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MANUAL SCAVENGING: A SOCIAL AND OCCUPATIONAL BURDEN NOT THEIRS TO BEAR

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Abstract

The caste system in India has its origin in ancient India, which has evolved into different forms as rulers arose one after the other. Amongst all the castes that exist in India, “Dalits” (also called untouchables) are at the bottom of the hierarchy. Dalits in India have always been maltreated and have been referred to as "India's Hidden Apartheid" by many authors and critics. They are victimized occupationally along with the numerous brutalities they face. One such occupation, referred to as manual scavenging, is a fouled occupation reserved specifically for the Dalits, making it the nastiest form of human rights violation. The Hindu notions of purity and pollution, intimately linked with the atrocious caste system and the practice of untouchability, cause the unsanitary practices of manual scavenging in the Indian society. Manual scavenging is a degrading and illicit task of cleaning human excrement from roads, railway tracks and dry latrines. By using just a broom, a basket and a tin plate, scavengers are made to clean faeces from public and private toilets. Along with that scavengers are made to carry it on their head to dumping grounds and disposal sites. Manual scavengers are usually from caste groups typically lowered to the bottom of the caste hierarchy and confined to livelihood tasks viewed as disgraceful or deemed too menial by upper castes.

This paper aims at critically analyzing the social evil of manual scavenging and examining the caste-based stigma to the occupation. It also aims at examining the legislations and social movements that were aimed at prohibiting this heinous practice and the implementation of the same.

I. Origin and Development

“I may not be born again but if it happens, I will like to be born into a family of scavengers, so that I may relieve them of the inhuman, unhealthy, and hateful practice of carrying night soil.”

- Mahatma Gandhi

There is evidence of the existence of toilets with a water seal in the civilizations of Harappa and Mohenjo-Daro. These cities had toilets which were connected to an underground drainage system lined with burnt clay bricks.¹ In later stages, manual scavenging became a caste-based occupation, with the vast majority of women workers.²

The practice of manual scavenging in India dates back to ancient times. According to the contents of sacred scriptures and other literature, scavenging by some specific castes, India has existed since the beginning of civilization. One of the fifteen duties of slaves enumerated in Naradiya Samhita was of manual scavenging. There has been a specific mention about scavengers in almost all writings on India’s caste system. 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.³

Municipal records from 1870 show that the British organized municipalities in India which built roads, parks, public toilets, etc. The British administrators organized systems for removing the faecal sludge and employed manual scavengers (then known as bhangis).⁴

Meaning and Definitions

The official definition of a manual scavenger in Indian law from 1993 is as follows:⁵

¹BBC UK, “Indus Valley: Home life”, http://www.bbc.co.uk/schools/primaryhistory/indus_valley/home_life/

²ILO, “National Conference on Elimination of Manual Scavenging”, http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Key_Issues/Manual_scavenging/2012/ILO_Conference_Press_Release.pdf

³The Law Brigade, Journal of Legal Studies and Research available at <http://jlsr.thelawbrigade.com/wp-content/uploads/2017/02/vanisree-ramanathan-Alfonsa.pdf>

⁴Livelihoods; “Sukshetram: Persons Living with unhygienic occupations”; http://www.livelihoods.net.in/sites/default/files/pdf/supplement_sukshetram_0.pdf

⁵Ministry of Housing and Urban Poverty Alleviation, Govt. of India, The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993;

“Manual scavenger” means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly.

Manual Scavenging is usually referred to cleaning of toilets that require unsafe handling of raw excreta and not all dry latrines. If the excreta is treated before hand, as is the case for composting toilets and urine-diverting dry toilets they do not get classified under the practice of "manual scavenging".

The International Labour Organization describes three forms of manual scavenging in India:⁶

- Removal of human excrement from public streets and "dry latrines" (meaning simple pit latrines without a water seal, but not dry toilets in general)
- Cleaning septic tanks
- Cleaning gutters and sewers

Manual cleaning of railway lines of excreta dropped from toilets of trains is another form of manual scavenging in India.⁷

Social Stigma: Lower castes being forced to clean Human Waste

Castes that work as “manual scavengers” in India, collect human excrement on a daily basis, and carry it away in cane baskets for disposal. Women from this caste usually clean dry toilets in homes, while men do the more physically demanding cleaning of sewers and septic tanks. There are reports that describes the barriers people face in leaving manual scavenging,

<http://indiacode.nic.in/acts-in-pdf/252013.pdf>

⁶HRW, "Cleaning Human Waste: "Manual Scavenging", Caste and Discrimination in India"; August, 2014; https://www.hrw.org/sites/default/files/reports/india0814_ForUpload_0.pdf

⁷OneWorld South Asia, "Manual Scavengers: Indian Railways in denial"; February 23, 2013; <http://southasia.oneworld.net/features/manual-scavengers-indian-railways-in-denial-.Wc31FROCxap>

including threats of violence and eviction from local residents but also threats, harassment, and unlawful withholding of wages by local officials.⁸

The Indian parliament in 2013 enacted The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act making it illegal the practice of manual excrement cleaning. This Act also recognized a constitutional obligation to rightfully eradicate the indignity suffered by these communities by providing alternate occupation, rehabilitation and other assistance.

It is estimated that around 1.3 million Dalits in India, mostly women, make their living through manual scavenging.⁹ Manual scavengers are barely paid and earn not more than a rupee a day. They are not only paid less than minimum wages but also are face discrimination in terms of being able to get another job. Manual Scavenging as caste-designated occupation underpins the social stigma that people engaged in this practice are unclean and hence “untouchable”. This propagates widespread discrimination. The 2011 Census of India states that there are 7,94,390 dry latrines and about 13,14,652 toilets where the human excreta is flushed in open drains and later cleaned with the help of human beings or scavengers. Additionally the Census states that there are 4,97,236 toilets in the country where the human excreta is cleaned up by animals through eating it.¹⁰

Mahatma Gandhi and Dr B. R. Ambedkar were one of the few leaders in India who fought for the discrimination based on caste and socio-economic inheritance of a person. Gandhi once said, “Assumption of superiority by any person over any other is a sin against God and man”. Dr. Ambedkar was himself born in a caste that was categorized as untouchable. On realisation of the atrocities faced by the Dalits, Dr. Ambedkar became a leader of human rights in India fighting for the rights of Dalits. He wrote extensively on discrimination, trauma and what he saw as the tragic effects of the caste system in India.

⁸HRW, India: “Caste Forced to Clean Human Waste”; August 24, 2015; <https://www.hrw.org/news/2014/08/25/india-caste-forced-clean-human-waste>

⁹Sify News, “Manual Scavenging is illegal but still persists”; May 27, 2016; <http://www.sify.com/news/manual-scavenging-is-illegal-but-still-persists-news-others-qf1qujgfdcig.html>

¹⁰UN India, “Breaking Free: Rehabilitating Manual Scavengers”; <http://in.one.un.org/page/breaking-free-rehabilitating-manual-scavengers/>

II. Impact on the Scavengers

Impact on health

A report conducted by Rashtriya Garima Abhiyan and submitted to the UN states that the direct handling of human excreta involved in manual scavenging can have severe health consequences, including constant nausea and headaches, respiratory and skin diseases, anaemia, diarrhoea, vomiting, jaundice, trachoma, and carbon monoxide poisoning. These conditions are exacerbated by widespread malnutrition and inability to access health services.

Handling untreated waste is by itself a health hazard. The absence of appropriate gear is an added disadvantage and is detrimental to the health of the scavengers.

Impact on Social Status – Persistent Discrimination

Manual scavengers are untouched because they clean waste. Hindus have an ideology about purity and holiness which strictly excludes touching or engaging with waste. The caste hierarchy is derived from the opposition between purity and pollution. Manual scavengers, occupationally forced to clean waste, have negligible social status and are disregarded entirely.

They are routinely denied access to communal water sources and public places of worship, prevented from purchasing goods and services, excluded from community religious and cultural events, and subjected to private discrimination from upper-caste community members. For instance, a temple in Rudawal town in Bharatpur district, Rajasthan, is a popular pilgrimage destination. Valmiki families clean garbage and open defecation from around the temple, but are not themselves allowed to enter the temple.¹¹

Human Rights Violation

The practice of manual scavenging violates rights promised under the Indian Constitution, which are listed as follows:

- Article 14: Equality before law (Right to Equality);
- Article 16(2): Equality of opportunity in matters of public employment;
- Article 17: Abolition of Untouchability;

¹¹HRW; “India: Caste Forced to Clean Human Waste”; August 24, 2015; <https://www.hrw.org/news/2014/08/25/india-caste-forced-clean-human-waste>

- Article 19(1)(a): Right to practice any profession, or to carry on any occupation, trade or business;
- Article 21: Protection of life and personal liberty;
- Article 23: Prohibition of traffic in human beings and forced labour etc;
- Article 41: Right to work, to education and public assistance in certain circumstances;
- Article 42: Just and humane conditions of work;
- Article 46: Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections;
- Article 47: Duty of the State to raise the level of nutrition and the standard of living.

III. Efforts made to eradicate Manual Scavenging

As discussed above, the evil of manual scavenging is violative of various rights enshrined under the Constitution of India as well as the various international treaties and covenants India is a party to, including the United Nations Declaration of Human Rights (UNDHR). Although efforts made in this direction have not been successful in fully eradicating this practice, it is essential to examine the role played by different elements in eradication of manual scavenging. The same is assessed below.

(A) Legislative Efforts

The Constitution of India under chapter III, by virtue of Art. 17 prohibits the practice of untouchability. On analyzing the chapter, it can be seen that the practice of manual scavenging is violative of several Articles as mentioned above.

The legislature has been active in passing a few pieces of legislations targeting the prohibition of employment of persons as manual scavengers, however, the same has not been satisfactory and shall be understood by analyzing each of these legislations given below:

The Protection of Civil Rights Act, 1955

The Act was passed on the lines of Art 17 of the Constitution of India which states that “untouchability” is abolished and its practice in any form is forbidden and enforcement of any such disability shall be an offence punishable by law. Thus, the specific prohibitions on

untouchability are set out in the Protection of Civil Rights Act, 1955¹², and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.¹³

The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

The Act of 1993 is not only penal but a social legislation which intends to protect and restore the dignity of manual scavengers. The main objective of the law is to prohibit employment of manual scavengers, construction or continuance of dry latrine and for the regulation of maintenance of such water-seal latrines. The act makes employment of “scavengers” or construction of dry toilets punishable by imprisonment for up to one year and a fine of Rs.2000 subject to increase by Rs.100 each day for continuing violations.

Despite these prohibitions, the law did not succeed in ending manual scavenging. In the two decades since the law has been passed, it is widely accepted that states have not done enough to enforce or implement the 1993 Act. In the face of widespread failure by state governments to adopt and implement the 1993 Act, Safai Karmachari Andolan and six other organizations filed a writ petition in the Supreme Court of India in 2003.

The Act of 1993 would have been a success,

- had the Act been enforced strictly, registration of the manual scavengers and their rehabilitation would have been legally enforceable instead of leaving it to the initiatives under the Scheme.
- had the penal provisions been invoked, all persisting cases of employment of scavengers could have been brought to book, thereby assisting the Scheme in its rehabilitation endeavour.

The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (2013 Act)

On September 6, 2013, due to significant efforts from former manual scavengers and Dalit rights activists, the Indian parliament enacted a new law to strengthen accountability mechanisms, widen the definition of manual scavenging, and shift the focus of initiatives to

¹² The Protection of Civil Rights Act, No. 22 of 1955, section 7A, added in 1976, provides that whoever compels any person on the ground of untouchability to do any scavenging shall be deemed to have enforced a disability arising out of untouchability that is punishable with imprisonment.

¹³ The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, No. 330 of 1989, article 3, lists specific untouchability practices outlawed as atrocities.

end manual scavenging beyond sanitation to protection of the dignity of communities engaged as manual scavengers.¹⁴

The 2013 Act outlaws all forms of manual scavenging, beyond just dry latrines, prescribes penalties for those who perpetuate the practice, protects those who actually engage in it, and obligates India to correct the historical injustice suffered by these communities by providing alternate livelihood and other assistance.¹⁵

It prescribes the process of surveys and sending of notices for demolition of such insanitary places by the local authority and provides for a punishment for the non compliance of the same.¹⁶ The punishment for the above is prescribed as being imprisonment that may extend to a period of one year or a fine up to Rs. 50,000 or both and a subsequent offence invites a greater term of 2 years of imprisonment and fine up to Rs.1,00,000. It also punishes the employment of persons in hazardous places like septic tanks with a term of 2 years or a fine of 1 lakh or both. Likewise, subsequent offence invites a greater term of 5 years and a fine of 5 lakhs or both.

Whereas the 1993 Act aimed only to prohibit employment of manual scavengers and construction of dry latrines, the 2013 Act recognizes obligations to correct historical injustices suffered by manual scavengers and their families by providing alternate livelihood support and other assistance.¹⁷ Under the act, this obligation is rooted in the fundamental right to live with dignity, and the state's obligation to protect Scheduled Castes and Scheduled Tribes from all forms of exploitation.

In particular, the 2013 Act entitles individuals who have been engaged as manual scavengers to one-time cash assistance, scholarships for their children, housing, alternative livelihood support, and other legal and programmatic assistance.¹⁸

¹⁴ Between 2010 and 2013, delegations of women who formerly worked as manual scavengers met with 64 members of parliament to present draft legislation and demand a new law rather than an amendment to the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. Rashtriya Garima Abhiyan, "Liberated Manual Scavenger women met 64 Parliamentarians for new Legislation," http://www.mailamukti.org/reports_and_documents/Advocacy_Campaign_with_Parliamentarians_Rashtriya_Garima_Abhiyan.pdf.

¹⁵ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, No. 25 of 2013.

¹⁶ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act No. 25 of 2013, Sections 5 & 6

¹⁷ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, The Gazette of India, No. 25 of 2013, Chapter IV

¹⁸ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, The Gazette of India, No. 25 of 2013, chapter IV, sections 11-12

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

The act, post the Amendment Act of 2015, emphasizes on atrocities in the form of manual scavenging and defines a manual scavenger, under section 2(bf) “manual scavenger” shall have the meaning assigned to it in clause (g) of sub-section (1) of section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 and provides for the prohibition of employment of these persons.

Realisation of the objectives of these legislations, however, hasn’t been possible to its fullest. While the Act of 2013, had been passed with laudable objects and was different from its predecessor, viz. Act of 1993, the implementation of these provisions leaves much to be desired.

However, the 2013 Act leaves rehabilitation to be implemented under existing central and state government schemes by local authorities—the same set of programs and authorities that, to date, have not succeeded in ending manual scavenging.¹⁹ Moreover, the implementing rules for the 2013 Act passed on December 12, 2013 does not contain provisions to implement critical aspects of the new legislation.²⁰ As explained by Ashif Shaikh, founder and convener of the Rashtriya Garima Abhiyan:

“The 2013 Act expands the definition of manual scavenging and promises rehabilitation, but the rules are very limited and will not succeed in ending manual scavenging. The rules do not have even a single point on rehabilitation. The term rehabilitation does not even show up in the draft rules. People who left manual scavenging since it was outlawed in 1993 are not covered by the rules, and the rules have no clear provisions for enforcing the laws in government institutions.”²¹

¹⁹ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, The Gazette of India, No. 25 of 2013, chapter V, section 18: “The appropriate Government may confer such powers and impose such duties on local authority and District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out, and a local authority and the District Magistrate may, specify the subordinate officers, who shall exercise all or any of the powers, and to perform all or any of the duties, so conferred or imposed, and the local limits within which such powers or duties shall be carried out by the officer or officers so specified.”

²⁰ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Rules, The Gazette of India, Notification No. D.L. 33004/99, December 12, 2013.

²¹ Human Rights interview with Ashif Shaikh, founder and convener of Rashtriya Garima Abhiyan, Delhi, July 31, 2014.

Also, while the legislature enacts laws, state representatives in panchayats, elected village councils, and municipal corporations too often not only fail to implement prohibitions on manual scavenging by private households, but also perpetuate the practice. To sum up, the implementation of the Act of 2013 could be done effectively by:

- Accurate and timely identification of insanitary latrines and manual scavengers;
- Implementation of provision regarding prohibiting ‘hazardous cleaning’ of sewers and septic tanks;
- Providing for administrative measures beyond conduct rules that can be imposed if officials for noncompliance in cases;
- **Ensure discrimination-free, secure and alternate livelihoods** by providing skill development and training;
- **Create a favourable environment** through community awareness.

(B) Government Efforts

Government intervention in this regard is not only critical to addressing their longstanding social and economic exclusion, but will also provide impetus to households and local officials who rely upon manual scavenging rather than implementing existing government programs to modernize sanitation. The government was keen on taking steps towards the prohibition of this practice, and the same can be seen in the speeches made by the then Prime Minister Dr. Manmohan Singh while he endorsed the idea of putting an end to this practice. The current Prime minister, Shri Narendra Modi has highlighted the importance of modernizing India’s sanitation system, saying that building toilets was more important than temples.²²

Since 1947 the Indian Government has formed several committees and the Planning Commission of India also formulated many programmes in its five year plans to put an end to this practice. The Government of India has implemented rehabilitation schemes like National Scheme for Liberation and Rehabilitation of Scavengers since 1992 and Self Employment Scheme for Rehabilitation of Manual Scavengers since 2007 along with time frame for eradicate to this practice several times after independence.²³ The Self-Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) was introduced in January, 2007, with the objective to rehabilitate the remaining manual scavengers and their dependents in alternative

²² Sandeep Phukan, “Narendra Modi got his enlightenment 22 years late: Jairam Ramesh on 'toilets before temples' remark,” NDTV , October 3, 2013, <http://www.ndtv.com/article/india/narendra-modi-got-his-enlightenment-22-years-late-jairamramesh-on-toilets-before-temples-remark-427419>

²³ http://www.indiawaterportal.org/sites/indiawaterportal.org/files/manual_scavenging_act_and_municipal_waste_water_workers_in_india_-_policy_and_practice.pdf

occupations by March, 2009. However, as this could not be done by the target date, the Scheme was extended up to March, 2010, with a provision for the coverage of spill-over of beneficiaries even thereafter, if required. As per the updated number, reported by States/UTs, after launch of the Scheme, 1.18 lakh manual scavengers and their dependents in 18 States/UTs were identified for implementation of the Scheme. After the enactment of 'Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013', SRMS was revised in synchronization with the provision of the Act.

As per the revised Scheme, identified manual scavengers, one from each family, are provided one-time cash assistance. The identified manual scavengers and their dependents are provided project based back-ended capital subsidy up to Rs. 3,25,000 and concessional loan for undertaking self-employment ventures. Beneficiaries are also provided training for skill development for a period up to two years, during which a stipend of Rs. 3,000 per month is also provided.²⁴ Other such schemes include, Sulabh Shauchalaya (simple latrines) Scheme (1974), the Integrated Low Cost Sanitation Scheme (1981), the Low Cost Sanitation for Liberation of Manual Scavengers Scheme, 1989, and the Total Sanitation Campaign, 1999, renamed Nirmal Bharat Abhiyan (Clean India Campaign).

The major obstacle in the achievement of the goals highlighted by these schemes is, again, implementation. Overcoming this requires a serious commitment from the government to ensure adequate programs are in place and to hold officials accountable for implementing laws and policies that are aimed at ending manual scavenging.

(C) Efforts by International Organisations

In order to raise awareness of the impact of caste-based discrimination, many steps have been taken towards the same by the international community. In 1996, despite vociferous opposition from the Indian government, the UN Committee on the Elimination of Racial Discrimination (CERD) recognized caste-based discrimination as a form of racial discrimination.²⁵

²⁴ Self-Employment Scheme for Rehabilitation of Manual Scavengers (SRMS), paras 2 & 3 available at <http://socialjustice.nic.in/SchemeList/Send/37?mid=24541>

²⁵ Committee on the Elimination of Racial Discrimination, "Concluding Observations of the Committee on the Elimination of Racial Discrimination: India," CERD/C/304/Add.13., September 17, 1996, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2F304%2FAdd.13&Lang=en, para. 14.

In March 2014 the Supreme Court ruled²⁶ that the practice of manual scavenging was prohibited in India under various international instruments, including the Universal Declaration of Human Rights (UDHR), the International Convention on Elimination of Racial Discrimination (ICERD), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

India is also a party to other international conventions that reinforce obligations to end manual scavenging, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC).

Various other United Nations agencies and international human rights bodies have also addressed manual scavenging: UNICEF has approached manual scavenging as a water and sanitation issue; WHO has taken up manual scavenging as a health issue; UNDP has a special task force on the issue of Scheduled Castes and Scheduled Tribes; UN Women addresses manual scavenging based upon that fact that 95 percent of manual scavengers who clean dry toilets and open defecation are women; and the ILO focuses on ending manual scavenging by supporting implementation of relevant government policies in Uttar Pradesh, Bihar, Madhya Pradesh, Rajasthan, and Gujarat.²⁷

(D) Efforts made by the Civil Society

As against the failures of the legislations and schemes discussed above, the success of the civil society in empowering individuals to leave manual scavenging confirms that, with directed effort, it is possible to end the practice. Many activists have been instrumental in the process of freeing these manual scavengers from the shackles of this evil. These activists by means of awareness programmes have educated these communities about their rights under the law, and supported them in taking collective decisions to leave the practice.

In 2002, Rashtriya Garima Abhiyan—a coalition of 30 community-based organizations from 13 Indian states—started a campaign to encourage manual scavengers to voluntarily leave the

²⁶ Safai Karmachari Andolan & Ors. v. Union of India & Ors., Supreme Court of India, Writ Petition (Civil) No 583 of 2003, March 27, 2014, para. 7.

²⁷ 6 United Nations Development Programme and UN Solution Exchange (Gender Community of Practice), “Report of National Round Table Discussion on Social Inclusion of Manual Scavengers,” December 21, 2012, <http://www.undp.org/content/dam/india/docs/pub-povertyreduction/Social-inclusion-of-Manual-Scavengers.pdf>, paras. 2.5.2-2.5.3.

practice. At least 15,000 women “liberated” themselves from manual scavenging through this campaign.²⁸

Without effective government programs, civil society and community based organizations are working to generate livelihoods for individuals who leave manual scavenging. For instance, they have piloted gender and market sensitive vocational training. Successful programs include cell phone repair, driving, computer training, furniture construction, tailoring, fruit selling, and shoe making.²⁹

According to Bezwada Wilson, founder of Safai Karmachari Andolan, the Indian government has responded positively to these initiatives by engaging in serious dialogue with civil society organizations.³⁰

The Safai Karmachari Andolan and six other organizations filed a writ petition in the Supreme Court of India³¹ in 2003, arguing that manual scavenging was unconstitutional; the petitioners requested the court to direct the central and state governments to take time-bound steps to eliminate the practice. It was submitted that the existence of dry latrines and manual scavenging was unconstitutional under articles 14, 17, 21 and 23 of the Indian Constitution.

In April 2005, a Supreme Court bench directed all state governments and all ministries and corporations of the central government to file affidavits within six months reporting the prevalence of manual scavenging, use of funds earmarked for ending manual scavenging, and progress toward rehabilitating manual scavengers.³²

Nearly all of the affidavits received by the court six months later denied the existence of manual scavenging. While the Ministry of Social Justice and Empowerment had previously reported that Uttar Pradesh, Madhya Pradesh, and Maharashtra had the highest number of manual scavengers in India, the 2006 affidavit submitted by the Madhya Pradesh government

²⁸ Human Rights Watch interview with Ashif Shaikh, founder and convener of the Rashtriya Garima Abhiyan, Delhi, May 6, 2014

²⁹ Human Rights Watch interview with Pinky, Navsarjan community leader, Ahmadabad, Gujarat, July 15, 2014; United Nations Development Programme and UN Solution Exchange (Gender Community of Practice), Report of National Round Table Discussion on Social Inclusion of Manual Scavengers, New Delhi, December 21, 2012, <http://www.undp.org/content/dam/india/docs/pub-povertyreduction/Social-inclusion-of-Manual-Scavengers.pdf>, paras. 3.4, 3.5.

³⁰ Human Rights Watch interview with Bezwada Wilson, national convener of Safai Karmachari Andolan, Delhi, December 13, 2013.

³¹ The writ was filed by Safai Karmachari Andolan, Jan Sahas, Adharshila, Young Women’s Christian Association, Safai Kamgar Parivartan Sangh, Dalit Research Institute, and the National Campaign on Dalit Human Rights.

³² Safai Karmachari Andolan & Ors. v. Union of India & Ors., Supreme Court of India, Writ Petition (Civil) No 583 of 2003, order, April 29, 2005

claimed that all remaining dry toilets in the state had been converted to sanitary latrines, and rehabilitation of all remaining manual scavengers would be completed by 2007.³³ Similarly, the Maharashtra³⁴ and Gujarat³⁵ governments claimed that all dry latrines in their states had been converted into flush latrines or abandoned, and all manual scavengers.

On March 27, 2014, a decade after the initial filing, the Supreme Court decision in the case, *Safai Karmachari Andolan v. Union of India*, confirmed that manual scavenging remained widespread and directed that all people working as manual scavengers be rehabilitated.³⁶

IV. Conclusion

As has been observed above, the practice of manual scavenging in India dates back to ancient times, and there is sufficient evidence to prove its existence even now. The condition of these scavengers is deplorable and the need to put an end to this social evil is the need of the hour. To overcome all the obstacles mentioned above, government intervention is extremely essential.

The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, contains provisions aimed at rehabilitating people working as manual scavengers including one-time cash assistance, scholarships for their children, housing, alternative livelihood support, and other legal and programmatic assistance.³⁷ Endorsing these provisions, the

³³ In 2002-2003, Uttar Pradesh had 149,202 manual scavengers, Madhya Pradesh had 80,072 manual scavengers, and Maharashtra had 64,785 manual scavengers. Government of India Working Group on the “Empowerment of Scheduled Castes (SCs)” for the Eleventh Five-Year Plan (2007-2012), Report of Sub Group on Safai Karmacharis Submitted to the Chairman of The Working Group on the “Empowerment of Scheduled Castes (SCs) for the Eleventh Five-Year Plan (2007-2012),” undated, <http://safaikarmachariandolan.org/reports.php> p. 3.

³⁴ *Safai Karmachari Andolan & Ors. v. Union of India & Ors.*, Supreme Court of India, Writ Petition (Civil) No 583 of 2003, Additional Affidavit in Reply on Behalf of Respondent No. 28/State of Maharashtra, February 23, 2006, para. 3.

³⁵ *Safai Karmachari Andolan & Ors. v. Union of India & Ors.* Supreme Court of India, Writ Petition (Civil) No 583 of 2003, Affidavit in Compliance on Behalf of the Panchayats, Rural Housing and Rural Development Department, State of Gujarat, July 25, 2007 and *Safai Karmachari Andolan & Ors. v. Union of India & Ors.*, Supreme Court of India, Writ Petition (Civil) No 583 of 2003, Affidavit in Compliance on Behalf of State of Gujarat, April 4, 2008.

³⁶ *Safai Karmachari Andolan & Ors. v. Union of India & Ors.*, Supreme Court of India, Writ Petition (Civil) No 583 of 2003, judgment, March 27, 2014.

³⁷ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, The Gazette of India, No. 25 of 2013, Chapter IV, Section 13

Supreme Court in 2014 directed all manual scavengers to be rehabilitated accordingly.³⁸ However, policies often fail due to poor implementation. The same is the case with this one.

Hence, in our opinion, the following recommendations may help in the proper implementation of these schemes;

- Adequate, accurate and timely surveys that identify people who're still engaged in manual scavenging
- Providing for administrative measures beyond conduct rules that can be imposed if officials for noncompliance in cases
- Sufficient research and training should be provided to activate these monitoring mechanisms in collaboration with manual scavenging communities, rights activists, and civil society organizations
- **Ensure discrimination-free, secure and alternate livelihoods** by providing skill development and livelihoods training
- **Create a favourable environment** through community awareness

Thus, with effective implementation of these legislations coupled with support from the government, the civil society and the society at large, the utopian dream of the eradication of this social evil can be realized.

³⁸ Safai Karmachari Andolan & Ors. v. Union of India & Ors. , Supreme Court of India, Writ Petition (Civil) No 583 of 2003, judgment, March 27, 2014, para. 14(i).