# CHAPTER 8: ACCESS FOR PEOPLE WITH DISABILITIES [1]

8.1. Many of the rights provided for people with disabilities in India can not be realized without ensuring that the services to which they are entitled are accessible, and that barriers to access in their broader environment are reduced. Accessibility for people with disabilities can mean many things, ranging from physical access to services and the built environment, to access to appropriate services such as adapted curriculum and rehabilitation services, to access to civil and political participation, including voting and the justice system. The focus of this chapter is largely the more narrow one of physical accessibility for people with disabilities and standards and outcomes in India. The issues are touched on already in some of the sector chapters, in particular education. Overall, while India has standards on promoting access to the built environment and basic services, it faces major challenges in implementation due to a combination of institutional coordination challenges, poor enforcement mechanisms, and lack of awareness of the needs of people with disabilities.

8.2. ***(a) Public policy and access: The provisions on access for people with disabilities in the PWD Act are framed as contingent entitlements***, i.e. obligations on the authorities are subject to the proviso "within the limits of their economic capacity and development". As such, the authorities are encouraged to take various interventions to promote access, but the nature of the legal obligations is somewhat vague. [2] Indeed, there are no specific enforcement provisions or sanctions for failure of authorities to be proactive in undertaking their obligations under the Act. Nor is a mechanism spelt out for how authorities should move to implement the Act's provision, e.g. amendment of bye-laws etc. As a result, people with disabilities have relied on a combination of general non-discrimination provisions of the Act and the specific provisions on access. The main provisions specifically related to access are:

- "special measures" (not specified) to adapt rail, bus, aircraft and vessels for easy access by PWD, and adaptation of toilets, waiting rooms etc.
- adaptation of traffic signals, pavements etc to permit use of built environment for PWD, including adaptation of traffic signals, adjustment in curbs, etc.
- provision of ramps, braille and auditory signage etc to permit use of public buildings and health and rehabilitation institutions.
- provision for research on modifications in offices and factories to promote access.

8.3. Several observations can be made on the Act's provisions for promoting accessibility. ***First, the general approach is one of accessible design or adaptation of public facilities and to some extent the built environment, rather than universal design.*** Accessible design refers to buildings that are accessible by PWD, while universal design is buildings or products that are accessible by all, including PWD. The former tends to result in access channels for PWD which are separate, while the latter provides for design solutions that accommodate all people in the same manner. For example, an accessible building might have a separate ramp entrance, while a universal design building would not have steps at all. The draft national Policy for Persons with Disabilities recognizes the distinction, and commits rather ambitiously that "all future infrastructure development will ensure universal access."

[1] This chapter has benefited from a background paper by Singh (2005).

[2] See Human Rights Law Network (2005), which describes the Act's policy framework for access as "a half-baked policy rather than a definitive law".

8.4. ***Second, the legislation fails to distinguish between the existing stock of public buildings, services and public infrastructure, and future construction and development.*** While retrofit adaptations may in some – though not all – cases be costly, the same is rarely true of either universal or accessible design which is allowed for at the design stage. For example, it has been estimated that making buildings accessible adds less than 1 percent to total construction costs in several OECD countries.[3] While similar exercises have not been carried out systematically for India, information for example from Delhi Metro indicates that accessibility features added during design added a similarly small fraction to total construction costs.[4] It would thus seem useful to make such a distinction in policy, more so as monitoring and enforcement with respect to new construction, public transport etc. places more reasonable demands on administration, and clearer obligations on service provision organizations. Such a suggestion was made in proposed amendments of Amendment Committee for the PWD Act in 1999, but has not been taken up.[5]

8.5. ***Third, the provisions of the Act, and to some extent their subsequent interpretation and implementation, show a relative focus on access for people with disabilities in urban areas.*** This is to some extent understandable, but as a result lessens the focus on the types of access priorities of rural people with disabilities. These in many cases may be more fundamentally focused on access from the home to buildings or facilities than on access to facilities themselves. The latter clearly remains important, but does not become relevant if the person with a disability can not access the facility in the first place. The UP and TN survey results indicate that in a number of cases, physical accessibility of the end facility appears to be less of a problem in the village covered than the basic transport links that get the disabled person to the vicinity of the facility. Even in urban areas, work by DPOs with the railways has revealed that access stages well before railway carriages themselves often prevent use of public railways. [6] It may be useful in future policy development to focus for rural areas more closely on the "mobility/accessibility chain", i.e. the key steps which a person with disability needs to take from home to the service or building, and what links in that chain prove the most binding. [7] Such an approach of course raises a much more challenging set of institutional coordination and resource issues, but would assist at least in focusing policymakers on the key constraints in the mobility chain for rural people with disabilities.

8.6. ***Fourth, the access provisions of the Act – like all those where the commitments are subject to economic capacity proviso – have no provisions or process outlined for either determining appropriate minimum standards of access*** at different level of development or for sanctions on authorities that fail to make any efforts to improve accessibility. This will increasingly need attention now that the new UN Convention on rights of persons with disabilities has entered into force, which requires states to "develop, promulgate and monitor

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[3] Schroeder et al. 1979, Ratzka 1984, Cholet and Steinfeld 1979, and Grinnel et. al. 1993. Some accessibility features need add no cost, e.g. wider doorways for wheelchair users may cost more for the door frame, but the need for less wall space constructed can offset that cost.

[4] See Singh (2005). The paper also stresses that even net costs for accessibility should be viewed as investments in promoting greater participation for disabled people, which may pay for themselves in terms of improved employment rates, health facility usage etc.

[5] See Committee Report, which proposes that all public transport "whether constructed or acquired" and all public conveniences to be built in future are accessible.

[6] Samarthya (2005).

[7] There is work for example on adapting mobility devices for rural populations, such as the joint project of the National Institute for Design in Ahmedabad and ICACBR from Canada. See Sharma (2006).

implementation of minimum national standards and guidelines for the accessibility of public facilities and services" (see Box 8.1).

***Box 8.1: International and regional standards on promoting access for people with disabilities***

Accessibility for people with disabilities has been increasingly stressed in regional and international initiatives. A few of the key milestones in this respect are:

- The 1993 UN Standard Rules, which commit states to recognize the importance of accessibility in promoting equality of opportunity for people with disabilities.
- The UNESACP Biwako Millennium Framework for Action for 2002-2012 which committed states to an inclusive and barrier-free environment for people with disabilities, with specific reference to rural settings.
- The UN Convention on the Rights of Persons with Disabilities has the following provisions on accessibility:

1. "…State Parties shall take appropriate measures to ensures to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and rural areas. The measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

(b) Information, communications and other services, including electronic services and emergency services.

2. State Parties shall also take appropriate measures:

(a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for accessibility of facilities open or provided to the public;

(b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(c) To provide training for stakeholders on accessibility issues facing persons with disabilities;

(d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

(f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

(g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

(h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an earl stage, so that these technologies and systems become accessible at minimum cost.

8.7. ***Fifth, there is no obligation to consult people with disabilities themselves on both priorities in improving accessibility or on design aspects.*** This is a key process need in terms of prioritizing investments in accessibility. Experience such as that of the Delhi Metro indicates that such consultation need not tax administration too greatly, and that the improvements resulting from such consultations can accrue not only to disabled people, but also a range of other users of services (e.g. the elderly; pregnant women; children).

8.8. ***Finally, awareness of the PWD Act and subsequent developments to promote access remains low,*** both among people with disabilities and often among service providers. For example, in the UP and TN survey only 57 percent of households with disabled members were aware of travel concessions for disabled people. On the supply side, less than 10 percent of transport providers interviewed in Orissa were aware of the PWD Act, though there was greater awareness of specific concessions.

8.9. ***While the PWD Act can therefore be considered a starting point in promoting accessibility, there is clearly a significant need to build on it.*** There has been progress on the policy side in promoting accessibility since the Act. A committee convened by the Ministry of Urban Affairs and Employment issued Guidelines and Space Standards for Barrier Free Built Environment for Disabled and Elderly Persons in 1998. This is intended as a guiding document to central and state authorities in modifying their bye-laws, and applies to most construction other than domestic buildings. A related policy document from the Chief Commissioner for Disabilities "Planning a Barrier Free Environment" outlines a similar set of guidelines. [8] In addition, the latest 2005 revision of the National Building Code (NBC), developed by the Indian Bureau of Standards, includes provisions for buildings, services, and facilities for people with disabilities. The NBC acts as a model code for construction by Public Works Departments, other public agencies and private construction companies.

8.10. All three documents above do not have direct force, though are of course important standards and sources. In order to make them legally binding, they need to be adopted into local building bye-laws for construction and systems for approvals. To date, around 10 states have modified their bye-laws to this effect, with others in the process of doing so. Even for the states that have introduced such revisions in bye-laws, there remains a need to tie them to approval and monitoring mechanisms. In this respect, the requirement in UP that the Estimates Finance Committee should not sanction any public facility construction which does not have barrier-free access provides a promising example.

8.11. ***(b)*** **Experience in Promoting Access:** ***There is much evidence, both quantitative and anecdotal to indicate that accessibility remains a largely unrealized goal in India to date.*** To some extent this is not surprising, given the major challenges in enforcement of construction standards in the country, and more fundamental questions for example of title to land and encroachments. Also, documentation of inaccessibility traditionally was scarce, though the situation is changing rapidly in larger urban areas. The work of Swabhiman in Orissa and Samarthya in Delhi are good examples of increased efforts on the part of NGOs to document access problems for people with disabilities. Such efforts have been complemented by the training initiatives of the Office of the Chief Commissioner for Disabilities. Their findings indicate a major awareness raising and implementation agenda.

[8] NGOs have also been active, e.g. an informal accessibility resource group in Gujarat has produced the "Design Manual for a Barrier Free Built Environment".

8.12. ***One of the major issues in promoting access for people with disabilities is that of institutional coordination.*** Particularly for the built environment, there will in most cases be a range of line agencies and other local authorities responsible for infrastructure. This frequently results in no single agency considering itself responsible for making the built environment accessible, and/or to problems with very partial accessibility in the face of uncoordinated action. The comparison of institutional arrangements and outcomes for two large infrastructure initiatives in the same city (Delhi) are outlined in Box 8.2 by way of illustration.

8.13. ***The institutional issues in promoting access reflect deeper challenges of accountability***. As noted above, the policy of the PWD Act itself is not of great use in terms of establishing clear lines of accountability for ensuring that accessibility standards are adhered to. Part of the issue is a common central/state/local authority division of labor and the incapacity of the centre as a vehicle for enforcing accountability. A second element is the general ineffectiveness at state level of the Coordination and Executive Committees tasked with oversight of the Act. However, the most progress is likely to be made at the specific project level. This will require focusing on planners, designers, service providers and users. For planners and designers, there is often a lack of knowledge of principles of universal design and of the legal requirements to ensure accessibility. There is also commonly a lack of clarity about where accountability for ensuring accessibility in executed works lies. A distinct but equally important awareness raising agenda remains also with service providers and disabled users of buildings and services.

8.14. ***Despite the challenges, channels are growing for promotion of accessibility for people with disabilities, at least in urban areas. First, the courts have played a role in promoting the access commitments of the Act***, both directly in relation to physical access provisions (e.g. to transport), and in broader areas of civil participation such as access to polling stations under the non-discrimination provisions of the Act and the Constitution.[9] The cases regarding accessible public transport have explicitly tried to balance the need for access with impacts on public finances. For example, the Supreme Court in 1999 ordered Indian Airlines in Javed Abidi vs. Union of India to provide ambu-lifts and aisle chairs for people with locomotor disabilities. This was phased in on the basis of IA's claims that such installation was economically unviable. With respect to elections, the Supreme Court also made orders in 2004 for ramp access to polling stations, at least in urban areas in Disabled Rights group vs. Chief Election Commissioner. While these are positive developments, court-enforcement will necessarily remain the exception rather than the rule, due to the cost and time demands of accessing the legal system. It is important to have both more specific policies and a supportive institutional framework if access commitments are to be realized more fully. Interestingly, very few access-related cases have been brought before the Commissioners' offices, with the few that have being *suo moto*.

8.15. ***One of the simplest but more powerful tools in promoting accessibility has been the growing practice of access audits***, generally by NGOs, in some cases supported by Commissioners' offices. There are many NGOs in different states now conducting such audits, including Samarthya in Delhi; a resource group in Gujarat of NGOs, academics, architects, planners, builders and designers, professional institutions and media, coordinated by UNNATI and the Blind Peoples' Association; Able Disabled People All Together (ADAPT) in Mumbai; Swabhiman in Orissa; and Arushi in MP (to name only a few). Access audits have been carried out on a range of services and institutions, including transport, public buildings, health institutions, cultural sites, and other places, both public and private. Working with media has typically increased the impact of audits and both public and private "auditees" have usually

[9] HRLN, op.cit.

proven willing to introduce accessible or universal design, often at rather low cost. The approach is expanding. For example, Samarthya runs a Training of Trainers Courses to create a resource pool of access auditors. The trainers have basic understanding of diverse access needs, competence to conduct access audits, and recommend and monitor implementation of new as well as old constructions. Trainers undergo an experiential exercise, and orientation on mobility concepts, communication, signage and anthropometrics. Samarthya has provided training for RCI, MoSJE, GoI, and a number of NGOs, many of whom have been associated with the reconstruction work post-earthquake in Gujarat and post-Tsunami at TN and Andaman Islands. Currently over 400 Master Trainers exist in the country.

***Box 8.2: A Tale of Two Cities in One: Indraprastha Project and Delhi Metro***

The comparison of outcomes on two infrastructural initiatives in Delhi is illustrative of the institutional coordination challenges facing accessibility for PWD, and of how they can in some cases be overcome.

Motivated by the Asian and Pacific Decade of Disabled Persons, a square kilometre of New Delhi (the Indraprastha Institutional Area) was chosen as a pilot for implementing an accessible built environment for people with disabilities. The nodal agency for the project was the Union Ministry of Urban Affairs and Employment. However, the infrastructure in the area fell under several different agencies: roads were under the Municipal Corporation of Delhi; bus stops under the Delhi Development Authority; institutional buildings under the Central Public Works Department, and traffic signals and crossings under the Commissioner of Police. These reported to different entities and government. Despite a steering committee, financing for the initiative remained fragmented across agencies. The project was ultimately implemented, though with limited input from people with disabilities in the process. Subsequently, the area has reverted to its original level of inaccessibility, largely due to lack of concerted ownership among the several agencies involved.

The Delhi Metro project provides a positive counterpoint. The project is also under the MUAE. However, the institutional arrangement is very different, with a single purpose entity established in 1995, owned jointly by GoI and GNTCD. The Delhi Metro Rail Corporation involved disabled users when scaling the facilities and asks for regular access audits. Importantly, people with disabilities are viewed as customers, and thus the Delhi metro is designed to be easily accessible for them. Escalators and accessible elevators are available at all stations. In addition, disabled commuters can also expect accessible seating on the trains. Other specific facilities for disabled commuters are:

- Audible warnings and announcing devices wherever possible
- Ticket gate exclusively for disabled passengers
- Tactile tiles on all common passages with tactile warnings for abrupt change in height or near hazardous areas
- Signs printed in braille in the lifts to indicate floors
- Elevator control buttons positioned at heights that are accessible to wheelchair users
- Accessible toilets on every floor
- Grip rails on the walls of the elevator car
- Wide doors for lifts
- Ramps at the entrance of every station
- Adequate landing space at the start and end of every ramp
- Reservation for employment of physically challenged

Samarthya, a local NGO, also carried out an access audit on a sample station in 2002. The DMRC took into consideration Samarthya's recommendations and made the requisite changes to signage and symbols, the height of the ticket counter, installed seating on the platforms for elderly and persons with mobility difficulties and created curb cuts for parking places reserved for persons with disabilities. The Delhi Metro can now be considered among best practice in the developing world as far as access for people with disabilities is concerned.

*Source: Singh (2005); Officer.*

8.16. ***In addition to NGO activities, the Chief Commissioner's Office has since 2001-02 supported training for access audits***, which have resulted in 366 people being trained. . In addition, the Office has worked with a Delhi-based access group auditing prominent public buildings, with positive impacts in achieving improvements in audited sites. While this is laudable, there are concerns that many of those trained are not stakeholders with necessary influence, and that emphasis on people who might have a catalytic impact (e.g. architects, PWD officials, builders and user groups) may be a more strategic approach.

8.17. ***There are also promising initiatives by specific public sector agencies in promoting accessibility, notably under the Ministry of Railways.*** Given the importance of railway transport for the poor in particular, MoR has begun a program of access upgrading in all "A" category stations in larger cities intended to increase accessibility for PWD and others who may have difficulty in movement such as the elderly. It is planned to move to Catgory B and C stations in a phased manner. This is supported by the National Institute of Orthopaedically Handicapped in Kolkata, and financed from the "passenger amenities fund", which was over 200 crore in 2003/04.

8.18. ***An important need in promoting access for people with disabilities is training of architects, engineers and planners in principles of universal design and accessibility***. This would apply to those designing buildings and public spaces, transportation vehicles of different forms, and those involved in approval of development plans. Issues of universal design are beginning to become an area of focus in some educational institutions in India, [10] but to date exposure to either universal or accessible design principles is not a standard element of curricula. Such a direction is anticipated in the Ministry of Urban Affairs guidelines, but these remain to date aspirational statements rather than policy or practice. It will be important in moving towards inclusion of such elements in curriculum that the universal design is seen not only as relevant to people with disabilities, but many others who may have access issues, such as elderly, pregnant women and children. GoI recognizes this need and there are proposals for greater financial support for designated academic institutions which could become centres of excellence in barrier-free access and universal design. Some of these could be training/teaching centres, preferably based in respected existing institutions such as IITs, while others such as the Central Building Research Institute in Roorkee and the Central Road Research Institute in Delhi could also support deeper research.

8.19. ***An additional measure which could assist people with disabilities in improving their access to transport is simplification of rules.*** In some cases, this relates to the requirement for renewal of certification, as e.g. in Karnataka annual renewal of concession passes is needed even for those with permanent disabilities. In other cases, there are either somewhat complex sub-rules on what transport one can access (e.g. in Rajasthan, concessions are applicable only on certain categories of buses and only during daylight hours. The concession also only applies to buses traveling within the state and not beyond).

8.20. ***A further important process measure in improving accessibility would be an obligation to consult people with disabilities themselves in prioritizing investments to promote access, and in monitoring access outcomes.*** The provisions of the PWD Act focus largely on end-point access issues. To what extent these are the key constraints on access of disabled people is less understood, and an obligation on local authorities to consult on major infrastructural developments could help bring the user perspective closer to design and execution processes. Such consultations could assist in prioritizing investments. It would also seem useful to build in a requirement of social audit by people with disabilities in selected social and other infrastructure, along with a procedure for such findings to be discussed with policymakers and service providers.

## Conclusions and recommendations:

[10] See for example work of graduate students from IIT, Kharagpur.

8.21. It is clear that promoting access for people with disabilities is a long term agenda. Nonetheless, there remains considerable room for improving the policies, procedures, and processes which will be necessary to provide a solid platform for action over the short, medium and long terms. Some recommendations that emerge include:

- both national and sub-national policies on promoting access for people with disabilities should be required to include consultation with disabled people in setting priorities.
- states and/or municipal authorities which have yet to amend their building bye-laws to comply with the 1998 guidelines should be encouraged to do so in the nearest future. These should allow for clear sanctions in case of failure to comply with accessibility standards, and administrative clarity on official accountability in cases of failure to comply.
- MoSJE in collaboration with Commissioner's offices, the Ministry of Urban Development and Employment, and the states should work towards benchmarking minimum national standards of accessibility to which authorities could be held accountable. This are a necessity under the new UN convention.
- the recommendation of the Amendment Committee for the PWD Act which would strengthen obligations on access for all new public buildings and built environment should be taken up.
- access audits by Commissioners' offices, NGO and others should be increased, with a strengthened follow-up mechanism for implementing remedial measures identified.
- public funds for the welfare of disabled people should also be used to support research on their access priorities, development of assistive devices for improving mobility of disabled people, implementing cost-effective universal design, and analysis of the impacts and costs of failure to provide accessible environments. While these are all possibilities under the PWD Act, in practice there has been very limited research on these subjects.
- there should be systematic involvement of disabled people and other civil society actors in monitoring of accessibility through requirement of access audits on all significant public infrastructural projects, including social infrastructure.
- university and in-service training courses for architects, engineers and planners should include exposure to principles and practices of universal design and accessibility as a standard course element. Financing for designated centres of excellence in this area should be made available.