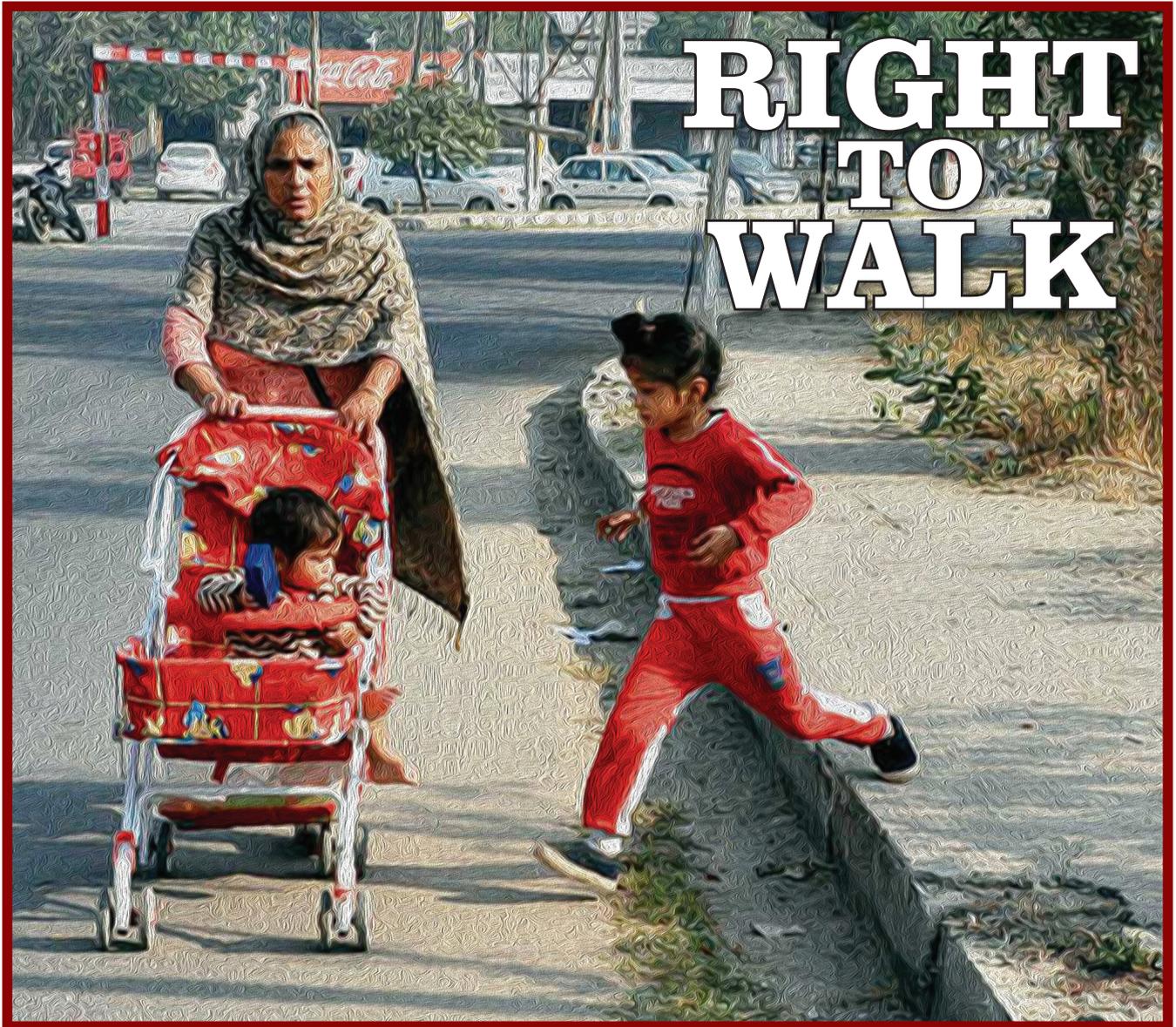


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TO OUR READERS AND WELL-WISHERS

Letter From the Editor

Dear readers,

This issue of your journal is dedicated to the citizen's fundamental right to walk safely with ease and dignity. The subject is close to our heart and we plan to take it up legally, but before I come to that, let me first share another important development with you. Common Cause stands vindicated by the Supreme Court judgment in the Electoral Bonds PIL which we filed jointly with the Association for Democratic Reforms (ADR).

The judgment, which scrapped the Electoral Bonds scheme as unconstitutional, has far-reaching consequences. We pointed out as early as 2017 that such an arbitrary scheme would legalise corruption and undermine the voters' right to know who is funding which political party. It was passed as a money bill without proper parliamentary debate. It allowed even foreign companies to fund political parties through their Indian subsidiaries.

In brief, the electoral bonds removed the upper limit for donations by private companies of 7.5 per cent of the average three-year profits. This allowed companies to donate their entire worth, including capital and reserves, to political parties, even if they were running into losses. It encouraged the formation of shell companies. That is why the judgment expressed doubts about political donations from loss-making companies.

The scheme was loaded in favour of ruling dispensations at the centre and in the states. The petitioners later filed and won the subsequent, contempt of court case when the State Bank of India (SBI) tried to delay and obfuscate the information. Within hours of the disclosures, a handful of public-spirited journalists started to join the dots, linking the bonds with possible kickbacks, quid pro quo and shadowy payoffs.

Many donations appeared to be linked with awards of not only government contracts, leases, and favours but also with raids by enforcement agencies. As you read this, more and more incriminating information is tumbling out of the secret cupboards of politicians in power. We believe that the use of shell companies, quid pro quo or misuse of enforcement agencies must be thoroughly investigated under the supervision of the Supreme Court.

Coming back to the denial of our right to walk, we believe that we need to intervene, as it is something we all experience but are unable to do anything about. Every single day, pedestrians continue to die or get injured in avoidable traffic-related mishaps. It would not be an exaggeration to say that India is a country of broken roads and sidewalks. Our disregard for the special needs of children, senior citizens and the disabled is simply astonishing.

Ideally, ordinary people like us should be encouraged to walk as much as possible. But we discourage our children or elders from using footpaths due to broken sidewalks, open manholes, stray animals and wreckage piled up on footpaths. This goes on unchecked because there are no consequences for negligence or slipshod jobs. Unfortunately, all this is happening despite having excellent guidelines from the Indian Road Congress to address just this.

In the following pages of your journal, we have tried to cover a host of policy issues regarding road safety and pedestrian rights. We have also shared with you a copy of the representation we have sent to the Union Minister and top officials of concerned departments. Please let us know what you think. As always, your views and comments are welcome at commoncauseindia@gmail.com

Vipul Mudgal
Editor

NO COUNTRY FOR PEDESTRIANS?

Most Vulnerable and at the Highest Risk

Udit Singh*

Whether we drive a fancy car or are driven around by a chauffeur, all of us become pedestrians at some point. Roads are possibly the most important public spaces in cities, and pedestrians are their largest users¹. However, pedestrians, along with cyclists, are the most vulnerable road users who are at the highest risk on Indian roads. They are mainly exposed to risk when crossing and walking on the road in urban and rural areas alike. According to the official data, in 2022, a total of 32,862 pedestrian road users died in accidents which constitutes almost 20 per cent of total deaths due to road accidents². The proportion was 18.9 per cent in 2021 and 17.8 per cent in 2020 according to successive Road Accident Reports in India. The data also shows an upward trend which is a marker of our inaction and indifference.

According to a Delhi Police study of 2023, the number of pedestrian deaths in Delhi is as high as 43 per cent of the total deaths due to road accidents³. The number of pedestrian deaths in the national capital increased from 504 in 2021 to 622 in 2023. However, the actual number could be even higher.

What can be the reasons behind such high pedestrian fatalities?

According to a scholar who has worked on the issue, the infrastructure in place for road users is skewed against non-motorised transport (NMT). It either pushes pedestrians to the margins of road networks, or even worse, compels them to jostle for space with motor vehicles, thereby exposing them to injury or death⁴. Illegal parking on pavements and usurping the space of pedestrians on roads can be another reason.

But can we ensure better policy-making about pedestrian safety without any defined 'right to walk' and its recognition as a fundamental right by the Apex Court? This article provides an insight into the issues related to pedestrian's right to walk and the problems so far. It argues for

“***The infrastructure in place for road users is skewed against non-motorised transport (NMT). It either pushes pedestrians to the margins of road networks, or even worse, compels them to jostle for space with motor vehicles, thereby exposing them to injury or death.***”

upholding the 'right to walk' as a fundamental right under Article 21 of the Constitution so that the liability of the state can be assessed for assuring the safety of pedestrians on roads and for robust policymaking in this regard.

Legislative Framework

Pedestrians are one of the major road users but have remained a minor player in the legislative framework of the country.

Though there are certain provisions under Indian Penal Code⁵ and Motor Vehicles Act⁶ in the context of offences and regulation of motorised traffic, the rights of pedestrians have remained obscure.

Under the Rules of the Road Regulation, 1989 (Regulations 1989), certain obligations are imposed on the driver of a motorised vehicle concerning the pedestrian:

- (a) Duty of the driver to slow down when approaching a pedestrian crossing (Rule 8).
- (b) Not to drive on the footpath or in the cycle lane (Rule 11).
- (c) No driver shall park a motor vehicle near a traffic light or on a pedestrian crossing or a footpath (Rule 15)⁷.

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Rule 11 further provides for “Right to Way” which says: “The pedestrians have the right of way at uncontrolled pedestrian crossings. When any road is provided with footpath or cycle track especially for other traffic, except with permission of a police officer in uniform, a driver shall not drive on such footpath or track.”

The Indian Roads Congress (IRC) 2022 (Guidelines for Pedestrian Facilities), provides various planning-level guidelines and design standards for safe pedestrian infrastructure in urban areas. The IRC was set up in 1934 on the recommendations of the Indian Road Development Committee -- better known as the Jayakar Committee -- established by the Government of India. For planning and designing a safe and enjoyable pedestrian infrastructure, it emphasised five key principles -- Safety, Security, Continuity, Comfort and Liveability.

Safety: Pedestrians should be protected from motorised vehicles to prevent injuries and fatalities due to crashes. They should be able to walk and cross roads safely irrespective of age, gender and disabilities.

Security: Pedestrians should be protected from crimes while walking. All pedestrians, including women, children and elderly, should feel secure while using the facilities.

Continuity: Pedestrians should be provided with a

continuous walking environment without any obstructions. All pedestrians, including persons on wheelchairs, visually impaired persons, caregivers with prams and the elderly, should be able to move seamlessly.

Comfort: Pedestrians should be provided with a well-shaded, well-drained, spacious and clean walking environment. They should feel comfortable while walking, waiting at the bus stop and while sitting.

Liveability: Pedestrians should be provided with a liveable walking environment where they can pause and enjoy the surroundings at their own pace. They should have opportunities to sit, play and socialise.

In addition to IRC guidelines and several Municipal Corporation Acts, documents like the Urban Design Plan Formulation and Implementation (UDPFI) (1996)

have suggested standardising pedestrian infrastructure based on traffic patterns. However, these guidelines have largely been ignored by implementing agencies⁸. The reality on the ground is clearly not at par with available regulations for pedestrian safety.

Lack of Pavements

Most Indian cities do not have proper pavements; even in cities where there are pavements, they are either too narrow or too high. Further, the pavements are usually uneven and strewn with obstructions, forcing the pedestrian to walk on the road rather than the pavement.⁹ In Delhi for example, the Street Design Guidelines, 2009 states that 40 per cent of the total road length of Delhi has no footpaths; roads with footpaths lack in quality in terms of surface, width and geometrics.¹⁰ So, the pedestrians are forced to walk on

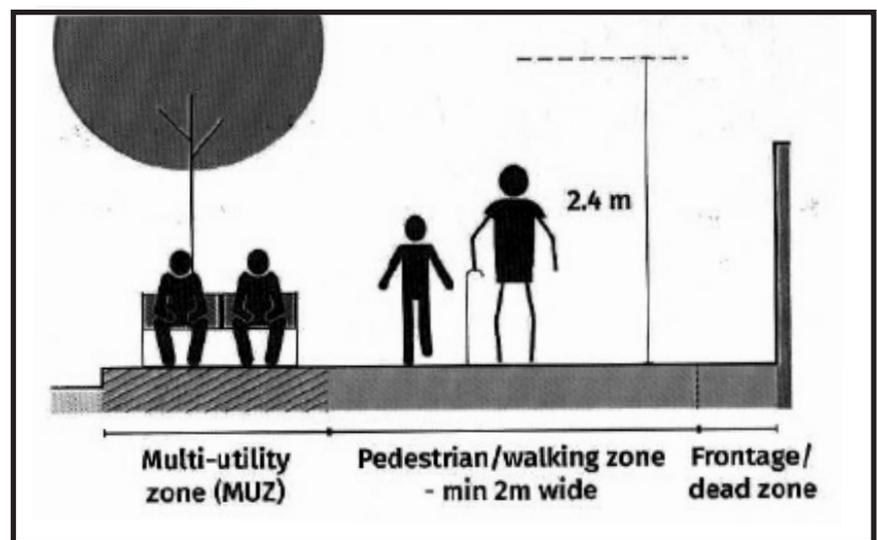


Figure 1: Recommended Space Requirement in Walking Zone by IRC

roads, causing a threat to their own life.

IRC guidelines call for footpath design in three different zones, pedestrian/walking zone, frontage/dead zone and multi-utility zone. It recommends that a minimum two-metre-wide walking zone be provided to ensure two wheelchairs can pass each other. It also recommends that a clear height of 2.4 metres from the finished footpath floor level should be maintained in the walking zone as shown in Figure 1.

However, the IRC-recommended space requirement for footpaths is not being uniformly implemented across cities. The footpath is often a luxury in many Indian cities. Roads are congested and sometimes one encounters two-wheelers using the footpath. Footpaths, which are a public good¹¹, are either ill-maintained or taken over by usurpers, encroachers and hawkers. It is difficult to walk safely on such footpaths and people risk walking on roads with moving traffic, as well as rows of illegally parked cars, buses, tempos, etc¹². Also, due to poor construction, water clogging on roads is a reality that at times makes it difficult to reach the footpath, apart from making the traffic come to a standstill¹³. A dangerous practice in some parts of many cities is two-wheelers driving on footpaths to overtake stationary traffic during jams and at traffic signals¹⁴.

It is thus time to rethink and implement policies in adherence to IRC guidelines to build hassle-free footpaths for pedestrian safety.

Parking Issues

Many cities are not designed to accommodate the increasing number of vehicles on the roads. As a result, finding a place to park a vehicle has become a real challenge¹⁵. Due to cars parked on roads, there is often little space for moving cars. This, in turn, leaves no space to walk freely and safely, making it difficult for pedestrians to negotiate the road as the chances of getting hit increase¹⁶.

Filthy Subways & Foot Overbridges

Grade-separated elements such as foot overbridges and subways are supposed to provide a safe walking environment for pedestrians without causing additional

congestion¹⁷. However, badly maintained facilities discourage pedestrians from using them. For example, Delhi has over 90 foot overbridges and 40 subways, but several of them are unused as they are either dirty and encroached by drunkards or poorly lit, forcing pedestrians to cross roads with chances of accidents¹⁸. A Delhi Traffic Police study found that users perceive subways and foot overbridges as unsafe, badly lit and unsanitary¹⁹. Several other studies have shown that pedestrians always prefer at-grade or road-level crossing facilities instead of going up and down to cross the road²⁰. For women users, poorly lit pedestrian bridges and subways raise safety concerns, especially after sunset.

In 2023, there was an incident in Delhi in which an IIT student died and another was injured in a road accident as the subway near IIT is closed after 10 pm. Following this, Delhi Minister



Figure 2: A Subway in Delhi, Image Credit: Hindustan Times (July 1, 2023)

for PWD, while assuring that the subways will be revamped in Delhi, said: “The situation was such that no person, especially a woman, would ever want to use that subway. It lacked proper lighting, CCTV cameras for security and regular cleaning. Dangling wires overhead posed a safety hazard, and filth and garbage marred the entire space.”²¹

Constructed at a cost ranging from rupees three to five crores, most subways in Delhi are not accessible to all. While the government has provided escalators at most foot overbridges, not all subways have elevators or escalators. This discourages people from using them.²² Often, the escalators provided at foot over bridges are also defunct, rendering them unusable.²³

Fading Crosswalks/ Zebra Crossings

Crosswalks provide a right of way for pedestrians and separate them from vehicular traffic to reduce conflicts. But ironically, these crosswalks record maximum number of pedestrian fatal accidents²⁴. The fading away of markings of these crosswalks on the roads is a major concern for pedestrian safety. In Noida for example, motorists can hardly detect the zebra crossings, halt very close to them or navigate around pedestrians who cross roads haphazardly in the absence of clear markings²⁵.

Zebra crossings and speed-breakers in the city should always be in good working order for the safety of pedestrians as well as vehicle users²⁶. The markings should be repainted periodically as required. A clearly visible zebra crossing is very important for safety and convenience of pedestrians crossing the road.

Pedestrians’ Deaths in Road Accidents

Data shows that in 2022 there has been an increase in death of pedestrians in accidents by 12.7 per cent as compared to 2021²⁷. It also reveals that pedestrians constituted almost 20 per cent

of total deaths due to road accidents in 2022.

Failing to yield a ‘right to way’ is a major factor in road accidents involving pedestrians. A study done by Bosch Group states that human error (over-speeding, violation of right of way, parked vehicle, walking on roadway, etc.) contributed 91 per cent, lack of infrastructure 63 per cent (no zebra crossing, no pedestrian infrastructure, no paved shoulders, lack of walking facilities, etc.) and vehicle issues 44 per cent (vision obstruction, poor braking etc.) as major factors contributing to pedestrian accidents²⁸.

Road-user category	Persons killed 2021	Persons killed 2022	% Change 2022 over 2021
Pedestrian	29,124	32,825	12.7
share in Total	18.9	19.5	
Bicycles	4,702	4,836	2.8
share in Total	3.1	2.9	
Two-wheelers	69,385	74,897	7.9
share in Total	45.1	44.5	
Auto-Rickshaws	5,966	6,596	10.6
share in Total	3.9	3.9	
Cars, Taxis, Vans & LMVs	19,811	21,040	6.2
share in Total	12.9	12.5	
Trucks/Lorries	9,476	10,584	11.7
share in Total	6.2	6.3	
Buses	3,106	4,004	28.9
share in Total	2.0	2.4	
Other Non- Motor Vehicles (including e-rickshaw)	2,283	2,372	3.9
share in Total	1.5	1.4	
Others (other motor vehicles, animals drawn vehicle, cycle rickshaws, hand carts, & other persons)	10,119	11,337	12.0
share in Total	6.6	6.7	
Total	1,53,972	1,68,491	

Table 1: Comparison of persons killed in road accidents in terms of road user categories in 2022

Source: Road Accidents in India 2022. Ministry of Road Transport and Highways.

The Way Forward

Recognition of the 'right to walk' as a fundamental right under Article 21 of the Constitution is the need of the hour. Even though legislation and policies identify certain rights of the pedestrian, they create a very uneven framework. In May 2023, the Punjab Government issued instructions to make footpaths mandatory in all future road expansions and construction of new ones under its 'Right to Walk' mandate, after a direction by the High Court following a petition. There is a need for enactment and implementation of central legislation clearly defining and demarcating the 'right to walk' of pedestrians with the required facilities in road infrastructure and duties of the other stakeholders in assuring and securing pedestrian safety.

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Front page image: Courtesy The Tribune

JUDICIARY’S ROLE IN THE RIGHT TO WALK

A Balancing Act Between the Stakeholders

Aditya Aryan*

Indian cities have historically served as hubs for pedestrians, with a large number of people relying on walking, cycling and using public transportation for their daily commutes. Pedestrians comprise the largest group of road users, accounting for 63 per cent of all journeys, according to a 2019 survey conducted in a few chosen locations¹. Unfortunately, amidst the rapid growth of motorisation in Indian cities, the question of pedestrian facilities has taken a backseat. Finding a mere functional footpath in cities seems like a luxury. The increase in number of motor vehicles has also resulted in a significant rise in pedestrian fatalities and accidents, as well as heightened levels of air pollution.

Safety has become a primary concern for a pedestrian in India while availing the facility of roads. Apart from pedestrian safety, there have been multiple voices that highlight the impact of pedestrian-friendly cities on the environment

“ ***Finding a mere functional footpath in cities seems like a luxury.*** ”

such as low carbon emission, less noise pollution, etc. The matter concerning the rights of pedestrians has been persistently and vigorously debated, resulting in the initiation of numerous petitions and cases in Indian courts. The judiciary, on multiple occasions, has attempted to fill in the gaps because of the inaction of legislature and executive.

Absence of A Central Law

There is an absence of centrally implemented law or policy that governs or enforces pedestrian rights throughout India. The only place the word ‘pedestrian’ finds a mention is in The Rules of the Road Regulation, 1989, where it recognises “*The pedestrians have the right of way at uncontrolled pedestrian crossing.*” The rights of pedestrians are mentioned in passing in a few other laws like the recently amended Motor Vehicles Act, 1988 (amended in 2019) among others, but is not centre-staged. For instance, Section 279 of the IPC, 1860 stipulates severe penalties for careless or reckless driving. In a similar vein, Section 304 addresses death brought on by carelessness risking the life or personal safety of another individual. In addition, the Motor

“ ***The Rules of the Road Regulation, 1989, where it recognises “The pedestrians have the right of way at uncontrolled pedestrian crossing.*** ”

Vehicles Act’s Sections 7 to 38 and 112 discuss different licence criteria and speed limitations that must be met in order to guarantee authorised driving on public highways. However, none of these actions further the idea of the ‘right to walk’ and/or strictly legislate the rights of pedestrians.

Municipality Acts

In the absence of central legislations, we look at various city Municipality Acts that talk about the construction of public streets, parking rules, footpaths, hawker licensing and many other laws that are related to the maintenance of roads in a city. There is an emphasis on adequate and appropriate development of pedestrian-friendly infrastructure, but the outcome is vastly different. Various cities in India have committed to the idea of ‘smart cities’ in their plans for city

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development (e.g. DDA Master Plan 2021, DDA Master Plan 2041) and have pedestrianised certain areas. But no city has implemented a city-wide network of functional footpaths. Due to the lack of legislation(s) that govern the issue in India and the constant inability of city planning authorities, we look upon the judiciary and try to evaluate their role in moulding the discourse of the 'Right to Walk' in India.

Rights of Pedestrians

It was in 1985 when the Supreme Court first talked about the rights of pedestrians in the landmark judgement of *Olga Tellis v. Bombay Municipal Corporation, 1985* and stated that *"the main reason for laying out pavements is to ensure that pedestrians are able to go about their daily affairs with a reasonable measure of safety and security. That facility, which has matured into a right of pedestrians, cannot be set at naught by allowing encroachments to be made on pavements."*²

The Delhi High Court in 2007 said *"The pavement by its very*

"we look upon the judiciary and try to evaluate their role in moulding the discourse of the 'Right to Walk' in India.

"Pedestrians, especially children and the aged, are probably the most vulnerable road users.... that Pedestrian Crossings/ Zebra Crossing are meant to offer priority.

*definition is meant for the use of pedestrians. The pedestrian is as much a user of the road or the circulation system of the city as a bus, a truck or a luxurious car Pedestrians include the healthy citizens and also the unhealthy. It includes physically handicapped people and may also include the visually impaired."*³

In the case of *Sudhir Madan and Others v. Municipal Corporation of Delhi and Others, 2009*, the apex court held that citizens have a fundamental right to use the roads, parks and other public conveniences provided by the state.⁴ If the streets or footways are in bad condition, the citizens are deprived of the effective use of the same thereby infringing upon their constitutional rights.

Another important judgement is *Kerala State Insurance Department, represented by District Insurance Officer Civil Station v. Joy Wilson M.V. & Others, 2023* where the Kerala High Court held that *"Pedestrians, especially children and the aged, are probably the most vulnerable road users....*

*that Pedestrian Crossings/Zebra Crossing are meant to offer priority to pedestrians and that it becomes their right to use the same, as and when they require it, especially when there are no traffic lights controlling movement through it."*⁵

In the case of *Shali P v. State of Kerala, 2019*, the Kerala High Court said, *"Developing a pedestrian environment means more than laying down a footpath or installing a signal. A truly viable pedestrian system takes into account both the big picture and smallest details-from how a city is formed and built to what materials are under our feet."*⁶

Balancing the Rights

It is imperative to note that the problem of walkability in cities is not so black and white despite Indian courts being largely accommodative of the demands. A major contention that the Indian courts have faced in matters related to the right to walk has been the question of balancing the right of usage of footpaths by street hawkers and pedestrians in cities.

The courts have repeatedly assured that they do not want to trample upon the livelihoods of hawkers with a blanket ban. However, it has strongly condemned encroachment of the footpaths by different actors. They are not placed there for private use, and in fact, making use of them for private gain defeats the same objective

“ **Developing a pedestrian environment means more than laying down a footpath or installing a signal.** ”

that led to their removal from some public roadways. Here, it has to be made abundantly clear that the mere existence of street vendors does not directly contradict pedestrian space and safety. The idea of a complete street is a street designed to cater to the needs of all users and uses, through equitable allocation of road space.⁷

In the judgement of *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan and Others*, 1997, the Supreme Court said “Footpath, street or pavement are public property which are intended to serve the convenience of the general public. They are not laid for private use and indeed, their use for a private purpose frustrates the very object for which they are carved out from portions of public roads.”⁸

‘Essential Part of Fundamental Rights’

Citing the above judgement along with the *Sudhir Madan* judgement, the Karnataka High Court, 2009, stated that “a right to have streets including footways in a good and reasonable condition will have to be held as an essential part of the

fundamental rights conferred on the citizens under Article 21 of the Constitution of India.”⁹

The Kerala High Court held in *Sivaprasad v. State of Kerala*, 2020 that the main purpose of constructing roadways is to make it easier for people to move around and transport things. It held that “...removal of encroachments on the footpaths or pavements over which the public has the right of passage or access cannot be regarded as unreasonable, unfair or unjust. The State, being the principal protector of the rights of its citizens, keeping in view the doctrine of public trust, should not permit any encroachments on the footpaths or pavements. Nobody has got a right to erect any structures on roads. The State is not an exception.”¹⁰

Limits to Street Trading Rights

In *Saudan Singh v. N.D.M.C And Ors*, 1992, a constitution bench recognised the right to trade on street pavements, subject to reasonable restrictions imposed by the state.¹¹ However, it clarifies that there is no fundamental right to occupy a particular place on the pavement for trading purposes. Referring to this judgement, the Supreme Court in *Gainda Ram and Ors v. Municipal Corporation of Delhi and Ors*, 2010 emphasised that street trading is a fundamental right subject to reasonable restrictions and does not extend to occupying specific places on

the pavement to the prejudice of others.¹²

A major breakthrough in the ongoing ‘Right to Walk’ discourse in India was when the Punjab & Haryana High Court categorically recognised it as a fundamental right under Article 21 of the Indian Constitution in 2023. Following this, the Punjab government issued orders regarding the same, instructing all state-operating road-making organisations, such as the state public works department, local bodies, and also the National Highway Authority of India to guarantee the presence of sidewalks in all upcoming road construction and expansion projects. The Patiala district in the state also came up with an initial plan to implement the instructions.¹³

Another major win for the ‘Right to Walk’ movement was when the Bombay High Court in *Parisar Sanrakshan Sanwardhan*

“ **Right to have streets including footways in a good and reasonable condition will have to be held as an essential part of the fundamental rights conferred on the citizens under Article 21 of the Constitution of India.** ”

Sanstha & Ors. v. The Pune Municipal Corporation & Ors., 2023 held that the Indian Road Congress guidelines are statutory in nature.¹⁴ The court said that, “Rule 166 of the Central Motor Vehicles Rules, 1989 clearly provides that the design, construction and maintenance of roads other than National Highways shall be in accordance with the standards and specifications of the Indian Road Congress, as may be applicable or any other guidelines issued by the Government from time to time. Thus, so far as the applicability of the guidelines issued by the Indian Roads Congress is concerned, we are of the opinion that the same are statutory.”

Providing Hope

These judgements are a ray of hope in the uphill battle for the Right to Walk in India. It shows a visible judicial intent in ensuring that cities in our country have roads catering to all stakeholders and not just limited to motorised vehicles. The evolution of legal discourse around the issue is a clear indication of how the implementation of guidelines

and laws have not materialised beyond the paper that they were presented on.

It is also extremely crucial to understand that policy changes are difficult to implement and are heavily dependent on behavioural change amongst road users. It is the duty of the policymakers and civil societies to educate the masses that making walkable cities will not only lead to a massive improvement in pedestrian safety but will also reduce carbon emissions and help us live a healthy lifestyle.

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A BATTLE CALLED CROSSING THE ROAD

We Need Constant Campaigns to Sensitise Drivers

Mohd Aasif *

It's hard to remember when I had a pleasant walk on the road without the fear of being mowed down by a speeding vehicle. Walking is the most sustainable mode of commute, and yet, a struggle like no other. No journey is complete without crossing the roads, but for non-motorised road users, it has become nothing less than a battle.

A survey by the Council on Energy, Environment and Water (CEEW) shows that 63 per cent of the citizens walk more than 500 metres daily to reach their destinations. Cars and two-wheelers account for 30 per cent of the trips made but occupy 80 per cent of the road. The same survey reflects that 42 per cent of pedestrians would be encouraged to use public transport if the first and the last miles were covered by footpaths and safe pedestrian crossings -- basic amenities for pedestrians.¹ However, these footpaths are either broken, blocked, or occupied by unauthorised car parking, leaving barely enough room to walk.

Pedestrians are advised to use zebra crossings to avoid unwanted collisions. But most drivers overlook them and stop their vehicles encroaching on these crossings, leaving no alternative for the pedestrian but

to navigate through the maze of vehicles.

Fatal road accident victims largely constitute young people -- young adults in the age group of 18-45 years accounted for 66.5 per cent of victims in 2022. People in the working age group of 18-60 years account for 83.4 per cent of total road accident fatalities. Pedestrian road users were 19.5 per cent of persons killed in road accidents.² These fatalities are mainly attributed to various reasons such as speeding vehicles, unsafe road infrastructure and unsafe vehicles.

Unsafe Roads

Dug-up roads are a common sight in Indian cities. Agencies with different responsibilities dig the roads and footpaths to

“***Pedestrians are advised to use zebra crossings to avoid unwanted collisions. But most drivers overlook them and stop their vehicles encroaching on these crossings, leaving no alternative for the pedestrian but to navigate through the maze of vehicles.***”

install or repair the infrastructure but shy away from restoring them later, leaving the roads and footpaths with potholes and crooked passages. The first victims of such negligence are the pedestrians, who are then forced to use the carriageways, further risking their lives with potential accidents. Accountability is gravely missing on the part of these agencies.

Speeding Vehicles

The urge to make roads free of traffic signals has made crossing the roads more difficult for pedestrians. The main reason behind this is speeding vehicles. Speeding, even in the narrow lanes, is the new norm. Motorised travellers either speed up to cross a traffic signal before it turns red or simply jump it, making road crossings a dangerous venue for pedestrians. As per the Crime in India Report by the National Crime Records Bureau (NCRB), 47,806 cases of hit and run were registered in the year 2022.³

FOB: Facility/Hardship

Foot overbridges around railway stations, inter-state bus terminals and metro stations provide a safe option for pedestrians to cross roads. Despite being a safe means of crossing the roads,

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A Malfunctioning Escalator at a Foot-Over Bridge at New Delhi's Anand Vihar ISBT, Metro Station and Railway Station.

pedestrians avoid using FOBs. As is the case, the elderly, children, sick, differently abled, pregnant women and pedestrians carrying numerous items and bags don't prefer FOBs. Climbing and descending stairs are more of a hardship than a facility, devoid of ramps or electronic escalators. The dependence of escalators on electricity leads to irregular maintenance, and consequently, reduced utilisation.

Subways also have steps, though they are seen as a refuge for the homeless, beggars and criminals. Post sunset, the sense of safety decreases even further. Water logging during the rainy season is another drawback in the Indian subways due to their faulty designs.

An evaluation study of the FOBs and subways in Delhi reveals their precarious conditions. As listed, Delhi has a total of 74 FOBs and 37 Subways in three zones. Among them, only 17 are equipped with lifts and 17 have

escalators. The report further reveals that only nine lifts are in working order. Out of the eight faulty lifts, seven were out of order for more than a week.

Like lifts, the breakdown period of escalators also varies from one day to 1,095 days. Almost 60 per cent of the malfunctioning escalators were found to be out of operation for more than 15 days. Only about 78 per cent of FOBs have lighting arrangements.

Unlike FOBs, subways are even smaller in numbers. Merely 10 out of 37 subways are equipped with ramps. Only one is equipped with a lift and not even a single one is equipped with an escalator. Security guards are provided in only 70 per cent of subways⁴. No wonder, these so-called amenities often become a hardship for pedestrians.

Guidelines for Pedestrian Crossings

Indian Road Congress (IRC) 2012 set down clear guidelines on

how at-grade crossings should be designed. As recommended, urban streets should have a pedestrian crossing every 80-150 metres in commercial areas and every 80-250 metres in residential areas. These crossings should be at street level and marked with paint. Wherever possible, crossings should be raised to the level of the adjoining footpaths on both sides so that pedestrians can cross the street without having to step up or down. There should be pedestrian refuges at the median to enable them to cross the road safely. Crossings, where the probability of collision is high, should have exclusive signals that are long enough for pedestrians to safely cross the road.⁵

FOBs and Skywalks

IRC has also set guidelines for the construction of subways, skywalks and FOBs. It emphasises the fact that skywalks are not a replacement for footpaths. Pedestrians will require footpaths to access shops and other buildings at street level. Skywalks should not be a standalone facility but integrated with entry or exit of the building at the same level for seamless and convenient walking. They should be well-shaded with a roof to provide protection from heat and rain. They should be well-lit and visually transparent to improve passive personal security.

Patrolling should be done especially during late evenings.

Lifts, escalators and tactile pavers should be provided for access to people with disabilities and the elderly. The sub-structure of an elevated skywalk should not hinder the pedestrian movement on the footpath below. Seating may be provided along the skywalk corridor⁶.

Pedestrians' Behaviour

It is common for pedestrians to adopt risky behaviours such as jaywalking. They jump over the railings dividing the road lanes, or rush to the undesignated crossing points, disrupting the flow of traffic. Seeking shorter routes to cross the road and a lack of maintenance and safety provisions in FOBs and subways are among some of the reasons for the risky behaviour. An opinion survey conducted by the Centre for Science and Environment (CSE) similarly showed that "90 per cent of walkers and cyclists prefer crossing on the ground as foot overbridges and subways increase the distance and are inconvenient".⁷

The absence of signals makes pedestrians act independently, resulting in rash and erratic risk-taking behaviour. The variability in the speeds of all categories of vehicles has increased after the construction of grade separators, while the waiting time of pedestrians at the starting point of a crossing has also increased. The correlation between waiting times and gaps acceptable by pedestrians shows that after

a certain period of waiting, pedestrians become impatient and seek out even small gaps in the vehicular flow to cross the road.⁸

Lack of Political Will

Complete Bicycle Master Plans for Delhi, Chennai, and Pune were also presented at many meetings. Disappointingly, nearly 40 years later, no Indian city has any meaningful semblance of a network of pedestrian or bicycle-friendly infrastructure.⁹ The smart cities mission has come up with pedestrian-friendly roads and crossings. This project has announced the construction of 100 smart cities across the country. Unfortunately, the solution to a city-wide problem is yet to take place.

Way Ahead

The FOBs and subways are the by-products of policies rendering free flow of traffic by making roads signal-free. This further exacerbates the risk. In desired road planning for cities, an inverse pyramid comes into play

“ ***In desired road planning for cities, an inverse pyramid comes into play where private vehicles are at the bottom and pedestrians remain on the top. However, the reality of the roads paints exactly the opposite picture.*** ”

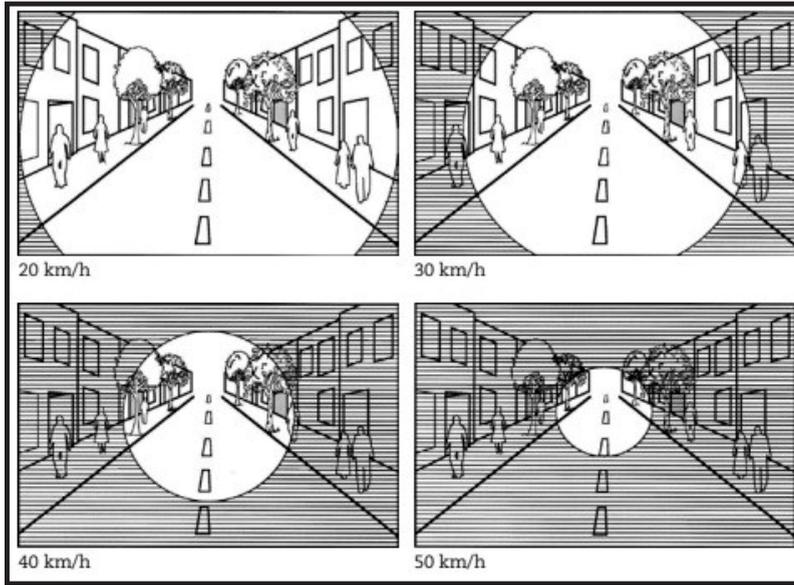
where private vehicles are at the bottom and pedestrians remain on the top. However, the reality of the roads paints exactly the opposite picture. Subways and FOBs should be the last resort in the planning and development of urban infrastructure because these facilities are not only costly and intrusive, they deny universal access to those who prefer to commute on foot. However, for at-grade crossings to be effective in serving pedestrians, a change in mindset is necessary¹⁰.

Careful enquiries into the needs of pedestrians can make crossing roads safer and easier. Minor steps in the policy can bring drastic changes, the first of which is to install speed calming measures.

Speed Calming Measures

Apart from installing pedestrian traffic signals at the crossings, other measures need to be looked at. To ensure safety, formal crossings should be signalled or should be constructed as tabletop crossings with ramps for vehicles. The purpose of a tabletop crossing is to reduce vehicle speeds and also to emphasise the presence of pedestrian crossing¹¹. City administrations in Delhi and Chandigarh have adopted tabletop crossing around accident-prone areas^{12, 13}.

Minor intersections in neighbourhood premises,



where small-scale residential streets meet each other, should reinforce vehicles travelling at low speeds. These intersections should be redesigned to invite safe use and easy crossing for all users, including children walking to school and senior residents living their daily routines.

Mini roundabouts, narrow lanes at crossings and road humps are an ideal treatment for unsignalised intersections of small-scale streets. They have been shown to increase safety at intersections, reducing vehicle speeds and minimising the points of conflict. In this type of intersection, motorists must yield to pedestrians.

Pedestrian crossings should be marked to clarify where pedestrians should cross and that they have priority¹⁴. These measures further increase the gaps between the vehicles facilitating pedestrians to change the side of the road.

Sensitisation of Motorised Road Users

Imposing heavy monetary penalties is one way to discipline motorised road users. Traffic signals equipped with CCTVs can be of use to take strict action against non-compliance. Apart from monetary penalties, the authorities must also undertake an awareness campaign to sensitise the drivers about the pedestrians' needs and rights. It must be kept in the focus as an ultimate goal. Every motorised road user has to remember that in the end, he or she is a pedestrian too.

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PUNE EXPERIENCE OF PUZZLING GRIDLOCKS

The Solution Lies in Moving Pedestrians Over Vehicles

Ameet Singh *

Pune, which till a few decades ago was known as the cycle city, is today fighting a losing battle with traffic congestions. Like most cities in India, the road network in this Maharashtrian city has expanded over the years. As a result, the city has forgotten to walk, run and to cycle. Whereas it used to take 15-20 minutes on an average to cycle from one point to another in the 80s and 90s, today it takes anything up to 35 minutes in a motorised vehicle. The main reason is faulty planning. Not a single road in Pune adheres to all IRC guidelines and as per Pune Municipal Corporation (PMC) data, 53 per cent of Pune's roads don't have footpaths.

According to an estimate, the road length in Pune city limits is about 1,400-odd kms; if one were to consider the number of lanes and road widening exercises, the road length would be approximately 2,650 kms. If one takes 200 cars per km as optimum road carriage capacity. Pune's total road capacity would be 5.3 lakh cars. The city already has more than 7.5 lakh cars. The total number of vehicles in the city is over 42 lakhs. It means that even if Pune's total road capacity were to triple, the traffic would remain in a continuous

gridlock. The story is not very different in most other big cities in India.

Widening Roads, Worsening Traffic

Over the years, city planners have put in more roads. They have also built over 40 bridges, underpasses and flyovers. Yet, the traffic problems keep on increasing. This is known as the Braess's Paradox in economics -- if you build more roads, you get more traffic. The linear methods of thinking that we need to build more to accommodate more, does not hold true. In fact, the experience in many countries has established that the opposite occurs when you add more

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roads and the system collapses on itself.

Yet, despite this, the plans are to widen over 335 roads after felling more trees and building a much bigger city-wide grid. Rs 79,000 crore worth of more roads are being planned that include two ring roads and a high-capacity mass transit route (HCMTR). In some places, the road -- Hinjewadi to Sinhagad road for example -- has been widened to an absurd 96 meters. In places like Wagholi, the crossing area has been widened to over 90 metres. The traffic light is 90 metres from the stop line and is barely visible. The result is a chaotic pool of traffic trying to weave its way through bottlenecks.

On the other hand, if you constrict people's movement, they discipline themselves to travel at an average speed. Congestion issues disappear. Many cities worldwide have experimented with several models to make this pattern hold. Clearly, the priority should be to move people over vehicles.

Pune Mahanagar Parivahan Mahamandal Ltd (PMPML) or the local bus service has only 1,650 buses and ferries a million people per day. If the fleet

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were expanded 10 times its size – say through Public Private Partnerships -- in theory it would have the potential to ferry five to seven million people with relative air-conditioned ease and comfort. The population of Pune city is approximately that number, about seven million plus people.

The Pune metro project too will not be able to ferry as many people. According to Metro DPR data, the metro project, even if fully developed, across the currently envisaged 33 kms and three lines will not be able to ferry over six lakh people at full throughput; that is not even 10 per cent of the city's population.

The Curious Case of Ganeshkhind Road

For a better understanding of the issue, let's take the case of Ganeshkhind Road, where there is metro construction. Agricultural college, Pune University, Modern College, Vaikunthbhai Mehta Institute, Symbiosis – all these big institutes are along this road.

Three metro stations are planned on the 3.2-km length of Ganeshkhind road. These have been built keeping in view the current road width of 36 metres. Now, however, the road is being widened to 45 metres. For this, 93 old-growth trees have already been felled and more are to follow. This not only means that the number of road lanes are being increased, but also

that our major defense against pollution is taken off. As the road widens, the traffic increases proportionally and so does the pollution as the longer cars spend in traffic they emit more noxious gases. For Ganeshkhind road, some estimates suggest this emission of gases to be 300 tonnes per day. With three planned metro stations, the number of lanes will increase three times over. Clearly, this road will become a gas chamber.

Further, this road is being built

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with only 2.5-metre wide footpaths. To understand how inadequate that would be, consider the maths. Say, at every 15-minute interval, four metro trains will pass through this arterial road – two each in both directions – with each train's capacity of 1,000 passengers. Even if we consider that only a little over half would disembark and board the trains, that's still a traffic of over 2,000 people every 15 minutes and almost 10,000 people transiting per hour. Will the 2.5-metre footpath suffice for this pedestrian load? How will they commute to and from the stations?

Then there is the rush of thousands of students from premier institutes walking along and crossing the road. Currently, for example, over 3,000 COEP Technological University students daily cross Ganeshkhind Road to get to their college, their hostels and back.

Ironically, despite Ganeshkhind Road having some of the greenest patches in Pune and a 3,500-acre biosphere a stone's throw away, it records the highest air pollution in the city. It registers over an average of 200 AQLI readings for over 250 days of the year. Widening this road will only worsen the pollution.

Ganeshkhind Road – Past to Present

Ganeshkhind road was once a beautiful tree-lined avenue with a huge fountain at one end and

a town square at the other. In year 2000, it was planned to widen the road to 36 metres and remove the fountain. Several hundreds of old banyan trees were felled and a series of flyover projects were initiated. In 2007, a one-way flyover with three legs -- one to Pashan, one to Baner and one to Bremen Chowk -- was thrown open. Another flyover overriding FC Road Chowk was also built. FC road through JM Road was restructured into a one-way loop of traffic.

However, traffic now pooled up at the Shimla office or Shivajinagar and at COEP Chowk. So, a new flyover with grade separators and underpasses was conceived and it was fully commissioned in 2016-17. Traffic however refused to let up. The underpasses flood for 30 days a year, that is 10 per cent of the time.

In 2020, a special lockdown was called in July and the three-legged one-way flyover was razed to the ground. Citizens were told that building the flyover was a mistake and now the metro will be built. The metro project has been at the root cause of serious traffic jams throughout Pune, but people

grin and bear it as they think it will solve the traffic problem in future. But it is like a cure looking for a disease. Not a single study has been released that tells the construction impact of the metro on Pune's traffic. Over 3,000 trees have been felled for it. Though thousands have been transplanted, the success rate is almost zero.

Today, in 2024, Ganeshkhind metro is nowhere in sight, bridges have been razed and their replacement, a double-decker flyover, is nowhere to be seen. Further, footpaths have been destroyed and trees desecrated.

People's Action

Some of us chose not to take the situation lying down. We went to court where it was found that there was no application of mind on the concerned authorities' part while planning all this. The court advised them to take IRC guidelines into account and appointed a committee to look into these issues. The three reliefs that we got from the court are: tree census with geotagging, IRC guidelines to have statutory force and compulsory and a technical committee to look into the goings on of rebuilding Ganeshkhind Road. However,

“ ***The three reliefs that we got from the court are: tree census with geotagging, IRC guidelines to have statutory force and compulsory and a technical committee to look into the goings on of rebuilding Ganeshkhind Road.*** ”

yet another underpass has been announced along the same route to bypass University Circle. The matter is still in the court as this is being done and hopefully, things will change.

The fact is that without clean air, pure water and uncontaminated soil, all development is meaningless. For this, we should resolve to stop all tree felling, expand public transportation by at least ten times, redo our roads as per world-class IRC standards, include footpaths and cycle tracks along all roads and plant trees at 10-metre intervals on both sides of the roads as envisaged in the Maharashtra Tree Act 1975.

GLOBAL INSPIRATIONS FOR LOCAL ACTION

How can India be Smart and Walkable?

Angela Sehgal *

Rapid urbanisation, as part of modernisation, seems inevitable around the world and India is no exception. The trend is more evident in Asia where the urban population has almost tripled since the last century. India is likely to make a humongous contribution to the growing urban population over the coming decades. And, if this urban population is handled efficiently and inclusively, it will lead to an annual increase of 1.5 per cent to the country's GDP, according to government estimates.¹

An efficient and socially inclusive infrastructure would therefore mean creating environments which will be economically viable and socially inclusive for all members of the society, whether rich or poor, physically fit, or unfit. This model of development leaves us no choice but to transform our urban spaces into socially inclusive smart cities.

“Social inclusiveness refers to treating all people in a city equally in their access to work and services, such as public transport and healthcare. Inclusive generally refers to planning and decision-making processes that include a broad range of people from across

a city, ranging from experts to ordinary residents...”²

Inclusivity and the Smart Cities

A very fundamental right of any citizen, anywhere, is the right to walk i.e. the right to move safely and freely without any harm or impediment on the road. Walking is a healthier and sustainable way of life and walkable communities are the need of the day. Any smart city, in the modern sense, combines competitiveness with sustainable development; one that is designed to mitigate inequality and promote social inclusion.

According to the European Union, a smart city can effectively manage both environmental progress and economic growth if it chooses to adopt an integrated approach including all aspects of sustainable development.

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Navigating this balance will be a key challenge for urban planners and policymakers in the 21st century, especially in countries like India. United Nation's Sustainable Development Goals urge member states to make cities inclusive, safe, resilient, and sustainable by 2030 by improving access to an expanding public transit system amongst other requirements.

Adopting international best practices could help India improve its urban infrastructure by learning from the experiences, failures, and successes of other countries and prioritising the rights of pedestrians.

Best World Practices

In the European Union (EU), pedestrians and cyclists deaths account for almost 29 per cent of all road deaths. This is a big reason why it has actively taken the lead in pedestrian safety.

With strategic and effective planning like preparing and implementing *Sustainable Urban Mobility Plans*³ and keeping road safety as a priority in all planning and implementation cycles, European Union countries like Norway and Slovenia,⁴ among others, have managed to reduce pedestrian deaths by 8-9 per cent between 2010 and 2018.

* Angela Sehgal is an intern at Common Cause.

The EU road safety policy framework (2021-2030) includes a list of key performance indicators (KPI's) developed in collaboration with its member states who work around speed vehicle safety and protective equipment to improve pedestrian safety. These performance indicators can help in developing well-thought-out decisions and more targeted policies. There is a significant improvement in pedestrian safety when individuals can walk on secure and functional footpaths rather than on a carriageway. Pedestrians should have an unobstructed path which allows them to perceive the flow of traffic while also enabling them to give adequate space to vehicle operators.

EU's recommendations for pedestrian safety include measures like better lighting, refuges and raised pedestrian crossings that can ensure the safety of the crossing. Another measure would be to narrow down the roads at pedestrian crossings so that the vehicles slow down and the distance a pedestrian has to cover to cross the road is reduced. This can also be useful for the elderly and people with mobility impairments.

Friendly Pedestrian Parameters

To achieve high walkability and pedestrian-friendly standards, several factors are at play. Some of the parameters on which

“ **Finland, for instance, has adopted a National Walking and Cycling Promotion Strategy which aims to reduce emissions and improve public health.** ”

India could use some inspiration would be the following:

Safety: To make spaces safe and walkable for pedestrians as well as cyclists, Finland, for instance, has adopted a *National Walking and Cycling Promotion Strategy*⁵ which aims to reduce emissions and improve public health. This programme has set a target to increase the share of walking and cycling by 30 per cent by the year 2030. The reduction of emissions and prevention of road deaths and serious injuries to pedestrians and cyclists would result in better public health and thus would aid in economic development by saving additional costs.⁶

Accessibility: Since 2010-15, a project with the European Foundation Centre in historical cities of countries like Italy, Denmark, France, Spain and Bulgaria has focused on accessibility. It has made pedestrian crossings not only more accessible to people who want to enjoy history and tourist sites in these cities but also to those with disabilities.

These fully accessible routes include parks, restaurants, shops, tourist information centres and museums. The project also provides links to heritage sites and other main features of the cities with the help of signposts on the pedestrian pathway with interpretive information about the places along the route. The project not only successfully provided an accessible route but also ensured a wider accessible urban environment.⁷

Today, with plans like *Vision Zero*⁸ and *Safe System Approach to Road Safety*, European Union has one of the safest road systems in the world with the prime focus on infrastructure design, driver behaviour and vehicle safety functionality of footpaths as well as understanding of human nature.

Another good initiative has been taken by Mexico City, which has helped pedestrians to travel in a more efficient, safe, rapid and effective way and has reduced the travel time along the corridor almost by 40 per cent. Accessible sidewalks along the bus rapid transit line corridor, accessible pedestrian crossings with the help of traffic control, audible signals for pedestrians, traffic lights and tactile warnings at curb ramps have provided the citizens of Mexico City with a safe reliable service and easy pedestrian access.⁹

Urban Design: Countries like Switzerland and Sweden have created a pedestrian-friendly

environment by implementing specific pedestrian zones in streets at their city centres and residential areas¹⁰ -- for example at Bahnhofstrasse in Zurich¹¹, Switzerland, and Drottninggatan in Stockholm¹², Sweden.

These areas restrict vehicular access, creating a safe and welcoming space for pedestrians.

Way Ahead for India

Despite being one of the 82 signatories of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, which strives to create equal opportunities for differently abled people in terms of their physical environment and transportation, India has failed to provide a safe, accessible and sustainable transport system to pedestrians, especially for differently abled people.

Goal 11 of the said convention encourages *“all the developments made in terms of creating accessible public mobility to be carried out keeping in mind the needs of all those in vulnerable situations like women, children, persons with disabilities and older persons.”*

India’s policy framework has a gap in its universal design implementation. This is because most of these guidelines, whether national or international, are not mandatory rules. Hence, there

“ ***The reduction of emissions and prevention of road deaths and serious injuries to pedestrians and cyclists would result in better public health and thus would aid in economic development by saving additional costs.*** ”

is no express obligation on their implementation.

Nevertheless, with measures like the Bombay High Court¹³ conferring statutory power on guidelines for inclusive and functional architectural design by the Indian Road Congress, there is a glimmer of hope for change.

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RIGHTS OF DIFFERENTLY ABLED PEDESTRIANS

Existing on Paper, Missing on the Ground

Jayanti Jha *

In urban India, 28 per cent of all journeys are undertaken on foot, making walking the predominant mode of transportation¹. Surprisingly, less than 30 per cent of urban roads have footpaths². Recent statistics reveal that pedestrian fatalities constitute 30-40 per cent of total road accident deaths in urban areas. As the number of motor vehicles rises and pedestrian spaces dwindle, safeguarding the rights and well-being of pedestrians on Indian roads becomes imperative. While the journey towards inclusive urban development has been marked by significant strides, challenges persist in ensuring equal access for all citizens.

Among the marginalised groups, persons with disabilities often encounter difficulties in navigating public spaces, particularly as pedestrians. The lack of accessible infrastructure like sidewalks, ramps and tactile pathways, obstructs movement. For instance, the absence of a curb ramp or an uneven sidewalk can force a wheelchair user to retrace movements to find an accessible route. This detour not only magnifies the issue but also increases the energy required to propel a wheelchair compared to walking the same distance. Similarly, individuals with visual

impairments may encounter difficulties navigating busy streets without easily locatable crossings or adequate signaling to regulate traffic. A single barrier can disproportionately impact the ability of pedestrians with disabilities to undertake routine trips. Adopting design practices that acknowledge the regular presence of people with disabilities in the walking public can help eliminate many of these challenges.

‘Accessible India Campaign’

In December 2015, the Department of Empowerment of Persons with Disabilities (DEPwD) launched the ‘Accessible India Campaign’ (Sugamya Bharat Abhiyan) to achieve universal accessibility for Persons with Disabilities (PwDs). Improving accessibility to the built environment and public transport were among the goals of the campaign. Following

“ *A single barrier can disproportionately impact the ability of pedestrians with disabilities to undertake routine trips.* ”

this, in 2016, the Government of India enacted the Rights of Persons with Disabilities Act (RPDA) which mandates equal rights and opportunities for persons with disabilities. Section 44 of the Act specifically addresses accessibility in the built environment, including roads and transportation.

The RPDA was complemented by signing and ratifying the UN Convention on the Rights of Persons with Disabilities in 2008. Additionally, the Indian Roads Congress (IRC) – which has been granted statutory status in *Parisar Sanrakshan Sanwarath Sanstha & Amp; Ors. v. The Pune Municipal Corporation* by the Mumbai High Court – has published guidelines related to the design and construction of roads and transportation infrastructure. These guidelines include provisions for creating accessible pathways, ramps, parking, and other facilities for persons with disabilities. Specifically, the guidelines hold that “Pedestrian facilities should provide seamless movement to all road users, including vulnerable road users such as persons with disabilities, caregivers with prams, children and the elderly.” The Bureau of Indian Standards (BIS) has developed standards related to accessibility in public buildings

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and transportation. Compliance with these standards is essential for ensuring that roads and related infrastructure are disability-friendly.

A Sorry State of Affairs

Navigating urban areas on foot in India involves overcoming a multitude of challenges, often requiring individuals to compromise their safety, and sometimes, even their lives. Recognising the importance of disability pedestrian rights is crucial for fostering an inclusive society that accommodates diverse needs. Individuals with mobility impairments utilising assistive devices such as wheelchairs, crutches, canes, walkers, and prosthetic limbs, require thoughtful design adaptations. It is clear what needs to be done, but the reality is far from ideal.

Most cities in India lack proper curb cuts, making it difficult for wheelchair users and those with mobility aids to move freely. Additionally, uneven surfaces, potholes, and inadequate signage pose safety hazards for visually impaired individuals. Despite all the guidelines, a sorry state of affairs exists at the ground level. In *Rajive Raturi v. Union of India* (2019), the Delhi High Court emphasised the importance of accessible footpaths and pedestrian spaces for persons with disabilities. The court highlighted the duty of the government to ensure barrier-free pedestrian infrastructure,

“***The last stretch of the journey requires either walking to one’s destination or taking a bus, auto, or taxi. This is where the accessibility ends.***”

including the provision of ramps, tactile paths, and other facilities to make sidewalks accessible. Furthermore, accessibility to public transportation – which is a key component of disability pedestrian rights – is lacking. The absence of ramps, elevators, and designated spaces within buses and metro systems can make it challenging for individuals with mobility issues to commute independently. In 2012, in *Samarthyam v. Union of India*, the Delhi High Court addressed issues related to accessibility in the Delhi Metro. The judgment underscored the obligation of public authorities to make public transport systems accessible to persons with disabilities, ensuring barrier-free entry, exit, and movement within metro stations.

Long Way to Go

While the Delhi Metro has incorporated disability-friendly measures – all stations have ramps, tactile pathways, elevators with Braille markings, and many other such facilities – there is a long way to go. The metro is expansive and well-connected, but what happens when one gets off the metro? The last stretch

of the journey requires either walking to one’s destination or taking a bus, auto, or taxi. This is where the accessibility ends. Even though the new buses have low floors, and are supposed to be wheelchair friendly, in reality, they are not. Furthermore, there is insensitivity on the part of the bus staff that adds to the plight of the disabled community.

Ineffective Policy Enforcement

The Supreme Court of India, in *Disabled Rights Group (DRG) & Anr. v. Union of India* (2018), directed the central and state governments to ensure the accessibility of public spaces and transport for persons with disabilities. The court emphasised the need for tactile paths, ramps, and other facilities to be incorporated into urban planning to enhance pedestrian rights for individuals with disabilities. During the same year, in *National Platform for the Rights of the Disabled (NPRD) v. Union of India*, the issue of discrimination faced by persons with disabilities in the context of accessing public spaces and transportation was looked at. The court reaffirmed the importance of implementing the provisions of the Rights of Persons with Disabilities Act, 2016, to ensure equality and non-discrimination in pedestrian rights. As is evident, improving public transport accessibility is essential to empowering persons with disabilities and enabling their full participation in society.

The problem lies in effectively enforcing policies, and there is a need for increased awareness and knowledge of these rights.

Significant Shortcomings

In the 76th round of the National Sample Survey (NSS) in 2018, it was found that 67.1 per cent of persons with disabilities, who had utilised public transport in the year leading up to the survey, encountered challenges in accessing or using it in both urban and rural areas, and even when accompanied by a caregiver. The survey underscored significant shortcomings in the state of public transportation in the country.³ In the same year, the centre directed all national highway owning and maintenance agencies to ensure that pedestrian facilities were provided for the disabled on highways passing through urban areas⁴. Following this, the National Human Rights Commission (NHRC) requested a report from the Ministry of Road Transport and Highways concerning the absence of essential facilities. In response, the ministry instructed relevant agencies to strictly adhere to the IRC guidelines. Over the years, these crucial aspects have been disregarded by authorities, primarily driven by a desire to minimise costs⁵. Unfortunately, governments at both the central and state levels frequently incorporate minimal enhancements in accessibility infrastructure primarily for

symbolic gestures and public relations, rather than integrating accessibility into the core principles of good governance or public policy.

The Way Forward

Besides technology, we must be able to offer innovative solutions to address the mobility challenges faced by persons with disabilities. Overlooked yet crucial considerations involve providing sufficient clearance for wheelchair users at crosswalk markings, pedestrian refuges at medians accommodating those with assistive devices, sidewalks with a minimum width of five feet, and sight lines designed with a seated wheelchair user in mind. Pedestrians with visual impairments benefit from straight-line travel paths from the sidewalk edge to the opposite curb. Poorly sighted driveways pose additional challenges as relying on more than one sense is not an option to overcome

“*Some cities in India have started installing Accessible Pedestrian Signals (APS) at traffic intersections. These signals include audible cues that assist visually impaired pedestrians in determining when it is safe to cross the road.*”

obscured sight lines. Designers should recognise that individuals with cognitive impairments may struggle with comprehending and navigating unfamiliar or complex environments. Clear and consistent signage becomes especially vital to aid their understanding.

Smart city initiatives can integrate technology to create accessible environments, including adaptive traffic signal systems, smartphone applications for navigation, and assistive devices that enhance the overall pedestrian experience for individuals with disabilities. Some cities in India have started installing Accessible Pedestrian Signals (APS) at traffic intersections. These signals include audible cues that assist visually impaired pedestrians in determining when it is safe to cross the road. APS systems enhance safety and independence for persons with visual impairments. In the long term, improving the accessibility of roads in India for people with disabilities will involve a multi-faceted approach, considering infrastructure, policies, and public awareness. The root of all change must arise from stronger policymaking, stricter monitoring, efficient implementation, and making the general public more aware and sensitive towards the needs of the differently abled.

Sources to Learn From

India can learn from countries such as Sweden, Japan, the

USA, and the United Kingdom that have planned their urban spaces to be inclusive of the needs of the differently abled. Yellow tactile paving is ubiquitous in Japan and auditory cues help facilitate the navigation of individuals with visual impairments. Sweden is also an excellent example of thoughtful inclusive change. Initial efforts included modifying urban infrastructure, such as reconstructing pedestrian crossings and minimising the gap between the curb and buses at bus stops. While these changes were important, they only partially addressed accessibility concerns. A further change was brought about by the e-Adept solution, which empowers citizens with reduced mobility by allowing them to plan walking routes, receive precise navigation guidance, and seek assistance in emergencies through audio-visual cues. This system incorporates downloadable software for mobile phones tailored for the visually impaired,

utilising a city map of streets and roads, and a GPS device connected to the mobile phone via Bluetooth.

For India, the next steps must focus on inclusivity, with stress on the principles of universal design, catering to the needs of all users. Existing structures should be modified wherever possible to further enhance accessibility. All public roads can be equipped with smart traffic signals with audible cues, accessible pedestrian signal buttons, and tactile pathways. Mobile applications providing navigation assistance for people with disabilities can be developed. Most importantly, stakeholders need to be involved in this process of change. People with disabilities and disability advocacy organisations must be consulted in the planning and decision-making processes. This will not only help in better feedback but also identify specific challenges and frame relevant solutions.

Endnotes

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REPRESENTATION FOR PEDESTRIANS' RIGHTS

Common Cause brought the matter of pedestrians to the attention of the highest authorities in the hope that some action will be taken to safely stop the unusually high number of deaths and injuries due to accidents on Indian roads. We are reproducing the text of our representation to the Union Minister for Road Transport & Highways and other concerned authorities.

To,
Sh. Nitin Jairam Gadkari,
Union Minister for Road Transport & Highways,
Room No. 501, Transport Bhawan,
1, Sansad Marg, New Delhi – 110 001,
E-mail: nitin.gadkari@nic.in;

Date: 13.03.2024

Dear Sir,

I am writing this letter to you on behalf of Common Cause, a civil society organization dedicated to articulating the common problems of the people and securing redress for them. We have been taking up public causes since 1980 through policy research, advocacy, and legal interventions.

We wish to bring to your notice the tragic deaths taking place in the country in general, and in the National Capital Territory (NCT) of Delhi in particular, due to the lack of proper facilities for pedestrians. Not a day passes without pedestrians losing their lives or getting seriously injured in avoidable road accidents on Delhi roads. The victims include children, senior citizens and even police officers doing their duty on the roads. Nothing seems to have changed in our attitudes after a 12-year-old girl – daughter of a fruit vendor - was mowed down recently by a school bus in South-East Delhi when she was trying to cross the road.¹

As you know, Delhi has high volumes of pedestrian movement with 34% of all daily person trips being 'walk-only'². Though pedestrians are the most vulnerable category of road users, a sizeable section of them belongs to socially vulnerable and disadvantaged groups such as children, elderly, disabled, pregnant women, daily wagers, and migrants, among others. The pedestrians too have a fundamental right to life and liberty (Article 21) and a right of free movement (Article 19). However, these rights are being denied to them owing to bad implementation of the policies protecting pedestrian rights, and the lack of accountability of the authorities implementing them.

We have found that the following are the major bottlenecks for walking in Delhi³:

- i. Inadequate maintenance of available pedestrian infrastructure – leading to broken/ unsafe footpath surfaces/ curbs & unusable street furniture.
- ii. Presence of barriers to walking – existing pedestrian space is blocked by various utilities, unregulated/ excessive hawking and encroachment by homeowners and businesses. Also, the pedestrian infrastructure does not cater to the needs of the elderly, children, women or those with disabilities.
- iii. Lack of safety and security – People are discouraged from walking due to inadequate illumination,

long block lengths of buildings, negligence such as open manholes and unutilized construction material lying on footpaths etc.

- iv. Multiplicity of agencies – At present, at least 6 state agencies MCD, NDMC, DCB, NHAI, PWD, and DDA are entrusted with the job of developing and maintaining the road network of Delhi. This often leads to confusion as to which agency is responsible for doing what on which road. Even otherwise, there is hardly any consequences for doing a bad job, even criminal negligence.
- v. Weak enforcement of traffic rules concerning pedestrian space and movement. This results in accidents due to unruly motorist behavior, use of footpaths for driving motorcycles, and cars to avoid road congestion, noncompliance with traffic rules at intersections and crossings, parking of vehicles on footpaths, etc.

Delhi Traffic Police analysis has found that 43% of the people killed in road accidents in Delhi in 2023 were pedestrians. The number of pedestrian deaths has increased to 622 in 2023 from 504 in 2021.⁴ In 2021, 93% of the deaths occurred among vulnerable road users (pedestrians, motorcyclists, cyclists and auto rickshaw occupants).⁵

I would like to draw your kind attention to a very compelling statistics – aptly called “Who-Hit-Whom Matrix” – in the ‘Delhi Road Safety Data to Action Report’⁶ published last year (20.01.2023) by the Transport Department, Delhi Govt. The Matrix – as the name suggests – shows how many people (falling under a particular category such as pedestrians, cyclists, motorcyclists, etc.) were killed by which type of vehicle.

The category of ‘Pedestrian’ – as you would have guessed – is right at the top of this matrix with 1684 fatalities in a period of three years (2019, 2020, 2021). Heavy Vehicles and Light Motor Vehicles have killed the maximum number of pedestrians (452). It is worth keeping in mind that these two types of vehicles must also be holding a lion’s share in the 982 deaths caused by “unknown” vehicles (known as Hit-and-Run cases).

The above matrix implies that a lot of mixing occurs in Delhi between pedestrians and motorized vehicles. Second, given that there are so many fatal crashes between these two sets of road users, the current infrastructure is inadequate and unable to prevent deaths on the roads. Even high-risk areas often lack safe pedestrian infrastructure such as *functional footpaths, proper crossings, and traffic calming infrastructure.*

What I mean by “**Functional Footpath**” can be best explained by what is NOT a functional footpath. The case where a road simply does not have a footpath or sidewalk is a straightforward example. However, Delhi has a lot of roads that do have so-called footpaths that are dilapidated, abysmally designed, heavily encroached upon, dark, or discontinuous which make them unsafe, unusable and death-traps. Such footpaths are **NOT** functional.

	Impacting Vehicles								
Victim Vehicle Type	Heavy Vehicles-Goods Carrier	Light Motor Vehicle	Motorcycles	Bus	Bicycle	Auto-Rickshaw	Single Vehicle Crashes	Other	Unknown
Pedestrian	234	218	120	81	1	34	2	12	982

According to the Street Design Guidelines (Nov 2009)⁷ issued by 'Unified Traffic and Transportation Infrastructure (Planning & Engineering) Centre' (UTTIPEC), "40% of the total Road Length of Delhi has NO footpaths. And the ones having footpaths, lack in quality in terms of surface, width and geometrics." It would not be an exaggeration to say that barring a few VIP Roads in the 'Lutyen's Delhi' – a tiny area administered by NDMC around the Embassies, Ministries, Secretariats, Five-Star Hotels, and residences of Ministers, MPs, etc. – very few roads, if any, in Delhi can claim to have functional footpaths!

Another way of defining 'Functional Footpaths' can be: footpaths that meet the Street Design Guidelines given by UTTIPEC and Guidelines for Pedestrian Facilities (IRC: 103-2022)⁸ by the Indian Road Congress. These guidelines carry statutory force as explicitly observed by the Bombay High Court in **Parisar Sanrakshan Sanwardhan Sanstha v. The Pune Municipal Corporation** (PIL No. 210 of 2023).⁹ The Court held:

"Rule 166 of the Central Motor Vehicles Rules, 1989 clearly provides that the design, construction and maintenance of roads other than National Highways shall be in accordance with the standards and specifications of the Indian Road Congress, as may be applicable or any other guidelines issued by the Government from time to time. Thus, so far as the applicability of the guidelines issued by the Indian Roads Congress is concerned, we are of the opinion that the same are statutory."

The role of UTTIPEC too is not merely advisory. It came into existence vide Notification S.O. No.1903(E)¹⁰ dated 31.07.2008 issued by DDA in the exercise of powers conferred by Section 57 of DDA Act, 1957. Some of the objectives of UTTIPEC are:

- To study and coordinate the norms and standards for Planning and Engineering Practices in Traffic and Transportation;
- Engineering aspects of implementation of National Transport Policy-2006 and Master Plan of Delhi-2021 transportation proposals;
- Developing protocols and norms for street furniture, roadside landscapes, zebra crossing, pedestrian passages, commuter facilities etc.

A five-page Street Design Checklist¹¹ issued by UTTIPEC vide decision of Governing Body Meeting dated 18.03.2010 under the chairmanship of Delhi's LG categorically states that "*for the Roads (already) taken up for development, (or to be taken up subsequently), the adherence to UTTIPEC Pedestrian Design Guidelines is to be checked by the E-in-C/ C.E. concerned. All projects are to adhere to and follow the following Checklist provided.*" Therefore, UTTIPEC's Checklist/ guidelines are the law of the land, and cannot simply be ignored by anyone: be it GoI, GNCTD, MCD, NDMC, or any other ministry/ department/ body engaged in planning, designing or constructing roads or footpaths in the NCT of Delhi.

But the sad reality is: almost all roads in Delhi – barring a few exceptions found in the Lutyen's Delhi – have been constructed in brazen violation of IRC and UTTIPEC Guidelines/Checklist. Since these roads lack functional footpaths, pedestrians are constrained to walk on that portion of the road which is meant for vehicular movement (technically called, 'Carriageway' or 'vehicular zone'). By doing so, they exponentially increase their chances of getting hit by speeding vehicles. Please note that carriageway is just one of the many zones that comprise the total road width (technically called 'Right of Way'). Unfortunately, in India "road" is believed to mean only carriageway, and other zones such as cycle lanes, footpaths etc. are conveniently ignored by the road designing/ building authorities without facing any consequences. Hence, it is the faulty road design and usage that forces pedestrians to mix with motorized vehicles endangering their lives.

The Transport Department, GNCTD, acknowledges in its Data to Action Report that in most of the high-risk locations in Delhi, *“there is a lack of sidewalks, even in front of schools. Most of the road prioritizes smooth vehicular traffic flow rather than the safety and accessibility of the majority of road users which are pedestrians.”* The Report contains specific examples of high-risk locations identified in each of the 11 districts of Delhi with reasons behind their dubious status. For Example, Central District’s Kashmere Gate (Metro Station) has the highest number of pedestrian fatalities out of all the high-risk locations because the metro station is located along a multilane highway and there are no existing safe crossing facilities. Similarly, three out of the nine high-risk locations in North District can be found in high-speed multilane roads, one of which is along Mukarba Junction. East District’s high-risk locations viz. Mayur Vihar and New Ashok Nagar metro stations have no sidewalks for pedestrians. The intersection of Okhla Estate Marg and Ma Anandmayee Marg falling in the South-East District lacks proper pedestrian crossing facilities and sidewalks. In the North-East District’s high-risk location Khajoori, there are inadequate walking and crossing facilities. Because the sidewalks are not enough and are obstructed, pedestrians are forced to walk in the middle of the road together with vehicular traffic, causing conflicts and crashes. The same is the case with West District’s Mundka Industrial Area (Metro Station).

Now let me share data from another report published by GNCTD titled ‘Road Accidents in Delhi 2018’¹² wherein 33 out of a total of 110 Accident-prone Zones have been listed; these 33 are the most dangerous for pedestrians. Shockingly, the names observed in the previous paragraph feature in this list too: Kashmere Gate, Mukarba Junction, Khajoori, Mundka, etc. If MCD, PWD, DDA, NHAI, and all the other agencies truly valued the lives of Delhiites living outside Lutyen’s Delhi, then three years should have been enough time to provide world-class pedestrian infrastructure in these high-risk locations or accident-prone zones to drastically bring down fatalities. Today, in 2024, the situation remains unchanged barring some cosmetic changes which means hundreds of people will continue to die here year after year.

A major reason for such a pathetic state of pedestrian safety measures at these high-risk locations is our ‘reactive’ (rather than proactive) approach. The message from our policy makers seems to be: (a) only those roads/ locations require proper pedestrian infrastructure where a ‘sufficient’ number of accidents / deaths have taken place, and (b) roads/ locations where a large number of deaths have not been reported would continue to suffer inadequate infrastructure. The situation does not change even when the citizens voice their grievances to the authorities.

I came across one such grievance written on behalf of two children (1.5 and 3 years old) living in Palam Village in the South-West District of Delhi. Their grievance, sent via email dated 25.06.2023¹³, was with respect to a 150m stretch of the village road in front of their house which had become extremely dangerous to walk on due to traffic, heavy encroachment and the absence of a functional footpath. While the MCD did not respond, DCPCR (one of the addressees) took cognizance of the email and wrote to MCD’s Dy. Commissioner (Najafgarh zone), vide letter dated 30.06.2023¹⁴, asking him to arrange for a visit of the area and clear roadside encroachments so as to make the area safe for the movement of children. DCPCR also sought an Action Taken Report on the subject on or before 14.07.2023. MCD not only ignored this letter dated 30.06.2023 but also the two reminders sent on 03.08.2023 and 25.08.2023¹⁵.

This level of apathy towards the lives of the citizens – especially children – is quite mindboggling when viewed in light of the fact that MCD is under a statutory duty to design/ build / maintain roads and footpaths as per applicable standards (such as UTTIPEC & IRC Guidelines), protect them from encroachments, and punish the encroachers, as per various provisions of the Delhi Municipal Act, 1957 (DMC Act), Motor Vehicles Act, 1988 (MV Act), Central Motor Vehicle Rules, 1989 (CMV Rules). Just like

MCD, other Ministries/ Departments/ bodies such as the Ministry of Road Transport & Highways, Ministry of Housing and Urban Affairs, PWD, NDMC, DCB, DDA, NHAI, DTP etc. are also dutybound under their respective Special or General laws to design/ build/ maintain/ monitor roads and allied pedestrian infrastructure in their jurisdiction as per applicable standards, protect them from encroachments, and take action against the encroachers.

I am sure that you also know, sir, that almost 50% of metro users approach stations on foot. Walking is also the dominant mode of travel for 77% of urban poor. Additionally, almost 60% of all trips are less than 4km and 80% below 6km - an ideal distance for using non-motorized modes like walking or cycling. Therefore, promoting walking and cycling infrastructure helps shift these short trips to walking or non-motorized modes, thus bringing down private car dependency. This would also significantly bring down the extremely high levels of pollution in Delhi. I have no doubt in my mind that the GoI and GNCTD desperately want to take Delhi off the infamous list of “the most polluted Capitals” in the world.

Some of the direct benefits accruing from a more pedestrian-centric planning approach include the following¹⁶:

- i. Improved physical health (and reduced healthcare budget)
- ii. Reduced congestion and improved traffic safety.
- iii. Reduced air pollution (and increased international tourism).
- iv. Increased social interaction, (and better business opportunities).
- v. better transportation equity via prioritization of affordable mobility options.
- vi. Better urban environment, safety on streets, better quality of life.
- vii. Less number of road accidents/ deaths, (and less crime).

We at Common Cause believe that walking needs to be acknowledged as an essential everyday freedom of an individual. There is a need to strongly implement the ‘pedestrian-first’ approach which has been adopted in the Master Plan of Delhi 2021¹⁷, and reiterated in Regulations for Enhancing Walkability in Delhi notified by DDA on 02.08.2019¹⁸, by adopting a comprehensive framework for planning and development of barrier-free pedestrian infrastructure, seamless intermodal connectivity, and safe and healthy mobility options for all. We must also acknowledge that deaths, disabilities and serious injuries to pedestrians in road accidents must be attributable to lapses on the part of the state because it is responsible for the safety of people.

This constitutional and statutory duty when read in light of MPD 2021, IRC Guidelines and UTTIPEC’s Street Design Checklist leaves no doubt in the mind that a Functional footpath is a non-negotiable requirement for all roads.¹⁹ *Just like a person can drive from Point A to Point B anywhere in Delhi in her car because a continuous network of roads exists between the two points; in the same way, a continuous network of functional footpaths and pedestrian crossings must also exist from Point A to Point B so that she can also safely walk – if she so chooses – between the two points.*

We sincerely request you to restore the dignity and sanctity of a pedestrian’s life, and direct the authorities concerned to take appropriate, time-bound steps for creating a continuous network of functional footpaths and pedestrian crossings throughout Delhi as per UTTIPEC’s Street Design Checklist, IRC Guidelines, MPD 2021, and other regulations, notifications and provisions of the prevailing law.

We would be grateful if you intervene at the level of policies and their effective implementation and keep us informed of the steps taken. It will be a privilege for us to meet you if you want us to explain some of these issues to you and your colleagues.

With sincere regards,

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Vasant Kunj, New Delhi-110070

CC to: Secretary, MoRTH; Secretary, MoHUA; Vice Chairman, DDA; Chief Secretary, GNCTD; Principal Secretary, PWD, New Delhi; Commissioner, MCD; Chairperson, NDMC; CEO, DCB; Chairman, NHAI; Vice Chairman, UTTIPEC; Secretary General, IRC; Commissioner for Persons with Disabilities, New Delhi; Chairperson, DCPCR; Member Secretary, DCW

Endnotes

1. <https://bit.ly/3U5Dner>
2. <https://drive.google.com/file/d/128m0G2h1wasFAJm0BSjwCpxGbr-ah4Kk/view?usp=sharing>
3. *ibid*
4. <https://bit.ly/3U0T9Yd>
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10. <https://bit.ly/4aXfBs7>
11. <https://bit.ly/49BPFkl>
12. <https://drive.google.com/file/d/1Y9CCPINj2sSujsg8aw-sTabQ5vZFeipn/view?usp=sharing>
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14. <https://drive.google.com/file/d/1m1TztK7iNYw3cxbxballIWXs-rqruvLD/view?usp=sharing>
15. <https://drive.google.com/file/d/1m-dkttPIF5x-joWzLO2ygX-iDiYAd3v3/view?usp=sharing>
16. <https://drive.google.com/file/d/128m0G2h1wasFAJm0BSjwCpxGbr-ah4Kk/view?usp=sharing>
17. <https://bit.ly/4b0JYha>
18. <https://drive.google.com/file/d/128m0G2h1wasFAJm0BSjwCpxGbr-ah4Kk/view?usp=sharing>
19. <https://bit.ly/442MTnk>

COMMON CAUSE EVENTS

Jenitta Sabu *

Three Newly Introduced Criminal Laws



Justice Madan B. Lokur, former SC judge, at the event

Common Cause, in partnership with the Campaign for Judicial Accountability and Reforms, (CJAR) organised a panel discussion on 'Decoding the Three Criminal Laws' on 26th February 2024. The idea was to discuss and analyse the newly introduced laws whose stated purpose is to decolonise the Indian justice system and ensure time-bound completion of trials. The new laws will replace the IPC (Bharatiya Nyaya Sanhita) CrPC (Bharatiya Nagarik Suraksha Sanhita) and the Indian Evidence Act (Bharatiya Sakshya Adhinyam).

The main speakers were Justice Madan B Lokur, former judge of the Supreme Court of India,

Prof. G Madan Gopal, former director of the National Judicial Academy, Ms. Vrinda Grover, senior advocate, Prof. Anup Surendranath, Professor at the National Law University, and Advocate Mr Sarim Naved. The discussion was moderated by activist and civil society leader Ms Anjali Bhardwaj. The meeting started with the Director of Common Cause, Dr Vipul Mudgal welcoming the guests and speakers after giving a brief introduction of the two main organisers, CJAR and Common Cause.

Ms Anjali Bhardwaj first gave a brief history of the three laws and the background of their replacement with the newly

minted laws. She also expressed her concern over the lack of public discussion on these laws which do not necessarily do justice with their stated objectives. She gave the example of the definition of sedition under the old laws which is now being replaced by the word 'treason' whose definition makes it much more draconian in letter and spirit. She also talked about the vagueness of the clauses concerning laws related to misleading information or misinformation.

Noted jurist Prof. Mohan Gopal drew the audience's attention to the widening scope of the Unlawful Activities Prevention Act (UAPA). He said that the new terrorism act was "simply a copy of the UAPA". Adding to the concerns of the moderator, he commented that the present government did not just do away with sedition, but it had come up with a more sinister combination of sedition and treason. He said that the sections in the newly introduced Bhartiya Nagarik Suraksha Sanhita have widened the ambit of police powers. He said a simple act of disobeying lawful instructions of police personnel will now lead to a 24-hour detention.

* Jenitta Sabu is an intern at Common Cause.

Ms Vrinda Grover said that the new laws seem to be aimed at converting the citizens into suspects and supplicants. Sharing her strong suspicion, she said the new laws seemed to be aloof from the Indian Constitution bears a greater resemblance to the colonial laws. She pointed out how these laws were silent over control and torture as well as how there is “no suraksha of the naagrik in the Bhartiya Naagrik Suraksha Sanhita”. She said the current laws have replaced the judicial magisterial inquiry with magisterial inquiry in cases of torture in police custody, which diluted the role and power of such an inquiry.

The human rights lawyer said she believed that the newly enacted law would only heighten the ability of the police to coerce and torture ordinary people. Another important aspect in which the law is silent, she pointed out, is about the protection of trans persons, while it also neglects the women’s right to decide on abortions.

Prof. Surendranath stated that the new treason law is far worse than the present UAPA. He said that the current laws have staggering provisions on bail, especially for prisoners, wherein bail provisions for incarcerated prisoners are shrunk to half of the period of their maximum

sentence. Advocate Naved Sarim said while not very much has changed, the new laws were definitely going to create a lot of confusion. Mr Sarim felt while the police would have the ultimate choice to prosecute an accused under the new laws, there were very few restrictions on the power of police personnel. He said the idea of community services was good but it was vague and undefined under the new law. Another area of concern in the news laws for him was the inadequate defence of human rights and the dangers it posed to the freedom of speech and expression.

“Gaps in Justice – Way Forward”, February 26, 2024

Common Cause was invited to make a presentation at a seminar on “Gaps in Justice- Way Forward” organised by Ujjawal Women’s Association, New Delhi on February 26, 2024. The event

was attended by the members of several of Delhi’s well-known women’s organisations. The event aimed at deepening the understanding of the gaps in India’s justice system in order

to evolve suitable interventions, especially on issues concerning women. It was also intended to expand awareness and reach of the India Justice Report (IJR) and the Status of Policing in India Report (SPIR) to the audience.



Seminar participants with the main speakers, Ms Maja Daruwala and Dr Vipul Mudgal

The findings of the two data-based reports were presented by Ms Maja Daruwala, Chief Editor, India Justice Report, a collaborative venture of many civil society partners, and Dr Vipul Mudgal, Director and Chief Executive of Common Cause along with his colleague and legal consultant Mr Udit Singh. A lively question-answer session and community lunch followed the event.

Court Administration and Management

Major Focus and Concerns



Dr Vipul Mudgal paying tribute to noted jurist Fali. S Nariman at the CJAR event

Common Cause team participated in a well-attended seminar organised by the Campaign for Judicial Accountability and Reforms (CJAR), The Wire and the LiveLaw, on “Supreme Court Judicial Administration & Management- Issues &

Concerns...” at the Indian Society for International Law, New Delhi, on February 24, 2024. The seminar began with Common Cause Director, Dr Vipul Mudgal, paying tribute to Fali S Nariman, one of India’s best-known jurists of our times and a Senior Advocate at the

Supreme Court, on behalf of the civil society organisations.

Dr Mudgal remembered Fali S. Nariman not only as an eminent lawyer but also as a public-spirited citizen who represented and stood for the universal values he believed in. He said that India’s civil society, in a broad pluralistic sense, will remember Mr Nariman as someone who took up vital public causes and fought for constitutional values and human dignity. He said Mr Nariman was always available to take up causes pro bono on behalf of the marginalised. The seminar brought together former judges of the Supreme Court and High Courts, academicians, activists, lawyers and students.

Money and Muscle Power in Indian Elections

Common Cause participated in a conference organised by the Association for Democratic Reforms (ADR) and National Election Watch (NEW) at the India International Centre on March 10, 2024 on the theme “General Elections 2024: Issues, Challenges & Opportunities”. The programme was divided into two sessions, ‘Integrity & Inclusiveness of Indian Elections’ and ‘Money, Muscle, and Election in India’. Common Cause Director Dr Vipul Mudgal, who is also a trustee

of ADR, chaired the second session. The main speakers in the session were Justice Madan B Lokur, former judge of the Supreme Court of India, Ms Reena Gupta, State Secretary of Aam Adami Party, Mr. Krishna Allavaru, Joint Secretary of the All-India Congress Committee and National Incharge of the Indian Youth Congress, and Dr Jeet Singh Mann, professor and director of Centre for Transparency and Accountability in Governance, at the National Law University, Delhi.

Initiating the session, Major General (Retd) Anil Verma, head of ADR & NEW welcomed the audience and the speakers. Dr Mudgal introduced the subject and invited speakers to share their experiences regarding campaign expenditure, the winnability of candidates with criminal antecedents, factors driving voting behaviour on money and muscle power, and the low representation of women and youth in the elections. He said that money power and muscle power were intricately

enmeshed and difficult to separate from one another.

Justice Lokur focused on the broader context of money power, highlighting the recent Supreme Court judgement on electoral bonds, which clearly showed that money is central to elections and that the political parties will go to any length to acquire money and muscle power. Expressing his satisfaction with the Supreme Court declaring the electoral bonds unconstitutional, he said there was an urgent need for

making political parties more accountable.

Ms Reena Gupta, State Secretary of Aam Adami Party, started by questioning the sudden and mysterious resignation of one of the election commissioners just a day earlier. She highlighted the need for disruptors and robust institutions for the survival of democracy. She suggested that the political parties must be brought under the right to information (RTI) so that they disclose their sources of funding. Mr Krishna Allavaru of

the Congress emphasised the role of the institutional muscle, particularly of institutions like parliament, executive, media, and judiciary in countering the systemic ills. Dr Jeet Singh Mann highlighted the fact that there was a lack of demand for honesty and integrity in India's electoral process. Terming money as the lifeline of elections, he said that all political parties were responsible for creating and using black money. The session was followed by a vibrant question-answer session.

Survey to Grasp Post Covid Affects



Dr Vipul Mudgal, Director of Common Cause, at a meeting with the members of Responsible Coalition for Resilient Communities (RCRC) on Jan 21

Common Cause Director Dr Vipul Mudgal participated in a brainstorming meeting with the members of the RCRC coalition. The members include Mr KP Krishnan, IAS (Retd), Ms. Wilma Wadhwa, Director, ASER Centre, Mr M R Madhavan, PRS (in informal capacity), Dr. Sonalde Desai, University of Maryland and NCAER, Mr Ved Arya, Founder Director of the Budha Institute, noted economist Mr Vijay Shankar, among others

The RCRC is a large civil society collaboration that came up after the outbreak of the Covid pandemic. Learning from the experience of the CSO partners, RCRC initiated household surveys to capture the impact of COVID-19 on rural communities and how lives and livelihoods have been affected on account of this impact. Since the COVID crisis is one with a lasting impact in rural areas, RCRC wanted to capture the

critical pathways through which communities move out of this crisis and how the government programs and community institutions fare in that process. With this objective, RCRC, with the support of its partners, conducted three rounds of large sample household surveys over the last 11 months. These surveys attempted to assess the long-term impact of the pandemic on aspects like job loss, income loss, reduced food intake, low nutrition and poor health and education outcomes as well as the response of the rural communities and community institutions to the crisis. These surveys also highlighted the robustness of community institutions in building community resilience and the efficacy of programs like MGNREGA in addressing distress at scale.

COMMON CAUSE CASE UPDATES

Supreme Court Cases

Illegal Mining in Odisha:

While disposing of the IA filed by Common Cause (I.A. NO. 42571/2023) focussed on directing the Union of India and the State of Odisha to impose a limit on the extraction of minerals, the Court on December 4, 2023, directed the Ministry of Environment, Forests and Climate Change to file an affidavit in pursuance of the Court's directions of August 14, 2023. The Court observed that since several aspects that were engaging the Court's attention would have a bearing on sustainable development and inter-generational equity, it would be appropriate for the Ministry to file an affidavit. Such an affidavit was directed to be filed within four weeks, based on the Ministry's independent assessment.

The State of Odisha was directed to elaborate in its affidavit the steps taken to (i) Recover the outstanding dues, and (ii) Attach the assets of the defaulters. The Court directed that the affidavit shall specifically clarify the extent of the recoveries which have been made after the Court's previous order dated 14 August 2023 as well as indicate a specific timeline for the action which is proposed and the schedule for the recovery

of the balance outstanding. The affidavit filed by the Joint Secretary, Ministry of Mines in pursuance of the order dated August 14, 2023 of the Court was taken on record.

The matter was subsequently listed in January and February 2024, where the applications filed by the other parties were heard by the Court. The matter is likely to be listed on April 5, 2024.

Petition to Restrain the use of Public Funds for Political Campaigning Through Government Advertisements:

The Supreme Court in its judgment dated May 13, 2015, in *Common Cause v. Union of India* (2015) 7 SCC 1, had issued several guidelines aimed at regulating government advertisements in order to check the misuse of public funds by central and state governments. Despite the clear direction, the states continued publishing advertisements using public funds.

Common Cause filed a petition in 2022 to restrain the unnecessary use of public funds on government advertisements in ways that were completely malafide and arbitrary and amounted to a breach of trust, abuse of office, violation of the

directions/guidelines issued by this court and violation of fundamental rights of citizens. Noticing the unnecessary expenditure on advertising campaigns outside the territory of their respective states with no benefit to the target audience or prime beneficiaries of that government's achievements, policies and welfare measures, six specific issues were pointed out in the petition:

- Publication of advertisements by state governments outside their territorial limits
- Publication of government advertisements in the form of 'advertorials'
- Publication of government advertisements during/ just before the elections
- Issues concerning the 'Committee on Content Regulation of Government Advertisements' (CCRGA)
- Publication of Photographs of functionaries on Government Advertisements
- Advertisements in the name of Awareness Campaigns

A notice was issued on September 26, 2022, by Justice DY Chandrachud and Justice Hima Kohli. Presently, the matter is pending before the Registrar H. Shashidhara Shetty. As only five states have filed their counter affidavit, on August

10, 2023, the respondents were given four weeks to file their counter-affidavits. During the record of proceedings on September 21, 2023, the court of the Registrar declined the opportunity to the respondent States who had failed to file the counters on previous several occasions. On November 6, 2023, the court of the Registrar ordered to list the matter for hearing before the bench after four weeks. On November 6, 2023, the Court directed that the matter be listed after 4 weeks irrespective of the counter being filed or not. The matter is likely to be listed on May 17, 2024.

Contempt Petition Against Lawyers' Strike:

The contempt petition filed by Common Cause against the strike of lawyers in Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction has led to the submission of draft rules by the Bar Council of India (BCI). Earlier the Court had expressed displeasure over the lack of proper action on the part of BCI.

On January 24, 2024, when the draft rules were placed before the Court, the counsel for BCI stated that the rules suggested by Common Cause counsel, Mr Prashant Bhushan had been taken into consideration. However, Mr Bhushan disagreed with this statement. The BCI counsel had stated that the rules may be examined by the Court and suggestion of the Court, if any, shall be accepted by the

BCI without any condition. Observing that the rules needed to be examined in detail the Court directed that the petitions be listed on February 6, 2024.

During the hearing on February 6, 2024, arguments by the counsels were heard by the Court. On February 9, 2024, the Court appointed Justice Muralidhar, as Amicus, to examine the rules in the context of the existing judgments objections as filed by Mr. Bhushan, and to submit his report. It also granted an opportunity of hearing, if needed, to the parties and directed the registry to relist the matter on May 3, 2024.

Petition Challenging the Introduction of Electoral Bonds:

On February 15, 2024, the Court pronounced its judgment striking down the electoral bond scheme, holding it as unconstitutional. The bench held that the scheme violated the voters' right to information enshrined in Article 19(1)(a) of the Constitution. The Court also struck down the amendments made to the Income Tax Act and the Representation of the People Act, which enabled such anonymous political contributions. This ruling represents a rare instance of the Court taking the extreme step of rejecting almost every argument of the government to declare the EB scheme altogether unconstitutional.

However, what's most uplifting about the judgment is that it expanded, with transparency and accountability in mind, the scope of the right to information under Article 19(1)(a) of the Constitution. This will further strengthen the freedom of the citizens to exercise their right to vote more responsibly. As highlighted by CJI DY Chandrachud, the "information about funding of political parties is essential for the effective exercise of the choice of voting".

Common Cause and the Association for Democratic Reforms (ADR) had challenged the constitutionality of the Electoral Bonds scheme, which was introduced by amending the Finance Act 2017. These bonds have not only made electoral funding of political parties more opaque but also legitimised high-level corruption at an unprecedented scale by removing funding limits for big corporates and opening the route of electoral funding for foreign lobbyists. The PIL sought direction from the Supreme Court to strike down the amendments brought in illegally as a "Money Bill" in order to bypass the Rajya Sabha. Looking at the current data, electoral bonds had legitimised unaccounted-for money to the tune of more than Rs 12,000 crores in our electoral and political process, where the citizens do not know the names of the donors. Under the circumstances, the Court's observations to decide whether

the pleas could be referred to a Constitution bench assumed great significance. On October 10, 2023, the submissions by the parties were completed and the Court directed the nodal counsel to file all the submissions online. On October 16, 2023, the petitioners approached the Court during mentioning, to hear the case prior to the 2024 general elections. A bench led by Chief Justice D.Y. Chandrachud, with Justices J.B. Pardiwala, and Manoj Misra, noting the “importance of the issue” referred the case to a five-judge Constitution bench. On October 31, 2023, the five-judge Constitution bench heard arguments over three days.

In its verdict on February 15, 2024, SC quashed electoral bonds, terming it illegal and directed the SBI to furnish the details to the Election Commission by March 6, 2024. However, two days before the deadline, SBI filed a Miscellaneous Application seeking an extension of time till

June 30, 2024, citing operational difficulties. The petitioners moved a contempt plea in the SC on March 7, 2024, challenging the SBI’s application seeking an extension of time till June 30, 2024, to disclose the details of each electoral bond encashed by the political parties.

A bench headed by Chief Justice D Y Chandrachud took note of the submissions made by Mr. Prashant Bhushan, the lawyer for the petitioners, that he was seeking initiation of contempt proceedings in the case. As the SBI’s plea was likely to be listed on March 11, 2024, the contempt application should also be heard together. To this, the CJI responded by saying “Please send an e-mail. I will pass the order,” On March 11, 2024, the SC disposed the MA as well as the contempt petition filed by SBI stating:

“In view of the discussion, the Miscellaneous Application filed by the SBI seeking an extension of time for the disclosure of

details of the purchase and redemption of Electoral Bonds until June 30, 2024 is dismissed. SBI is directed to disclose the details by the close of business hours on March 12, 2024.

The SBI shall file an affidavit of its Chairman and Managing Director upon compliance with the directions which have been issued above. We are not inclined to exercise the contempt jurisdiction at this stage bearing in mind the application which was submitted for extension of time. However, we place SBI on notice that this Court will be inclined to proceed against it for willful disobedience of the judgment if SBI does not comply with the directions of this Court as set out in its judgment dated February 15, 2024 by the timelines indicated in this order. The Miscellaneous Application for extension of time shall accordingly stand dismissed. The Contempt Petitions shall stand disposed of at this stage in the above terms.”

Please email us at commoncauseindia@gmail.com if you want a soft copy of the report.

Status of Policing in India Report 2023

Surveillance and the Question of Privacy



Jointly prepared by Common Cause and its academic partner, Centre for the Study of Developing Societies (CSDS), the Status of Policing in India Report 2023: Surveillance and the Question of Privacy, is a study of public perceptions and experiences regarding digital surveillance in India .

SPIR 2023 analyses data collected from face-to-face surveys conducted with about 10,000 individuals from Tier I, II and III cities of 12 Indian states and UTs to understand perceptions around digital surveillance. The study also involved a Focused Group Discussion (FGD) with domain experts, in-depth interviews with serving police officials, and an analysis of media coverage of surveillance-related issues.

Please email us at commoncauseindia@gmail.com if you want a soft copy of the report. It can also be downloaded from commoncause.in

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