CHAPTER 3

CONSTITUTIONAL PROTECTION, WELFARE MEASURES AND CIVIL SOCIETY FOR SANITARY WORKERS PROMOTION

3.1 Introduction

Most dehumanizing and inhuman face of manual scavenging refers to the practice of removing human excreta with hands by people and carrying the load on their heads hips or shoulders. With the help of, usually, a pair of tin scrappers and wicket basket or bucket, the manual scavengers removes and carries human excreta from the latrines to the dumping sites. The carrying of human excreta on the head is the abiding image of a manual scavenger. This is an obnoxious and degrading occupation, which the manual scavengers themselves despise, but feel helpless and trapped into. The dehumanizing practice of manual scavenging is closely interlinked with untouchability\(^79\). It is well known that this work is socially assigned and imposed upon certain untouchable castes of India. Manual scavenging is rooted in caste and with very few exception, all the manual scavengers are from the Scheduled Castes. Manual scavenging is thus a caste based occupation, with a large majority of them being women. The continuance of manual scavenging constitutes a gross violation of human rights and the worth of the human person and flies in the face of the Constitutional guarantee assured, in its very Preamble, of a life with dignity for every individual in the country.\(^80\)


3.2 Statistics of Scavenge Workers in India

As per revised survey reports from states, there are 7,70,338 scavengers and their dependents in India taking into account manual scavengers numbering 4,27,870 already assisted under National scheme for liberation and Rehabilitation of scavengers (NSLRS) and the remaining 342468 number of manual scavengers are yet to be rehabilitated. State-wise details of scavengers and the rehabilitation status are given in the following page.

Table 3.1: State-wise population of Scavengers

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>States</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Andhra Pradesh</td>
<td>45822</td>
</tr>
<tr>
<td>2</td>
<td>Assam</td>
<td>40413</td>
</tr>
<tr>
<td>3</td>
<td>Bihar</td>
<td>12226</td>
</tr>
<tr>
<td>4</td>
<td>Delhi</td>
<td>17420</td>
</tr>
<tr>
<td>5</td>
<td>Gujarat</td>
<td>64195</td>
</tr>
<tr>
<td>6</td>
<td>Haryana</td>
<td>36362</td>
</tr>
<tr>
<td>7</td>
<td>Himachal Pradesh</td>
<td>4757</td>
</tr>
<tr>
<td>8</td>
<td>Jammu &amp; Kashmir</td>
<td>4150</td>
</tr>
<tr>
<td>9</td>
<td>Karnataka</td>
<td>14555</td>
</tr>
<tr>
<td>10</td>
<td>Kerala</td>
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</tr>
<tr>
<td>11</td>
<td>Madhya Pradesh</td>
<td>81307</td>
</tr>
<tr>
<td>12</td>
<td>Maharashtra</td>
<td>64785</td>
</tr>
<tr>
<td>13</td>
<td>Meghalaya</td>
<td>607</td>
</tr>
<tr>
<td>14</td>
<td>Nagaland</td>
<td>1800</td>
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<tr>
<td>15</td>
<td>Orissa</td>
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<td>16</td>
<td>Pondicherry</td>
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<tr>
<td>17</td>
<td>Punjab</td>
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</tr>
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<td>18</td>
<td>Rajasthan</td>
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<td>19</td>
<td>Tamil Nadu</td>
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<td>21</td>
<td>West Bengal</td>
<td>23852</td>
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<tr>
<td>22</td>
<td>Chhattisgarh</td>
<td>3243</td>
</tr>
<tr>
<td>23</td>
<td>Jharkhand</td>
<td>5750</td>
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<tr>
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</tr>
<tr>
<td></td>
<td>Total</td>
<td>770338</td>
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</tbody>
</table>

The number of manual scavengers in the country according to the official statistics of the Ministry of Social Justice and Empowerment of the Government of India was 676009 for the year 2002-2003. The highest numbers were in Uttar Pradesh (149202) followed by Madhya Pradesh (80072) and Maharashtra (64785). But independent estimates indicate that there could be about twelve lakh manual scavengers in the country. It is just not a matter of concern, but also disgrace that even after little more than half a century of Independence, the social, economic and educational levels of Safai Karamcharis (Sanitation workers) in the country continue to be pitiable as still they are forced to live in sub-human conditions. They are generally engaged by Local Bodies. According to information available, there are 95 Municipal Corporations, 1804 Municipalities and 1739 Nagar Panchayats in the country. State wise details may be seen at. It is indeed regrettable that sizeable number of Scavengers/Sweepers employed by local bodies is facing a great deal of problems particularly about the denial of pay, GPF, pension and other retirement benefits.

3.3 Prevalence of Dry Latrines

As per census (1991 & 2001) data, at the national level, 76 percent of the households did not have toilet facilities in 1991; however the figures redeemed to 64 percent in 2001. Within one decade there is an increase of 12 percent in the proportion of people having toilets in their homesteads.

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### Table 3.2: Availability of Latrine for Households in India- 1991&2001 (% of households)

<table>
<thead>
<tr>
<th></th>
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<th></th>
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<tr>
<td>Andhra Pradesh</td>
<td>18.40</td>
<td>6.62</td>
<td>54.60</td>
<td>32.99</td>
<td>18.15</td>
<td>78.07</td>
<td>81.60</td>
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<tr>
<td>Assam</td>
<td>37.43</td>
<td>30.53</td>
<td>86.06</td>
<td>64.64</td>
<td>59.57</td>
<td>91.60</td>
<td>62.57</td>
</tr>
<tr>
<td>Bihar</td>
<td>11.75</td>
<td>4.96</td>
<td>56.54</td>
<td>19.19</td>
<td>13.91</td>
<td>69.69</td>
<td>88.25</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>14.20</td>
<td>5.18</td>
<td>52.59</td>
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<tr>
<td>Delhi</td>
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<td>29.60</td>
<td>66.64</td>
<td>77.96</td>
<td>62.89</td>
<td>79.03</td>
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<tr>
<td>Gujarat</td>
<td>30.69</td>
<td>11.16</td>
<td>65.71</td>
<td>44.60</td>
<td>21.65</td>
<td>80.55</td>
<td>69.31</td>
</tr>
<tr>
<td>Haryana</td>
<td>22.45</td>
<td>6.53</td>
<td>64.25</td>
<td>44.50</td>
<td>28.66</td>
<td>80.66</td>
<td>37.55</td>
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<tr>
<td>Jharkhand</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>19.67</td>
<td>6.57</td>
<td>66.68</td>
<td>NE</td>
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<td>Karnataka</td>
<td>24.13</td>
<td>6.85</td>
<td>62.52</td>
<td>37.50</td>
<td>17.40</td>
<td>75.23</td>
<td>75.87</td>
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<td>Kerala</td>
<td>51.28</td>
<td>44.07</td>
<td>72.66</td>
<td>84.01</td>
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<td>Madhya Pradesh</td>
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<td>Maharashtra</td>
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<td>18.21</td>
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<td>7.71</td>
<td>59.69</td>
<td>90.19</td>
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<td>23.13</td>
<td>7.17</td>
<td>57.47</td>
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<td>14.36</td>
<td>64.33</td>
<td>76.87</td>
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<td>66.54</td>
<td>31.43</td>
<td>19.23</td>
<td>80.01</td>
<td>81.98</td>
</tr>
<tr>
<td>Uttarakhand</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>45.20</td>
<td>31.60</td>
<td>86.88</td>
<td>NE</td>
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<tr>
<td>West Bengal</td>
<td>31.51</td>
<td>12.31</td>
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<td>43.71</td>
<td>26.93</td>
<td>84.85</td>
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<td>India</td>
<td>23.70</td>
<td>9.48</td>
<td>63.85</td>
<td>36.41</td>
<td>21.92</td>
<td>73.72</td>
<td>76.30</td>
</tr>
</tbody>
</table>

Note: No Latrine – This category covers houses where no latrine of any kind is available to the household within the house. If the Household is using Sulabh Shauchalay or community latrine then it is construed that no latrine is available to the household within the house. However, in the case of multi-household houses, if they are sharing a common latrine, latrine is considered as available to all the households occupying the house.
The above table excludes institutional households for which information was not collected. In 19915, Chhattisgarh was part of the state of Madhya Pradesh, Jharkhand was in Bihar and Uttaranchal was in Uttar Pradesh. The percentage of households having toilets in rural areas increased from 9.5 per cent in 1991 to 22 per cent in 2001 (Increase of 12.5 percentage points). In urban areas the proportion increased from 64 per cent to 74 per cent (an increase of 10 percentage points). Undoubtedly, the increase has been due to the massive sanitation drive launched by the government. Still, the fact that 64 per cent of the households survive without the sanitary latrines is a sad fact.

The Census also provides information regarding the type of latrines used both in rural and urban areas. Three categories of latrines have been taken into account in the Census 2001, which includes pit latrine, water closet latrine and other latrine including service latrines. From the census figure it can be summarized that nearly 20 per cent of the households having toilets depended on dry latrines in 2001.

Service latrines are dry types of latrines from where human excreta are removed by scavengers. The census figures are alarming with respect to the number of service latrines which continue to contribute to the hazards of open defecation and transmission of disease. The more alarming realization is that despite launching of various sanitation programmes for preventing the dehumanizing practice of removing night soil by manual scavenging in states like Uttar Pradesh, Delhi, Haryana, Punjab and Uttaranchal, the usage of service latrine is quite prevalent.

Pit Latrines are attached to the pit that is dug into the ground for the reception of night soil are reckoned as pit latrine. Water closet latrine: The sanitary water flush latrines that have water closets fitted with flushing cistern. Such latrines that may be connected to a septic tank or an underground sewerage system will also be recorded as
water closet latrines. The faecal matter from these types of latrines is removed without the need for scavenging. Other latrine: Service latrines are dry types of latrines from where a human excreta is removed by scavengers. But, in a few areas, due to some conceptual problems at enumerator’s/ respondent’s level during census, some other type of latrines which do not fall under the typical definition of service latrines, were also found to have been included in this type. Therefore, the data for this type are shown as ‘other Latrine’. Thus, this category includes service latrines; latrines serviced by animals such as pigs, etc. and all latrines other than the pit and the water closet types of latrines.

Table 3.3: Percentage of households by Type of Latrines (Figures in %)

<table>
<thead>
<tr>
<th>States</th>
<th>Total</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pit Latrine</td>
<td>Water closet</td>
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<tr>
<td>Andhra Pradesh</td>
<td>8.55</td>
<td>18.12</td>
</tr>
<tr>
<td>Assam</td>
<td>43.94</td>
<td>15.90</td>
</tr>
<tr>
<td>Bihar</td>
<td>6.48</td>
<td>7.87</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>2.42</td>
<td>8.87</td>
</tr>
<tr>
<td>Delhi</td>
<td>16.36</td>
<td>45.47</td>
</tr>
<tr>
<td>Gujarat</td>
<td>8.73</td>
<td>31.09</td>
</tr>
<tr>
<td>Haryana</td>
<td>22.29</td>
<td>10.91</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>3.27</td>
<td>10.73</td>
</tr>
<tr>
<td>Karnataka</td>
<td>13.38</td>
<td>18.64</td>
</tr>
<tr>
<td>Kerala</td>
<td>12.36</td>
<td>65.19</td>
</tr>
<tr>
<td>States</td>
<td>Total</td>
<td>Urban</td>
</tr>
<tr>
<td>------------------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td></td>
<td>Pit Latrine</td>
<td>Water closet</td>
</tr>
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<td>M. P.</td>
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<td>12.47</td>
</tr>
<tr>
<td>Maharashtra</td>
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<td>Punjab</td>
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<td>Tamil Nadu</td>
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<tr>
<td>Uttaranchal</td>
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<td>15.45</td>
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<tr>
<td>West Bengal</td>
<td>17.53</td>
<td>20.95</td>
</tr>
<tr>
<td>India</td>
<td>11.50</td>
<td>18.02</td>
</tr>
</tbody>
</table>

Source: [www.cag.nic.in/activity/2002-03/chapter2](www.cag.nic.in/activity/2002-03/chapter2)

### 3.4 Government initiatives to curb the practice of manual scavenging

After independence, various state governments and the union government established commissions and committees to look into the issue. The then government of Bombay appointed the scavengers’ Living Conditions Enquiry Committee headed by V.N. Barve in 1949, which submitted its report in 1952. The Barve Committee did not ask for abolition of dry toilets, but instead for the amelioration of the working conditions of scavengers. The N.R. Malkani Committee was appointed in 1957 by the Central
Advisory Board of Harijan Welfare, which itself was constituted in 1956 under the Ministry of Home Affairs. The Committee, known as the Scavenging Conditions Inquiry Committee, submitted its report in 1960, largely recommending ameliorative measures again. The Central Department of Social Welfare appointed a second committee in 1965, again under the chairmanship of N.R. Malkani, to examine the abolition of the ‘customary rights’ of the scavengers. The I.P.O Salappa Committee in Karnataka released its report, Improvement of Living and Working Conditions of Sweepers and Scavengers, in 1976. All these committees, while highlighting the pitiable conditions of the scavengers, recommended ameliorative measures, not abolition.

Mahatma Gandhi has quoted that to eliminate inhuman practice of night soil as headload and he suggested that the scavenging should mechanized and the wages of labour should be increase and he also quoted if there is a possibility that persons who are from other castes also might be come for this work In 1969, the union government took up a special programme for converting dry toilet into water-pour flush latrines. Under this programme, a 25 percent subsidy and a 75 percent loan was offered. The union Ministry of Works and Housing gave loans to convert dry latrines to pour-flush ones under its integrated development of Small and Medium Town scheme. The Housing and Urban Development Corporation (HUDCO) also financed loans to local bodies. It was BindeswarPathak’sSulabhShouchalaya scheme, which means a ‘simple latrine’, initiated in 1974, that heralded a slow change in the system. The twin-pit pour-flush toilet was cost effective, consumed less water and had indigenous material and know-how. With the twin pits working alternately and continuously, composting on-site was possible, and
complete desludging was pathogen-free, unlike in a single-pit toilet. Pathak was given several awards, generously feted by international agencies, and his toilet was taken up by several state governments. In an internationally funded endeavour, pathak set up Sulabh Schouchalayas all over India in major towns. These are now common enough sights at metropolitan bus stands, railways stations and public places. They are, however, almost completely staffed by members of the scavenging community.

Pathak envisions the ‘liberation’ of scavengers from manual scavenging but not from the caste and the profession in a new form. The Sulabh toilet mirrors the caste system. The caretaker (who does not soil his hands) is usually a caste Hindu. The caretaker are collects money from users and supervises the actual cleaners, either bhangis or madigas who work in a shift system and are paid Rs. 600 to Rs. 900 per month. The Sulabh endeavor has not been able to break the stranglehold of the caste system on occupations.

3.5 Constitutional entitlement for affirmative action

The provision of Article 46 of the constitution which lays special responsibility upon the State Governments for the upliftment of weaker sections of the society including the weakest section of the society i.e., sanitary workers who are still engaged in carrying night soil, below human dignity, is definitely a noble one. In modern India, while we claim to be scientifically and technologically almost at par with the developed nations yet the stigma of manual scavenging is still there in our society because of the continued prevalence of unhealthy inhuman occupation due to existence of dry latrines
allover the country and the societal structure/mores which have not yet been transformed.

With a view to exert coercive pressure on the users of dry latrines, the Central Government have enacted a legislation, namely, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Act applies, in the first instance, to the States of Andhra Pradesh, GOA Karnataka, Maharashtra, Tripura and West Bengal and to all Union Territories. In regard to remaining States, it shall apply to such other States which adopt this Act by a Resolution passed in its legislature under Article 252 of the Constitution. Enquiries made by this Commission reveal that this important piece of legislation is not being effectively implemented. Another Centrally Sponsored Scheme launched by the Government is the Scheme for Liberation and Rehabilitation of the Scavengers and their Dependents. Although this is a Centrally Sponsored Scheme, it is being implemented by the States and their agencies. The main components of the Scheme include identification of scavengers and their dependents through a quick survey, training in alternative trades and occupations, depending on availability and choice of the trainee and their rehabilitation in identified trades. occupation through a package of assistance comprising subsidy, margin money loan and bank loan. The scheme is under implementation from March 1992 onwards. However, the Commission has observed that in almost all States the implementation of the scheme has been extremely poor and has resulted in wastage of scarce resources without corresponding benefits to the target group, which is growing rather than diminishing. On the other hand there is no evidence to suggest that number of dry latrines have decreased or there is a nationwide movement to mobilize support using technology, vision and adoption of mission mode of operation to combat this problem.
The legal mechanism that addresses the issues and interests of Dalits including manual scavengers in general could be found in the various provisions of the Constitution of India, a few special laws like the Protection of Civil Rights Act, 1955; Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989; the rules framed under the respective Acts are equally applicable to manual scavengers. Moreover, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (hereafter the Act, 1993) and the National Commission for SafaiKaramcharies Act, 1993 are exclusive laws meant for manual scavengers which require analysis in details.

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

The obnoxious practice of manual scavenging or engaging fellow human beings into cleaning the untreated human excreta is a blot on our society. Deeply concerned about liberating the manual scavengers from the inhuman task of carrying night soil, the Parliament enacted The Employment of manual scavengers and construction of Dry Latrine (Prohibition) Act, 1993. The law prohibits construction and or maintenance of dry latrines and employment of manual scavengers. However, as brought out by census 2011, there are still 26 lakh insanitary latrines in the country where night-soil is either being deposited into open drains or removed manually. This abominable practice of manual
scavenging which persists in various parts of the country violates the constitutional right of human dignity\textsuperscript{82}.

To eradicate this dehumanizing practice and to gainfully rehabilitate human scavengers, the Government introduced "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012" (Hereinafter, the Bill) in Lok Sabha on 3.9.2012. The Bill was referred to the Standing Committee on Social Justice and Empowerment on 9.9.2012 for examination and making a report thereon.

The Statement of Objects and Reasons of the Bill, states that elimination of dry latrines and manual scavenging and the rehabilitation of manual scavengers in alternate occupations has been an area of high priority for the Government. Despite the concerted efforts made in the past to eliminate the dehumanizing practice of manual scavenging, the practice still persists in various parts of the country. Existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging from the country. These evils are inconsistent with the right to live with dignity which is an essence of the Fundamental Rights guaranteed in Part III of the Constitution. Further, there is a related problem of serious health hazard and safety of the workers employed in the manual cleaning of sewers and septic tanks. It is also felt that the existing laws are not stringent enough to eliminate these evil practices. In view of the above, there is a need to make comprehensive and stringent provisions for the prohibition of insanitary latrines and employment of persons as manual scavengers, rehabilitation of manual scavengers

\textsuperscript{82} Das Bhagwan , 1995, ‘Socio-Economic Problems of Dalits, in et al, Bhagwan Das and Massey, Dalit Solidarity’, Indian Society for Promoting Christian Knowledge, Delhi, p.74
and their families and to discontinue the hazardous manual cleaning of sewers and septic tanks by the use of technology and for matters connected therewith. With a view to eliminate manual scavenging and insanitary latrines and to provide for the rehabilitation of manual scavengers, a multi-pronged strategy has been worked out in the provisions of the Bill, which consists of legislative as well as programmatic interventions. The Bill seeks to achieve the above objectives.

There have been concerted efforts in the past to eliminate the dehumanizing practice of Manual Scavenging. Even though sanitation is a State subject as per entry of the Constitution, however, taking into consideration the seriousness of the problem and the resolutions passed by the legislatures of six States (Andhra Pradesh, Karnataka, Maharashtra, Goa, West Bengal & Tripura), the Parliament has enacted The Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993, under Article 252 ("Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State") of the Constitution. The Act came into force w.e.f. 26.1.1997 in all the Union Territories and the above six States. Subsequently, 19 other States also adopted it. The remaining three States viz. Himachal Pradesh, Jammu & Kashmir and Rajasthan have their own Acts. A copy of the 1993 Act is enclosed as.

The Ministry of Social Justice and Empowerment is implementing the scheme of Rehabilitation of Manual Scavengers (SRMS). Though all the concerned State Governments had confirmed in June, 2010 that all eligible and willing manual scavengers had been rehabilitated in alternative occupations under SRMS, the National Advisory Council (NAC) in a resolution dated 23.10.2010, inter alia, observed that;
"(i) The National Advisory (NAC) is deeply distressed to observe that the shameful practice of manual scavenging persists in India, despite being outlawed. This practice involves entrapping women, men and even children only because of the accident of their birth, into a humiliating vocation of gathering human excreta from individual or community dry toilets with bare hands, brooms or metal scrapers. It is intolerable that this endures, and is the worst surviving symbol of untouchability. The persistence of dry latrines in various parts of the country violates human dignity, the law and articles 14, 17, 21 and 23 of the Constitution. (ii) In 1993, Parliament passed the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, which declared the employment of scavengers or the construction of dry (non-flush) latrines to be an offence punishable with imprisonment for up to one year and a fine of two thousand rupees. But central, state and local governments have been very weak in implementing this law, and almost no one has been punished under this law in 17 years. Local bodies themselves routinely run dry toilets and employ people of specific castes to clean these manually. (iii) One basic problem so far is that the effort has been viewed by governments more as an issue of sanitation, than an issue of human dignity as guaranteed to all citizens in the Preamble of the Constitution”\textsuperscript{83}.

The Ministry of Housing and Urban Poverty Alleviation is the nodal Ministry for implementing The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. However, to focus on human dignity of the manual scavengers, 

\textsuperscript{83}People’s Union for Civil Liberties v. Government of NCT of Delhi, Supreme Court of India, CivilAppeal No. 4911 of 2008 and Sewerage Employees Union v. Union of India, High Court of Punjab and Haryana, (2009) ILR 1 Punjab and Haryana 984
the Cabinet Secretariat, vide its O.M. dated 17.8.11, conveyed its decision that the Ministry of Social Justice and Empowerment would handle the work relating to the new Bill. The definition of Manual Scavengers in the Bill states:

"Manual Scavengers" 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 on a railways track or in such other spaces or premises, as the Central or a State Government may notify, before the excreta fully decomposes, and the expression "manual scavenging" shall be construed accordingly.

Section 7A of the Protection of Civil Rights Act 1955 (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 and thus punishable with imprisonment. It was only four decades after the commencement of the Constitution that manual scavenging was specifically prohibited under the ‘Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act’ which was passed by Parliament in May 1993 after obtaining resolutions from the State Legislatures of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal under Article 252(1) of the Constitution. While the Act received the assent of the President in June
1993, it took almost four years for the issue of the notification bringing the Act into force in these six States and all Union Territories in January 1997. The remaining States were expected to adopt the Act by passing resolutions under Article 252(1); but the legislation is yet to become one of countrywide applicability. Some of the States have not adopted the law on the ground that there were no manual scavengers in the State, despite evidence to the contrary.84

The Preamble to the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993 states;

“Whereas fraternity assuring the dignity of the individual has been enshrined in the Preamble to the Constitution.....and whereas the dehumanising practice of manual scavenging of human excreta still continues in many parts of the country ......and whereas it is necessary to enact a uniform legislation for the whole of India for abolishing manual scavenging by declaring employment of manual scavengers for removal of human excreta an offence and thereby ban further proliferation of dry latrines in the country “.

However, the content of the Act shows that emphasis has been placed more on sanitation rather than on the human dignity of the manual scavengers. In fact, the Act ignores the issue of human dignity mentioned in its own Preamble.

84 Ibid
A brief reference may be made to a Public Interest Litigation (PIL) in the form of a Writ Petition filed in the Supreme Court of India in 2003 by the Safai Karmachari Andolan (a movement for the elimination of manual scavenging) and 14 other organizations and individuals. It was submitted before the Supreme Court that the existence of dry latrines in various parts of the country was entirely illegal and unconstitutional, an affront to human dignity and was in violation of the fundamental rights enshrined in the Constitution, in particular, Article 14, 17, 21 and 23. The Supreme Court was requested to issue time-bound directions to the Union of India and various States to take effective steps for the elimination of the practice of manual scavenging simultaneously with the formulation and implementation of comprehensive plans for rehabilitation of all persons employed as manual scavengers as well as for the effective implementation of Employment of Manual Scavenging and Construction of Dry Latrines (Prohibition) Act 1993. It took almost three years and strong admonitions from the apex court to secure response from the State Governments and the Central Government in the form of detailed affidavits.

Many of the State Governments denied the existence of the practice of manual scavenging. Several affidavits and counter affidavits showing the existence of dry latrines and manual scavenging have been filed before the Court. The issue is still before the Supreme Court for its directions. It is unfortunate that, apart from private households, organizations of the Central Government, especially the defence establishments and Indian Railways as well as the local bodies under the State Governments such as municipal and panchayat institutions are themselves a major employers of manual
scavengers even at present even after 66 years of independence there are several communities of people who are left far behind and are on the margins of development. They live in most deplorable conditions of economic backwardness and social discrimination. The Indian State has the responsibility to liberate and set such communities back on the track of development to bring them to the main stream. The neediest among these communities are Safai Karamcharis – Manual scavengers, Sewer workers and Sanitation workers. They and their dependants live helplessly entangled in the vicious circle of extreme poverty, indebtedness and addiction of alcohol. More importantly they suffer the indignities associated with the unclean occupations they are forced into by the caste based social order and custom. The State therefore should pay special attention to these communities and do its utmost to liberate them from their social conditions and improve their economic status.

The Sub Group on Safai Karamcharis constituted by the Working Group on the ‘Empowerment of Scheduled Caste (SCs)’ while acknowledging all the previous attempts of the Indian State to alleviate the conditions of Safai Karamcharis through a fruitful legislative measures and schemes,

Conceptually the Sub Group recognizes that ‘any person employed or engaged to manually clear, carry or dispose human excreta partially or fully’ come under the purview of the term ‘Safai Karmacharis’, and hence people engaged in manual scavenging, sewer works and sanitation works in municipalities and gram panchayats come under its

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85 Ibid
purview. However we recognize the differences in the nature of the, the living and working conditions of people engaged in it and the different focus and interventions necessary for the relief and rehabilitation. The Sub Group has given considered thought to these distinctions and herewith are categorizing our recommendations separately for the three sections mentioned above.

It is indeed a shame for a country like India, who is signatory to Human Rights Convention No. 111 of United Nation to allow the obnoxious practice of manual scavenging to continue in modern India and even after 60 years of independence. Manual scavengers are the most discriminated people experiencing the most atrocious form of untouchability. The spirit of Article 17 of the Indian Constitution has not fully touched their lives as yet. It is true that the previous 10 Five Year Plans had initiated some steps to alleviate their conditions and there are several schemes already in place. But their implementation leaves much to be desired, with the result the manual scavengers are neither released, liberated fully nor rehabilitated in the true sense of the terms, they remain as mere initial steps.

It is painful to note that in a country with a billion people, with social welfare measures, planned development programmes, a small group of people involved in an obnoxious task, despite legal provisions and planned programmes are yet to be released and rehabilitated. The continuing stranglehold of the social structure, viz caste system and internalization of social exclusion, untouchability and discrimination is evident in this manifestation. What is needed is special focus to liberate our society from the norms of social exclusion and discrimination along with an action plan with ‘Implementation’ as
the ‘Buzz’ word in the XI\textsuperscript{th} Plan, with full ownership and participation of the persons involved in these occupations. It should be recognized that the basic issue is that of reclaiming human dignity of people engaged in manual scavenging; a dignity assured in the very Preamble to the Indian Constitution.

According to the 1993 Act manual scavenging involves continuance of community dry latrines/ individual dry latrines only and manual scavengers are those employed/engaged fully or partially to clean the human excreta in such latrines. This definition is very restrictive. It does not cover all those who are employed to clear, carry and dispose human excreta in places other than the dry latrines who clean the sewers, septic tanks, drains where human excreta is washed in railway tracks, rail toilets. Due to lack of civic and sanitation facilities in semi urban centres and cities, slum dwellers and pedestrians tend to use pavements and roads for defecation. In several places, the local governance bodies themselves allot specific plots or lands for open defecation. This is a major problem since the large number of sanitation workers engaged by the local governance bodies are forced to manually clear, carry and dispose human excreta and yet they are not considered as manual scavengers as per the Act.

While the 1993 Act is restrictive in its definition, the NSKFDC a body instituted by the government for the benefit of Safai karmacharis defines scavenging more broadly. According to NSKFDC manual scavengers are those employed/engaged fully or partially to clean the human excreta and filth. This difference in definition calls for clarity and better coordination on the part of government bodies. Definitions are important as they reflect perspectives and indicate approaches to liberation and rehabilitation.
In order to liberate scavengers and their dependents from their hereditary and inhuman occupation of manually removing night soils and filth and to provide for and engage them in alternative and dignified occupation, the Govt, of India launched the National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents in March, 1992. The responsibility for execution of the scheme has been assigned to State Govts through their Scheduled Castes Financial and Developmental Corporation. The responsibility of rehabilitation of municipal scavengers in the service of the local bodies would be that of local bodies themselves. The main components of the scheme include time bound programme for identification of scavengers and their dependents and their aptitude for alternative trade through a survey, impart training in identified trades to scavengers and their dependents in the age group of 15 to 50 years in the training institutions of Central Govt., State GoVls, local bodies and non-Government organisations on TRYSEM norms and rehabilitation of scavengers through sanctioning of projects costing upto Rs.50,000 for each beneficiary by providing subsidy, margin money loan and bank loans, the break-up of which is 50% subsidy 15% margin money and rest as bank loan.  

As per provisions of the scheme, the expenses on the margin money has to be met by the Central Govt. and State Govts in the ratio of 49:51 respectively and for training and subsidy, 100% expenses would be borne by Central Government. As envisaged in the

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scheme each one of the scavenger is to be covered irrespective of his age, sex and educational level but for training the age group of 15 to 50 years alone is to be covered.

The National Commission for SafaiKaramcharis was constituted in 1994 to monitor the situation and recommend specific programmes. The national SafaiKaramchari Finance and Development Corporation (NSKFDC) were formed in 1997, as an apex institution for the all-round socio-economic uplift of these workers and to extend financial assistance to them for income generation and viable projects. The National Human Rights Commission has also taken cognizance of the issue. In one of NHRC’s meetings with the union government, it was agreed that manual scavenging should be eradicated by 2 October 2002.

As the national convenor of SafaiKarmachariAndolan – a movement for the elimination of manual scavenging – Bezwada Wilson is leading a campaign that he hopes will result in the liberation of 1.3 million Indians by 31 December 2010, and it is his spirit that is helping to mobilise the victims of the caste system.

“Manual scavenging was prohibited in 1993,” Wilson explains to me on the balcony of the home of Paul Divakar, General Secretary of the National Campaign on Dalit Human Rights (NCDHR), who is hosting a fellowship dinner for a “Living Letters” team of ecumenical representatives from the World Council of Churches (WCC).

“But there were no prosecutions against people exploiting manual scavengers until this year. Twenty one prosecutions were commenced, but they all got bail the next day,” Wilson informs me.
SafaiKarmachariAndolan has waited long enough for the authorities. If the law is not being implemented to free people from the inhumanity of manual scavenging in all of India’s districts, SafaiKarmachariAndolan feels there is no other option but to encourage people to free them.

“We have a plan to eradicate manual scavenging in India within 36 months starting from 1 January 2008 to 31 December 2010,” Wilson says.

“The community should just stop work. No human being should have to clean other people’s excrement.” Despite the fact that the caste system was abolished under India’s Constitution in 1950, “untouchability” is still practised, particularly in rural areas. Communities allocate work they consider the most menial to outcaste Dalits. In some rural schools, Dalit children are made to clean the school toilets and sit at the back of the class in case they “pollute” children from higher castes. About 80 percent of manual scavengers are women.

The SKA organised a dharna on November 30, 2007, in New Delhi, followed by a national consultation the next day when Action 2010 was launched to eliminate manual scavenging through an intensive three-year campaign. Since the campaign coincides with the Commonwealth Games in New Delhi, the SKA decided to boycott the Games and “to ask the international community not to participate in the Games as such an abhorrent

practice still exists in India”. A week-long “Awareness Yatra” in all the States will converge in New Delhi before the Games begin. Around eight lakh people are expected to participate in the yatra and demonstrations in various places of Delhi.

The conclusion of the CAG was that this scheme "[had] failed to achieve its objectives even after 10 years of implementation involving investments of more than Rs.600 crores". The CAG also found that although funds were available for the implementation of the scheme, much of it was unspent or underutilised. The CAG also noticed that there was "lack of correspondence between liberation and rehabilitation, and that there was no evidence to suggest if those liberated from the practice were in fact rehabilitated".

In the CAG's view, the most serious lapse in the conceptualisation and operationalisation of the scheme was its failure to employ the Act. However, even the Act as it stands today is hardly helpful in catching the offenders. Section 17 (2) of the Act stipulates that no prosecution for any offence under the Act shall be instituted except by or with the previous sanction of the executive authority. No wonder that there has been no single prosecution under the Act so far, even though the practice is widespread. S. Muralidhar, advocate in the Supreme Court and counsel for the petitioners, says: "In many cases, the executive authority itself is the violator of the Act and it makes no sense to make its sanction mandatory for prosecution." To ensure effective implementation of
the Act, therefore, this section has to be amended suitably by Parliament, even if the Supreme Court facilitates a process of accountability\textsuperscript{88}.

Whatever the outcome of the case in the Supreme Court, the political class has so far displayed a lack of will to acknowledge the gravity of the practice and its own duty to eradicate it. Appearing for the Central government in the case on April 29, Additional Solicitor-General B. Dutta pleaded lack of resources to implement the law effectively. The court, however, took exception to the fact that money was being squandered without any results on the ground. In particular, the court disapproved of the attitude of the Railways in not indicating any time-frame within which it proposed to fit all the coaches with water-seal latrines.

The National Scheme for Liberation and Rehabilitation of Scavengers has been ensued with two integral components with a view to eliminate the practice of scavenging. One is to restructure, the Mechanism of disposing night soils by introducing water borne latrines and the other is to rehabilitate the Scavengers in some other occupation by providing adequate training.

The work of conversion of dry latrines into water borne is a pre-requisite to stop the practice of scavenging dry latrines and found in towns and rural areas all over India. Responsibility for conversion of dry latrines lies upon agencies such as Municipal Corporations and other Local Government Organisation. At National level the

responsibility of such conservation of dry latrines into water borne ones is with the Ministry of Urban Development.

The rehabilitation of scavengers thus freed from the traditional works of disposing night soil as head loads, is the responsibility of the Ministry of Welfare. This is the ‘Soft Care’ work of the entire scheme of liberation and rehabilitation. To meet this objective the scheme evolved three dimensions in its implementation; one is time bound programmes of identification of scavengers and their dependents at the national level in different states/union territories and up to the level of village, second is a survey of aptitudes of scavengers for alternative jobs with provides a comprehensive training programmes for identification trade or job necessary training of a duration of one to six months would be arranged in local training centers of different departments of State/Central government. Besides NGOs and other Organisation which have been some expertise in the respective subject of training are to be involved in the programme. These financial components for rehabilitating scavengers in different traders or jobs by providing adequate loan with subsidy and margin money etc., through banks and direct central assistance89.

Employing people for manual scavenging and cleaning of septic tanks and sewers will attract a hefty penalty once the Prohibition of Employment as Manual Scavengers

and their Rehabilitation Bill, 2012 is passed. The Bill that seeks to prohibit employment as sanitary workers is to be tabled in Parliament in the monsoon session.

The proposed law suggests that every insanitary latrine will have to be demolished or converted into sanitary latrines within nine months of the notification of the law. It prohibits any agency or individual from employing manual scavengers and those already in this kind of job — directly or indirectly — will have to be discharged irrespective of any contract, agreement, custom or traditional commitments. Insanitary latrine is defined where excreta is cleaned or manually handled before.

3.7 Civil Societies participation towards manual scavenging (Safai Karmachari Andholan-SKA)

The mission of SafaiKarmachariAndolan (SKA) is guided by a Board, and its programmes are executed by a National Core Team working alongside a dedicated group of State Convenors, Organisers and community resource persons supported by a team of thematic coordinators. SafaiKarmachariAndolan (SKA) is a national movement committed to the eradication of manual scavenging and the liberation and rehabilitation of all such safai karmacharis into dignified occupations. More specifically, seeks ensure implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993, penalising offenders who continue to build dry latrines or employ persons for manual scavenging. SKA advocates the complete abolition of manual scavenging, demolition of all dry latrines and replacement with water sealed or sanitary pit latrines, and the rehabilitation of all persons engaged in manual scavenging.
Concurrently, SKA aims to organize and mobilize the safakarmachari community around the issues of dignity and rights, as part of the process of their rehabilitation and realization of rights.

SKA was initiated in 1986 by several human rights activists who took up the struggle against manual scavenging in Kolar Gold Fields, Karnataka. SKA soon emerged in its present form as a campaign-movement in 1996 Andhra Pradesh. By 2000, SKA had become a strong movement in Andhra Pradesh, Karnataka and Tamilnadu and had also expanded campaign gradually to the states of Maharashtra and Rajasthan. Since then, it has grown progressively to become a National Movement spread across sixteen states of India – Andhra Pradesh, Delhi, Jammu and Kashmir, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Bihar, West Bengal, Jharkhand, and Uttarakhand – with a national secretariat in New Delhi. In addition, SKA works in collaboration with partner organisations in Chattisgarh, Gujarat and Madhya Pradesh.

While focusing primarily on the rights of persons engaged in manual scavenging, SKA is also committed to working with all those engaged in ‘unclean’ occupations, such as pit or septic tank workers, sewage workers and sweepers, who fall within the ambit of ‘safakarmacharis’. Moreover, while acknowledging that mostly Dalits are engaged in these ‘unclean’ occupations, SKA also works with other communities such as Yanadis and Kattunayagars, who also engage in these occupations in some areas of certain states.
SKA is one of the first organisations to organise women from the safai karmachari community to assert their right to a life with dignity. Gender is a cross-cutting theme in most of SKA activities, and SKA is committed to building women’s leadership within the safai karmachari community.

The mission of Safai Karmachari Andolan is the liberation and rehabilitation of all persons engaged in manual scavenging across India from their caste-based hereditary and inhuman occupation. Safai Karmachari Andolan’s major focus is to organise and mobilise the community around the issues of dignity and rights, accompanied by strategic advocacy and legal interventions.

3.8 Appeals to Indian states:

- Demolish all dry latrines and rehabilitate all persons engaged in manual scavenging into alternative, dignified occupations.
- Strictly enforce the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993 to punish all those building or maintaining dry latrines and employing persons for manual scavenging.
- Take stringent legal action against all persons practicing untouchability or caste-class-gender based discrimination against safai karmacharis.
- Introduce education measures promoting caste and gender equality and respect for human dignity, and campaigns against untouchability and caste-class-gender discrimination particularly focusing on the need to eradicate degrading occupations such as manual scavenging.
● Require that the National Commission for SafaiKaramcharis take on at least two representatives from the safaikarmacharicommunity as full-time members.

3.9 Appeals to Indian Civil Society:

● Spread awareness of this undignified occupation of manual scavenging and begin to measure India’s progress in terms of the progress made by marginalised communities such as the safaikarmacharis in terms of realisation of their fundamental rights.

● Actively campaign for the eradication of all dry latrines and their replacement with sanitary latrines, alongside the liberation and rehabilitation of all persons engaged in manual scavenging.

● Undertake independent education measures promoting caste and gender equality and respect for human dignity, and public campaigns against untouchability and caste-class-gender discrimination particularly focusing on the need to eradicate degrading occupations such as manual scavenging.

3.10 Partners of SKA

SKA works in close cooperation and collaboration with other Dalit and human rights organisations committed to the rights of Dalits and other marginalised communities in general, and safaikarmacharis in particular. Our aim is to strengthen a diverse national network of individuals and organisations committed to the eradication of manual scavenging. As such, our partners include:

Activities, National SKA’s activities and programmes can be broadly categorized as those of (i) the grassroots movement, (ii) advocacy and lobbying, (iii) legal interventions and (iv) media advocacy. The following presents a brief outline of the range of activities undertaken by SKA over the years:
3.11 Activities of SKA

- District-wise meetings have been held in many states with members of the safakarmachari community in order to engage the community in discussion on the issue of manual scavenging expose its links to the caste system and identify the inherent problems associated with this occupation. The aim is to raise awareness among the community about the need to eradicate this degrading occupation and that it is illegal, and to foster greater solidarity among the community.

- SKA has focused on building cadre for the grassroots movement to eliminate manual scavenging and dry latrines. This has involved identifying safakarmacharis willing to work for their community and to end manual scavenging, and training them to take on work as fulltime SKA activists. Trainings have centred on building perspectives on the links between the caste system and manual scavenging, human rights and SKA’s vision and mission, as well as relevant legal provisions and interventions so far to protect and promote the rights of safakarmacharis, developing skills of community mobilisation, strategizing interventions, leadership and articulation skills, as well as networking and alliance building at different levels.

- In 2004, SKA took out a mass dry latrine demolition drive across all the 25 districts in Andhra Pradesh, demolishing dry latrines along the way and raising awareness among the wider community about the social problem of manual scavenging.
In 2005, a youth conference (yuvamela) was held in Andhra Pradesh in order to discuss and build a Dalit, gender-sensitive and secular perspective among safai karmachari youth, as well as identify and capacitate a dynamic second generation leadership within SKA. This conference enabled SKA’s district teams in Andhra Pradesh to evolve a Plan of Action with the community youth, which saw youth come forward to form seventeen youth groups and six divisional committees to monitor the demolition of dry latrines, rehabilitation of workers and address issues of social exclusion and discrimination.

6. In 2005 and 2006, gender sensitisation workshops were conducted in nine states and union territories – Andhra Pradesh, Delhi, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Orissa, Punjab, Rajasthan – to discuss about gender oppression, occupational violence and domestic violence within the community and the need for democratic families as part of the process of liberation of the community. Emphasis also lay on education for girl children, the need for women’s partnership and participation in SKA, and awareness of the major laws in place to protect women’s rights. The outcomes are a process of engaging safai karmachari women and men in greater dialogue and action on gender issues, and recognising the potential of women’s leadership in the movement. More concretely, flowing from the Karnataka meeting, members decided to launch a campaign against domestic violence within the community. In Rajasthan, an agreement was reached to print more women active representatives into decision-making forum and SKA campaign activities.
The SKA activities are endless and they play vital role in the development of sanitary
workers. The dehumanizing practice of manual scavenging is closely interlinked with
untouchability. It is well known that this work is socially assigned and imposed upon
certain untouchable castes of India. Manual scavenging is rooted in caste and with very
few exception, all the manual scavengers are from the Scheduled Castes. Manual
scavenging is thus a caste based occupation, with a large majority of them being women
the continuance of manual scavenging constitutes a gross violation of human rights and
the worth of the human person and flies in the face of the Constitutional guarantee
assured, in its very Preamble, of a life with dignity for every individual in the country

Section 7A of the Protection of Civil Rights Act 1955 (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 and thus punishable
with imprisonment. It was only four decades after the commencement of the Constitution
that manual scavenging was specifically prohibited under the ‘Employment of Manual
Scavengers and Construction of Dry Latrines (Prohibition) Act’ which was passed by
Parliament in May 1993 after obtaining resolutions from the State Legislatures of Andhra
Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal under Article 252(1) of
the Constitution. While the Act received the assent of the President in June 1993, it took
almost four years for the issue of the notification bringing the Act into force in these six
States and all Union Territories in January 1997. The remaining States were expected to
adopt the Act by passing resolutions under Article 252(1); but the legislation is yet to
become one of countrywide applicability. Some of the States have not adopted the law on
the ground that there were no manual scavengers in the State, despite evidence to the contrary.

3.12 Welfare Measures to promote sanitary workers

Schemes for liberation and rehabilitation of manual scavengers

Provisions for the liberation of manual scavengers through financial assistant, rehabilitation etc have been envisaged under the Act, 1993. Section 6 of the Act provides power to the State Government to make schemes for regulating conversion of dry latrine into or construction and maintenance of water seal latrines, rehabilitation of persons who were engaged in or employed for as manual scavengers etc.

Such schemes may provide for all or any of the following matters, namely:

a. Time-bound phased programme for the conversion of dry latrines into water-seal latrines;
b. Provision of technical or financial assistance for new or alternate low cost sanitation to local bodies or other agencies
c. Construction and maintenance of community latrines and regulation of their use on pay and use basis;
d. Construction and maintenance of shared latrines in slum areas or for the benefit of socially and economically backward classes of citizens;
e. Registration of manual scavengers and their rehabilitation;
f. Specification and standards of water-seal latrines;
g. Procedure for conversion of dry latrines into waterseal latrines;

h. Licensing for collection of fees in respect of community latrines or shared latrines.

Another aspect of the scheme is the role and duty of HUDCO (Housing And Urban Development Corporation Ltd). Since manual scavengers live and work in urban areas, therefore, a positive duty has been placed on HUDCO to extend, financial assistance for the implementation of schemes for the construction of water-seal latrines (section 11). It is up the officials of HUDCO to decide the ‘suitable cases’ for such assistance, thus making the scheme of rehabilitation inadequate and ineffective.

3.13 Constitution of Monitoring Committees

Under the Act the Central Government is required to constitute one or more project committees for appraising of the schemes for the construction of water-seal latrines in the country and one or more monitoring committees to monitor the progress of such schemes. On the other hand, the State Government is required to constitute for coordinating and monitoring of the programmes for the construction of water-seal latrines in the state and rehabilitation of the manual scavengers. Official reports and studies of Gita Ramaswami suggest that monitoring committees are regularly constituted or caught in crossfire and procrastination of bureaucratic setup. Yogendra Yadav has aptly commented upon the status of National Commissions Scheduled Castes, Safai Karmchari or even the Ministry of Social Justice and Empowerment are like position of Dalits in villages.
3.14 Policies of Inclusion for Manual Scavengers

The document of the Eleventh Five Year Plan makes special reference to the socio-economic situation of manual scavengers which has to be addressed in a missionary mode with commitment and zeal. There are number of schemes and policies for educational, economic and social development of Dalits in general and of manual scavengers in particular. And for this purpose budgetary allocation is made by the central and state government as well. A total of Rs.11,092.01 crore was outlaid in the XI Five Year Plan, 2007-12 for backward classes of citizens including Scheduled Castes and Other Backward Classes. Annual Plan outlay of the Ministry of Social Justice and Empowerment for 2009-10 was only Rs. 2,500 crore. Rs 480.00 crore for was allotted Special Central Assistance to Scheduled Castes Component Plan; Rs. 20.00 crore for Equity support to Scheduled Castes Development Corporations of States; Rs. 45.00 crore for the National Scheduled Caste Finance & Development Corporation; Rs. 30.00 crore for the National SafaiKaramcharis Finance & Development Corporation; Rs. 100.00 crore for the Self Employment Scheme for the Rehabilitation of Scavengers were outlaid.

3.15 The National SafaiKaramchari Finance and Development Corporation

The main financial agency which is exclusively set by the government to address the economic and other developmental issues of manual scavengers is National SafaiKaramchari Finance and Development Corporation (NSKFDC). The Corporation provides loans at a concessional rate of interest to target groups through State channelizing agencies in 27 States and Union Territories and NGOs. The Corporation has
disbursed a cumulative sum of Rs. 212.07 crore till the end of 2004-05. It includes a sum of Rs. 33.60 crore disbursed under micro credit finance including loan component for implementation of National Scheme for Liberation and Rehabilitation of Scavengers (up to 2002-03). During 2004-05, the Corporation disbursed loans amounting to Rs. 43.77 crore to 9,539 beneficiaries. Equity Capital of Rs. 30 crore was sanctioned to the National SafaiKaramchari Finance and Development Corporation (NSKFDC) during 2009-10. With this, the paid up capital of the Corporation has now risen from Rs 230 crore to Rs. 260 crore against an authorized share capital of Rs. 300 crore.

3.16 Self Employment Scheme for Rehabilitation of Manual Scavengers

Following the principles of inclusive growth, a new scheme, namely the Self Employment Scheme for Rehabilitation of Manual Scavengers was launched in 2007 to emancipate and rehabilitate the members of manual scavengers and their dependent. Under such scheme; financial aid, training, extension and loan are provided to manual scavengers to liberate the scavengers from their existing hereditary, obnoxious and inhuman occupation of manually removing night soil and filth and to provide for and engage them in alternative and dignified occupations so that they could lead the dignified and respectful life. While the government appears committed to rehabilitate the remaining 3.42 lakh of 7.73 lakh scavengers in a time-bound manner by March 2009 through training, and extension of loans and subsidies, date line has passed but lakhs of scavengers are still to be rehabilitated.
The programme has three necessary components, (1) Legislative back up to prohibit dry latrines and manual scavenging in the form of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act. 1993; (2) an alternative to dry latrines in the form of low cost sanitation units for which loan and subsidy are provided under the Centrally Sponsored Scheme of Low Cost Sanitation Scheme for Liberation of Scavengers; and (3) the National Scheme for Liberation and Rehabilitation of Scavengers and their Dependents for training and rehabilitation in alternative occupations.

Towards rehabilitating scavengers, projects costing upto Rs. 50,000/- for each beneficiary are financed by way of a prescribed financial package comprising of 50% subsidy subject to a ceiling of Rs.10,000/- per project, 15% of project cost which is shared between the Central Government and State Government in the ratio 49:51 and the rest through loan from banks and NSKFDC. The aim of the scheme is to establish sanitary marts in towns and cities also where scavengers are prevalent. The sanitary marts are established to meet mainly three purposes: (a) rehabilitating scavengers, (b) eradicating manual scavenging, and (c) creating demand for latrines through motivation.

There is a need to restructure the schemes so that they become more ‘sustainable’. The corporations need to be thoroughly professionalized so that programmes financed by them help develop entrepreneurial skills of the loanees. Based upon the effective performance of the Finance and Development Corporations, the capital available at their disposal may be increased substantially to provide support to SC/ST businesses.
3.17 Manual Scavengers at International and National Forum

The issues and concern of manual scavengers has also been raised and reflected on and by the international forum especially the UN in recent time. In 2009 the Special Rapporteurs which was constituted by the Sub-Commission on the Promotion and Protection of Human Rights studied the issue of discrimination based on work and descent at global level. The report of Special Rapporteurs which contains draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent is one of the major developments in evolving norms and standards regarding discrimination based on work and descent or caste. It has reflected upon the problems of manual scavenger by calling upon the national and local governments to ensure the complete eradication of manual scavenging and other unhealthy working conditions, in accordance with international standards and for the government should enact and enforce legislation guaranteeing decent work, a living wage and labour rights for affected communities.

Before this in 2007, the annual report of the Committee on the Elimination of Racial Discrimination of UN expressed serious concern about the deplorable condition of manual scavengers. At paragraph 181, it states, “The Committee notes with concern that very large numbers of Dalits are forced to work as manual scavengers”

Apart from the various agencies of the UN, some reputed international NGOs like the Human Rights Watch in its 1999 and 2007 studies have dealt with the issues of manual scavengers which link with untouchability and caste discrimination. The 1999
study of the Human Rights Watch recommended that government should ensure appropriate implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, including prosecution of officials responsible for the perpetuation of the practice and non-rehabilitation of affected scavenger communities, the majority of which are Dalits.” It has further stated, “The government should ensure that states and districts constitute and overseer vigilance and monitoring committees with adequate representation of NGOs, women, and members of the scavenger communities. State governments should also train district officials charged with enforcing the act. And, The World Health Organization should investigate and publicize the adverse health consequences arising from the practice of manual scavenging and promote measures to eliminate exposure of Dalits to hazardous work conditions.”

To eradicate the practice of manual scavenging and to empower manual scavengers, some Indian NGOs and community organization like “SafaiKarmachariAndolan(SKAs), National Campaign for Dalit Human Right(NCDHR)” and “Sulabh International” to name few have been engaging substantially to address the issues of manual scavengers. The National Human Rights Commission in 1997 has called on to end the heinous practice of manual scavenging. However, without proactive intervention from state agencies the problem of manual scavengers remains.

Among other activities, advocacies and programme like filling the Public Interest Litigation (PIL) in the Supreme Court of India, the SKA, on the eve of the New Year, 1st January 2008, officially launched the ‘Action 2010’ programme to eliminate manual
scavenging in India by 31st December 2010 and for that it has held country wide march which was substantially reported in the media. The Sulabh International which has set up famous “SulabhSauchalya”, low cost safe sanitation system across the country, also led a kind of movement to liberate manual scavengers

This chapter critically highlighted the various aspects and nuances of the constitutional protection, welfare measures and the civic consciousness of the people towards sanitary workers. Manual scavengers predominantly belong to ex-untouchable castes and therefore they are subjected to discrimination and social exclusion based on untouchability. Abolition of untouchability is the constitutional mandate therefore; obligation of eradication of manual scavenging should be on central and state government equally. Despite the special laws, instructional mechanisms and inclusive policies meant for the manual scavenger, they are compelled by the social circumstances to do dehumanizing and degrading work in twenty first century is nothing but shame to shining India.

To sum up, the chapter has elaborately discussed the constitutional measures to safeguard the welfare of the scavenger workers. The next chapter is profile of the study area, in which the researcher presents the macro picture of the study area as well as the scavenger workers.