



Purple
Orange

julia farr association inc

**Some Considerations on the Implementation
of Article 9 on Accessibility of the
United Nations Convention on the Rights of
Persons with Disabilities**

Brief paper



Published by

JFA Purple Orange

Adelaide, Australia

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ISBN 978-0-9807086-2-2

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1.0 Summary

JFA Purple Orange prepared this paper in response to an official call for papers by the Committee on the Rights of Persons with Disabilities Working Group, offering commentary on several questions posed by the Committee.

The points made in this paper do not necessarily represent the full range of considerations, but instead reflect the short timeframe within which this paper was prepared.

2.0 Introduction – about Julia Farr and Purple Orange

Though a relatively young organisation, the Julia Farr Association is the latest entity in an organisational history of disability support spanning over 130 years. It is a self-funded, social profit (not for profit), non-government organisation. No longer a conventional service provider, the Association delivers research, policy development, consultancy and information services anchored upon the perspectives and experiences of people living with disability, family members and other supporters. The Association is well placed to provide informed and balanced commentary on a range of issues relevant to people living with greater vulnerability.

JFA Purple Orange is the shopfront for this work. Anchored on the theoretical principles of *Personhood*¹ and *Citizenhood*², and via research and dialogue with people living with disability or other types of greater vulnerability, JFA Purple Orange develops policy and practice in support of people getting a fair go at everything that life has to offer.

Julia Farr Association also administers trust funds, and awards grants to individuals and entities for initiatives that promise practical or innovative ways to support people into ordinary valued lives.

Its sister entity, the Julia Farr Housing Association is the landlord for a range of accessible community houses, and works with its tenants and their support agencies on accommodation matters. Its work is guided by exploration of best practice in the design and construction of accessible affordable housing and its proximity to community life. The agency is also deepening its understanding of the role of *Social Landlord* (McLoughlin and Tually, in press).

The agency also hosts the movement known as In Control Australia, an unincorporated collective of individuals and agencies interested in the advancement of individualised budgets and personalised supports in the lives of Australians living with greater vulnerability.

¹ *Personhood* refers to a person's status as an individual, in terms of identity, uniqueness, value, potential, and dignity. (Williams, in press)

² *Citizenhood* refers to an active lifestyle ^{that} has the prospect of fulfilment for the person concerned. Such a lifestyle is one where, as part of a personally defined set of lifestyle choices, the person is in and part of their local community, contributing and growing through involvement in meaningful valued activities, and participating in a network of relationships characterised by acceptance, belonging and love. (Williams, 2010)

3.0 About accessibility: Initial observations

Our understanding about accessibility is that it relates to the extent a person can access material resources, including buildings, public spaces, communications, consumer durables and transportation.

Through our research at JFA Purple Orange, and our design and construction work at the Julia Farr Housing Association, we have learnt (among other things) several issues in particular, relating to the nature of standard access, the relationship between access and inclusion, the politics of access, and access and identity.

3.1 Standard accessibility

While the notion of standards for accessibility can be helpful for setting expectations (or regulating), such standards can be seen as the finishing point (or even aspirational) by those carrying the obligation to deliver such accessibility. The problem with this approach is that it neglects the obvious fact that people living with disability are not of a standard shape or size; people are different and therefore likely to have differing personal requirements for access. Therefore, any standards for accessibility should be seen as a starting point, and subsequently superseded by the known requirements of a particular individual, especially where the individual is the sole or main user of the material resource.

In other words, while principles of universal access can be well-suited to the design and construction of a public convenience, any associated standards can only be a starting point in the design of a bathroom in the private home of a person with specific accessibility requirements.

3.2 Relationship between access and inclusion

With the growing focus on standards for accessibility (for example in civil construction and public transportation), there is a risk that government and industry stakeholders conclude that attending to such standards will in due course result in people living with disability taking up active roles in community life. Any such conclusion is ill-considered. For example, it is entirely possible for a public library to be designed and constructed in ways that reflects known best practice in accessibility, and yet for a customer living with disability to find that library operating in ways that exclude the person. This might include staff habits that are not welcoming or considerate.

Meanwhile, it is entirely possible that an inaccessible venue is still usable by a person with accessibility needs because of efforts undertaken by other people at that venue. A current example of this is a young man using a number of local music venues that are inaccessible to his wheelchair, yet able to do so because of the efforts of others in his social network and personal accommodations by staff at those venues.

Based on these and similar observations, we conclude that people's chances of taking up active Citizenship in our communities are best supported when capacities of access, welcome and personal consideration are in place.

3.3 Some considerations on the politics of access

In addition to a focus on physical barriers there needs to be a focus on social, institutional and political processes that produce 'disabling' spaces.

The social construction of a society can privilege particular forms of embodied citizenship, particularly those associated with a normalised body form in contrast to the impaired body. Structural factors such as poor access significantly contribute to the situation.

Any understanding of access must be underpinned by an understanding of disability as a social and political construct, i.e. the rejection of medical and rehabilitative conceptions of disability, and rather understand disability in the context of the complexity of social and political attitudes and relations that currently undervalue people living with disability.

Currently many spaces can be considered 'landscapes of power' characterised by 'geographies of exclusion' in which systems have oppressive practices which manifest in the behaviour of people and are integrated throughout the production of places that exclude certain groups such as people living with disability (Imrie and Edwards, 2007).

There is a strong focus on physical barriers when considering access issues. Rather, there needs to be an equally strong focus on social, institutional and political processes that produce disabling spaces (Imrie and Hall, 2001). Access is more than a physical or technical issue; it is also embedded in cultural and aesthetic representations and political practices, the result being that an architect's drawings and plans revolve around normalised bodies (Imrie and Edwards, 2007).

Whilst there had been progress it is an ongoing struggle to convince architects to approach design for people living with disability as they would for classifications such as age, gender, class and ethnicity. It is only recently that housing studies have discussed disability and/or impairment when considering the meaning of home (Imrie and Edwards, 2007).

3.4 Considerations on the relationship between access and identity

There is a relationship between identity and space. Places are influential in how people living with disability feel about themselves. There are significant developments emerging in the work of chronic disease, pain and the personal even biographical context of disability and impairment (Park et al., 1994; Dyck, 1995; Moss and Dyck, 1996). For example, a wheelchair is a means of independence and movement, maybe even freedom. If a person using a wheelchair is in a space that does not allow free and dignified movement, then the person's attention may be drawn to that part of their identity that relates to impairment, discriminated difference and disablement. Driedger et al. (2004) documents the indignity of

disability for people living with multiple sclerosis when the physical design of spaces obstructs ease of movement.

4.0 In Response to the Committee’s Question: what is the relationship between the UNCRPD Article 9 on Accessibility and Article 5 on Equality and Non-discrimination?

Based on the Model of Citizenship Support (Williams 2010; Williams in press), people need to be able to access a range of material resources and opportunities if they are to build goodness in their lives. Poor accessibility means that a person cannot access those material resources and opportunities; this is a manifestation of discrimination and creates inequality in our communities.

Authentic equality is impossible unless there is full and fair access to community amenities and opportunities.

5.0 In Response to the Committee’s Question: what is the nature of accessibility as defined in Article 9 and other relevant Articles of the Convention – a principle, a right, a precondition for full and equal participation of persons with disabilities in society and for their liberty of movement, or all of the above?

The Convention is a code, in that the rights contained within it are the codification of deep and commonly felt values. Stated principles such as *accessibility* and *equality* are the codification of values such as fairness, free will, the inherent potential of all human beings, the fundamental joy of making a participative contribution, and the importance of belonging.

In the Convention, accessibility has been codified as a right, because its presence will assist the advancement of such values. Because of the dramatic consequences when accessibility is absent, it can be regarded as an important precondition for advancing and upholding these deeper values. However, it is not the only precondition and its presence does not guarantee that such values will be advanced or upheld.

6.0 In Response to the Committee's Question: what are the aspects of progressive realization of the accessibility and the relation between accessibility and reasonable accommodation?

6.1 Relationship between access and inclusion

There are at least three progressive stages to realising authentic accessibility; setting expectations, building capacity, and advancing community mindfulness.

Setting and administering enforceable expectations

Accessibility standards in material resources – such as buildings, public spaces, consumer durables, and transportation – should be considered as the starting point for advancing fundamental values. This means there needs to be a systematic program of legislative and regulatory review to ensure any such standards properly reflect concepts like universal access and lifetime adaptability, and the deeper values that underpin them.

Stakeholder capacity-building in best practice accessibility

This should be followed by a program of systematic capacity-building of relevant stakeholders – for example building industry professionals, transportation manufacturers and operators etc – so that they understand and uphold their obligations. This should include material about access and inclusion as core content (not optional extras) of all relevant professional training, such as architecture, design and engineering. In a similar vein, training material needs to emphasise that accessibility is not an optional add-on or obligatory afterthought in the design and construction of material resources, but instead is a core design consideration.

Advancing community dialogue and practice in creating welcoming places that can respond in highly personalised ways

This should be accompanied by a program of systematic dialogue, and development of communities of practice, that advance people's mindfulness of the inherent uniqueness and worth of all citizens, and discuss how this translates to an authentic welcome and engagement, and the development of access solutions that go beyond standards to deliver a highly personalised response.

6.2 Reasonable accommodation

In the context of the Convention, Accessibility is presented as a right. As asserted elsewhere in this short paper, this represents an attempt to codify deep and commonly felt values such as fairness, free will, inherent potential of every human being, the joy of participative contribution, and belonging.

Therefore the notion of 'reasonable accommodation' needs to be used carefully and in ways that are auditable in terms of the above values. Otherwise, as we have seen in the manifestation of disability standards in education in Australia, the notion of 'reasonable' can be interpreted in the context of other competing interests that ultimately occupy a lesser place in the hierarchy of human values, such as affordability and organisational convenience.

7.0 In Response to the Committee's Question about the input, mandate and competencies of various national stakeholders – the public authorities, expert associations (e.g. Chambers of Architects and Engineers), the academia and the civil society (in particular organizations of persons with disabilities) – in defining the national accessibility standards and monitoring its' implementation.

7.1 The principle of the central contributor

Our view is that the central contribution to any discussion about the setting and enforcement of accessibility standards must be the authentic perspective of people living with disability; this can be via consumer-led organisations, and should be present in all the elements described elsewhere in this paper.

7.2 The principle of collaboration

A collaboration of stakeholders is critical to properly upholding and advancing accessibility so that it authentically contributes to the deeper human values that underpin it. Public authorities, expert associations, academics and other stakeholders within a civil society all bring important expertise. The absence of any such stakeholder perspective can significantly undermine the synergy for helpful change.

7.3 Genuinely felt subscription to fundamental values

It is a relatively straightforward task to define and establish settings for the input, mandate and competencies of various stakeholders, assuming that the goal of such settings is to deliver coherent enforceable expectations for authentic accessibility. Prior to this work, the larger task is to achieve the enrolment of the various stakeholders to the deeper values. This necessarily goes beyond a rational discourse about legislative and regulatory settings for delivering the physical manifestation of accessibility, to a deeper reflective discourse where there is a true moment of clarity, a 'Eureka', an 'A-Ha', where the stakeholder emotionally connects with the fundamental values that lie beneath the stated right of

Accessibility, in a way that creates enduring change in that stakeholder's mindfulness about access.

8.0 In Response to the Committee's Question about examples of good practice in promotion of universal design and accessibility, funding and realization of regional, national and local action plans for accessibility and the removal of barriers in physical environment, public transport, information and communication and access to services opened to the public.

Because of the short timeframe for preparing this paper we have elected not to attempt a summary of evaluated good practice in accessibility. However, there are many encouraging examples of policy, planning and practice that are delivering authentic gains in accessibility and the associated underlying deeper values.

JFA Purple Orange is available to contribute to such research if required.

9.0 Concluding Remarks

This short paper has attempted to offer some observations on accessibility, framed by a request from the United Nations Committee on the Rights of Persons with Disabilities. JFA Purple Orange is available to offer supplementary commentary or undertake additional research should this be required by the Committee.

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