

Manual Scavenging Legislation Passed by both Houses: landmark success, Next Steps and new challenges

Exactly one year before the Minister of Social Justice and Empowerment (Government of India) was introduced "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012" in the Lok Sabha on September 3, 2012. After one year Lok Sabha and Rajya Sabha, both houses passed "The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Bill, 2013, on 6th and 7th September 2013". This bill aims to eliminate the inhuman practice of manual scavenging and rehabilitation of liberated manual scavengers. Now adopted bill will be sent to the President of India for his assent before it becomes the law of the land.

This success is result of 3 years powerful struggle of thousands of liberated manual scavenger women who are demanding new legislation for elimination of this inhuman slavery and rehabilitation of liberated manual scavengers. These women March (traveled during the Maila Mukti Yatra) more than 10000 KMs, 200 districts and 18 states in 65 days, knocked the doors of more than 200 parliamentarian, organized various events and protest, hundred times had meetings with the different Ministries, state governments, National Advisory Council, Planning Commission and various political leaders, etc. This success is also result of support to liberation movement by the *United Nation High Commissioner on Human Rights* Ms. Navi Pillay and appealed Government of India for new legislation on 31st January 2013 and support by other UN Bodies and resolution of *European Parliament* on Caste Discrimination on 13th December 2012 and support of many international organizations and network like *International Dalit Solidarity Network, India Committee of the Netherlands, Dalit Solidarity Network UK*. Support of many individuals like *Mr. Harsh Mandar, Mr. S.R. Sankaran, Mr. P.S. Krishnan* and others was very important for this landmark success and importantly, struggle of civil society organizations, social movements and support from academic institutions like *Safai Karmchari Andolan, Navsarjan, Maila Mukti Gathbandhan, Tata Institute of Social Sciences, Peoples Union for Civil Liberties and Rashtriya Garima Abhiyan*.

During the debate in Lok Sabha on 6th September 2013, Social Justice and Empowerment Minister Ms. KumariSelja moved the bill and said "This dehumanizing practice is inconsistent with the right to live with dignity, a need was felt for a stringent law on the issue" and "We want to remove the stigma and blot on the society". 25 members of parliament took part in the debate. Mr. Arjun Meghwal (BJP), Mr. Baliram (BSP), Shailendra Kumar (SP), Mr. R Siricilla (Congress), Ms. Darshana Vikram Jardosh, Ms. Jayshreeben K. Patel, Mr. Prabhodh Panda and others raised the issues regarding Prime Minister's promises on eradication of this practice in six months, rehabilitation of liberated scavengers, alternative jobs, problem of serious health hazard associated with the practice, etc. 39 Clauses of the bill were adopted and 8 Clause (1,2,4,11,24,26,29 and 36) was adopted, as amended. Written speeches were laid on the Table of 11 members and total 1Hr. 30 Mts. Time taken by the process.

During the debate in Rajya Sabha on the 7th September 2013 many members participated. Specially Ms. T N Seema (CPI-M), Ms. Vasanthi Stanley (DMK), Mr. Ravishankar Prasad (BJP), Mr. D Bandopadhyaye (TMC), Mr. D.P. Singh Baghel (BSP), Mr. Shashi Bhushan Behera (BJD), Mr. Janaradan Waghmare (NCP), Mr. Ram Vilas Paswan (LJP), Mr. Thaawar Chand Gehlot (BJP), Mr. D. Raja (CPI), Mr. Shivanand Tiwari (JDU) and other raised very critical issue of the bill. Moving the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2013 in the Rajya Sabha, Minister for Social Justice and Empowerment KumariSelja said the new bill had to be brought in as the earlier Act did not prove very effective. Referring to the continuance of this practice, she said all states were in "denial mode" and had

earlier stated that this practice did not exist in their areas."When we are not ready even to accept that this practice exists, how can we remove this"? Mr. Thaawar Chand Gehlot asked the government to provide health insurance to manual scavengers and ensure alternative jobs. Ms. T N Seema said 53% of the country's population does not have toilets and this bill does not give financial support to states to implement the provisions of the bill. Ms. Vasanthi Stanley recalled the incidents like Delhi rape case to highlight the "untold miseries" of women and said that by engaging women in manual scavenging, we are "violating their self-respect". Expressing disgust over the practice, D. Raja said "we should render a national apology" for allowing this practice to continue. He demanded that the government should earmark a financial provision of Rs.1 lakh for each scavenger and Rs.5 lakh for his family's rehabilitation. Mr. JanaradanWaghmare described manual scavenging as a "blot on society". Mr. Ravishankar Prasad said government should consider pension for old manual scavengers and demanded steps to end the practice of open defecation in states like Bihar and UP. Mr. Shivanand Tiwari attacking Mr. NaredraModi (Chief Minister of Gujarat) for his reported stand on manual scavenging. Gujarat Chief Minister had stated that those engaged in manual scavenging are "doing it because they feel, they get spiritual pleasure". The BJP members led by Ravishankar Prasad protested against Tiwari's remarks. Mr. Ram Vilas Paswan demanded proper training for manual scavengers for alternative work and said the sanitation staffs working in Parliament, who are part-time workers, should be made permanent.

The Indian Parliament has passed the previous legislation exactly 20 years back however enforcement results are not promising and eventually failed. This legislation is powerful in comparative with 1993's 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, shall be penalized with imprisonment and 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 for up to two years or a fine 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 authority shall be the implementing authorities and Offences under the Bill shall be cognizable and non-bailable, and may be tried summarily.

Next Steps and Challenges:

Though, 39 clauses of the law were adopted but critical aspects of many other provisions like rehabilitation of those who liberated from manual scavenging before passing the law (2013), enforcement of the law in government institutions like Indian Railways and Defense which are largest employer of manual scavengers.

Liberated manual scavengers often faced brutal atrocity or violence therefore ensuring protection for these families is crucial however those who are Non-SC scavengers like Dalit Muslim, Dalit Christen are not protected either the Prevention of Atrocity act 1989 nor recently passed act. Henceforth, protection of these families will be grave concern.

Since last 20 years, State governments are in denial mode on 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, most of the women are engaged in manual scavenging practice thus existing rehabilitation and welfare policies requires being gendersensitive and social inclusive for women manual scavengers.

Provisions regarding rehabilitation are not promising, as it geared towards economic rehabilitation aspects. Nevertheless, community people were demanded for socio-economic, political and educational rehabilitation for their comprehensive rehabilitation and holistic empowerment which is entirely missing. The rehabilitation package and estimated budget is not clearly described in the law.This is very important component of the eradication process of this practice. We will struggle to add above all concerns and issues in rules of the law. We hope government will add these all important component in the rules.

We believe that adoption of the law by the parliament is first step, now implementation of this legislation, inclusion of remaining provisions in the rules, budgetary allocations, education about the new law in our community and larger society are remaining struggle points. Importantly, mobilization of the community across the nation to use this law as a weapon for their freedom and life with dignity is crucial.

Thanks,
In solidarity,

Ashif and LaliBai
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