, women must have equal access to those public spaces. As the above quote describes, women may be excluded from public spaces through their dress, behavioral patterns and spatial use, whether codified or not. Equality in and for public space can come from eradicating gender distinctions of public space, allowing for the free movement of women, making public spaces gender neutral (or access and welcoming for all genders), and making sure that women have equal rights to the city, which often means equal citizenship rights.

The gendered distinction of public and private space is the first hurdle to equal access to public space. Gendered distinctions between the public and private spheres has “legitimated the exclusion of women from particular spaces, it justifies inequalities in economic and political

⁶⁷ Human Rights Watch, *Iran: Progress on Ban for Women at Stadiums*, 28 June 2009, <https://www.hrw.org/news/2018/06/28/iran-progress-ban-women-stadiums>. Associated Press, *Iranian Women Push for More Open Stadiums*, The New York Times, 2 July 2016, <https://www.nytimes.com/2016/07/03/sports/iranian-women-push-for-more-open-stadiums.html>.

⁶⁸ Judy Maltz, *Women of the Wall warned it could be thrown out of Jewish Holy Site*, Haaretz, 6 June 2018, <https://www.haaretz.com/israel-news/women-of-the-wall-warned-it-could-be-thrown-out-of-jewish-holy-site-1.6154971>. Joshua Mitnick, *Battle over women praying at Jerusalem's Western Wall continues as compromise stalls*, the LA Times, 11 August 2016, <https://www.latimes.com/world/middleeast/la-fg-women-wall-snap-story.html>.

⁶⁹ Milota Sidorova, *Woman's Rights to the City. Amman in Context*. Women Public Spaces Prague (24 February 2017), <http://www.wpsprague.com/blog/2017/2/24/womens-right-to-the-city-amman-in-context-myriam-ababsa>.

power and allows for moral judgements about the behavior of men and women in public space.”⁷⁰ The adage “a woman’s place is in the home” exemplifies this gendering of private space and implies that public space is therefore that of men. These distinctions may be based on gender bias, religion or custom. The discriminatory gender based separation of public spaces reinforces stereotypes and contributes to the sense that women aren’t entitled to use public space in the same way as men.

One complexity of the gendered distinction of space (public or private) is gender segregation. Gender segregation can be present in education, workplaces, religion and even recreational activities and this segregation can affect how women then interact with public spaces in each context. In the United States, in 2015, men were 53% of the workforce but held less than 30% of the jobs in education and more than 98% of construction jobs.⁷¹ Workplace segregation occurred predominantly based on assumptions about work appropriate for different genders. When occupation integration is pursued there is a greater positive economic impact, in the U.S. one-quarter of economic growth since 1960 is due to gender integration.⁷² Gender segregation can also mean that some women are excluded from religious public sites which inhibits their full participation in religious life. In early 2019, two women in India became the first women to enter the Sabarimala Temple after the Indian Supreme Court overturned a centuries old ban on women aged 10-50 from entering the temple.⁷³ Finally, gender segregation may even occur during recreational activities, such as sport or art. In 2017 Saudi Arabia reversed a ban on sport for women and girls in public schools.⁷⁴ This reversal means that women and girls can now participate in sporting related cultural events. While these examples show the negative effects of gender segregation, women only spaces are increasingly created to mitigate, or as a solution to, gender discrimination. In Uganda, the Empowerment and Livelihood for Adolescents program uses girl-only clubs to train young women in vocational and life skills.⁷⁵ In the U.S., the women-only co-working space The Wing was created to provide an alternative to the male dominated co-working spaces and provide opportunities for networking.⁷⁶ Thus, the issue of women-only public space is very complex, in some instances it may be to the benefit of women, in other instances it may impede a woman’s access to her cultural rights, and in other instances

⁷⁰Debby Donnin, Claiming Spaces, *Changing Places: Political Violence and Women’s Protests in KwaZulu-Natal*, Journal of Southern African Studies, Vol. 26, No. 2 Special Issue: Popular Culture and Democracy (June 2000), pp. 301-316, page 303.

⁷¹ Washington Center for Equitable Growth, Occupational segregation in the United States, <http://equitablegrowth.org/wp-content/uploads/2017/09/092717-occupational-seg.pdf>.

⁷² Id.

⁷³ Joshua Berlinger, Sugam Pokharel, Manveena Suri, *Two Indian Women become first to enter temple after centuries-old ban overturned*, CNN (2 January 2019), <https://www.cnn.com/2019/01/01/asia/india-kerala-chain-intl/index.html>.

⁷⁴ Human Rights Watch, Saudi Arabia: *State Schools to Allow Girls’ Sports*, 13 July 2017, <https://www.hrw.org/news/2017/07/13/saudi-arabia-state-schools-allow-girls-sports>.

⁷⁵ Makhtar Diop, Awa Marie Coll-Seck, Cristina Duarte, *Closing the Gender Gap: Lessons from Africa*, The World Bank, 25 February 2016, <http://www.worldbank.org/en/news/opinion/2016/02/25/closing-the-gender-gap-lessons-from-africa>. Oriana Bandiera et al., *Women’s Empowerment in Action: Evidence from a Randomized Control Trial in Africa*, December 2018, <https://www.ucl.ac.uk/~uctpimr/research/ELA.pdf>.

⁷⁶ Ria Tabacco Mar, Galen Sherwin, Erin Harrist, *The Legal Questions Raised by a Women-only Workspace*, ACLU, 3 April 2018, <https://www.aclu.org/blog/womens-rights/legal-questions-raised-women-only-workspace>.

(such as the women-only subway cars in China that both men and women use daily)⁷⁷ it may be ineffectual.

The free movement of women is key for women to access public spaces. About 30% of economies around the world restrict the freedom of movement for women.⁷⁸ The 2012 Report of the Special Rapporteur, provides examples of restrictions on the right to freedom of movement through socially constructed gender normative rules. These restrictions may be formal legal restrictions or social constructs. These include denial of membership in social and political associations or religious institutions, fear of moral policing, lack of adequate public facilities for women, and legal restrictions such as bans on women driving cars, or traveling without male accompaniment.⁷⁹

The gendering of a site can affect how men and women participate in it.⁸⁰ This gendering may be intentional, but is often the result of traditional values or unconscious bias. For example, women working outside the home in MENA countries is often disapproved of. However women have been particularly successful in working in museums, because even though museums are public spaces, they afford a perception of safety and appropriateness counter to the publicness of the space.⁸¹ Further, even when there is a presence of women in a particular space, gender bias may render their contributions invisible, such as women who work in the informal economic sector, like street vendors, caretakers or homemakers.⁸²

The Global Public Space Toolkit highlights that “public space can act as the vehicle for women and girls and their right to the city.”⁸³ When women don't have equal access to public space, this right to the city is threatened, and thus so are other rights that stem from it, such as freedom of association and expression. Unequal access to public space is counter to the idea that all citizens have a right to access and enjoy public space in freedom. Central to the idea the right to the city, and of equal access to public space, is the concept of equal citizenship.⁸⁴ In countries where women have an inferior legal status to men, their access to public space is more directly threatened. The Special Rapporteur noted, “Women and girls must not be obliged to choose between community belonging and citizenship, or between any of their other identities.”⁸⁵

⁷⁷ Wee, *infra* 158.

⁷⁸ International Bank for Reconstruction and Development, *Women Business and the Law 2019*, The World Bank (Washington D.C. 2019), <http://pubdocs.worldbank.org/en/702301554216687135/WBL-DECADE-OF-REFORM-2019-WEB-04-01.pdf>.

⁷⁹ General Assembly, *supra* 52, at 14.

⁸⁰ Francesca Polletta and Pang Ching Boddy Chen, *Gender and Public Talk: Accounting for Women's Variable Participation in the Public Sphere*, *Sociological Theory*, Vol. 31 No. 4 (December 2013), pp. 291-317, page 292.

⁸¹ Carol Malt, *Women, Museums, and the Public Sphere*, *Journal of Middle East Women's Studies*, Vol. 2 No. 2, Special Issue: Women's Activism and the Public Sphere (Spring 2006), pp. 115-136.

⁸² Lorena Nunez, *Women on the Streets: Vending and Public Space in Chile*, *Economic and Political Weekly*, Vol. 28, No. 44 (Oct. 30 1993), pp. WS67-WS71, WS74-WS82, page 68.

⁸³ UN-Habitat, *supra* 8, at 18.

⁸⁴ Mitchell, *supra* 35, at 118.

⁸⁵ General Assembly, *supra* 52, at 15.

B. Safety in Public Spaces

A survey of women in Mexico City found that 70 percent of women modified their daily routines in order to avoid harassment. To avoid harassment, women reported “missing, being late to or having to change jobs or schools, and even moving from one neighborhood to another to avoid being catcalled or groped.”⁸⁶ In Washington D.C. 27% of women transit riders experienced some form of sexual harassment; in Port Moresby, over 90% of women and girls experienced some form of sexual violence when accessing public transportation; and in Kigali, 55% of women report concerns about going to educational institutions after dark.⁸⁷ These staggering numbers, and the lived experiences they represent, highlight the issue of safety as one of the biggest barriers to a woman’s use of public space.

Violence against women and girls in public may include street harassment, groping, rape, and even gender related killings. In the United States, 81% of women reported experiences of sexual harassment and assault, 66% of the harassment occurred in a public space.⁸⁸ Cynthia Grant Bowman characterized the street harassment women in the U.S. face as the informal ghettoization of women, “a ghettoization to the private sphere of hearth and home.”⁸⁹ In Columbia, in over 40 percent of the killings of female sex workers, the killing was committed by firearm on a public street or highway.⁹⁰ For LGBTQA women, safety is a paramount issue due to negative biases. A study in the EU found that half of the 93,000 individuals surveyed avoided public spaces due to street harassment and reported high levels of fear in public spaces, like transportation, streets, parking lots and parks.⁹¹ The issue of safety can be actual or perceived.⁹² This distinction is important because it recognizes that the issue of safety in public spaces for women can affect physical and mental wellbeing.

Civil society is rising to the occasion to keep women safe in public. Several apps have been developed for women to report or track sexual harassment in public. One of these apps, Hollaback!, now operates in 26 countries. The app lets women document their experiences both witnessed and experienced and see real time map data.⁹³ In India, several initiatives have sprung

⁸⁶ Maanvi Singh, *Apps Let Women Say #MeToo About Street Harassment*, NPR (11 January 2018),

<https://www.npr.org/sections/goatsandsoda/2018/01/11/577154367/apps-let-women-say-metoo-about-street-harassment>.

⁸⁷[http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/un%20women-safecities-brief_us-web%20\(1\).pdf?la=en&vs=4851](http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/un%20women-safecities-brief_us-web%20(1).pdf?la=en&vs=4851). see also <http://www.unwomen.org/-/>

⁸⁸ Stop Street Harassment, *A National Study on Sexual Harassment and Assault* (February 2018), page 8, <http://www.stopstreetharassment.org/wp-content/uploads/2018/01/Full-Report-2018-National-Study-on-Sexual-Harassment-and-Assault.pdf>.

⁸⁹ Cynthia Grant Bowman, *Street Harassment and the Informal Ghettoization of Women*, 106 Harv. L. Rev. 517, 558 (1993). Deborah M. Thompson, “*the Woman in the Street: Reclaiming the Public Space from Sexual Harassment*,” 6 Yale J. L. & Feminism 313, 322 (1994).

⁹⁰ United Nations Office of Drugs and Crime, *Global Study on Homicide, Gender-related killing of women and girls* (Vienna: United Nations 2018), page 37, https://www.unodc.org/documents/data-and-analysis/GSH2018/GSH18_Gender-related_killing_of_women_and_girls.pdf.

⁹¹ Stop Street Harassment, *Statistics*, <http://www.stopstreetharassment.org/resources/statistics/>.

⁹² Jagori, *Building Safe and Inclusive Cities for Women, A Practical Guide* (July 2011), page 35,

<http://www.stopstreetharassment.org/wp-content/uploads/2011/04/5-13-add-building-safe-inclusive-cities-for-women.pdf>.

⁹³ Singh, *supra* 84.

up in response to women's limited use of public space due to safety threats. These include Why Loiter, Blank Noise, Take Back the Night Kolkata and Pinjra Tod. The initiatives are all forms of public protest and expression meant to call attention to the harassment or exclusion of women in public space.⁹⁴ Civil society has also put pressure on governments to keep women safer by enacting laws against harassment and helping to inform victims of their rights. In addition to an app, Hollaback! put together a guide for women to know their rights, mapping sexual harassment laws around the world.⁹⁵ Reframing existing legislation can also have a powerful impact. In Tamil Nadu, India, the term "eve teasing" was used to describe street harassment in the Prohibition of Eve Teasing Act 1998. In 2002 the phrase was replaced by "Harassment of Women" in another act. This eliminated the "connotation of innocent fun" from harassment in public spaces.⁹⁶

Women "may be excluded from public space by violence or control."⁹⁷ The second aspect of that statement is control, control over a woman's actions through society restrictions imposed by the community. Women who might otherwise venture out into certain public spaces may be labeled by their community and thus fear not only for their physical safety but the safety of their good reputation in the community.⁹⁸ Safety in public spaces is therefore both a physical concern and an interpersonal one. The nuances of community life can serve as a restriction on a woman's use of and access to public space.

C. Urban Design & Regulation

Designing public spaces to enhance gender equality and increase equal access to cultural life can be done. The city of Umeå, Sweden has taken a gender based approach to new urban planning projects. In fact, a city bus tour is available to show the gendered landscape of Umeå, including public art, tunnels and walkways, and public municipalities.⁹⁹ Gender mainstreaming in urban planning and development, especially for public spaces, can reduce the social inequalities and stereotypes that result from the traditional concept that users of public space are

⁹⁴ Srila Roy, *Breaking the Cage*, Dissent Fall 2016, <https://www.dissentmagazine.org/article/breaking-cage-india-feminism-sexual-violence-public-space>.

⁹⁵ Hollaback!, *Street Harassment: Know Your Rights* (September 2014), <https://www.ihollaback.org/wp-content/uploads/2014/10/Street-Harassment-Know-Your-Rights.pdf>. Talia Hagerty, *Know Your Rights, Street Harassment and the Law*, Stop Street Harassment (December 2013), www.stopstreetharassment.org/wp-content/uploads/2013/12/SSH-KnowYourRights-StreetHarassmentandtheLaw-20131.pdf.

⁹⁶ Jagori, *supra* 90, at 35.

⁹⁷ Habitat III Secretariat, *Habitat III Issue Papers* (New York: United Nations 2017), page 84, <http://habitat3.org>.

⁹⁸ Shilpa Phadke, *Unfriendly Bodies, Hostile Cities: Reflections on Loitering and Gendered Public Space*, *Economic and Political Weekly*, Vol. 48, No.39 (28 September 2013), pp.50-59, page 53.

⁹⁹ Malin Rönnblom, Linda Sandberg, *Imagining the ideal city, planning the gender-equal city*, RC21 International Conference on "The Ideal City: between myth and reality. Representations, policies, contradictions and challenges for tomorrow's urban life" Urbino (Italy) 27-29 August 2015. <https://www.rc21.org/en/wp-content/uploads/2014/12/B2-RonnlomSandberg.pdf>. The Gendered Landscape of Umeå, <https://www.umea.se/download/18.2e9e2c2914ce7d186cf17c06/1431333187734/The%20gendered%20city.pdf>. Observatory for European Charter for Equality of Women and Men in Local Life, *Umeå - a model town for Gender Equality*, <http://www.charter-equality.eu/exemple-de-bonnes-pratiques/umea-a-model-town-for-gender-equality.html>.

men.¹⁰⁰ To understand the importance of a gender lens to planning and developing public space, first the nature of public space itself must be understood.

The design or regulation of a public space can inhibit or encourage a woman's access to that space. There are a multitude of design elements that can contribute to a woman's use of public space because they increase her feelings of safety, accessibility and/or feelings of being welcomed to the space. Some of these design elements include: adequate lighting, help buttons, signage, maps, walkable streets, and availability of clean public toilets.¹⁰¹ When public spaces include elements pertaining to children, such as family restrooms lactation spaces, or infant changing stations, they become more welcoming to women who might not otherwise use the space due to childcare responsibilities. Urban design can also empower women in local communities. In 2018 woman and girls in Al-Shoka, Gaza came together to design a public garden. The program was sponsored by UN Women and UN Habitat and the girl's contribution included proper lighting, fences, grass, and separate spaces for women and families. This project also gave the women involved in the project a sense of ownership towards the space.¹⁰² In this context, ownership of the space meant a sense of pride and intention to maintain the project. These sentiments - pride, involvement, intention, belonging – can facilitate positive relationships between women and the public spaces around them, and in turn provide greater access to and ease in enjoying their cultural rights as well.

The regulation of women's behavior in public place may also contribute to a woman's perceived welcomeness in a public space. For example, breastfeeding in public became legal in all 50 of the United States in 2018.¹⁰³ In June 2018, Saudi Arabia finally lifted a ban on women driving.¹⁰⁴ The repeal of gender based regulations, or legalization of gender based activities, help women more freely access their right to public space. Along with regulation of a woman's behavior, local regulations (most often in the form of zoning or urban planning restrictions) can contribute to access to public space as well.

D. Empowerment through Public Space

Public spaces also empower women. This may be through spaces to foster relationships, participate in the community, or as places for self-expression. For example, women muralists are creating public works of art around the world that promote feminist principles and challenge

¹⁰⁰ Amalia Verzola, *Gender-Sensitive Cities, a review at some of the good ideas around Europe*, Making Europe Again, <https://www.makingeuropeagain.eu/gender-sensitive-urban-planning/>.

¹⁰¹ Jagori, *Building Safe and Inclusive Cities for Women, A Practical Guide* (July 2011), <http://www.stopstreetharassment.org/wp-content/uploads/2011/04/5-13-add-building-safe-inclusive-cities-for-women.pdf>.

¹⁰² UN WOMEN, *A garden for all - women and youth rebuild safe and inclusive spaces in Gaza* (12 March 2018), <http://www.unwomen.org/en/news/stories/2018/3/feature-a-garden-for-all-in-gaza>.

¹⁰³ Joanna Prisco, *Public Breastfeeding Is Now Legal in All 50 US States*, Global Citizen (26 July 2018), <https://www.globalcitizen.org/en/content/public-breastfeeding-is-now-legal-in-all-50-states/>.

¹⁰⁴ Ben Hubbard, *Saudi Arabia Agrees to Let Women Drive*, The New York Times (26 September 2017), <https://www.nytimes.com/2017/09/26/world/middleeast/saudi-arabia-women-drive.html?module=inline>.

gender biased perceptions of what public art can be. One muralist, Aiko Nakagawa painted a mural of female warrior Queen Lakshmbai in New Delhi, India. Another muralist, Emily May Rose in Toronto Canada, worked with women identifying artists to create celebrations of feminism and women through murals in alleys.¹⁰⁵

Perhaps most noteworthy is the use of public space to protest, in which women access their cultural rights by weaving together politics, freedom of assembly and association, and expression. Protests for gender equality in public spaces have been a tool for women's rights activists for decades. Notable female led protests include the Women's march on Versailles (1789), Women's suffrage parade in Washington, D.C. (1913), Women march on Pretoria (1956), Icelandic women's strike (1975), Protests of abortion bans in Poland (2016), Argentinian women against violence (2016), and the women's marches around the world in 2017.¹⁰⁶ More than three million people protested for women's equality in public streets and squares around the world in response to the election of Donald Trump to President of the United States. At the time of writing, women were leading protests in Sudan (2019) to rally for socio-economic rights.¹⁰⁷

Gender equality is "an enabler and beneficiary of safe, inclusive and accessible public space," and the opposite may be true as well.¹⁰⁸ While women may feel empowered by protest in public space, they may also be limited or excluded from protest due to the public nature of the space.¹⁰⁹ This was apparent in the differing attitudes of women protestors in Michoacán, Mexico in the late 1980s. In Pichátaro and Tacuro, Michoacán, women "who went to the plaza had to transgress norms of women's proper place" and thus felt those places to be dangerous, as compared to women in Cherán who were able to link their political participation in the plaza protest to their daily activities as wives and mothers.¹¹⁰ In 2011 women protesters in Tahrir square faces abuses and human rights violations for exercising their right to protest in a public space. These included sexual assaults, beatings, forced virginity tests by police, arrest and detention, and abuse while being detained.¹¹¹ More recently in January 2019, women used the French Yellow Vests protests as an opportunity to highlight the vulnerability of French women

¹⁰⁵ Rocky Casale, *These Women Muralists Are Sparking a Social Dialogue in Cities Round the World*, Travel + Leisure (14 December 2017), <https://www.travelandleisure.com/travel-news/feminist-muralist-artists>.

¹⁰⁶ History.com Editors, *Women's March*, History (5 January 2018), <ps://www.history.com/this-day-in-history/womens-march>.

¹⁰⁷ Tamera Griffin, *People Can't Stop Talking About This Iconic Photo From the Protests in Sudan*, Buzzfeed News (9 April 2019), <https://www.buzzfeednews.com/article/tamerragriffin/sudan-protests-woman-car-iconic-photo-alaa-salah>.

¹⁰⁸ Habitat III Secretariat, *The Conference, The United Nations Conference on Housing and Sustainable Urban Development (Habitat III)*, (Quito, United Nations 2017), page 92.

¹⁰⁹ Lise K. Nelson, *Geographies of State Power, Protest, and Women's Political Identity Formation in Michoacán, Mexico*, *Annals of the Association of American Geographers*, 96(2), 2006, pp. 366-389, page 376.

¹¹⁰ Id. at 382.

¹¹¹ Dina Zayed, *Attack on Egyptian women protesters spark uproar*, Reuters (Cairo, 21 December 2011), <https://www.reuters.com/article/us-egypt-protests-women/attack-on-egyptian-women-protesters-spark-uproar-idUSTRE7BK1BX20111221>. Alex Koppelman, *The Women of Tahrir*, The New Yorker (21 December 2011), <https://www.newyorker.com/news/news-desk/the-women-of-tahrir>. Laura Dean, *Women Stood Their Ground in Tahrir*, FP Guide (5 July 2013), <https://foreignpolicy.com/2013/07/05/women-stood-their-ground-in-tahrir/>.

during social crises.¹¹² And in Algeria, women have played a vital role in the protests against President Abdelaziz Bouteflika reelection, including in leadership roles and through active participation.¹¹³ Thus the publicness itself of a public space may be a limiting factor to some women, while a liberating factor to other women, in their access to cultural rights through public space.

E. Alternate Public Forums

A lack of access to public space, or restricted use of public space, may result in the rise of alternate public forums. On the other hand, the rise of alternate public forums may also signal a decline in the traditional use of public space. Where women are restricted from accessing traditional public spaces, they may create their own. For example, Iranian women have used the cyberspace to express themselves online in ways they could not in public, such as through blogs to “virtually unveil” themselves, making themselves “visible, expressive and mobile,” and speaking about usually taboo issues such as dating.¹¹⁴ This has also been true in Hong Kong and Shanghai, where women have used the internet to express their sexuality in a public forum while denied the opportunity to do so in traditional public spaces.¹¹⁵ While alternate public spaces, like social networking sites, may be places of community for some women, they may inherently be exclusionary for some who lack the means to enter those spaces, financial or otherwise.¹¹⁶ One study of Arab internet users found that Arab women are overcoming hurdles to access the internet, such as having a male chaperone to go to internet cafes, to create new online public spaces for interaction such as in chat rooms and on discussion forums or blogs.¹¹⁷ In this way the internet becomes an alternative public forum to traditional public space, where women can connect, learn and express themselves.

The internet is not the only type of alternate public forum that arises when specific groups of people are excluded from traditional public space. Other types of alternate public space may include markets, shops, specific buildings marked by ethnic heritage, religious sites and

¹¹² Pauline Bock, *Women march across France to show the female faces of the 'yellow vest' movement*, Euronews, 1 June 2019, <https://www.euronews.com/2019/01/06/women-march-across-france-to-show-the-female-faces-of-the-yellow-vest-movement>.

¹¹³ Aili Mri Tripp, *Women are deeply involved in the Algerian protests - on International Women's Day, and all the time*, The Washington Post, 8 March 2019, https://www.washingtonpost.com/politics/2019/03/08/women-are-deeply-involved-algerian-protests-international-womens-day-all-time/?utm_term=.6a2a9d88bebe.

¹¹⁴ Masserat Amir-Ebrahimi, *Transgression in Narration: The Lives of Iranian Women in Cyberspace*, *Journal of Middle East Women's Studies*, Vol. 4 No. 3 Special Issue: Innovative Women: Unsung Pioneers of Social Change (Fall 2008), pp.89-118, page 93.

¹¹⁵ Khun Eng Kuah-Pearce, *Internet as Social Capital and Social Network Cyberactivity of Hong Kong and Shanghai Women*, *Chinese Women and the Cyberspace*, Amsterdam University Press (2008), page 39.

¹¹⁶ Mitchell, *supra* 35, at 123.

¹¹⁷ Barney Warf, Peter Vincent, *Multiple Geographies of the Arab Internet*, *Area*, Vol. 39, N.1 (March 2007), pp. 83-96, page 89 https://www.jstor.org/stable/pdf/20004588.pdf?ab_segments=0%2Fdefault-2%2Fcontrol&refreqid=search%3A5aafb883fc1575fe4be82725382ad898

“everyday lived spaces” such as porches, yards and gardens.¹¹⁸ For example, beauty salons in the United States have been important places for the community interaction of black women who historically were denied access to traditional public space. Beauty salons became public spaces of community organizing, economic empowerment, and community building among black women and enabled them to access their cultural rights in ways that traditional public spaces might not.¹¹⁹

F. Economics and Public Space

The relationship between economics and public space can be seen in women’s access to jobs that take place in public spaces, unpaid or underappreciated labor of women in the informal economic sector, the ability of women to lead independent lives in public due to economic liberation, or even a woman’s ability to access public space through affordable transportation. For example, a study found the public/private space was reorganized in Morocco once women began to take on salaried work, with more Moroccan women participating in public life. However, the same study found that Moroccan women’s job possibilities are negatively hit more directly than men’s during an economic crisis, and are excluded from high paying jobs leading more women to take up low paying jobs in the informal sector or stay at home.¹²⁰ In Chile, women street vendor gain their livelihood from access to public space and in doing so challenge cultural values and beliefs that reinforce traditional stereotypes of women in roles confined to the home.¹²¹ And in some parts of West Africa, like Ghana, women are actually more likely to start a business than men, and women even run marketplaces. These women are called “market queens” and they help not only to run the market but provide social services and outreach partnerships with the government.¹²² In Tanzania, women market vendors came together to form associations and unions to make the markets safer for women vendors to exercise their economic rights.¹²³

Finally, including women in the design and discussion of public spaces can facilitate greater economic security as women are more likely to use public space and infrastructure to transition between work, family (or family care) and personal errands.¹²⁴ Efficient and secure public transportation, safe streets, and well-designed public spaces can help women navigate

¹¹⁸ Cutcher, Michael Eugene Jr, "Protecting 'Place' in African -American Neighborhoods: Urban Public Space, Privatization, and Protest in Louis Armstrong Park and the Treme, New Orleans." (2001). LSU Historical Dissertations and Theses. 272, page 33 https://digitalcommons.lsu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1271&context=gradschool_disstheses.

¹¹⁹ Laura A. Linnan, Yvonne Owens Ferguson, *Beauty Salons: A Promising Health Promotion Setting for Reaching and Promoting Health Among African American Women*, Health Education & Behavior, Vol. 34 (June 2007), pp. 517-530, page 523, <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.880.6845&rep=rep1&type=pdf>.

¹²⁰ Fatima Sadiqi, Moha Ennaji, *The Feminization of Public Space: Women’s Activism, The Family Law, and Social Change in Morocco*, Duke University Press, Journal of Middle East Women’s Studies, Vol. 2, No. 2, Special Issue: Women’s Activism and the Public Sphere (Spring 2006), pp. 86-114, page 94.

¹²¹ Lorena Nunez, *Women on the Streets: Vending and Public Space in Chile*, Economic and Political Weekly, Vol. 28, No. 44 (Oct. 30 1993), pp. WS67-WS71, WS74-WS82, page 81.

¹²² https://www.vice.com/en_us/article/bjggyd/in-ghana-women-and-market-queens-dominate-the-economy

¹²³ UN WOMEN, *Case Study: Tanzania: Making markets safer for women traders* (8 March 2017), <http://untf.unwomen.org/en/news-and-events/stories/2017/03/tanzania-making-markets-safer-for-women-traders>.

¹²⁴ UN-Habitat, *supra* 8, at 18.

between these roles and aid in their earning capacity. For example, a longer commute home from work at night might make a women think twice about a prospective job opportunity. In Montreal, Canada, the bus service has implemented a “between two stops” program to increase women’s safety when traveling alone by allowing women to request a drop off, even if it is between bus stops.¹²⁵

G. Multiple Identities and Public Space

Women who experience overlapping systems of classification can experience public space in vastly different ways. Thus, it is important to recognize how multiple classifications, or identities, can impact a woman’s access to public space, and through that, the experience of their cultural rights. A woman’s experience in public spaces can be influenced by her race, age, citizenship, physical abilities, religion, indigenous identity, sexuality, motherhood, and socio-economic status, to name a few. For example, in South Africa under Apartheid, in many cases the private home of a white woman would function as a quasi-public space for the black women who worked for her.¹²⁶ Muslim women in Mumbai, India, engage with public space as a women, and as Muslims. For Muslim women in Mumbai, their relegation to their homes, or private places, within segregated areas, stems from both the Muslim population’s spatial separation within the city *and* the exclusion of women within the Muslim society from public space.¹²⁷

Young women and girls are particularly vulnerable to exclusion from public spaces. In Stockholm, Sweden, a coalition took on the task of including young women in urban design and planning in the Places for Girls Project. This project was significant due to reports that girls and boys use public playgrounds equally until the age of 8, when from this age on 80% of the users are boy. Girls feel ten times more insecure in public places and this insecurity drastically limits their use of public space.¹²⁸

A woman’s use of public space may also be affected by her locality, for example rural women may interact with public space differently than urban women. One difference is in what types of public spaces women may be present in. For example, Moroccan rural women might be excluded from religious worship or administrative tasks that take place in public, but will be present in fields or marketplaces.¹²⁹ Another difference is in the safety perceived by rural women

¹²⁵STM, *Travelling alone at night* (2019), <http://www.stm.info/en/info/advice/travelling-alone-night>. Jagori, *Building Safe and Inclusive Cities for Women, A Practical Guide* (July 2011), <http://www.stopstreetharassment.org/wp-content/uploads/2011/04/5-13-add-building-safe-inclusive-cities-for-women.pdf>.

¹²⁶ Debby Donnin, Claiming Spaces, *Changing Places: Political Violence and Women’s Protests in KwaZulu-Natal*, *Journal of Southern African Studies*, Vol. 26, No. 2 Special Issue: Popular Culture and Democracy (June 2000), pp. 301-316, page 303.

¹²⁷ Sameera Khan, *Negotiating the Mohalla: Exclusion, Identity and Muslim Women in Mumbai*, *Economic and Political Weekly*, Vol. 42, No. 17 (April -May 2007), pp. 1527-1533, page 1529.

¹²⁸ White Arkitekter, Flickrum - Places for Girls, <https://whitearkitekter.com/project/places-for-girls/>.

¹²⁹ Fatima Sadiqi, Moha Ennaji, *The Feminization of Public Space: Women’s Activism, The Family Law, and Social Change in Morocco*, *Duke University Press, Journal of Middle East Women’s Studies*, Vol. 2, No. 2, Special Issue: Women’s Activism and the Public Sphere (Spring 2006), pp. 86-114, page 9.1

in accessing public space as compared to the urban women.¹³⁰ Yet another difference emerges from the reasons why women access public space in rural areas as opposed to urban ones. For example in rural Bangladesh, women use public space for collecting water rather than for reasons such as going to parks or commuting to work.¹³¹ These differences suggest that when making decisions (such as policy or planning decisions) based on a women's access to public space, the needs and considerations of rural women will differ from those of urban women – that there may not be a one-size fits all approach to encouraging women to access public space.

Another population – migrant women – face their own unique access issues to public space and by extension cultural rights. Women comprise slightly less than half of all international migrants, or about 125 million migrants.¹³² Gender may play a role in motives for movement from origin countries, what the migrant experience is like (safety and access to resources), and what economic opportunities are available in destination countries.¹³³ This does not necessarily, but may, take into account, the experiences of refugee women as well.

LGBTQA women face unique discrimination on the basis of sex and sexuality. LGBTQA women have historically used public space for expression of their cultural rights. In particular, LGBTQA women have used public space for activism, education and outreach. For example, Dyke marches around the United States have taken place since 1993, as a parade for visibility of and protest for lesbian women.¹³⁴ In Guatemala City, lesbian activists staged “kiss-ins” – where women would go to the Central Park of Guatemala City carrying anti-discrimination signage directed towards lesbian affection.¹³⁵ However, the LGBTQA women face many challenges in accessing their cultural rights through public space. In particular, trans women face extreme harassment in public (In the U.S., 53% of transgender people report harassment in a place of public accommodation), and have concerns when expressing public affection or in urban planning accommodating those outside the female/male binary (such as accessible public restrooms).¹³⁶ Another challenge is self-expression in public through personal appearance. In

¹³⁰ Jo Little, Ruth Panelli, Anna Kraack, *Women's fear of crime: A rural perspective*, *Journal of Rural Studies* 21 (2005) 151 - 163.

¹³¹ Farhana Sultana, *Fluid lives: Subjectivities, gender and water in rural Bangladesh*, *Gender Place and Culture A Journal of Feminist Geography* Vol. 16 No. 4 (August 2009), 427-444, page 431.

¹³² Department of Economic and Social Affairs, *International Migration Report*, ST/ESA/SER.A/404 (New York: United Nations 2017), https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017_Highlights.pdf.

¹³³ UN WOMEN, *Gender On The Move: Working on the Migration-Development Nexus from a Gender Perspective*, Dominican Republic: United Nations 2013), http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/12/genderonthemove_low2b%20pdf.pdf?la=en.

¹³⁴ Kelly Cogswell, *The Dyke March Hits 20!*, *The Huffington Post*, 18 May 2012, https://www.huffpost.com/entry/the-dyke-march-hits-20_b_1524540. NYC DYKE MARCH, *Herstory of the Dyke March*, <https://www.nycdykemarch.com/herstory>.

¹³⁵ Off Our Backs, *Lesbiradas: Lesbian Activism in Guatemala*, *Off Our Backs*, Vol. 34, No. ¾ (March-April 2004), pp. 27-30, page 28.

¹³⁶ John August Wendel, *Just (Be)ing Yourself: Transgender Women of Color in Los Angeles' Everyday Public Spaces*, UCLA Electronic Theses and Dissertations (2017), page 15, 16. Jody L. Herman, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender People's Lives*, The Williams Institute, UCLA School of Law,

some places, challenging gender stereotypes in public can be dangerous, while in other places not assuming sexual preference based identifiers can mean exclusion from a community. For example, one study on South Asian-American women found that dressing in traditional saris meant that they could not be seen as lesbians in America because traditionally feminine bodies (breasts, hips and long hair) in saris were interpreted by white American lesbians as being femme.¹³⁷ Throughout history LGBTQA women have also faced legal discrimination such as sodomy laws, which make same sex activity criminal in private and public places. As recently as 1992, when Nicaragua reintroduced sodomy law Article 204, the sexual behavior of gay women has attempted to be regulated and discriminated against.¹³⁸ Today, the Human Dignity Trust identifies 45 jurisdictions that criminalize consensual sexual activity between women, the majority of these countries are on the African continent, the Middle East and in South Asia.¹³⁹ This means that those jurisdictions restrict the freedom of self-expression through affection in public places. The way public space is perceived also influences LGBTQA women from accessing their cultural rights. A study in St. Louis Missouri, USA, found that an individual's own life experiences contributed to feelings of public spaces as safe.¹⁴⁰ Finally, aside from safety concerns, it is clear that there needs to be more data available on how LGBTQA women use public space, and in particular public space to access their cultural rights.

The United Nations estimates that one in five women live with disabilities.¹⁴¹ Further, those women are at risk for double discrimination, discrimination on the basis of their disability and womanhood. For disabled women in particular, transportation, lack of public facilities and poor urban design can contribute to isolation from public space.¹⁴² A majority of research and reporting relates to disabled women's experiences with public facilities. In Ethiopia, Progynist (a female empowerment NGO) but public latrines in Kebele 02 of Woliso Town, for better access to personal hygiene, including menstruation related sanitation needs, for the 350 village women. These latrines were specifically designed to accommodate those with disabilities as well as

<https://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>

GLAAD, Statistics about Discrimination Faced by Transgender People,

<https://das.ohio.gov/Portals/0/DASDivisions/EqualOpportunity/pdf/EEO%20Academy%20Matrix/GLAAD%20-%20Info.pdf>

¹³⁷ Rokhsana Badruddoja, *Queer Spaces, Places, and Gender: The Topologies of Rupa and Ronica*, NWSA Journal, Vol. 20, No. 2, (Summer 2008), pp. 156-188, page 163.

¹³⁸ Florence E. Babb, *Out in Nicaragua: Local and Transnational Desires after the Revolution*, Cultural Anthropology, Vol. 18, No. 3 (August 2003), pp. 304-328, page 310.

¹³⁹ Human Dignity Trust, Map of Countries that Criminalize LGBT People, <https://www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation/>.

¹⁴⁰ Emily L. Sanschargin, *The LGBT Community and Public Space: A Mixed Methods Approach*, Electronic Theses and Dissertations, University of Denver (January 2011).

¹⁴¹ UN WOMEN, *Empowering and including women and girls with disabilities* (2 December 2015), <http://www.unwomen.org/en/news/stories/2015/12/empowering-and-including-women-and-girls-with-disabilities>.

¹⁴² Department of Economic and Social Affairs, *Good Practices of Accessible Urban Development, Making Urban Environments Inclusive and Fully Accessible to All*, ST/ESA/364 (United Nations), https://www.un.org/disabilities/documents/desa/good_practices_in_accessible_urban_development_october2016.pdf

pregnant women.¹⁴³ This project is an example of how good design can encourage opportunities for disabled women to participate in public life, and therefore become contributing members of their cultural communities. Women in India report fear of inadequate public restrooms leads to holding bowel movements or wearing diapers while going out in public.¹⁴⁴ Additionally, lack of accessible toilets, such as unisex toilets, makes going to the bathroom with a caregiver even harder.¹⁴⁵ Aside from issues with public facilities, the UN also reports that disabled women are more likely to be institutionalized, or removed from public life.¹⁴⁶ And finally, women and girls with disabilities are less likely to participate or be included in the decision making processes, especially at a political level, that would in enhance their rights.

H. How Actors Address Women, Cultural Rights And Public Space

The approach to women, cultural rights and public spaces is multi-dimensional. Further, projects and initiatives taken in other issue areas can have positive secondary effects on women, cultural rights and public spaces. From the research, several themes have emerged that can act as suggested recommendations to better enable women to access and enjoy their cultural rights through public spaces. They are as follows:

1. Promote Equality Initiatives

A foundational step for women accessing their cultural rights through public space is for women to enjoy equal opportunities with men to be in public spaces and contribute to the cultural life of the community. Creating and supporting gender equality initiatives can help to shift traditional gender-based roles that keep women out of public spaces. This can also include educating men on experiences women face daily, especially those that might keep women out of public spaces.

Case Study #1: In the United States, the fight for an Equal Right Amendment to the United States Constitution is still in progress. After an initial push in the 1970's, the Amendment has still not passed.¹⁴⁷ Passing an Equal Rights Amendment would make gender equality based on sex a constitutional right and provide a legal backbone for women to enjoy equality in all aspects of their lives.

¹⁴³ Prognist, Public Latrines Built (2019), https://www.prognist.net/index.php?option=com_content&view=article&id=82:public-latrines-built&catid=21:health-and-sanitation&Itemid=17

¹⁴⁴ Poulomi Banerjee, *Lack of Toilets restrict access to public spaces for differently abled women*, Hindustan Times, 8 January 2017, <https://www.hindustantimes.com/india-news/lack-of-toilets-restrict-access-to-public-spaces-for-differently-abled-women/story-MeaY6LSOh18zdARRUE3s2N.html>.

¹⁴⁵ Id.

¹⁴⁶ Women and adequate housing, Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, E/CN.4/2005/43, para. 64.

¹⁴⁷ Rosemary Westwood, *Why We're Still Fighting Over the Equal Rights Amendment in 2019*, Pacific Standard (1 April 2019), <https://psmag.com/social-justice/why-were-still-fighting-over-the-equal-rights-amendment-in-2019>

While not directly related to public space and cultural rights, establishing women and men as having constitutionally mandated equal rights in all areas of American life supports the deconstruction of gender based roles that in turn discourage women from full participation in public life.

Case Study #2: Men Care is a program started in South Africa to promote men's equal involvement in caregiving and encourage nonviolent parenting practices. It is active in over 25 countries and has reached an estimated 250,000 people. Not only does Men Care work with fathers directly, it also advocates at the local and national level for policies that create more opportunities for men's involvement in caregiving and women's economic empowerment.¹⁴⁸ This type of program promotes equality of women and men in home life, which then in turn breaks down stereotypes that relegate women to private life and exclude them from public space.

Case Study #3: UN Women and Mexico city launched an education program to inform men of the sexual violence experience by women and girls on public transportation, and to deter men from participating in harassing behavior. The initiative included videos of social experiments putting men in similar situations as women, a hashtag #NoEsDeHombres (This is not what being a man is about), and educating men of the possible legal implications for sexual violence.¹⁴⁹

Case Study #4: The European Charter for Equality of Women and Men in Local Life, Article 25(1) recognizes the importance of land use policies in "creating conditions within which the right to equality of women and men in local life may be fully achieved."¹⁵⁰ This charter strengthens the European Pact for gender equality and sets out a framework for European city participants to follow.

Case Study #5: APC Internet Rights Charter Article 1.5 details The Right to equal access for men and women.¹⁵¹ This is a significant recognition of equality to and in the cyberworld. As previously mentioned, alternate public spaces, such as the web, are important to women who are excluded from traditional public spaces.

2. Work with legislators and local governments

Any public policy or community action programs must be complemented by legislation and efforts by local governments. Complementary government action can

¹⁴⁸ Sonke Gender Justice, MenCare, Child Rights and Positive Parenting, <https://genderjustice.org.za/project/child-rights-positive-parenting/mencare/>

¹⁴⁹ UN Women, *UN WOMEN and the Government of Mexico City launch the campaign #NoEsDeHombres to tackle sexual harassment in public transport*, UN Women Americas and the Caribbean (30 March 2017), <http://lac.unwomen.org/en/noticias-y-eventos/articulos/2017/03/no-es-de-hombres-onu-mujeres>

¹⁵⁰ Observatory for the European Charter for Equality of Women and Men in Local Life, Planning and Sustainable Development, <http://www.charter-equality.eu/good-practices/planning-et-developpement-durable-en.html>.

¹⁵¹ Association for Progressive Communications, APC Internet Rights Charter (November 2006), https://www.apc.org/sites/default/files/APC_charter_EN_0_1.pdf.

come in the form of zoning for more public space, and enforcing and enacting laws, such as laws protecting the dignity and equality of women and laws recognizing a right to public spaces and culture.

Case Study #1: Quezon City, Manila, established penalties for sexual harassment in public spaces after grass-roots research (in partnership with UN Women) found that stronger laws were needed against sexual harassment.¹⁵²

Case Study #2: Mexico City developed a program to create “pocket parks,” or small parks in 28 abandoned lots around the city. This program created access to public space in areas of the city that generally did not enjoy such space.¹⁵³ While not developed exclusively for women, the pocket parks can help women access public space in neighborhoods that lacked public space, or were devoid of usable and welcoming spaces.

Case Study #3: URBACT is a European exchange program promoting sustainable urban development. Part of its work is to enable cities to work together and develop sustainable solutions to topics such as the economy, environment, governance and inclusion. Included in their policy work is a guide to gender equal cities to help promote gender mainstreaming in urban planning.¹⁵⁴

Case Study #4: Scotland introduced the idea of access rights, whereby Scottish people are able to access public space and lands for express purposes including the furtherance of cultural rights.¹⁵⁵ The access rights pertain in large part to green or natural space. Scotland’s access rights recognize that the public lands may be used to connect to cultural rights derived from the land. While not recognizing gender specifically, the rights make clear that everyone, and so impliedly women as well as men, have access rights to Scottish lands and any gender based exclusion of women on those lands would therefore be prohibited as discriminatory.

3. Collect Data

Data on how and why women use, or don’t use, the public spaces in their communities will be vital to understanding women’s relationship to public space and the cultural benefits that result from their use. Currently, most studies focus on collecting

¹⁵² UN Women, *supra* 85, at 10.

¹⁵³ Miriam de Regil, *Reviven espacios del DF con parques de bolsillo*, El Financiero (19 December 2013), <https://www.elfinanciero.com.mx/archivo/reviven-espacios-del-df-con-parques-de-bolsillo>. John-Rob Pool, Frances Seymour, Tod Gartner, Mariana Campos, *45 Cities Pursue a New Urban Strategy: Protecting Forests Near and Far* (12 September 2018), <https://www.wri.org/blog/2018/09/45-cities-pursue-new-urban-strategy-protecting-forests-near-and-far>.

¹⁵⁴ URBACT, *Gender Equal Cities*, URBACT Knowledge Hub (Paris, France 2019), <https://urbact.eu/sites/default/files/urbact-genderequalcities-edition-pages-web.pdf>.

¹⁵⁵ Scottish Outdoor Access Code, Part 2 Access Rights (2005), <https://www.outdooraccess-scotland.scot/sites/default/files/2018-09/Scottish%20Outdoor%20Access%20Code%20-%20Part%202%20Access%20Rights.pdf>.

data to map women's safety in public places, lacking are studies that track how and why women move through public space.

Case Study #1: Free to Be, launched in Australia, now operates in four cities in different countries. On the app, women can drop pins to map where they feel safe, and where they do not. The data will then be used by local governments to see where they can improve the experiences of women and girls.¹⁵⁶

Case Study #2: Vienna, Austria was one of the first cities to take up gender mainstreaming in urban planning. A Woman's Office was opened in 1992 and a gender mainstreaming office in 2005. Initially, government officers collected data on the transportation use in the city. The finding of significant gender discrepancies in use of public transportation (including frequency and variety) between men and women led the officials to adopt more in depth gender studies of Vienna's public places and to adopt gender mainstreaming in urban planning. Currently, Vienna has guides available to other cities to encourage greater gender mainstreaming in urban planning.¹⁵⁷

4. Increase the safety of women in public space

Women will avoid public spaces, and therefore miss out on any cultural benefits of public spaces, when there are real or perceived safety threats.

Case Study #1: Several cities have taken initiative to launch women only buses and train cars, in order to increase public transit use by women and decrease opportunities for sexual harassment. While the results of such initiatives are unclear, the efforts demonstrate a broader attention to the safety concerns of women in public spaces.¹⁵⁸ However, the benefits of these women-only spaces should be balanced against the cost of gender segregation.

Case Study #2: As part of the Women Friendly City project in Seoul, South Korea, city officials increased the number of public restrooms, established

¹⁵⁶ Plan International, City Girls Digitally Map Safety with "Free to Be" (17 April 2018), <https://plan-international.org/news/2018-04-17-city-girls-map-safety-free-to-be>. URBACT, *Gender Equal Cities*, URBACT Knowledge Hub (Paris, France 2019), <https://urbact.eu/sites/default/files/urbact-genderequalcities-edition-pages-web.pdf>.

¹⁵⁷ URBACT, *Gender Equal Cities*, URBACT Knowledge Hub (Paris, France 2019), page 21, <https://urbact.eu/sites/default/files/urbact-genderequalcities-edition-pages-web.pdf>. Clare Foran, *How to Design a City for Women*, CityLab (16 September 2013), <https://www.citylab.com/transportation/2013/09/how-design-city-women/6739/>. Observatory for the European Charter for Equality of Women and Men in Local Life, *Vienna - a model city for Gender Mainstreaming*, [eu/exemple-de-bonnes-pratiques/a-model-city-for-gender-mainstreaming.html](http://eu.exemple-de-bonnes-pratiques/a-model-city-for-gender-mainstreaming.html). City of Vienna, *Gender Mainstreaming in Urban Planning and Urban Development*, Urban Development Vienna (2013), <https://www.wien.gv.at/stadtentwicklung/studien/pdf/b008358.pdf>.

¹⁵⁸ Sui-Lee Wee, Giulia Marchi, *China's Women-Only Subway Cars, Where Men Rush In*, The New York Times (4 March 2018), <https://www.nytimes.com/2018/03/04/business/china-women-only-subway-cars.html>. Japan Experience, *Women Only Cars in Trains* (19 January 2018), <https://www.japan-experience.com/to-know/visiting-japan/women-only-cars-in-trains>.

parking lots near entrances and elevators of buildings, installed more emergency bells and CCTV's and added additional lights in parking lots.¹⁵⁹

Case Study #3: UN Women launched the Safe Cities and Public Spaces initiative based on the Safe Cities Free of Violence Against Women and Girl Program. The program connects UN agencies, women's organizations and more than 70 global and local partners to develop and implement tools and policies to respond to violence against women and girls in public settings.¹⁶⁰

5. Engage women in the planning and development stages of public spaces

When women help to plan and develop public spaces the (un)conscious gender biases are deconstructed and public spaces become more friendly and welcoming to more people.¹⁶¹ The public spaces can reflect a greater diversity of purposes and design features when there are women designers at the table.

Case Study #1: In Bangladesh, women were included in the design projects of key infrastructure sites. The result of one project was to build separate toilets for women at markets and transportation stops.¹⁶²

Case Study #2: Rwandan women set up the Safe Mini-Market in Kigali to sell their goods. With input from the women vendors the new market has a day-care center and space for breastfeeding.¹⁶³

Case Study #3: UN Habitat has several initiatives that encourage women to plan and develop public space alongside local institutions. These include the Global Public Space Toolkit, the "Building Safe and Inclusive Cities for Women" Practical Guide, and Gender Equality Action Plan.¹⁶⁴ Further, in the New Urban Agenda, public space is highlighted as key to social interaction, inclusion and cultural expression.¹⁶⁵

¹⁵⁹ Seoul Solution, *Women Friendly City Project* (2014), <https://seoulsolution.kr/en/content/women-friendly-city-project>.

¹⁶⁰ UN Women, *Safe Cities and Safe Public Spaces, Flagship Program*, (September 2018), [http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/un%20women-safecities-brief_us-web%20\(1\).pdf?la=en&vs=4851](http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/un%20women-safecities-brief_us-web%20(1).pdf?la=en&vs=4851)

¹⁶¹ Dolores Hayden, *What Would a Non-Sexist City Be Like? Speculations on Housing, Urban Design, and Human Work*, The University of Chicago Press Journals, Vol. 5 No. 3, Supplement. Women and the American City (Spring 1980), <https://www.jstor.org/stable/pdf/3173814.pdf?refreqid=excelsior%3Ad0ca60f3a814032d5055a28eb129325c>

¹⁶² Asian Development Bank, *Bangladesh: Second Rural Infrastructure Improvement Report* (September 2015), <https://www.adb.org/sites/default/files/project-document/173458/36224-013-pcr.pdf>

¹⁶³ UN Women, *Safe Cities and Safe Public Spaces, Global Report* (New York: United Nations October 2017) page 14, <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2017/safe-cities-and-safe-public-spaces-global-results-report-en.pdf?la=en&vs=45>. United Nations Rwanda, *From high-risk to a safer business environment: The story of the Kigali Safe Mini Market* (6 December 2018), <http://www.rw.one.un.org/press-center/news/high-risk-safer-business-environment-story-kigali-safe-mini-market>.

¹⁶⁴ UN Habitat, *Gender* (2012), <https://unhabitat.org/urban-themes/gender/>.

¹⁶⁵ General Assembly resolution 71/256, *New Urban Agenda*, A/RES/71/256 (23 December 2016), page 9, <https://undocs.org/A/RES/71/256>.

6. Provide opportunities for entitlement to use and access public space

Finally, when women feel entitled to access public space it increases their use of said space, and increases their enjoyment of cultural rights that are derived through being in those public spaces. Opportunities can come through community art, planning and design, or events programming in the public spaces.

Case Study #1: In 2019, a multi-year project was realized with the installation of benches, or “furniture,” as part of the series “A Place of One’s Own” at the Pantheon in Paris. This installation aimed to promote women’s use of the public square and foster communication and community building through design.¹⁶⁶

Case Study #2: In 2018, London unveiled its first female statue in Parliament Square. The statue was of Millicent Fawcett, a key member of the British women’s suffrage movement.¹⁶⁷

Case Study #3: From 2013, starting during the Arab spring, to 2015, Women on the Walls operated in Egypt as a network of Middle Eastern artists using graffiti and street art to talk about women’s issues and human rights with the aim to empower Arab women.¹⁶⁸

¹⁶⁶ Cities and Gender, Pantheon, *Oui le design a un impact sur l’appropriation de la ville* (19 September 2018), <http://www.genre-et-ville.org/place-du-pantheon-oui-le-design-a-un-impact-sur-lappropriation-de-la-ville/>

¹⁶⁷Natasha Bach, *London’s Parliament Square Just Unveiled Its First Statute of a Woman. What You Should Know About Honoree Millicent Fawcett*, *Fortune* (24 April 2018), <http://fortune.com/2018/04/24/london-parliament-square-millicent-fawcett-first-woman/>. URBACT, *Gender Equal Cities*, URBACT Knowledge Hub (Paris, France 2019), <https://urbact.eu/sites/default/files/urbact-genderequalcities-edition-pages-web.pdf>

¹⁶⁸Women on Walls (2015), <http://womenonwalls.org/about/>. Kathryn Travers, Margaret Shaw, Cassandra McCleery, *Making Cities Safer for Women and Girls, Part II* (9 March 2017), <https://www.urbanet.info/safe-cities-for-women-and-girls-part-ii/>

V. CONCLUSION

This research has shown that the topic of women, cultural rights and public space is still emerging. The existing research on women and cultural rights, or women and public space, or public space and cultural rights, needs to be merged to fully understand accessing and enjoying cultural rights by way of public places through a gendered lens. Indeed this report is in and of itself limited by English language research constrictions and a lack of specific data to complete a succinct overview of the subject landscape. However, what this report does do is use examples to bridge the gap between the separate and distinct topics of women, cultural rights and public space to create a framework for discussion and analysis of the interdependent concepts. What is clear from the research is that women can enjoy greater access to their cultural rights through public space when women are treated as equals, feel safe in public spaces, are included in the design process and administration of public spaces, and are encouraged to use public space to promote and engage with their cultural rights.