



Road Safety Rights of Disabled Persons: An Empirical Case Study of Fergusson Road, Pune

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Abstract

Increasing number of road accidents resulting from poor design and implementation of road infrastructure projects and allied issues is cause of concern for many developing and underdeveloped nations. Many gaps in the planning and design of road infrastructure requires an urgent attention in order to save the casualties on road. Disabled persons are often the victims of human rights violations arising from poor design and construction of road infrastructure. In India, the needs and convenience of disabled have often been neglected in course of planning, design and construction of road projects. This has led to raising some serious human right violation concerns.

This research paper applies doctrinal analytical model to understand the statutory recognition of rights of disabled persons in India. Empirical model of a case study has also been employed to test the convenience of Fergusson College Road, Pune for the disabled persons. Case study employs both observation tool and survey questionnaire tool to gather data relevant to research question. The said road is redeveloped recently as a model road under Smart City Project of Government of India. For ensuring safety of disabled, authors have given suggestions like, construction of footpaths with reflectors, ramps etc., provision of mandatory insurance providing for risk liability of local authorities against disabled persons etc. The paper involves the theoretical framework provided by international bodies regarding the Safe System Approach of Road Safety and its reflections in road safety measurements and policy implementations related to disabled persons at the local levels in India.

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KeyWords: Disability Rights, Law Enforcement, Road Safety, Safe System Approach

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Introduction

“...so, yes, road safety is a human rights question”
Mr. Zeid Ra'ad Al Hussein,
UN High Commissioner for Human Rights
Roads are meant for 'All' which means and includes the people with disabilities as well. Right to Road Safety is the part and parcel of fundamental rights of the citizens and governments must take cognizance of the same to protect the right to road safety, not only of the general citizens but as well as the especially disabled people. Unfortunately, the plight of disabled persons in case of having safe roads for commutations is difficult than others and by not providing adequate measures ensuring the accessibility of road safety measures, fundamental right of these people is frequently being denied. This research paper

focuses on Road Safety measures concerning disabled with the help of empirical research conducted in Pune City; the city which is being developed as SMART city by the Government of India. Various infrastructural changes have been introduced under the scheme of SMART City and focus is more on redesigning and redeveloping the Roads in the city. Fergusson Road (commonly known amongst the residents of Pune as 'FC Road') which is one of the prominent road recently developed by the local authorities under the 'smart city project' is taken as a case study for the present research.

Methodology

The methodological approach deployed in the present research is of two types.

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First, doctrinal method involving analysis of existing literature and resources having nexus with the road safety measures of disabled persons. It includes data referred from United Nations documents and instruments pertaining to road safety initiatives. The theoretical base concerning the safe system approach for the present study is taken from United Nations' Global Plan for the Decade of Action for Road Safety 2011-2020.(United Nations General Assembly, 2010)¹ Reference is also made to the legislations available in India concerning the rights of Disabled i.e.The Rights of Persons with Disabilities Act, 2016(THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016)¹¹ along with the Constitution of India for understanding the legislativerights-based approach of road safety for disabled. International human rights instruments such as Universal Declaration of Human Rights (UDHR) has also been referred.

Second method applied is empirical analysis by use of the case study method wherein the convenient sample of FC Road, Pune is taken to check the practical implementation of statutory rights of safe roads to disables. Case study is conducted mainly byemployingthe observational tool of data collection along with the questionnaire survey to gather data about awareness amongst disabled about their rights and their practical experiences on road. Target subjects identified for the research were people with disability, broadly categorized in two categories namely, visually impaired and physically disabled. The total sample size approached is 40, all of whom are mainly the disabled college students having experience of using FC Road in recent times. Considering the paucity of time and current pandemic restrictions, sample selection was based on convenience sampling. Data was collected in form of responses received via googleforms and were duly analyzed aligning with the objectives of the research.

Literature Review

The Rights of Persons with Disabilities Act, 2016; ACT NO. 49 OF 2016.

The Act vests many important rights in persons suffering from disability. Road safety rights of disabled are provided for u/s 6, 8and 14 of the Act. Analysis of these provision forms an integral part and base for the doctrinal analysis of the paper.

UN General Assembly Resolution (A/64/L.44/Rev.1 and Add.1). Improving Global Road Safety.2 March 2010.

The resolution requires the member states to take

steps for improved safety on road. It calls upon member states to implement road safety initiatives including rehabilitation of people with disabilities and encourages adherence to the 'the Convention on the Rights of Persons with Disabilities.' Ass mentioned in research methodology of this paper, this General Assembly resolution has been taken as theoretical base of safe system approach in present research work.

The United Nations. The Convention on the Rights of Persons with Disabilities. 13 December 2006.

The convention is the only source that has provided express recognition of right of accessibility of road to persons with disabilities. Most of the international human right statutes by United Nations, fail to recognize the road safety rights of the disabled persons. Hence, the convention is avital source of road safety rights for the people with disability.

Objective Of The Research

The Research Aims At

- Doing analytical study of road safety rights of disabled under Indian law.
- To do a critical empirical study of the practical implementation of legal road safety standards for disabled people at Fergusson Road, Pune, Maharashtra, India
- To identify, through observation tool, the hurdles in movement of disabled pedestrians.
- To conduct safety and accessibility (of disabled) audit of Fergusson Road through survey questionnaire and observation tool.
- To propose suggestions for improved safety and accessibility to disables on roads in Pune (and all over India)

Road Safety Rights of Disabled Persons

In India, road safety rights of disabled persons are protected under the Rights of Persons with Disabilities Act, 2016. Relevant procisions of the law are as follows;

Section 6 affords right to protection from cruelty and inhuman treatment. It casts a duty on appropriate government to take measures to prevent "torture, cruel, inhuman or degrading treatment" against disabled persons. (The Rights of Persons with Disabilities Act, 2016)

The term inhuman treatment has not been defined under the Act. The definition given by European Commission on Migration and Home Affairs provides that, "[it is a] treatment which is

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premeditated and applied for hours at a stretch and causing either actual bodily injury or intense physical and mental suffering.” (European Commission)ⁱⁱⁱ

International Committee on Red Cross (ICRC) provides that, “Cruel or inhuman ...treatment consists of acts which cause serious pain or suffering, whether physical or mental, or which constitute a serious outrage upon individual dignity.” ICRC further explains the term degrading treatment as, “treatment consists of acts which cause real and serious humiliation or a serious outrage upon human dignity, and whose intensity is such that any reasonable person would feel outraged.”(International Committee of the Red Cross (ICRC), 2016)^{iv}

Article 25 of the Universal Declaration of Human Rights recognizes “right to a standard of living adequate for the health and well-being of themselves and of their family.” Same provision further recognizes right to security in case of disability. (United Nations, 1948)^v

Similarly, Article 9 of the Convention on the Rights of Persons with Disabilities provides for Right to accessibility to “Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces” (United Nations, 2006)^{vi}

From aforementioned discussion, one can conclude that, persons suffering from disability deserve equitable treatment in order have safe commutation in public places. Noncompliance with safety standards for disabled persons may result in violation of basic human rights such as right to safety, right to adequate standards of living, right against degrading, inhuman treatment and (considering the risk to life due to unsafe roads) right to life.

Section 8 confers rights to “...equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.”(The Rights of Persons with Disabilities Act, 2016, 2016)

However, the term ‘situation of risk’ has not been defined and may be interpreted in broadest possible manner to include the right to safe commutation.

Section 14 of the Act provides for following facilities to disabled persons in case of access to transport;

- a) “facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines”
- b) “Access to all modes of transport that conform the design standard... technically feasible and safe for persons with disabilities...”
- c) “Accessible roads to address mobility necessary for persons with disabilities.”(The Rights of Persons with Disabilities Act, 2016)

Case Study of Road Safety of Disables at Fergusson Road, Pune

Researchers conducted an empirical investigation by employing observation tool to identify/audit compliance with the safety norms at the project area, i.e. Fergusson Road, Pune

Sampling Technique

Researchers applied convenience sampling technique and selected Fergusson Road as both the researchers are well verse with the demographic situations in the sample area. Due to paucity of time and current pandemic restrictions imposed by the local government, convenient sampling was used for the reasons of quick collection of data low cost and easy accessibility etc.

Results And Discussion

Case study of FC Road, Pune was conducted to check the practical observance of statutory rights of disabled. The safety parameters which were tested during the study were as follows;

1. Accessibility and convenience of Footpaths for disabled.
2. Convenience of Bus Stop and seat arrangement at the stop
3. Road crossing
4. Traffic lights and signals

Observational Tool

Data gathered after employing observational tool revealed following discrepancies at the FC Road, thereby rendering an awful, dangerous and inhuman road conditions for people with disabilities;

Observations at Fergusson Road, Pune [FC Road]



	
<p>No designated area of Parking for people with disabilities</p>	<p>No adequate gap between bollards for passing of Wheel-Chair</p>
	
<p>Dustbins blocking tactile paving obstructing the commutation of visually disabled</p>	<p>Unsynchronized and dangerous (on the edge) construction of tactile paving</p>
	
<p>Parking of vehicles on footpath blocking tactile paver line</p>	<p>Trees and shrubs blocking tactile paver line</p>



Vendors blocking footpath

Questionnaire Survey

Questionnaire survey was conducted with two primary objectives;

- a. To check awareness amongst the disabled persons about their statutory rights related to road safety under the Rights of Persons with Disabilities Act, 2016.
- b. To check the implementation of safety measures and protection of road safety rights of disabled on the Fergusson Road, Pune.

Reasoning for Sample Selection

Dependent variable of safety standards at Fergusson Road was selected based on the following unique characteristics of Fergusson Road;

- a. With multiple big reputed educational institutions like Fergusson College, Marathwada Group of Colleges, P.E. Society's Modern Colleges, Ranade Institute of Mass Communication and Journalism etc. situated on or around the Fergusson road, it is always flooded with thousands of college students (most of them consisting of disabled ones) daily.

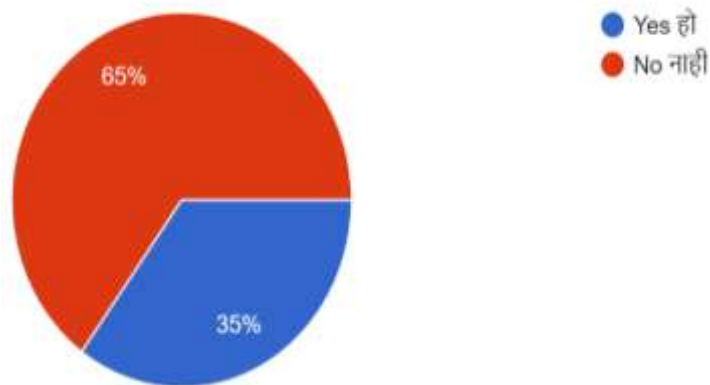
- b. With some of the city's most famous hotels (like Hotel Rupali, Hotel Vaishali, Hotel Wadeshwar, Café Goodluck etc.) and the shopping hubs like Hong Kong lane situated on Fergusson Road, it is always crowded with people walking around for food, shopping etc.

- c. Under the 'Smart City' initiative of Central Government of India, the Fergusson Road has recently been redeveloped as per the modern standards and requirements.

For the aforementioned reasons, Fergusson Road in Pune is unique and appropriate for analyzing the research question in hand. Hence, the case study focuses on Fergusson Road.

Results

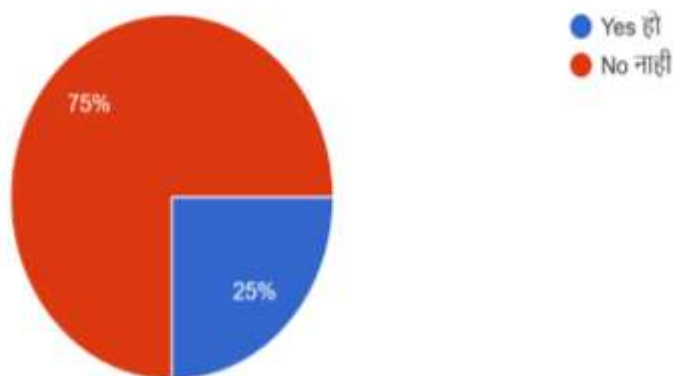
Questionnaire survey responses were obtained from 40 disabled students, pursuing their degree education from various educational institutions situated on and around the Fergusson Road. All the respondents were suffering mainly from two types of disabilities, visual and physical. Considering current pandemic restrictions imposed by local authority, the questionnaire was circulated through virtual mode i.e. Google forms.



***Graph 1: Awareness about Rights amongst Disabled**

65% respondents were unaware about their rights under the Rights of Persons with Disabilities Act, 2016 of India. In spite of all the higher educational

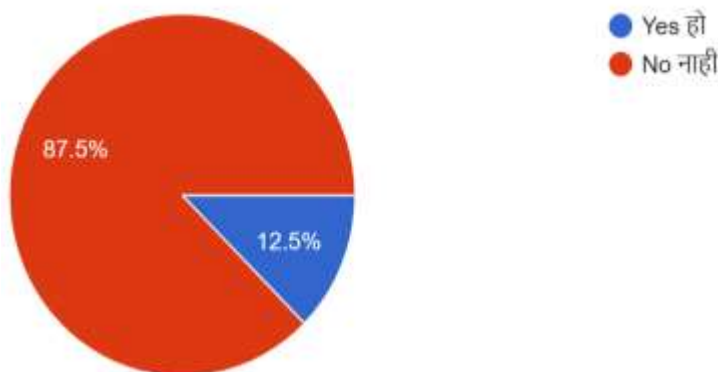
backgrounds (all the respondents are college going disabled persons), the unawareness about their rights is alarmingly high.



***Graph 2: Awareness about Road Safety Rights amongst Disabled**

Staggering 75% of the respondents (all of whom are college going disabled persons) are unaware

about their road safety rights under the Rights of Persons with Disabilities Act, 2016 of India.



***Graph 3: Awareness about WHO initiative of 'Road for All'**

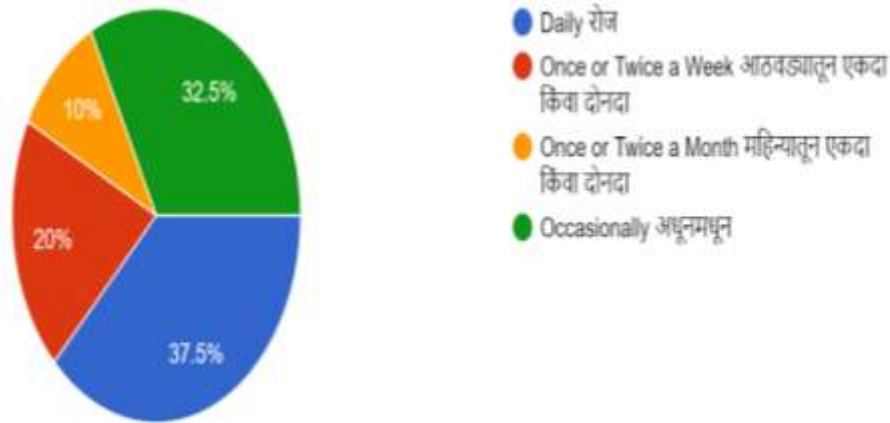
WHO has declared 2021-2030 as 'Decade of Action for Road Safety.' Safe Road for All is an initiative propounded by WHO with an objective of providing

equitable road infrastructure taking care of the needs of disabled persons. Unfortunately, 35 out of 40 (i.e. 87.5%) respondents were found to have no



knowledge about any such initiative. The fault lies on the shoulders of all educational and governmental institutions in not creating awareness drives about WHO initiatives. Despite

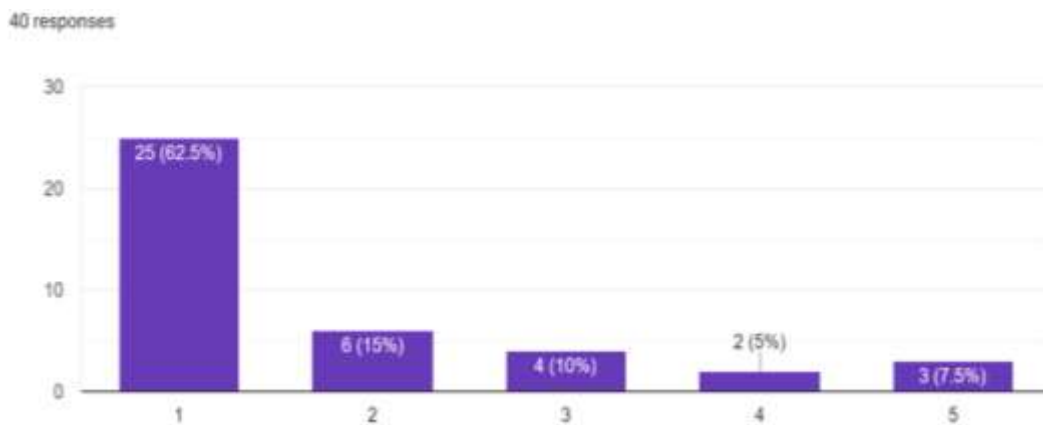
India being a signatory of WHO and Pune being a popular hub of education (often referred to as Oxford of the East) the lack of awareness and initiatives is alarming.



***Graph 4: Frequency of visit to Fergusson Road (FC Road)**

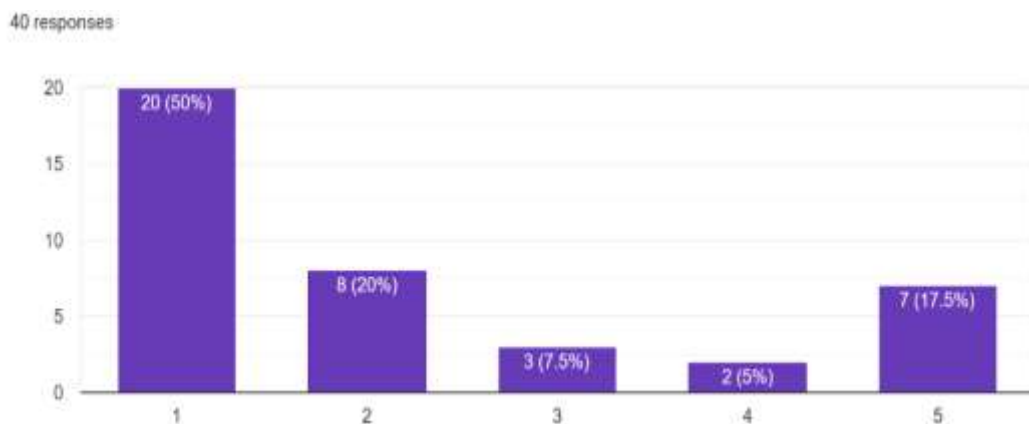
67.5% of the respondents are the frequent visitors of Fergusson Road (FC Road).

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***Graph 5: Freedom of mobility for disabled at FC Road (scale of 1 (very bad) to 5 (very good))**

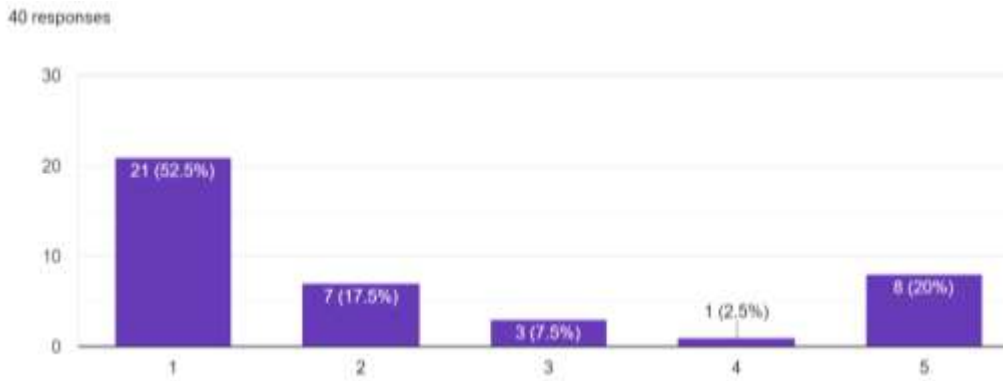
25 out of 40 respondents rated the recently redeveloped FC Road to be 'very bad' in terms of freedom of mobility. Only 3 out of 4 were found the same to be very good.



***Graph 6: Road accessibility (scale of 1 (very unsatisfactory) to 5 (very satisfactory))**



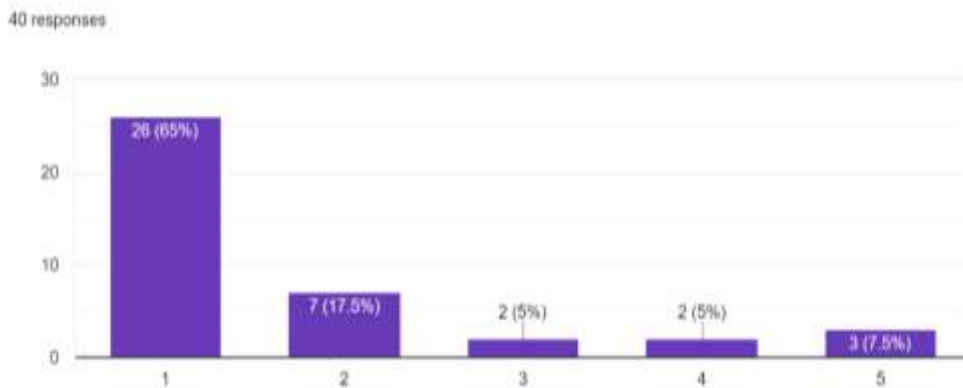
28 out of 40 (70%) respondents rated the terms of accessibility. Only 7 rated it to be very infrastructure on FC Road to be unsatisfactory in satisfactory.



***Graph 7: Measures for visually impaired at FC Road (scale of 1 (very unsatisfactory) to 5 (very satisfactory))**

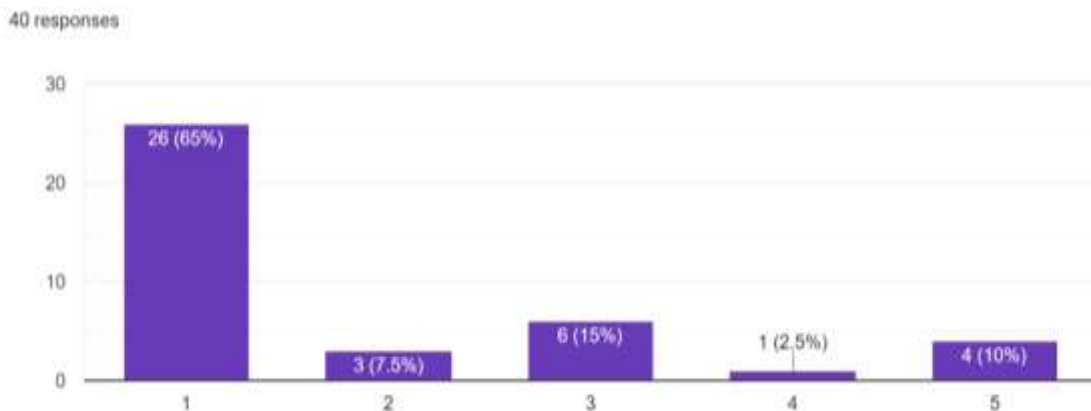
28 out of 40 (70%) respondents rated measures for visually impaired at the FC Road to be unsatisfactory (with 21 rating very unsatisfactory). Only 8 of the respondents found the measures to be satisfactory.

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***Graph 8: Wheel chair accessibility of FC Road (scale of 1 (very unsatisfactory) to 5 (very satisfactory))**

33 out of 40 (82.5%) respondents were found to be unsatisfied with the accessibility to wheelchairs on FC road.

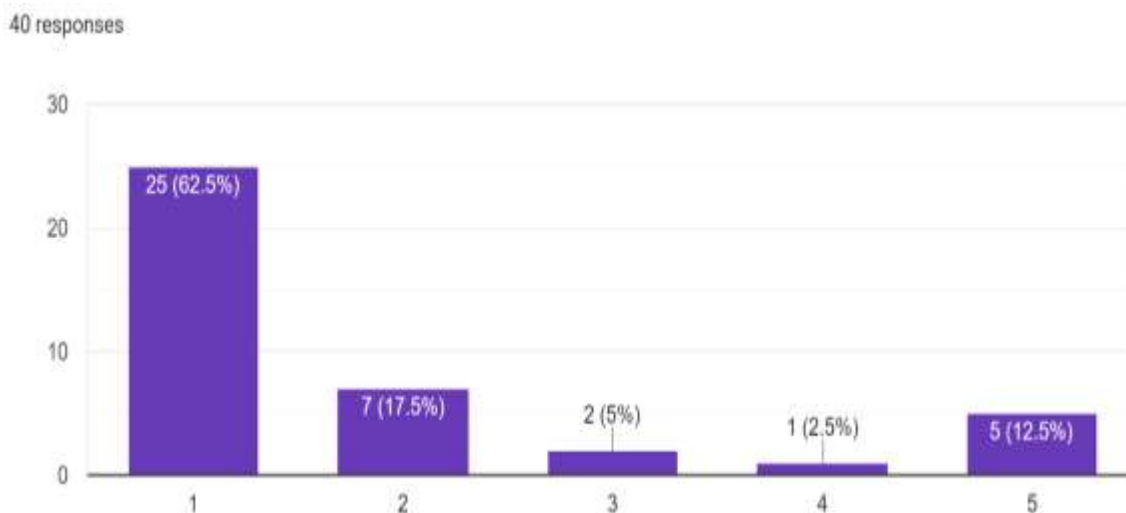


***Graph 9: Signage's on road and footpath for pedestrians (scale of 1 (very unsatisfactory) to 5 (very satisfactory))**



satisfactory))

26 out of 40 Respondents found the signage's on road for safety of pedestrians to be very unsatisfactory.



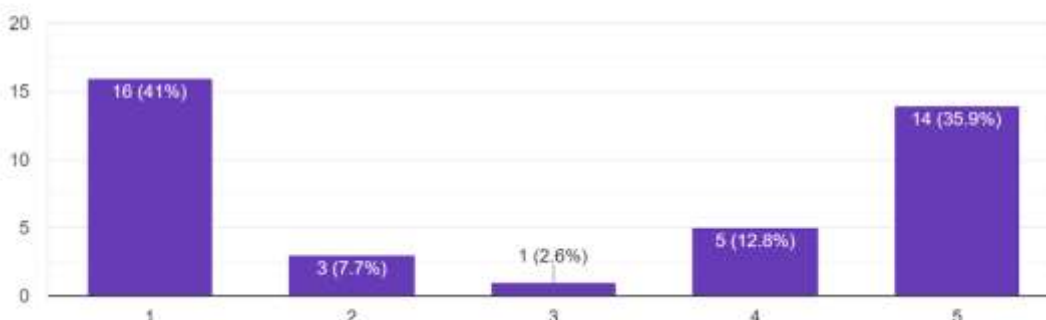
***Graph 10: Disturbance caused by peddlers (scale of 1 (very high) to 5 (very low))**

Famous for shopping and food, FC Road was also found to be very notorious for disabled persons as 32 out of 40 respondents found the road to be bad

for commutations of disabled pedestrians as most of the footpaths are occupied by peddlers.

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19. Accessibility and Comfort of bus stops and seating arrangement at stop. बस थांब्यांची सुलभता आणि आराम आणि थांब्यावर बसण्याची व्यवस्था
 39 responses



***Graph 11: Comfort of bus stop and seating arrangement for disabled (scale of 1 (very unsatisfactory) to 5 (very satisfactory))**

Nearly half of the respondents i.e. 19 out of 40, found the facilities and seating arrangement at the

bus stop to be unsatisfactory.

Suggestions/Research Contribution

- Mandatory public liability insurance must be provided by local authorities, covering entire medical and compensatory damage arising out of any mishap happening on footpaths. In case of accident involving disabled victims, or resulting in disability to anyone, such damages shall be four times than normal damages.

- Amount of such damages and may be recovered from contractor in case of damage resulting from faulty design and construction.
- Contractors constructing footpaths in violation of standard norms violating rights of disabled should be blacklisted for minimum five years, thereby preventing such defaulters from constructing/carrying out any infrastructural projects in near future.



- Awareness initiatives such as workshops, webinars and conferences on rights of persons with disability must be organized by educational institutions and local authorities. Educational institutions engaged in such awareness initiatives must be provided with certain incentives.
- Regulatory educational bodies such as University Grants Commission (UGC) in India should take aggressive initiatives to implement the campaigns such as '2021-30, Decade of Action for Road Safety' by WHO. This will help in generating awareness about social issues such as road safety rights.

Some of the Suggestions Given by the Survey Respondents are as Follows;

- Distance between two boulders should be long enough to pass a wheelchair through the same.
- Obstructions on footpath such as, peddlers, poles, shrubs, parking of two wheelers should be removed. Defaulters be penalized with social service for at least a week.
- Assisting technology should be used at the footpath, signals and zebra crossing for disabled persons.
- Dedicated parking and waiting area for disabled persons.

Conclusion

Ongoing works of road redesigning and redevelopment should be calibrated to accommodate concerns of all stakeholders and road users. Roads are to be equally accessible by all and government agencies should be careful towards incorporating the necessary changes for the same. Guidelines are in place but there is no accountability check. The present research was an attempt to do the safety audit of Fergusson, Road, one of the crowded road in Pune City. The road, in spite of being one of the most modern road in terms of infrastructural availability due to recent redevelopment under 'Smart City' project, was found to have several lacunas in terms of its compatibility to the disabled persons. The situation

of other roads in Pune is far worse than FC Road. If new infrastructural developments are being done ignoring the basic needs of disabled, it is gross injustice towards them and apart from that this is gross misuse of public funds. Such type of works are needed to be relooked and reoriented in such manner that will ensure the equitable access for all. It is not only a fundamental right but is a necessity in order to assure the basic dignity to the especially abled citizens. Aforementioned suggestions may help in correcting the existing infrastructural defects and avoiding the same in future ones so as to protect the rights of disabled.

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