The Inhuman Caste and Gender Based Sanitation Practice of Manual Scavenging in India....

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1. Introduction

This is a joint submission from the Rashtriya Garima Abhiyan and International Dalit Solidarity Network to the Special Rapporteur on safe drinking water and sanitation, in preparation for an official visit to India. We would like to highlight the practice of manual scavenging, rooted in caste-based discrimination, which although outlawed, continues to be a common practice in India. We hope that this report will be taken into consideration when preparing for the visit and during the discussions in India.

We would like to suggest visiting Rashtriya Garima Abhiyan in India, in either Rajasthan or Uttar Pradesh and meet some manual scavengers. Please do not hesitate to contact us.

2. Background

After 62 years of independence, which 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 which has denied generations of Dalits, considered in the lowest rungs of the caste system and hence polluting, their rights and human dignity. The caste system, a critical aspect of the Indian social fabric has been in existence for centuries. It is based on human inequality where the division of labour is done on the basis of caste. The social, economic and political relations among people depend on their caste status. The system has rendered the vast majority of the people oppressed and considered “untouchables” (known as Dalits), deprived of their social, economic and political rights.

The inhumane manual scavenging practice enslaves an estimated 1.2 million people in India, who belong to the scheduled caste and are placed in the lowest rung of Hindu society—“untouchables among the untouchables”. They are subjected to on-going, intergenerational torture, and severe mental and physical pain rooted in caste-based discrimination. Manual scavengers (95% women) manually clean dry latrines, used by others in their villages or semi-urban areas. They lift and carry heavy loads of excrement in cane baskets to designated sites of disposal. In the heat of summer and during the rains, the excrement leaks on to their faces and bodies. The stench and working conditions are unbearable. Additionally, manual scavengers are expected to carry out other “polluting” tasks, including disposing of dead animals, cleaning placentas after delivery, and various funeral related activities. Their children also face discrimination in schools.

The practice of manual scavenging is prevalent in India from Kashmir to Kanyakumari, from backward states to developed states. Even after abolishing the practice by law in 1993 (the

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1 Study Report: “Untouchability in Rural India Study” conducted by National Human Rights Commission and Action Aid, 2001 (www.sagepub.com/books/Book230642)
Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, due to the lack of commitment, the law is not being implemented. Manual scavenging is not merely a technical or economic issue but primarily a socio–economic and political issue, denying a life with dignity. Hence, the attempts to address it through livelihood programmes have failed to eradicate it.

Manual scavenging occupation is rooted in a hierarchical caste system, which renders communities invisible and powerless. Additionally, the low status of women and girls, results not only in them being forced to manual scavenging, but also face multiple vulnerabilities and denial of rights and justice within all spheres of life. As a result, Dalit communities face the dual challenge - of “liberation” from the inhumane work/practice; and “rehabilitation”, encompassing social, economic and political aspects which are the prime needs of the community.

The previous approaches attempting to address the issue have been limited to abolishing the practice alone, treating it as a form of work or employment, which could be sanitized through technical interventions or economic empowerment schemes. These approaches have failed to place the issue of manual scavenging in social, cultural and political context\(^3\). As such, it failed to mount a frontal challenge of the pyramid-like caste structure that confines manual scavengers to its base; did not identify women as the primary demographic that performed this work, facing discrimination from their very own families; and did not recognize the hierarchy maintained among Dalits. None of these strategies sought to “liberate” manual scavengers from a mindset that reinforced their confinement to torturous caste-based duties, outlawed under both, Indian domestic laws and the UN Convention on Torture\(^4\).

“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...”


3. Discrimination and violence against manual scavengers:

3.1 Forms of Discrimination:

\(^3\) Study Report: Implementation status of schemes for rehabilitation of manual scavengers (2011)
\(^4\) Article 1 of the United Nations Convention Against Torture
Manual scavengers’ communities are made to live in locations that are isolated from the rest of the villages. 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 better 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 the modern India’s labour laws and international conventions on the rights of the workers. It includes a pittance payment for manual scavengers’ work, of around Rs.5 to Rs.15 per household per month.

3.2 Issue of Health and Education:
Manual scavengers face serious health concerns - manual contact with excreta exposes them to various diseases, skin infections, rotting of fingers and limbs, tuberculosis and nausea. Some manual scavengers complain about not being able to eat due to exposure to excreta. Most women from the manual scavenging communities tend to be addicted to tobacco (Gutka) and men to liquor, in an attempt to diminish the repulsive nature of their work and beat back their state of hopelessness.

Manual scavengers’ children are usually treated with contempt by their teachers and fellow classmates. Denial of dignity generates fear among the children, leading to high school drop-out rates.

3.3 Harassment:
Women manual scavengers face sexual harassment by men. As they belong to the lowest rung in the society they are looked down even by the larger Dalit community, who themselves are subjected to untouchability by the upper castes.

3.4 The Issue of Dalit Muslims:
Many Dalit Muslims are also involved in manual scavenging in many areas and their situation is also critical. Like other Dalits they also face untouchability and discrimination and not being included in the Scheduled Castes they are also deprived of the legislations like SC, ST prevention of Atrocities Act 1989 and other schemes of the government for Scheduled Castes. Due to the lack of understanding of the local administration that even Muslims are involved in manual scavenging they are even deprived of the benefits of schemes like SRMS. We want to recommend that the Government of India forms a special package for the Dalit Muslim families involved and liberated from the practice of manual scavenging which should include issues like rehabilitation, education, housing and other similar issues of concern.

3.5 Status of Women and Girl Child:
Women face multiple forms of discrimination. They become vulnerable due to (1) their gender, (2) Dalit identity, (3) and being a manual scavenger. 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. Girl
children face discrimination at all levels and are usually compelled to take up the occupation once married.

4. Legal framework:

4.1 Legislations:
Articles 14, 17, 21 and 23 of the constitution of India outlawed manual scavenging practice. In addition, a number of national legislations and international laws prohibit the practice:

- The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 was made with the avowed aim of eliminating the practice.
- The main objective of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been to effectively prevent and punish perpetrators of atrocities against the members of the dalit community. It has provisions of severe punishments for those found guilty.
- Under section 7(a) of the Protection of Civil Rights Act, 1955, anyone forcing another person illegally to engage in bonded labor, manual scavenging or disposing animal carcasses shall be deemed to be committing a criminal offense and can be sentenced to 3 to 6 months of imprisonment or fined up to Rs. 500/-.
- Various provisions of the Universal Declaration of Human Rights, to which India is a signatory, hold all human beings to be equal and the practice of manual scavenging of human feces violates several of its provisions.

However, any progressive attempt has been subdued by acts of discrimination and exclusion in all spheres of life – social, religious, economic and political, and the lack of resource ownership and development opportunities, result in a loss of dignity.

4.2 Non Implementation of Legal Provisions and Rehabilitation:

A. Self-contradiction and non implementation of scholarship scheme for manual scavengers\(^5\): An example of a particularly self-defeating government programme is a scholarship for the children of the manual scavengers, (Scholarship for the Children of Families involved in incline occupation) which require the families seeking the benefit to have been engaged in manual scavenging for at least 100 days in a year. This scholarship scheme provides a perverse incentive to the Dalit households to continue in this occupation. Recently government had done some policy level changes. But, these changes are not implemented by the many state governments.

B. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act: although adopted in 1993 the law has not been implemented

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and the practice continues. The Ministry of Housing and Urban Poverty Alleviation was responsible for the implementation but prepared no concrete plans for rehabilitation and eradication of the practice in areas like railways or open defecation.

C. Manual scavenging in Indian railway: Indian Railways has a great number dry latrines and employs manual scavengers. Recently, the Minister of Rural Development, Water and Sanitation have called the Indian Railway “the world's biggest open toilet”. He noted that 60% of all open defecation in the world is in India. Currently, 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.

D. Uncompleted and unsuccessful rehabilitation of manual scavengers in India: The Ministry of Social Justice and Empowerment initiated the Self Employment scheme for Rehabilitation of Manual Scavengers (SRMS) in 2007. According to the Ministry Rs.231 Crores were released to scheme, which benefited 13,275 individuals. Rashtriya Garima Abhiyan conducted a survey on the implementation of the SRMS in 3 states of India in 2010-11. Here are some of the findings:

- 76% people who got benefits were not involved in the manual scavenging practice.
- Scheme was not launched in the 25% of districts stating that manual scavenging practice did not exist there. However, our study suggests that manual scavenging practice was rampant in those districts.
- 98% of people engaged in the profession are women, yet 51% of the SRMS benefits were received by men in these three states.
- 85% of interviewed people said they felt they were wasting their time, believed bribery was widespread, and a number of problems aroused with documents and the processes.
- Middle men or commission agents visited Dalit families, telling them to sign documents, stating that the government had chosen them as beneficiaries of a new scheme. However, they would never find out who are the sanctioning officers, what is the amount of the loan or any other details of the transactions. The middle men would revisit them and hand over Rs 3,000 to Rs 4,500. Many people did not even know why they were being given the money or how much money had been borrowed in their names.

There were many reasons why the programme proved to be ineffective:

- **Issue of women:** Most of the provisions for the rehabilitation under the scheme were not gender sensitive and directed towards men, although around 95-98% of the individuals involved in manual scavenging are women.
- **Issue of loan:** The key provision of the scheme was a loan provision with a subsidy. In our view giving loans to the vulnerable communities, which were compelled to take up

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6 Study on rehabilitation of manual scavengers (implementation status of SRMS scheme) in India by Rashtriya Garima Abhiyan www.dalits.nl/pdf/120328.pdf
manual scavenging, rooted in a caste system and face social, political and economic exclusion is not a sustainable solution.

- **Defaulters:** Most of the loans under the SRMS were issued through banks with 50% of a subsidy. However, most of the subsidy was spent on paying the chargeable interest to the bank and those not able to pay it become “defaulters”.
- **Rural Areas:** According to our survey around 60% of those involved in manual scavenging are in rural areas (larger villages and settlements). However, the focus of the scheme was on urban areas.
- **Caste aspect:** Government programmes have emphasised the financial aspect of rehabilitation and failed to address the caste-based oppression and related social conditions that have perpetuated this practice for centuries.
- **Corruption:** We found that in Madhya Pradesh district there were more than 165 women involved in manual scavenging but not a single name was included in the list of beneficiaries. Only districts with more than 302 women were included. Our survey indicates that only 10% of those involved in manual scavenging were actually included in the list. This resulted in many eligible individuals not reaching the benefits and those not eligible benefiting of the scheme.
- Almost all or most of the subsidy portion of the loan went into corruption and there was lack of any monitoring of the system. Issues related to corruption have surfaced openly in many of the states.

### 5. Development on this issue in last 5 Years

#### 5.1 The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013:

- **Highlights of the Act:** The Act prohibits: (a) the employment of a person as a manual scavenger, (b) the employment of an individual for the hazardous cleaning (manual cleaning without protective gear and other safety precautions) of a sewer or a septic tank, and (c) the construction of insanitary latrines. It provides for the rehabilitation of people currently engaged in the profession. A “manual scavenger” is a person who manually cleans or disposes of human excreta in an insanitary latrine, an open drain, or a railway track. An “insanitary latrine” requires human excreta to be cleaned manually. The Act shall override the 1993 Act and state laws on manual scavenging.
- **Identification of insanitary latrines and manual scavengers:** Every local authority (municipality, Panchayat, cantonment board or railway authority) has to carry out a survey of insanitary latrines within its jurisdiction. The authorities have to publish a list of such latrines within two months of the law coming into force and give notice to the occupiers to either demolish or convert them into sanitary latrines within six months. The Chief Executive Officer of a municipality or a Panchayat may conduct a survey to identify manual scavengers. Individuals may also self-identify as manual scavengers.
• **Prohibition and conversion of insanitary latrines:** Every occupier (and in some cases, owner) of an insanitary latrine shall demolish or convert the latrine into a sanitary latrine at his own cost within six months of the Act. If he fails to do so, the local authority shall convert or demolish the latrine and be entitled to recover the cost from the occupier. State governments may provide assistance to occupiers for converting latrines. However, non-receipt of assistance shall not be a valid ground to use an insanitary latrine beyond nine months of the law in force. Each local authority shall carry out an awareness campaign to enforce the above provisions of the Bill.

• **Prohibition and rehabilitation of manual scavengers:** Existing contracts with manual scavengers shall be void once the law is in force. However, the employer shall retain full-time scavengers on the same salary and assign them to different work. All persons listed as manual scavengers shall be rehabilitated with a onetime cash assistance, scholarship for their children, and a residential plot with financial assistance for constructing a house. One adult member of the family will be trained in a livelihood skill and given a monthly stipend of at least Rs 3,000 during training. A subsidy and concessional loan shall also be given for taking up an alternative occupation.

5.2 Central monitoring Committee:
As per the newly enacted legislation for eradication of manual scavenging, Government of India has appointed a Central monitoring Committee to monitor the implementation of the legislation.

5.3 The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013:

5.4 Compendium of Schemes for Rehabilitation:
Ministry has released a compendium of schemes for rehabilitation of manual scavengers and elimination of insanitary latrines. Various schemes are initiated such as provision of issuing photo identity card for identification of manual scavengers (photo identify card), on-time cash assistance where identified manual scavengers one from each family will be given a cash assistance of Rs. 40,000 immediately after identification. The beneficiary shall be allowed to withdraw the amount in the monthly instalments of maximum of Rs. 7000”. Provision related to scholarships, housing, skill development, alternative employment etc are described in the scheme. All together, Government has initiated a convergence approach to give benefits of various schemes for comprehensive rehabilitation of identified manual scavengers. However, rehabilitation of already liberated manual scavengers remained a challenge.

5.5 Revised Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS):
The Ministry has revised earlier SRMS scheme and introduced in November 2013. There are major changes in the SRMS schemes such as stipend amount, cash assistance which are in accordance with the new law.

5.6 Census Data Establishes Continuance of the Practice of Manual Scavenging in the country:
The Census of India 2011 has established that the inhuman practice of manual scavenging still continues in India. According to the census data there still are 794,390 dry latrines in the country where the human excreta is cleaned up by humans. 73% of these are in rural areas where as 27% in urban areas. Apart from these there are 1,314,652 toilets where the human excreta is flushed in open drains. According to the definitions by Rashtriya Garima Abhiyan and the Drafting Committee for the abolition of the practice of manual scavenging the human excreta flushed in 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 eating it. This is however a very confusing statement as Rashtriya Garima Abhiyan believes that in toilets like these it is not possible that the human excreta is cleaned up completely through animals eating it. Ultimately it has to be cleaned up by humans only. Thus there are more than 26 lakhs [2.6 million] dry latrines in the country where the practice of manual scavenging still continues. Indian Railways is on institution in the country where dry latrines exist in great numbers and a large number of individuals are engaged in manual scavenging. However, toilets like these are not included in the Census statistics.

5.7 Rehabilitation of Manual Scavengers through National Rural Livelihood Mission (NRLM):
During the launch of Maila Mukti Yatra on 30th November 2013, Union Rural Development Minister Ms. Jairam Ramesh announced, under National Rural Livelihood Mission (NRLM), Self-help group will be formed with priority of women engaged and liberated from Manual Scavenging practice and through the NRLM liberated manual scavengers will be rehabilitated. NRLM recently started working on this issue. NRLM prepared strategy for the action on the same. Some state units of NRLM initiating program towards rehabilitation of manual scavengers.

5.8 National Survey of Manual Scavengers in 34 states and 3546 towns:
On the basis of census data Ministry of social Justice and Empowerment constituted a “Committee for recommending modalities for conducting a Survey of Manual Scavengers and their dependents, in the light of Census, 2011 and Socio-Economic and Caste Census, current underway” on 4th April 2012. Representative of Rashtriya Garima Abhiyan is also member in this committee. As per the recommendation of the committee government of India started a National Survey in selected 3546 towns of 34 states/UTs of the country.

5.9 European Parliament resolution on caste discrimination in India including Manual Scavenging: European Parliament expressed its deep concern over the continued Human Rights Violation against Dalits in India and also highlighted the inhuman practice of Manual Scavenging, while referencing to ongoing Maila Mukti Yatra. European Parliament
urged the Government of India to amend and enforce the law banning this Practice. The Motion for a resolution was adopted with one amendment to the following text: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=%2F%2FEP%2F%2FNONSGML+MOTION+P7-RC-2012-0574+0+DOC+PDF+V0%2F%2FEN

5.10 Initiative by UN High Commissioner for Human Rights: The UN High Commissioner for Human Rights Navi Pillay on 31st January 2013 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 the eradication of manual scavenging has called for the comprehensive rehabilitation of those who have been conducting it, took place over a period of 63 days, starting on 30 November 2012 and crossed a total of 200 districts in 18 states. “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.” http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E

5.11 Maila Mukti Yatra 2012-13

Aiming for a total eradication of manual scavenging in India, a 65 day Maila Mukti Yatra was organized in 200 districts of 18 states India. More than 5000 women freed from this evil participated during the Yatra. Campaign women activist 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 few stale chapattis, few old clothes, some money, though they may be pressurized or boycotted but they should not continue do this work. “We won’t do this and will live with dignity” was the motto. We won’t carry and handle human excreta and will live a life of dignity. After such discussion, most of the women would decide to leave this practice. At some places, if their family members won’t agree, than they were convinced through songs and bhajans. Once decided, the pots were burnt at a public place in village and it was announced that manual scavenging has been abolished in the village from that day and if someone pressurizes to freed people to do this, action would be taken against them. Kacche (Dry) Toilets were broken at some places whereas at some places the untouchability was finished during the Yatra itself. Admission for community members was ensured at water sources, tea shop,
barber shop etc. At 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 weren’t allowed to take marriage processions, rallies were organized with drum beats and these were headed by women who used to practice manual scavenging till date. After the whole process, the freed women were felicitated at a public place in village, 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 culminated in New Delhi. State, national level, 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 resolution on Caste Discrimination in India. On 31st January, the UN High Commissioner for Human Rights, Navi Pillay, welcomed the strong movement “Maila Mukti Yatra” that has been developing over the past few months in India to eradicate the practice known as ‘manual scavenging’.

6. Recommendations

- 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.
- 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.
- 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.
- 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.
- 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.

- Priority to manual scavengers community: Inclusion of manual scavengers’ families and those families who have left manual scavenging in the priority list of all government schemes and entailment:
- 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.
- 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.
- Survey in rural and urban India through community participation: Under the 2013 government conducted national survey but very less number of manual scavengers are identified through the survey in rural and urban India through community participation.