

# Violations of the right to water and sanitation

Submission to the UN Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque for her annual thematic report to the Human Rights Council.

Joint submission by Rashtriya Garima Abhiyan (RGA), National Campaign on Dalit Human Rights (NCDHR) and the International Dalit Solidarity Network (IDSN) (February 2014)



## 1. Manual Scavenging – violations of the right to sanitation

### a) Introduction

Manual scavenging is a caste-based and hereditary occupation for Dalits that is predominantly linked with forced labour. It is estimated that around 1.3 million Dalits in India (of which more than 80% are Dalit women), make their living through manual scavenging - a term used to describe the job of removing human excrement from dry toilets and sewers using basic tools such as thin boards, buckets and baskets, lined with sacking, carried on the head. Manual scavengers earn as little as one rupee a day. Though this vile and inhumane practice was abolished by law in India in 1993, the practice is deeply entrenched in South Asian societies. A historic Supreme Court Ruling in May 2009 may help bring an end to this abhorrent practice in India. The Court held Government appointed District Collectors responsible for not eradicating the demeaning and hazardous practice. Dalit scavengers are rarely able to take up another occupation due to discrimination related to their caste and occupational status, and are thus forced to remain scavengers. They are paid less than minimum wages and are often forced to borrow money from upper-caste neighbours in order to survive and consequently they end up maintaining the relationship of bondage. See [IDSN page](#) for more information and resources on manual scavenging.

### b) India

Even after 6 decades of independence that saw India establishing democratic institutions, taking great strides in economic development and aspiring to be a global power, the country still struggles in the clutches of the caste system that has denied generations of Dalit people their rights and human dignity.

The practice of manual scavenging is continuing in India from Kashmir to Kanyakumari, from backward states to developed states. Even after making a law to abolish it in 1993 The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, it is not being implemented today.

It is amply clear that manual scavenging is one of the most prominent forms of discrimination. In India, largely two communities continue this inhuman practice – the ‘Valmikis’ (Hindus) and the ‘Haila’ (Muslims). While the Hailas come under the OBC category, the Valmikis belong to the scheduled caste and both are placed in the lowest rung of the Indian society, and therefore – untouchable within the untouchables.

*“The manual removal of human and animal excreta using brooms, small tin plates, and baskets carried on the head. The allocation of labour on the basis of caste is one of the fundamental tenets of the Hindu caste system. Within this system dalits have been assigned tasks and occupations which are deemed ritually polluting by other caste communities - such as sweeping, disposal of dead animals and leatherwork. By reason of their birth, dalits are considered to be "polluted", and the removal of human and animal waste by members of the "sweeper" community is allocated to them and strictly enforced...”*

*United Nations Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Working Group on Contemporary Forms of Slavery, 27th Session, Geneva, 27-31 May 2002*

They are made to live in locations that are isolated from the rest of the village community. In practice, the hierarchy of the society is made visible by the pattern of habitation of the people in the villages, town or cities. It begins with the upper castes occupying the decent locations followed by lower castes and then manual scavengers who are considered untouchables even within their own community. The extreme form of exploitation inherent in the caste system has made a mockery of modern India’s labour laws and international conventions on the rights of the workers. Manual scavengers, for example, are paid a pittance. An average manual scavenger earns around Rs.5 to Rs.15 per household per month.

Health is another issue of prime concern. Manual contact with excreta exposes manual scavengers to various diseases; infection of skin, rotting of fingers & limbs, tuberculosis and nausea are common. Several complain about the inability to consume food due to their exposure to excreta. Most women from the manual scavenging communities tend to be addicted to tobacco (Gutka) and men are given liquor in an attempt to diminish the repulsive nature of their work and beat back their state of hopelessness.

The children of the manual scavenging communities are usually treated with contempt by their teachers and fellow classmates. Denial of dignity generates fear among children, leading to very high drop-out rates.

Status of Women and Girl Children: The status of the women is the worst. They become vulnerable due to being women, being Dalits, and being manual scavengers. Surveys have revealed that 95 – 98% of the manual scavengers in the country are women. They bear the dual burden of taking care of their families as well as working as manual scavengers. They are subjugated, oppressed, marginalized and victimized in both social and household spheres of life. The girl child faces discrimination at all levels and is usually compelled to take up the occupation once married.

### **c) Continued violation of rights: Census of India 2011**

According to the Census of India 2011, there are still 794,390 dry latrines in the country, where the human excreta is cleaned up by humans. 73% of the dry latrines are in rural areas whereas 27% are in urban areas. Apart from these, there are 1,314,652 toilets where the human excreta is flushed into open drains. According to the definitions by Rashtriya Garima Abhiyan and the Drafting Committee for the amendment of the 1993

act, the human excreta flushed into open drains through toilets like these are also cleaned up by human beings. The census also adds that there are 497,236 toilets in the country where the human excreta is cleaned up by animals through their consumption. However, this is confusing as we do not see it possible that all this human excreta is cleaned up entirely through animal consumption. Ultimately, it is cleaned up by humans. Thus there are more than 26 lakhs [2.6 million] dry latrines in the country where the practice of manual scavenging still continues. The Census states that in the states of Madhya Pradesh, Gujarat, Chhattisgarh, Maharashtra, Andhra Pradesh, Haryana, Delhi NCR, Rajasthan and Jharkhand very few dry latrines still exist. However, this is far from accurate as surveys conducted by Garima Abhiyan and other organisations show that dry latrines exist and the practice of manual scavenging continues on a large scale in these states. It is surprising that in states where the practice of manual scavenging is clearly visible, the Census report downplays the number of dry latrines.

#### **d) India - violation and non-implementation of legislation**

As is amply evident, millions of people – majority of them women - across the country continue to be held captive by the inhuman and degrading tradition of manual scavenging. It is because of this caste-based tradition that they remain deprived of their constitutional and statutory rights to equality, liberty, education and social development. Manual scavenging is virtually a form of modern-day slavery that violates the following:

1. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Bonded Labour System (abolition) Act, 1976.
3. Section 7(a) of the Protection of Civil Rights Act, 1955, which deems anyone forcing another person to engage in bonded labour, manual scavenging or disposing animal carcasses to be committing a criminal offense punishable with 3 to 6 months of imprisonment and a fine of up to Rs 500.
4. The practice of manual scavenging violates articles 14, 17, 21 and 23 of the Constitution.
5. Various provisions of the Universal Declaration of Human Rights which hold all human beings to be equal and to which India is a signatory.

#### **e) Manual scavenging in Indian Railways**

The Indian Railways is an institution where dry latrines exist in great numbers and a large number of individuals are engaged in manual scavenging. Recently, the Rural Development, Water and Sanitation Minister called the Indian railway the world's biggest open toilet. 60% of all open defecation in the world is in India. The Indian railway with 11 million passengers every day is really the largest open toilet in the world. At present, only nine trains with 436 coaches are fitted with bio-toilets, while 4,000 coaches are produced annually which could be fitted with new bio-toilets developed by the Defence Research & Development Organisation (DRDO).

#### **f) Issues related to the Self Employment scheme for Rehabilitation of Manual Scavengers (SRMS)**

Uncompleted and unsuccessful rehabilitation of manual scavengers in India<sup>1</sup>: The Ministry of Social Justice and Empowerment, Government of India initiated the Self Employment scheme for Rehabilitation of Manual Scavengers (SRMS) in 2007. An amount of Rs.735.60 Crores was allocated for the rehabilitation of 3,42,468 individuals. This scheme was for the period January 2007 to March 2009 but was extended till March 2010.

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<sup>1</sup> Study on rehabilitation of manual scavengers (implementation status of SRMS scheme) in India by Rashtriya Garima Abhiyan – Jan Sahas [www.dalits.nl/pdf/120328.pdf](http://www.dalits.nl/pdf/120328.pdf)

Under this scheme only 1,18,474 individuals showed interest to avail the benefits out of which 78,941 individuals were benefited and 39,533 individuals could not due to various reasons. According to the Ministry, a total of Rs.231 Crores were released under this schemes between financial years 2006-2007 to financial year 2009-2010. Under this scheme, 13275 individuals were benefited. Rashtriya Garima Abhiyan – Jan Sahas conducted a survey on the Implementation status of SRMS in three states of India in year 2010-11. Some findings of this study are given below:

- a) 76% of people got benefits although they were not involved in the manual scavenging practice.
- b) The Scheme was not launched in 25% of districts with the reason given that the practice of manual scavenging does not exist in these districts. However, the study showed that the practice does exist in these districts.
- c) 98% of people engaged in the profession are women. But, it was found that the benefits of SRMS were given to 51% men in these three states.
- d) 85% of people said that they faced various types of problems in receiving their benefits such as; time wasting, bribe, misbehaviour and problems related to documentation and processes.
- e) Middle men or commission agents would visit Dalit bastis telling households to sign papers as the government had chosen them as beneficiaries of a new scheme. The beneficiaries would never be informed of the loan amount, the sanctioning officer or other details of the transactions. After a while, the middle men would revisit them and hand over Rs 3,000 to Rs 4,500. Many of these people were unaware of the reason for the money or how much money had been borrowed in their names. In Madhya Pradesh, around 68% of the beneficiaries were taken for a ride by the brokers, in Uttar Pradesh, 63% and in Rajasthan 62%.

There were many fallacies and gaps in this scheme due to which people did not avail the benefits in spite of the provisions. As a result, the scheme could not be effective. Some of the identified gaps in the schemes are as follows:

- a) Issue of women: Most of the provisions for rehabilitation under the scheme were not gender sensitive and addressed largely men. Our experience says that around 95-98% of the individuals involved in manual scavenging are women.
- b) Issue of loan: The biggest flaw in this Scheme was that although it was for the rehabilitation of those involved in manual scavenging, the key provision was for a loan with some amount of subsidy. In our opinion, to take a community, which was compelled to take up manual scavenging due to a caste based system and have been socially, politically and economically excluded, and rehabilitate through the provision a loan cannot be the solution, even if it comes with some amount of subsidy. The key assumption of this scheme was based on the loan feature. Therefore, it could not become successful in addressing its objectives.
- c) Defaulters: Most of the loans under the SRMS are through banks and most of these loan sizes are around Rs.25000, out of which 50% or Rs.12500 is the subsidy component. Most of the subsidy amount is spent on taking the loan due to the red tape and the loan amount (apart from the subsidy) is interest chargeable by the bank. Individuals who are not able to pay back this amount therefore become 'Defaulters'.
- d) Rural Areas: According to our survey around 60% of those involved in manual scavenging are in rural areas (larger villages and settlements). The focus of the survey and the benefits of the scheme was however skewed more towards urban areas, therefore limiting the benefits to those in urban areas and leaving out the others on a large scale.
- e) Corruption: There was large scale corruption involved in preparing the list for rehabilitation by the states. If we talk about Madhya Pradesh alone, we find that in districts where more than 165 women are involved in manual scavenging, not a single name was included in the list and in districts having 302 such women, 2186 names were included. Our surveys find that only 10% of those involved in manual

scavenging were actually included in the list and the rest were left out. This has resulted in many eligible individuals not receiving the benefits and at the same time, many ineligible individuals benefiting from the scheme. In many areas, it was found that rampant corruption had taken place with respect to the scheme. Almost all or most of the subsidy portions of the loans had gone to corruption and a monitoring system was lacking. Issues related to corruption have surfaced openly in many of the states.

- f) Self-contradiction and non-implementation of the scholarship scheme for manual scavengers<sup>2</sup>: An example of a particularly self-defeating government programme is a scholarship scheme for the children of the manual scavengers (Scholarship for the Children of Families involved in incline occupation). The scheme requires that families seeking the benefit have been engaged in manual scavenging for at least 100 days in a year. This scholarship scheme provides a perverse incentive for Dalit households to continue their occupation. Recently, the government has done some policy level changes. However, many state governments have not implemented these changes.
- g) Caste aspect: Government programmes emphasize the financial aspect of rehabilitation and fail to address the caste-based oppression and related social conditions that perpetuate and have perpetuated this practice for centuries.
- h) The Issue of Dalit Muslims: Many Dalit Muslims are also involved in manual scavenging in many areas and their situation is also critical. Similar to other Dalits, they face untouchability and discrimination. Moreover, not being included in the Scheduled Castes category, Muslim Dalits are furthermore deprived of rights and provisions under legislation such as SC, ST prevention of Atrocities Act 1989 and other schemes of the government for Scheduled Castes. Due to the lack of understanding of local administrations that Muslims are also involved in manual scavenging, Muslim Dalits are deprived of the benefits of schemes like SRMS.

We want to recommend that the Government of India forms a special package for Muslim Dalit families involved and liberated from the practice of manual scavenging which should include issues such as rehabilitation, education, housing and other similar issues of concern.

**g) National March for the Eradication of Manual Scavenging - Campaign to free manual scavengers/uphold their rights - Mail Mukti Yatra 2012-13**

To totally eradicate manual scavenging in India, a 65 day *Mail Mukti Yatra* was organized in 200 districts of 18 states in India. More than 5000 women freed from this evil participated in this *Yatra*. They went to colonies and houses of women engaged in this practice and motivated them to get free from this practice instantly. They explained that though they may be deprived of a few stale *chapattis*, few old clothes and some money and may be pressurized or boycotted, they should not continue do this work. "We won't do this and will live with dignity" was the motto. We won't take human excreta on our head and will live a life of dignity.

After these discussions, most of the women decided to leave the practice. At some places, if family members did not agree, then they were convinced through songs and bhajans. Once decided, the pots were burnt at a public place in the village and it was announced that manual scavenging had been abolished in the village from that day and if someone put pressure on freed people continue the practice, action would be taken against them. *Kacche* (Dry) Toilets were broken in some places and in other places, the untouchability was finished during the *Yatra* itself. Admission of community members at water sources, tea shops, barber shops and other places was ensured. In some places, people from non-Dalit communities opposed as well. In villages where Dalits were not allowed to wear chappels in non-Dalit colonies and were not allowed to take marriage processions, rallies with drum beats headed by women who used to practice manual scavenging

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<sup>2</sup> National Public Hearing on Rehabilitation of Manual Scavengers and their Children in India organized by Rashtriya Garima Abhiyan – Jan Sahas <http://www.thehindu.com/news/national/article3261450.ece>

were organized. After the whole process, the freed women were celebrated at a public place in the village and were given sweets and a memento.

This 10,000 km long Yatra was launched from Bhopal, Madhya Pradesh and covered 200 districts of 18 states and culminated in New Delhi. During the march, 3000 more women gave up manual scavenging. State as well as international actors, such as several governments and UN bodies, were aware of and supported the Yatra. For example, the European Parliament referred to the Yatra in their [European Parliament resolution on caste discrimination in India \(December 2012\)](#).

#### **h) The UN High Commissioner on manual scavenging**

On 31<sup>st</sup> January 2013, the UN High Commissioner for Human Rights, Navi Pillay, said that “Manual scavenging is a clear manifestation of discrimination based on Caste and Gender”<sup>3</sup>

GENEVA (31 January 2013) - The UN High Commissioner for Human Rights Navi Pillay on Thursday welcomed the strong movement that has been developing over the past few months in India to eradicate the practice known as ‘manual scavenging’ which, because of the stigma attached to it, has traditionally been carried out by Dalit women in a clear manifestation of discrimination based on caste and gender.

The focus on manual scavenging – essentially the manual removal of human excreta from dry latrines and sewers – has recently been significantly heightened in India by a National March for the Eradication of Manual Scavenging (also known as “Maila Mukti Yatra”). The March, which in addition to advocating for the eradication of manual scavenging has called for the comprehensive rehabilitation of those involved.

“I congratulate the strenuous efforts and commitment of the organizers, and of all the participants -- especially the thousands of liberated manual scavenger women -- who marched across the country in support of the many others who are still being forced to carry out this dreadful practice,” the High Commissioner said.

“An estimated 90 percent of manual scavengers are Dalit women who face multiple inequalities and discrimination based on their caste and gender, and who are often exposed to violence and exploitation,” she added.

“Because of the nature of the work, manual scavenging has contributed to a self-perpetuating cycle of stigma and untouchability,” Pillay said. “Manual scavenging is not a career chosen voluntarily by workers, but is instead a deeply unhealthy, unsavoury and undignified job forced upon these people because of the stigma attached to their caste. The nature of the work itself then reinforces that stigma.”

The High Commissioner met two years ago in Geneva some of those campaigning against manual scavenging “I was deeply moved when they presented me with a brick they had broken off a dry latrine,” she said. “I keep it by my office to this day as a reminder of their struggle.”

“I am encouraged to hear that the march has been supported by a wide cross-section of society, who have come together to energize the growing movement to abolish this degrading form of work, which should have no place in 21st century India,” Pillay said.

In September 2012, a new bill on The Prohibition of Employment as Manual Scavengers and their Rehabilitation was submitted to the Indian Parliament by the Minister of Social Justice and Empowerment.

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<sup>3</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E>

The bill builds on the strong legislative framework already in place prohibiting untouchability and bonded labour, and adds a comprehensive definition of manual scavenging.

“The new bill provides a solid framework for the prohibition of manual scavenging,” Pillay said. “India already has strong legal prohibitions on caste discrimination, so the key to the new law will be effective accountability and enforcement. It is also crucial that adequate resources are provided to enable the comprehensive rehabilitation of liberated manual scavengers. This is the only way these grossly exploited people will be able to successfully reintegrate into a healthier and much more dignified work environment, and finally have a real opportunity to improve the quality of their own lives and those of their children and subsequent generations.”

### **i) Recently passed legislation to prohibit employment of and rehabilitate Manual Scavengers**

In September 2013, “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2013” was passed by the Indian Parliament. This legislation aims to eliminate the inhuman practice of manual scavenging and rehabilitate liberated manual scavengers:

- The Bill prohibits the employment of manual scavengers, the manual cleaning of sewers and septic tanks without protective equipment, and the construction of insanitary latrines.
- It seeks to rehabilitate manual scavengers and provide for their alternative employment.
- Each local authority, cantonment board and railway authority is responsible for surveying insanitary latrines within its jurisdiction. They shall also construct a number of sanitary community latrines.
- Each occupier of insanitary latrines shall be responsible for converting or demolishing the latrine at his own cost. If he fails to do so, the local authority shall convert the latrine and recover the cost from him.
- The District Magistrate and the local authority shall be the implementing authorities.
- Offences under the Bill shall be cognizable and non-bailable, and may be tried summarily.<sup>4</sup>

This legislation is powerful in comparison to the 1993 law. It prohibits manual scavenging (manually cleaning or disposing of human excreta) in an insanitary latrine, open drain, railway track and also, it prohibits constructing an insanitary latrine. If anyone employs a manual scavenger or constructs an insanitary latrine, that person shall be penalized with imprisonment and a fine or both. The penalty for subsequent offences is higher. Every local authority is prohibited from employing a person for hazardous cleaning of a sewer or a septic tank. This provision is applicable within a year of the Act coming into force. The penalty for violation is imprisonment of up to two years or a fine of up to Rs 2 lakh or both. The legislation also aims to provide some rehabilitation provisions for engaged manual scavengers and their families. Offences under the bill shall be cognizable and non-bailable and may be tried summarily. A complaint has to be made within three months of the occurrence of the alleged offence. The offences under this Act may be tried by an Executive Magistrate on whom the state government may confer powers of a Judicial Magistrate of the first class. An offence may be tried summarily. Under this law, central government will constitute a Central Monitoring Committee and every state government, a State Monitoring Committee. Every state government shall constitute a Vigilance Commission for each district. The National Commission for Safai Karamcharis shall monitor the implementation of this law; inquire into complaints of contravention of the Act and advice the central and state government on effective implementation of the Act. Under the bill, the District Magistrate and the local

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<sup>4</sup>Legislative Brief, The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012 PRS Legislative Research, Institute for Policy Research Studies, New Delhi.

<http://www.prsindia.org/billtrack/prohibition-of-employment-as-manual-scavengers-and-their-rehabilitation-bill-2012-2449/> [Accessed on 1st February 2014].

authority shall be the implementing authorities and Offences under the Bill shall be cognizable and non-bailable, and may be tried summarily.

The last 20 years, State governments have done little to recognise the existence of the manual scavenging practice in their respective states; therefore identification of manual scavengers under the law will be the most critical challenge. In addition, mostly women are engaged in the manual scavenging practice, thus existing rehabilitation and welfare policies require gender sensitivity and social inclusion for female manual scavengers. Provisions regarding rehabilitation are not promising, as they are geared towards economic rehabilitation. Community people demanded socio-economic, political and educational rehabilitation for their comprehensive rehabilitation and holistic empowerment and this is entirely missing. The rehabilitation package and estimated budget, a very important component of the eradication process, lack clear description in the law. We will work towards bringing forward the above mentioned concerns and issues with the legislation and hope for government consideration of these components.

List of concerns with and limitations of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2013:

- The act fails to consider rehabilitation programmes for those who were liberated from manual scavenging before the 2013 manual scavenging act was implemented. This has been a major shortcoming of the Bill as it excludes a large number of scavengers from the rehabilitation process.
- The act has also failed to incorporate non-scheduled caste scavengers such as Dalit Muslims and Dalit Christians. The exclusion of Dalit Muslims and Dalit Christians mean they are unentitled to provisions under the rehabilitation and assistance programmes.
- The existing law prohibiting manual scavenging was enacted under the State List. There could be an argument for Parliament's jurisdiction to enact this Bill as this regulates conditions of work, and is thus a Concurrent List item.
- Neither the state nor the centre is mandated under the Bill to provide financial assistance for the conversion of insanitary latrines. This may adversely impact the implementation of the Bill.
- Offences under the Bill may be tried summarily though the penalty could be five years imprisonment. However, under the CrPC, only offences with a maximum imprisonment of two years can be tried summarily.
- The act refers to the provision of providing land but it remains completely silent regarding the location of the land.
- Chapter - 4 of the act focuses on the rehabilitation component of liberated manual scavengers, but the rules fail to address this rehabilitation adequately.
- Section – 13 of the new law provide for provisions related to the rehabilitation of the liberated manual scavengers, such as scholarships for children, residential plot and financial assistance for house construction or a ready-built house, training in a livelihood skill with monthly stipend, subsidy and concessional loans for taking up an alternative occupation on a sustainable basis and other legal and programmatic assistance. But rules do not provide any of these provisions.
- Rule – 3 states; “No person shall be engaged for hazardous cleaning of a sewer or a septic tank” and at the same time rule – 4 states; “Any person engaged to clean a sewer or a septic tank shall be provided by his employer the following protective gear and safety devices. Like Safety body clothing/ safety body harness/ safety belt, normal face mask, safety torch, hand gloves, safety helmet, etc.” This rule is in violation of the provision of total eradication of manual scavenging.
- Rule no. 38 of the draft rule addresses the quantum of initial, onetime cash assistance. However, it does not provide provisions as to the amount of the cash assistance, time period for this cash assistance, as well as the responsible authority.

- No clear and concrete provisions are provided in the draft rules for the enforcement of the law in government institutions such as the Indian Railways, Defense, etc.
- Liberated manual scavengers often face atrocity or violence. Non-SC scavengers (Dalit Muslim and Dalit Christians) are not protected under the SC/ST (PoA) act 1989 and the new Act and rules again fail to mention any provision of the protection for these communities.
- Rules are very technical; rules are Gender Blind and rules do not focus on Caste as an important aspect of the issue.
- In many States, Administration and local authorities, such as the Municipal Corporation and Gram Panchayats, force Dalits or Safai Karmcharies to perform manual scavenging. Nevertheless, under the rules, they are responsible for the enforcement of the law. This produces a contradictory and conflicting situation in the states.
- In many states such as Maharashtra, Manual Scavenging in the open (not in the dry toilets) is Institutionalized. The rules do not cover this form of manual scavenging.

## Recommendations

Manual scavenging remains a serious concern with regard to the issues related to human rights. The most essential prerequisite to abolish manual scavenging is effective legislation, considerable budget allocation, and economic assistance programmes for communities involved in manual scavenging. Lastly, awareness among the public to discourage degrading occupations like that of manual scavenging is inevitable.

1. **Socio-Economic Rehabilitation:** A viable and formidable rehabilitation scheme should be developed which must include provision for social and economic rehabilitation of families liberated from scavenging since 1993 and later, and also those who will be liberated in the future. The scheme should provide adequate provision for compensation, education, accommodation and employment. National scholarship programmes should be initiated for the children of liberated families. The scholarship with other necessary facilities should be provided from standard one to post-graduate level. Five acres of land should be provided by the Government to families liberated from manual scavenging. A one-time grant of Rs 5 lakh should be provided for dignified self-employment with adequate training for skill development. Employment for 365 days should be ensured for the people engaged in manual scavenging. People liberated from scavenging and their families should be entitled to all government schemes on a priority basis.
2. **Gender Aspect:** All rehabilitation schemes and programmes must be totally redesigned for the women that make up 98% of the workforce and are enslaved by this exploitative tradition.
3. **Government Appointments:** In the appointment of workers, assistants and cooks in ICDS (Anganwadi) centres, only women from Dalit communities should be appointed. Among Dalits, the manual scavenging community should be preferred.
4. **Dalit Muslim and Dalit Christian Manual Scavengers:** Non- scheduled castes such as Dalit Muslim and Dalit Christian communities engaged in manual scavenging should receive similar facilities and security to manual scavengers from scheduled castes.
5. **Indian Railway:** The Indian Railway is the largest institution in the country that use dry latrines. The Railway Ministry must immediately prohibit this practice and for the next three years present progress reports in every session of Parliament. This, so that the Government of India can ensure total abolishment of scavenging in Indian Railway in stipulated time.

6. Inclusion of manual scavengers' families and those families who have left manual scavenging in the Below Poverty Line (BPL) List: The Socio-Economic survey conducted by the Government of India has an automatic provision for including manual scavengers in the BPL list. However, no State Government is willing to admit the existence of manual scavengers in their State and hence they are knowingly omitted from the list. Thus, there should be a provision that the families which were engaged in manual scavenging till 5<sup>th</sup> June 1993 {date of the implementation of "The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993"} or after that should be automatically included in BPL list. Such provision has been done by the Ministry of Social Justice and Empowerment. In a letter from the Ministry dated 8<sup>th</sup> June 2011 (No 1014/28/2007 – SCD-V), sent to Secretaries of the SC Welfare Department of all States and Union Territories, a provision is formulated regarding scholarships for children of families engaged in 'unclean occupations'. Earlier, scholarships for children whose families left the practice of manual scavenging was stopped. However, according to this letter, there is a provision for scholarships for children whose families were engaged till the enabling of the 1993 Act or after that.
7. Formation of a Coordination Committee: The Ministry of Social Justice and Empowerment, the Ministry of Drinking Water and Sanitation, the Ministry of Rural Development, the Ministry of Housing and Poverty Alleviation, the Ministry of Urban Development, the Ministry of Railways and the Planning Commission have key roles to play in the eradication of the practice of manual scavenging and the rehabilitation of freed families. The Ministry of Women and Child Development and the Ministry of Labour are also key as mostly women are engaged in the practice. Thus, we recommend that a coordination committee should be formed with representation from all eight ministries so as to work together.
8. National level monitoring system: The Government of India should form a national level monitoring committee which regularly monitors the practice of manual scavenging. This committee may consist of representatives from Ministries, public representatives, state representatives, community representatives as well as representatives from civil society organizations.
9. Complete audit: Complete audit of all schemes set up after 1993 for the rehabilitation and abolishment of manual scavenging by the Government of India. This audit should be organized by a higher level authority or the Auditor General of India (CAG) in participation with the community and their organizations.
10. Survey in rural India through community participation: Census 2011 shows that the states of Madhya Pradesh, Gujarat, Chattisgarh, Maharashtra, Andhra Pradesh, Haryana, Delhi NCR, Rajasthan and Jharkhand have very few dry latrines. However, surveys conducted by *Rashtriya Garima Abhiyan* and other organizations clearly show the existence of dry latrines and the ongoing practice of manual scavenging on a large scale in these states. The number of dry latrines is downplayed in states where manual scavenging is clearly visible. This is not surprising because State Governments do not want to accept the fact that the practice of manual scavenging exists in their states. Rural areas are more prone to this, thus the Ministry should undertake a nationwide survey to produce authentic data that can help in better planning of laws and schemes.
11. Status Report: A national task force consisting of liberated women, representatives of the government (ministries/departments of social justice, urban development, rural development) and the concerned NGOs should be formed that will closely monitor the progress in the eradication of manual scavenging over the next two years.

## 2. Unequal access to water – violations of the right to water

Caste based discrimination leading to human rights violation regarding drinking water makes it an important social issue. The struggle for water is simultaneously a struggle for power. Water being a limited and imperative resource has close relationship with the three categories such as class, caste and gender, especially when it comes to that of distribution of water. Though the Indian Constitution through Article 14 guarantees the right to equality to every person irrespective of caste, creed, gender, status and religion, Dalits are still faced with the power based hierarchal social setup coupled with problems of untouchability and discrimination.

The following figures illustrate the differences between Dalit and non-Dalit households in respect of drinking water and sanitation:

- 27% of Dalit households have water sources within premises as compared to 45.2% for the general population.
- 19.5% of Dalit households have access to drinking water sources away from their premises whereas it stands at 14.45% for the general population.
- 32.2% of Dalit households have access to drinking water from the tap as compared to 40.1% for the general population<sup>5</sup>.
- Regarding sanitation, 23.7% of Dalit households have access to latrine facilities as compared to 42.3% for general households.
- Only 17% of the tribal households have access to latrines which is well below the figure for general households (43.2%).
- The situation with regard to household's connectivity for waste water outlet, the figures are 50.6% for general households, 42.9% for SC households and 21.8% for ST households<sup>6</sup>.
- 20% of Dalits do not have access to safe drinking water. 48.4% of Dalit villages are denied access to water sources<sup>7</sup>. Only 10% of Dalit households have access to sanitation (as compared to 27% for non-Dalit households)

### a) Dalit Women & Access to Water

Dalit women are the worst affected with regards to the lack of access to water and sanitation. A Dalit woman has the burden of all household work in the family and is the one responsible for bringing water to the family. Therefore, she is the one who will be facing discrimination in the first place. Even young girls from the family are assigned to perform this job and they also face similar conditions. These girls are forced to even drop out of school as collecting water from faraway distances become their primary responsibility. They thereby lose any chance of becoming educated and earning money for the family. They are also more vulnerable to physical violence as they are the ones who face verbal and physical abuse from the dominant caste and a constant threat while collecting water from public wells and taps.

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<sup>5</sup>[http://www.wateraid.org/documents/water\\_drops\\_9.pdf](http://www.wateraid.org/documents/water_drops_9.pdf)

<sup>6</sup> (Source: MDGs and Dalits: A Status Report, NACDOR).

<sup>7</sup>[http://www.overcomingviolence.org/fileadmin/dov/images/women\\_campaign/Dalit%20Fact%20Sheet.pdf](http://www.overcomingviolence.org/fileadmin/dov/images/women_campaign/Dalit%20Fact%20Sheet.pdf)

## Questions

1. Have you identified any violations of the rights to water and/or sanitation? If yes, please explain.

*Continued practice of manual scavenging and limited access to water for Dalits in South Asia and caste affected communities elsewhere, including in Yemen and some African countries.*

2. What do you regard as the structural causes and underlying determinants of the human rights violations you have identified? How do these relate to power relationships between various groups and sectors of society?

*The caste system*

3. Have you identified particular groups and individuals whose rights have been violated disproportionately? Which individuals and groups?

*Dalits / caste affected communities*

4. What activities do you undertake to monitor the realization of the human rights to water and/or sanitation and alleged violations?

*Please see above submission*

7. Have you sought to address the lack of policy design or policy implementation, the failure to take steps, the failure to take targeted measures, the lack of sufficient budgetary allocation or similar failures? How have you framed these failures as human rights violations? What standards of review have you relied on?

*Please see above submission*

8. Have you sought to address and seek remedies for discriminatory practices? Have you sought to address structural inequalities in the realization of the rights to water and/or sanitation? If yes, please elaborate.

*-Please see above submission and [IDSN compilation of UN reference to caste discrimination and human rights](#) (New edition, February 2014)*