

Draft Proposed Bill ¹

LIBERATION FROM INHUMAN PRACTICE OF MANUAL SCAVANGING AND (PERSONS IN MANUAL SCAVANGING AND PERSONS RELEASED FORM MANUAL SCAVANGING) REHABILITATION ACT

(Year Act no.....)

History and Objective

Caste System in India since ages based on inequality, discrimination and injustice, in which the most cruel and inhuman is the one that pertains to manual scavenging, a degrading 'slavery' for the lowermost rungs amongst the caste system, where people are coerced to carry night soil manually.

Manual scavengers have been deprived of basic rights by the feudal society. They have been forced to do dehumanized practice by clearing, carrying, handling and disposing human excreta. Women are mostly engaged in manual scavenging. Manual scavengers are yet to be liberated from historical injustices even after independence of India.

Fundamental rights of people are violated due to continuation of manual scavenging. Therefore, on the basis of Article 15, 17 and 21 of the Indian Constitution following legislation has been enacted.

WHEREAS Article 15: Article 15 of the Indian constitution prohibits discrimination to any citizen on the ground of religion, race, caste, sex or place of birth. However, manual scavengers are discriminated in the society due to their caste and nature of work.

WHEREAS Article 17: Untouchability in any form is prohibited under article 17 of the constitution and any disability arising out of untouchability shall be an offence punishable in accordance with law. However, those who are employed in manual scavenge and those who released from manual scavenging are still facing untouchability.

¹ This proposed daft bill prepared by Garima Abhiyan with participation of liberated women, activist, advocates and other organizations

WHEREAS **Article 21:** Article 21 of the constitution provides right to life to every citizen, but the human rights of the manual scavengers are violated at such extent that their right to life has been violated.

WHEREAS the directive Principle of State Policies under part 4 of the Indian constitution stated that State shall secure a social order for the promotion of welfare of the people. Thus, the state is duty bound to liberate and rehabilitate manual scavengers from the practice of manual scavenging and to rehabilitate those who have released from the practice of manual scavenging.

WHEREAS Manual Scavengers has been deprived of opportunity for development due to discrimination by the society. Among them, people who work as manual scavenger have been deprived of social justice.

WHEREAS Mostly women who are in large number among manual scavengers and usually it is they who face discrimination of the society and deprived of her fundamental rights. It is the duty of the union of India to release people who are still in the work of manual scavenging and upheld their fundamental rights enshrined in the constitution and the spirit expressed in the preamble.

WHEREAS Union of India enact hereby this legislation to abolish completely the practice of manual scavenging with expressing regret for injustice inflicted upon manual scavenger community, as their social and political rights have been infringed upon and deprived them of their rights of being citizen. Aiming to liberate the manual scavenging and ensuring their socio-economic rehabilitation.

And WHEREAS to ensure implementation of abovementioned articles, the law hereby enacted under the Article 248 subjected to the provision of this Constitution, Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

Liberation from inhuman practice of manual scavenging and (person in manual scavenging and person released from manual scavenging) rehabilitation Act Be it enacted by Parliament in the sixty one year of the republic as follows:

Chapter 1

Declaration

1. The state expresses sincere apology to the manual scavengers (persons in manual scavenging and persons released from manual scavenging) of India for the inhuman slavery and untouchability to which they have been subjected through centuries and for the failure to eradicate completely manual scavenging after independence till now and expresses its determination to take all steps to eradicate manual scavenging.

Chapter 2

Introduction

Section 1 Short title, application and commencement

1. This Act may be called “Liberation from inhuman practice of manual scavenging and (person in manual scavenging and person released from manual scavenging) rehabilitation Act”
2. It extends to the whole of the India (except the state of Jammu and Kashmir) which adopts this act by resolution passed in that behalf under article 245 of the constitution.
3. It shall come into force on such date as notify in gazette after signature of the President of India after having passed by the Parliament of India.

Section 2 Definitions

In this Act, unless the context otherwise requires-

- a) **"Manual Scavenger"** means a person engaged in or employed whether by an individual or an urban local body or any other public or private agency, for manually cleaning carrying or disposing or dealing in any manner with human excreta in a latrine, a tank, a drain or a sewer line or open spaces including railway tracks, and the expression "manual scavenging" shall be construed accordingly;

- b) **"Inhuman practice"** means above-mentioned work of manual scavenging carried by human being. Manual scavenging in itself a dehumanize practice as it violated human rights of those who carry it;
- c) **"Liberate"** means get freed from practice of manual scavenging or leave the work;
- d) **"Rehabilitation"** means provide socio-economic security to those who liberated from the work of manual scavenging. It means ensuring social security by providing economic resources, which includes permanent resources for livelihood, education, land and housing;
- e) **"Manual scavenging"** means carrying human excreta and dumping from one place to another. Thus, if a person manually cleaning carrying or disposing or dealing in any manner with human excreta in a latrine, a tank, a drain or a sewer line or open spaces including railway tracks;
- f) **"Released manual scavenger"** means people or family members including mother, father, son daughter, daughter-in law and Grand parents who earlier engaged in manual scavenging defined under sec 2(a) and left doing so any point of time before enactment of this Act;
- g) **"dry latrines"** means a latrine such as a bucket or *Uthau* type of latrine involving manual removal of untreated human excreta daily or periodically;

Chapter 3

Prohibition of manual scavenging

Section 3 With this Act comes into force any act of manual scavenging be prohibited in the whole part of the country. Manual scavenging in any form as specified in sec 2(a) shall not be exist.

- a) Dry latrine shall be banned under this Act. No dry latrine shall be in vogue in any house, Government office, railway or any other premises.
- b) Cleaning of tank manually and carrying human excreta from one place to another shall be prohibited under practice of manual scavenging as mentioned in sec 2(a) of this Act.

Section 4: Employment of any person for manual scavenging

After enactment of this Act, if a person employs any other person for manual scavenging it shall be treated as punishable offence, irrespective of the consent of those who carry work of scavenging. Employing such person for scavenging even with his consent shall be treated as offence.

Section 5: Employing person for manual scavenging shall be equated with bonded labour. No consideration will be follow irrespective of consent of person who carries the work of scavenging. No person shall employ any other person for carrying the work of manual scavenging.

Section 6: Under this section person who employs shall be offender those who carry work of manual scavenging shall not be treated as offender.

Section 7: State shall have duty to arrange cleaning of tanks and sanitation related services and State shall ensure that such task be performed by machines and tools. State shall make available such service to the citizen at subsidized rates.

(a) If any person found carrying manual scavenging, the State and the person who employed shall be liable.

Chapter 4

Identification

Section 8: Manual scavengers be identified

(a) It shall be the duty of the state to identify the people engaged in manual scavenging or those who released at the date of commencement of the Act. Those who left this work in the last 18 years shall be included as released manual scavenger. Those identified shall be beneficiary for rehabilitation schemes and liberation. .

(b) Identification of manual scavengers who released shall be done through intense survey. State shall have duty to complete the survey in stipulated time period. State shall conduct the survey. For the purpose of regular monitoring and vigilance, a monitoring committee shall be constituted from block to state level.

Section 9: Block level monitoring committee shall be constituted with Sub-Divisional Officer (SDO) as chairperson, and women members from the manual scavenger community, representatives of voluntary organizations active for the development of SC in that block as a members. Review of the progress of survey shall be done at meeting organized every week during the survey.

Section 10: List of the identified person shall be approved by the Gram sabha in its meeting and then displayed at various public places. Public places included residential area where manual scavenger community resides.

Section 11: List of people identified in the urban areas shall be displayed in various places including office of the Nagar Panchayat, Municipal Council, Municipal Corporation or public place of the town and residential areas of manual scavenger community.

Section 12: Objection and claim shall be invited after displaying the identified list. An application may be submitted to authorised official for objection on any name or to the names to be included.

(a) List of identified manual scavengers shall make available on internet.

(b) Identified people shall be provided with certificate which shall be the basis of availing benefits of rehabilitation scheme.

Section 13: A district level committee shall be constituted to monitor the task of identification. District Collector shall be made chairperson of the committee. Elected representative and representatives of voluntary organizations active for the development of SC/ST in the district and atleast two women members from the manual scavenger community shall be included as members of the committee.

(a) Review of the survey work in the district shall be done at meeting of district monitoring committee organized every fortnight during the survey.

Section 14: To monitor the function of the identification, a state level committee shall be constituted. Chief Secretary of the state shall head the committee with member of state SC commission; Secretary from Ministry of Social Justice, two women members from the manual scavenger community and representatives of voluntary organizations active for the development of SC in the state shall appointed as members. Meeting of the committee shall be convened every month to review the progress of survey and identification in the state.

Section 15: Block, district and state level committee shall work till the rehabilitation of all beneficiaries is done after the identification. These committees will monitor all function related from identification to rehabilitation.

Chapter 5

Rehabilitation of manual scavenger and released manual scavengers

Section 16: State shall be responsible for liberating manual scavengers from manual scavenging. State shall ensure rehabilitation of people from practice of manual scavenging in such manner which promote them with social, economic and educational benefits.

Section 17: each person engaged in manual scavenging or released shall be provided with Rupees 3 lakhs for rehabilitation. This amount shall be treated as grant.

(a) Children of manual scavengers shall be given admission free of cost to any government or private school preferred by the parents of such children. Government shall pay the tuition fee and bear the expenses of uniform, travel to school and books. Children accessing middle and high school shall be provided with cycle free of cost.

(b) Children of manual scavenger shall provided with scholarship upto completion of school education. Scholarship shall be provided with rupees 600 per month, 800 per month, and 1000 per month for the children studying in middle, high school and higher secondary respectively.

Section 18: Manual scavengers shall be provided compulsory with grant under Indira Awas Yojana (IAY) to make them available housing facility. State shall make available a plot to the beneficiary provided if he does not have land for the purpose of housing. Such plot shall make available in the main locality of the village. The state government shall purchase the land for the beneficiary, provided if the government land is not available in such village. Same provision shall apply in urban locations.

Section 19: Name of family whose member employed in manual scavenging shall be included compulsorily in the BPL list and shall be entitled with priority to receive benefits of all such government development schemes.

Section 20: State government shall make arrangements for the medical treatment free of cost for such disease caused by or during work related to manual scavenging to the people employed in manual scavenging. State government shall bear all expenses for the health check up related to treatment of the disease, and the expenditure for the accommodation and food of a person who accompanying in the case of person affected by the disease get admitted in the hospital.

Section 21: State government shall provide with 5 acres of land to the person released from manual scavenging to secure his livelihood.

Section 22: State government shall give special priority (reservation) to women liberated from the manual scavenging practice for employment as ICDS center (Anganwadi) workers, helpers and mid day meal cooks.

Chapter 6

Authority and procedure for abolition of manual scavenging practice

Section 23: Each state of union of India shall have duty to abolish the practice of manual scavenging. The Chief Secretary of the State Government shall be responsible for abolition in the entire state. State government shall ensure that at no where in the state manual scavenging is practiced.

Section 24: The district collector shall be responsible for abolition of practice of manual scavenging at district level. The district collector shall ensure that no where in the district manual scavenging in practice.

(a) If the district collector receives any information related to the practice of manual scavenging or any person provided such information to the district collector, then the enquiry in any such matter shall be instituted within period of exceeding not more than 3 days and if the information stands correct then such practice shall be abolish within period of exceeding not more than 7 days with rehabilitation of people in manual scavenging with immediate effect.

(b) District collector shall ensure that no dry latrines exists in the district. If the district collector receives any such information related to existence of dry latrines than it shall be destroy within period of exceeding not more than 7 days from receiving such information. The owner of dry latrine shall be informed for destroying such latrine within period of exceeding not more than 3 days prior to taking action.

(c) If the practice of manual scavenging or information received of such practice or if collector have reason to believe of having such practice in any place, including factory, railway, cantonment, government or non-government offices, public or private premises, then the collector shall have power to inspect such place and if the practice of manual scavenging found to be true, then by order such dry latrine or any such structure thereof be demolished and the Chief Secretary be intimated accordingly.

(d) Construction of dry latrines shall be prohibited in fair, market and other collective events. The district collector shall have duty to ascertain to make available water sealed latrines to avoid manual scavenging

Section 25: District collector shall be responsible for rehabilitation of people engaged in manual scavenging or released if the district collector receives any such information of people in manual scavenging that they are deprived of rehabilitation then not less than 7 days of receiving such information rehabilitation amount shall be granted. The district collector shall ensure that all people in manual scavenging have been properly rehabilitated.

Section 26: A monitoring committee from national to district level shall be constituted to monitor the socio-economic rehabilitation of people employed in manual scavenging and with the purpose of completely abolish the practice of manual scavenging

(a) A National level monitoring committee shall be constituted with the Minister from Ministry of Social Justice and Empowerment as chairperson, and Secretaries from the department as may be prescribed by the government of India and representatives of voluntary organizations engage in practice of abolishing manual scavenging shall be appointed as members.

(b) A State level monitoring committee shall be constitute with the Chief Minister as its chairperson and at least 2 ministers from the Cabinet, Chief Secretary of the state and representatives of voluntary organization shall make member of the committee.

(c) District level monitoring committees shall be constituted with district collector as chairperson, chairman of the district council (zila parishad), chairman and mayor of the municipal bodies in the districts and the representatives of voluntary organization shall be appointed as members.

Chapter 7

Offences and Penalties

Section 27: Chief Secretary of the state shall make responsible for abolishment of the practice of manual scavenging. The Chief Secretary shall liable in case of existence of practice of manual scavenging in any part of the state.

Section 28: If the practice of manual scavenging exists in any part of the district then the concerned district collector shall be liable.

Section 29: A person shall be offender and penalized with fine and sentenced to jail if he employed any person for work of manual scavenging with or without consent of the person employed.

(a) Person who found guilty of employing manual scavenging may fined with maximum of Rs 50,000/- or sentenced to jail for the term of not less than 1 year or both. If the person who employed manual scavenging is Non Scheduled Cast or Scheduled Tribes, then he may be penalized under sec 3(1)6 of The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989. The concerned official of such area where incidences of employing manual scavenging exist be liable for punishment under sec 3(2)7 of The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989.

(b) Person employed in manual scavenging shall not be termed as offender in any form and the state shall have the responsibility to rehabilitate him.
