

TWENTY-FIFTH REPORT
STANDING COMMITTEE ON
URBAN DEVELOPMENT
(2007-2008)

(FOURTEENTH LOK SABHA)

MINISTRY OF HOUSING AND URBAN
POVERTY ALLEVIATION

INTEGRATED LOW COST SANITATION
SCHEME (ILCS)

Presented to Lok Sabha on

Laid in Rajya Sabha on



LOK SABHA SECRETARIAT
NEW DELHI

October, 2007/Kartika, 1929 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON
URBAN DEVELOPMENT (2007-2008)

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3. Shri R.K. Saxena — *Director*
4. Smt. Anita B. Panda — *Deputy Secretary*
5. Shri Kulmohan Singh Arora — *Committee Officer*

INTRODUCTION

I, the Chairman of the Standing Committee on Urban Development (2007-08) having been authorized by the Committee to submit the Report on their behalf, present the Twenty-Fifth Report on the subject "Integrated Low Cost Sanitation Scheme" of the Ministry of Housing and Urban Poverty Alleviation.

2. The Committee took evidence of the representatives of the Ministry of Housing and Urban Poverty Alleviation on 20th July, 2007.

3. The Committee considered and adopted the Report at their sitting held on 18th October, 2007.

4. The Committee wish to express their thanks to the officials of the Ministry of Housing and Urban Poverty Alleviation for placing before them the requisite material and their considered views in connection with the examination of the subject.

5. They would also like to place on record their deep sense of appreciation for the invaluable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

NEW DELHI;
26 October, 2007

4 Kartika, 1929 (Saka)

MOHD. SALIM,
Chairman,
Standing Committee on Urban Development.

CHAPTER I

INTRODUCTORY

1.1 The term 'Manual Scavenging' describes the daily work of manually cleaning and removing human faeces from dry (non-flush) latrines. The practice of carrying night-soil from dry latrines by manual scavengers on their heads in India has been in existence since long. This inhuman practice and its inextricable links with the caste system had deeply perturbed Mahatma Gandhi, the Father of the Nation, who raised the issue of the horrible working and social conditions of manual scavengers and commented as under:—

“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.”

Constitutional Provisions

1.2 Manual scavenging of human excreta continues in many parts of the country despite the fact that several provisions in the Constitution of India delve upon promoting equality among the citizens and speak of human dignity, right against exploitation, abolition of untouchability, improvement of public health and so forth. Securing equality of status and promoting fraternity assuring the dignity of the individual has been enshrined in the Preamble of the Constitution. Part IV of the Constitution dealing with the Directive Principles of State Policy, lays down certain principles which are fundamental in the governance of the country. Under Article 47 of this part the State shall regard raising the standard of living of its people and the improvement of public health as among its primary duties. Under the Constitutional Scheme as laid down in the Twelfth Schedule, urban local bodies have the mandate both to provide sanitation, as well as safeguard the interests of weaker sections of society. Since sanitation is a subject falling under States List under Seventh Schedule of the Constitution, Parliament has no power to make laws for the States in this regard except as provided in Articles 249 and 250 of the Constitution.

1.3 The Ministry of Housing and Urban Poverty Alleviation (HUPA), in a written note, informed the Committee that as it was felt that the abolition of manual scavenging was essential to restore human

dignity among the scavengers, the Central Government, adopted a three-pronged strategy to address the issue:—

- (i) Legislative back up to prohibit construction of dry latrines and employment of manual scavengers in the form of 'The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993';
- (ii) Introduction of Centrally Sponsored Integrated Low Cost Sanitation Scheme (ILCS) which provides a mix of subsidy and loans for conversion of dry latrines and construction of water seal toilets; and
- (iii) Introduction of Centrally Sponsored National Scheme for Liberation and Rehabilitation of Scavengers and their dependents (NSLRS) for training and rehabilitation of manual scavengers in alternate occupation.

1.4 According to a written note sent by the Ministry of HUPA. The Planning Commission formulated a 'National Action Plan for Total Eradication of Manual Scavengers by 2007' with a view to speed up the liberation and rehabilitation of manual scavengers and above stated three measures were incorporated as components of the NAP. For effective implementation and monitoring of the National Action Plan, a Central Monitoring Committee under the Chairmanship of Secretary M/o SJ&E has also been constituted.

CHAPTER II

INTEGRATED LOW COST SANITATION SCHEME (ILCS)

2.1 As per the written note furnished to the Committee, the ILCS scheme aims at abolition of manual scavenging by converting dry latrines into water seal toilets. The scheme was being implemented through the Ministry of Home Affairs in 1981 and in 1985 was transferred to the then Ministry of Welfare (now MoSJ&E). In 1989-90 the liberation component of the programme through conversion of dry units, along with construction of new toilets for houses without any units to improve sanitation situation, was assigned to the then Ministry of Urban Development and from 2003-04, it has been transferred to the Ministry of Urban Employment and Poverty Alleviation/Ministry of Housing and Poverty Alleviation.

Eligibility

2.2 The scheme is on a 'whole town' coverage basis. Proposals can be submitted by the concerned urban local body or organization like Housing Board, Slum Clearance Board, Development Authority, Improvement Trust, Water Supply and Sewerage Board, Cantonment Board, etc. duly authorized by the State Government for undertaking the programme. The concerned urban local body organization has to give an undertaking for amending the bye-laws prohibiting manual scavenging in the towns thereafter on the lines of the model bye-laws. These bye-laws would provide for action by the local bodies to ensure obligatory provision of sanitary latrines for all households by regulatory action and assistance for new construction/conversion.

Selection of Beneficiaries

2.3 This scheme covers all the households which have dry latrines or do not have sanitation facilities, including households in slums and squatter colonies.

Financing Pattern

2.4 Under the present scheme, loan and subsidy is extended simultaneously by HUDCO after the sanction of the scheme for the construction up to the sub-structure. For this purpose, Central subsidy is routed through HUDCO. The loan and subsidy portion is based on

the income of the beneficiaries with the objective to provide subsidies to lower income groups only. Financing pattern being followed is as under:—

EWS	—	45% Subsidy, 50% loan and 5% beneficiary contribution
LIG	—	25% Subsidy, 60% loan and 15% beneficiary contribution
MIG&HIG	—	Nil Subsidy, 75% loan and 25% beneficiary contribution

2.5 The present unit cost for different categories of sanitary latrines is as follows:—

5	user unit	Rs. 4000.00
10	user unit	Rs. 6000.00
15	user unit	Rs. 7000.00

2.6 In a subsequent note, the Ministry of HUPA informed that the unit cost in the year 1997 for the above-stated categories was Rs. 3300/-, Rs.4950/- and Rs. 5775/-, respectively. It was also informed that initially the cost of a 5 user unit was Rs. 2500/- only.

2.7 The Ministry of HUPA clarified that Central subsidy portion would be restricted to the limits as mentioned above. If the State Government so desires, they may subsidize the beneficiary contribution or the loan component in order to reduce the burden of beneficiaries. Under the scheme, the HUDCO loan and the Central grant are routed through HUDCO's regional offices in order to extend subsidies and loans simultaneously in the proportions mentioned above to the implementing agencies in prescribed instalments in tune with the actual physical progress and expenditure. HUDCO's loan is extended at 10% interest repayable over 7 years. The borrowing agencies have to ensure the timely recovery of the loan component from the beneficiaries. The pattern of execution has been suggested in the model by-laws. NGOs can be involved in this scheme and could, therefore, render considerable assistance in the recoveries also. The community extension units of the municipalities selected for Urban Basic Services programme could also be utilized for motivating the community and for technical help.

2.8 The Committee were also informed that apart from conversion of individual dry latrines, or construction of individual sanitary latrines, the loans can be given to local bodies for construction of community

latrines on 'Pay and Use' principle in areas occupied by the poorest section of the urban population or areas of public use like bus stands, market places, etc. This could be operated through voluntary agencies. Construction of shared latrines in slums, housing/chawls can also be covered under the scheme taking into account the lack of space for the provision of individual latrines and consequent risk of open defecation. Construction of new latrines to eliminate open defecation are also eligible in such areas with loan and subsidy proportions as mentioned above in order to avoid the need for use of scavengers to remove this type of night soil.

2.9 However, when enquired about the provisions of constructing community toilets in congested areas under the ILCS Scheme, the Ministry in another written note stated that the present scheme does not have a component community toilets and that however, under the scheme of Basic Services to Urban Poor (BSUP)/Integrated Housing & slum Development Programme (IHSDP), the construction of community toilets could be undertaken by ULBs in congested areas due to non-availability of sufficient space. The Ministry admitted that Community Toilet is better option than mobile toilet. Further, larger septic pits can be constructed for a group of housing units in a slum where space in individual housing units is inadequate.

2.10 On Implementation of Programme the Ministry informed as follows:—

“A separate cell has been set up in HUDCO for the implementation of this programme. The regional offices of HUDCO render assistance to the State Governments in the formulation of their proposals. The local bodies or borrowing agencies selected by the State Governments send their proposals for inclusion under the programme.”

2.11 It was added further as under:—

“A Coordination Committee under the Ministry of Housing and Urban Poverty Alleviation with representation from the Ministry of Social Justice & Empowerment and HUDCO considers appraising the proposals sent for inclusion under the scheme by the various State Governments and selecting the towns to be covered thereafter. HUDCO ensure the expeditious sanction of the loan and subsidy to the concerned local body/authorized agency in periodic instalments and monitor actual progress of execution. For this purpose, State Governments should send their quarterly progress reports on the implementation of the scheme. As this programme

is being given utmost priority by the Government, the State Governments should ensure that the implementation of the programme does not involve any cost and time over runs and strict monitoring of the same take place at the State and local level also.”

Physical and Financial Progress of ILCS Scheme

2.12 As per the Ministry, the ILCS Scheme is a demand driven scheme and funds can be released only on demands from the State Governments and subject to fulfillment of certain conditions. Year-wise status of funds released under the programme was furnished by the Ministry in response to a query from the Committee as under:—

(Rupees in crore)

Year	Budget Estimate	Revised Estimate	Actual Releases to HUDCO
1989-90	-	-	1.82
1990-91	-	20.35	20.35
1991-92	-	29.85	29.85
1992-93	19.90	21.62	21.62
1993-94	25.80	25.80	25.80
1994-95	25.80	25.80	25.80
1995-96	27.80	27.80	27.80
1996-97	27.80	13.80	-
1997-98	27.80	26.80	26.80
1998-99	27.80	23.80	23.80
1999-2000	34.45	27.35	27.35
2000-2001	29.80	29.80	29.80
2001-2002	39.80	10.00	10.00
2002-2003	30.00	4.80	4.80
2003-2004	30.00	4.80	4.80
2004-2005	30.00	30.00	20.00
2005-2006	30.00	5.00	2.00
2006-2007	30.00	30.00	30.00 (3.00 crores Released to RGI)
2007-2008	40.00	-	-

2.13 10th Plan Budget allocation was Rs. 200.00 crores @ Rs. 40 crores per year.

2.14 The scheme is implemented through HUDCO. HUDCO releases the subsidies to State agencies and receives the utilization status. At the instance of the Committee, the Ministry furnished the following details of the Utilisation Certificates received from various States as under:—

Details of Utilisation Certificates Received against the Subsidy Released through Hudco under ILCS Programme

(Status as on 31.5.2007)

(Amount Rs. in Lacs)

State	Subsidy Released through 1	Subsidy Released in 2006-07 2	Subsidy Released in 2007-08 3	UCs Due 4=1(2+3)	Amount of UCs received 5	Amount of UCs pending 6=4-5	%Age of UC pending 7=(6/4)%
1	2	3	4	5	6	7	8
A.P.	8488.69	181	0	8307.69	8291.78	15.91	0
Assam	295.7	0	0	295.7	63.445	232.255	79
Bihar	106.75	0	0	106.75	0	106.75	100
Chhattisgarh	459.72	36.55	0	366.18	378.31	0	0
Haryana	1063.8	0	0	1063.8	289.99	773.81	73
J&K	215.98	0	0	215.98	215.89	0.39	0
Jharkhand	19.98	0	0	19.98	0	19.98	100
Karnataka	669.33	0	0	669.33	669.33	0	0
Kerala	69.08	0	0	69.08	69.08	0	0
M.P.	2909.54	0	0	2909.54	2892.71	16.83	1
Maharashtra	1056.86	0	0	1056.86	750.51	306.35	29
Manipur	235.43	97.71	0	137.72	137.53	0.19	0
Meghalaya	32.63	0	0	32.63	16.4	16.23	50
Orissa	315.07	0	0	315.07	66.1	248.97	79
Punjab	2055.94	0	0	2055.94	2055.94	0	0

1	2	3	4	5	6	7	8
Rajasthan	2533.69	0	0	2498.99	1995.74	503.25	20
Tamil Nadu	573.83	0	0	573.83	572.22	1.61	0
Tripura	235.14	58.78	0	176.36	173.26	3.1	2
U.P.	4455.06	0	0	4455.06	4455.06	0	0
Uttaranchal	509.43	0	0	509.43	387.51	121.92	24
West Bengal	3700.44	96.36	0	3304.08	3406.64	0	0
Andaman & Nicobar	14.09	0	0	14.09	3.98	10.11	72
Total	30016.18	470.4	0	29154.09	26891.125	2377.655	8

Note: Includes excess UCs but not MOW releases/UC

Cumulative Financial & Physical Progress* up to (31.5.2007)

2.15(a) Financial Progress

- Total Release : Rs. 313.16 crore
- Total UCs : Rs. 23.77 crore
- % of UCs Pending : 8%

2.16 (b) Physical Progress

- Total no. of Dry Latrines** yet to be converted : 6 lakh
- No. of Dry Latrines Converted/ New Units Constructed : 21.87 lakh
- Total constructions/conversions in progress : 1.31 lakh
- No. of scavengers liberated : 52829

2.17 The Committee desired to have a cumulative status of the ILCS Scheme, as on date, in order to have a better idea of the performance so far. Accordingly the Ministry furnished the following details.

*Source: HUDCO

**As reported by the State Governments and covering towns only up to 5 lakh population as per Census 1991, in terms of present guidelines.

Note: A detailed statement showing State-wise physical and financial progress is at Annexure-I.

Cumulative Status of ILCS Schemes
(As on 31.5.2007)

(Rs. in Lacs)

Sl. No.	State Name	No. of Schemes	No. of Towns covered	3	4	5	6	7	8	9	10	11	12	13	14	15
						Cum. Project cost	Cum. Loan sanc.	Cum. Loan Release	Cum. Subsidy Sanc.	Cum. Subsidy Rel.	No. of Units Sanc. (Conv+)	No. of Units Compl. (Conv+)	No. of Units in Progress	No. of Scav. To be Liberated	No. of Scav. Declared	No. of Town
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15		
1.	Andhra Pradesh#	81	115	68723.04	40494.48	29488.83	9693.94	8617.65	1793813	567820	36527	3199	1749	12		
2.	Bihar	3	15	106.75	0.00	0.00	106.75	106.75	4165	0	0	0	0	0		
3.	Goa	3	1	4546.36	2050.00	2050.00	0.00	0.00	45500	32500	0	0	0	0		
4.	Haryana	85	76	4730.90	2357.41	930.40	2034.94	1126.09	200224	73590	435	7982	161	3		
5.	Jammu & Kashmir	8	37	802.93	0.00	0.00	343.73	215.98	24082	4437	0	1900	0	0		
6.	Karnataka	67	52	8054.02	5693.70	3158.00	1119.98	741.34	177689	69835	0	3227	87	0		
7.	Kerala	2	15	309.50	213.45	165.19	69.93	69.08	14540	13325	1087	726	726	15		
8.	Madhya Pradesh	34	289	6928.96	722.91	722.91	3142.78	3169.40	272957	253212	19754	7510	7510	214		
9.	Maharashtra	58	181	8245.34	1852.09	1163.17	2204.73	1237.69	199431	101676	1161	2998	2795	140		
10.	Orissa	63	63	1218.92	299.79	282.93	471.48	315.07	51597	22841	0	858	0	0		

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
11.	Punjab	76	73	5850.11	2830.30	2639.60	2241.27	2055.94	222122	176648	1095	15353	9337	32
12.	Rajasthan	159	159	12917.92	14.22	14.22	4937.32	2533.69	426282	313164	40205	11536	10724	68
13.	Tamil Nadu	87	89	6590.44	2512.16	2863.78	1713.51	756.34	155561	96052	0	4393	4256	83
14.	Uttar Pradesh	70	74	81386.14	2944.94	2922.12	24631.81	4866.81	1543036	176578	195	63404	5868	0
15.	West Bengal	22	114	17370.38	3768.32	3394.15	5060.28	3700.44	325435	206047	22199	8996	8471	15
16.	Chhattisgarh	7	72	1617.70	508.55	505.16	602.49	471.85	44941	30439	2938	1038	842	72
17.	Jharkhand	1	7	19.98	0.00	0.00	19.98	19.98	779	0	0	0	0	0
18.	Uttanchal	8	52	132142	592.90	592.90	589.40	537.47	34620	24135	3150	3349	291	0
19.	Andaman & Nicobar	1	1	150.74	99.48	12.44	33.01	14.09	1302	125	0	84	0	0
	Total	835	1485	230891.55	66954.7	50505.8	59017.33	30445.66	5538076	2162424	128746	136553	52817	654
20.	Assam	27	27	3908.27	199.23	199.23	1221.51	418.56	84719	4771	1027	1881	12	0
21.	Manipur	7	12	1083.16	0.00	0.00	451.43	235.43	18709	9107	1920	0	0	0
22.	Meghalaya	3	2	172.93	71.57	71.57	66.67	32.63	5290	1671	24	30	0	0
23.	Tripura	1	12	778.25	0.00	0.00	235.14	235.14	18788	9254	0	0	0	0
	Total (N-East)	38	53	5942.61	270.8	270.8	1974.75	921.76	127506	24803	2971	1911	12	0
	Grand Total	873	1538	236834.16	67225.5	50776.6	60992.08	31367.42	5665582	2187227	131717	138464	52829	654

#One scheme with 10 lac units in rural areas sanctioned to A.P. State Water & Sanitation Commission for loan of Rs. 200 crores (Subsidy-Nil)

2.18 In a written note, the Ministry of Housing and Urban Poverty Alleviation stated that according to the survey report received from various State Governments, as on date there were approximately 6 lakh dry latrines spread over six States, *viz.* UP, Bihar, Nagaland, Uttaranchal, Assam and J&K. Out of these the problem was more acute in the State of Bihar and UP. The Ministry proposed to especially focus on these two States for achieving the target of abolition of manual scavenging.

2.19 When asked about the survey made by the Ministry to identify manual scavengers in the country, the Secretary (HUPA) responded during the oral evidence held on 20.7.2007 as under:—

“It is done by the State Governments. We rely on the fact that the State Governments in a federal set up are fairly alive and seized of the problem. Whatever numbers we are giving are on behalf of the State Governments. So, the Central Government has not done a complete survey of this.”

2.20 In a written reply, the Ministry of Housing and Urban Poverty Alleviation stated that the subject matter of survey of manual scavengers comes under the purview of the Ministry of Social Justice and Empowerment.

Constraints affecting Implementation

2.21 The Ministry pointed out the following constraints which are affecting the implementation of ILCS scheme:—

- In the absence of subsidy for super-structure portion, the units are seldom completed and remain unutilized.
- In the congested areas, due to non-availability of sufficient space, the individual latrines cannot be constructed with twin pits.
- Poor loan recovery from individuals. State Governments are reluctant to provide Government guarantee for securing HUDCO loan.
- The Scheme is confined to the urban areas of the country and that to for the towns with population of less than 5 lakhs.
- Even the subsidy being provided to the EWS families is only 45% which is much on the lower side for the beneficiaries of the weaker section of the society which makes the scheme less demanding.

2.22 When asked about the steps taken by the Ministry to remove bottlenecks which were affecting the implementation of ILCS Scheme, the Ministry in a written note, stated that the following action has been taken by them in this regard:—

- (i) On 5th July, 2006 Prime Minister took a meeting on abolition of manual scavenging which was attended by Smt. Meira Kumar, Hon'ble Minister of Social Justice and Empowerment, Kr. Shelja, Hon'ble Minister of State (I/c) of Housing and Urban Poverty Alleviation and Chairperson of National Commission of Safai Karamcharis. Hon'ble Prime Minister directed that a consultant should be engaged for preparing an evaluation study/impact report of Integrated Low Cost Sanitation Scheme in the country.
- (ii) The Ministry invited Expression of Interest (EoI) from nationally reputed consultancy organizations at socio-economic research institutes having sound technical and financial capabilities to conduct the evaluation study and prepare the impact report on Integrated Low Cost Sanitation Scheme. Agricultural Finance Corporation (AFC) offer was found technically and financially suitable and have since been entrusted the assignment of conducting the evaluation of ILCS Scheme.
- (iii) Cabinet Secretary took a review meeting of Committee of Secretaries on 8th September, 2006. Cabinet Secretary observed that eradication of the practice of manual scavenging by the year 2007 was one of the priorities of the Government. The programme under the revised guidelines of ILCS, therefore, needed to be given a big push and implemented simultaneously in all the States to achieve the desired results.
- (iv) A proforma for information regarding the present status of dry latrines was sent to all the State/UT Governments so that the magnitude of the problem and the fund requirements under the proposed revised guidelines can be worked out.
- (v) A meeting of the representatives from State/UT Governments under the chairmanship of Secretary (HUPA) was held on 12th and 13th October, 2006 to review the efforts to abolish the dry latrines from urban areas of the

country. The State/UT Governments were impressed upon to give top most priority to end the menace within the set deadline. The State/UT Governments were also requested to furnish the detailed magnitude of the problem and the fund requirements under the proposed guidelines urgently to enable the Ministry to prepare the Cabinet Note.

- (vi) Based on the inputs/suggestions received from the State Governments/UTs, Planning Commission and other Stakeholders of the scheme, a draft Cabinet Note on revision of the guidelines of ILCS Scheme has been prepared and circulated to all the Ministries/Departments for their comments on 6.2.2007.
- (vii) On the advise of the Planning Commission, an evaluation study of the ILCS Scheme has been entrusted to the Agricultural Finance Corporation. The Study Team is likely to submit its report by the end of July, 2007. Further action regarding finalization of the Cabinet Note will be taken up thereafter.
- (viii) Secretary (HUPA) convened a meeting of the State Principal Secretaries/Secretaries. The feedback received from various States will be utilized while finalizing the revised guidelines.
- (ix) Secretary (HUPA) has also addressed D.O. letters to the Chief Secretaries of such States, where the practice of manual scavenging is still continuing, to send proposals for release of subsidy by the Central Government.

2.23 Regarding evaluation of ILCS Scheme, the Secretary, HUPA during the oral evidence held on 20.7.2007 submitted before the Committee as follows:—

“As I said, on 5th July, 2006 the Prime Minister had taken a review meeting and said impact assessment should be done. The Ministry had identified the Agricultural Finance Corporation. In the last fortnight, they made a presentation to me. They are expected to give the final report after hearing the comments of the Ministry within a month. This is the position. It is hardly, a couple of months since I have joined this Ministry. We have also tried to give a push to the Integrated Low Cost Sanitation Scheme. So, I have held a meeting with the Secretaries and representatives of all the States which constitute the number of six lakhs dry latrines. We have also written DO letters, etc. to call for projects under the

scheme. But most of them are awaiting the new scheme to come about where the amount is likely to be raised to Rs. 10,000. I would say that immediately on receipt of the impact assessment which is within a month, within four week thereafter, we will try to move the new scheme and get it approved. So all the States are waiting. The subsidy has been increased. The entire super-structure has been added on to the scheme. Many of those constraints which were identified both by the Agricultural Finance Corporation and by our own study of the matter, we have tried to fill up. So, this is the substantive position.”

2.24 The Ministry further stated that based on the inputs received from various State Governments regarding difficulties experienced by them in implementation of the ILCS Scheme, they were in the process of formulating revised guidelines which would be put up for approval of the Cabinet after receipt of the evaluation study report (which is expected shortly). In the revised guidelines, several measures will be proposed to make the scheme more viable. The Ministry further stated that the success of the scheme depends to a considerable extend on the motivation level of the State Governments to achieve the objective of abolishing manual scavenging. In this regard, it is mentioned that along with the support provided by the Central Government, involvement of the State Governments, Local Bodies and people’s representatives is essential. It is, therefore, proposed that once the revised guidelines are approved, a campaign will be launched through print and electronic media to sensitize the people about the urgency of proper implementation of the Scheme.

2.25 The Ministry subsequently informed that an extension up to February, 2008 had been obtained by them to revise the guidelines of ILCS.

2.26 In a related query, the Committee desired to know as to whether the labour employed for cleaning manholes and septic tanks are treated as manual scavengers. The Ministry, in a written note, stated that the labour employed for cleaning manholes and septic tanks were actually not ‘Manual Scavengers’ as per the definition in the ‘Prohibition Act, 1993’. However, in such cases, manual labour was involved for cleaning manholes and septic tanks. State Governments were being advised to provide proper safety kits and train the workers appropriately in handling the job.

2.27 When enquired as to how the Ministry would create awareness about ILCS Scheme amongst masses, the Secretary, HUPA

during the oral evidence stated as under:

“A large number of Members have repeatedly said about awareness, political will, advocacy, etc. I accept the suggestion of advocacy at the ULB level. We would associate all Members of the civil society including elected Corporators, Mayors, MLAs, MPs and we would seek their cooperation in spreading and in creating political will at the ULB level. As you all know that the ULBs have been empowered under the illustrated list of the 12th Schedule under the 74th Constitutional Amendment . A very large number of functions have been given to them. My Ministry would help in raising awareness in promoting advocacy and in creating the relevant political will.”

2.28 He further added:

“The Chairman has rightly said that there could be a caste bias that people are dragging their feet in implementation at the State level. In whatever efforts possible be it literature, campaign on radio, TV, etc. we will spread awareness. Of course, we will work them out ourselves the minute the scheme is approved, but we would be glad to welcome suggestions in order to make our campaign as powerful and as potent as possible so that the wish of Mahatma Gandhi is fulfilled.”

2.29 When asked about as to whether there was any plan to debar the Urban Local Bodies (ULBS) from the Central funds which do not remove dry latrines in their jurisdiction, the Secretary HUPA submitted as under:-

“In the present agenda of reform, it is not there because we are already in the mission mode. There is already an Act and we are seized of it. Let me assure this august Committee that if the States send us projects, we are more than willing to release the subsidy and get on with the job.

I would humbly submit that my view is that the minute we revise it upwards to Rs. 10,000 and we increase the subsidy, since I have full faith in our urban local bodies, as I have promised, we will mount an information cum extension programme and then with the increased amount, I feel the ULBs themselves will come forward.”

2.30 The Planning Commission in their National Action Plan for Total Eradication of Manual Scavenging by 2007 made the following observations on ILCS Scheme:

- Conversion of dry latrines is the key to removing the practice of manual scavenging. The present subsidy scheme is acknowledged to be inadequate.
- Instead subsidy should only be given to BPL households who may have dry latrines, and the subsidy should be fixed at 50% of the cost of a standard Twin-Pit-Pour-Flush latrine for which HUDCO should prepare the cost estimate. The subsidy is likely to be around Rs. 2500 to Rs. 3000 per unit.
- Other households may avail of loan from HUDCO but will not be eligible for subsidy. Further, all nationalized and scheduled banks also should be instructed by the Ministry of Finance to provide loans for the purpose of conversion of dry latrines. Subsidy should be available to eligible households irrespective of source of loan.

The Committee were informed that the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 makes it the duty of HUDCO to extend, in suitable cases, financial assistance for the implementation of such schemes for construction of water seal latrines. HUDCO while bound by this provision, was stated to be exercising care to give loans only where State Governments stand guarantee. However, as per the Ministry States have not fully accounted for subsidy amounts released to them and are unwilling to stand guarantee to loans. These issues are persisting despite review and meetings held at the level of the Central Government. They come in the way of further flow of assistance. This problem will have to be resolved by the Ministry of Urban Development, as it is a matter of utilization of central assistance.

- The Ministry of Urban Development (both Department of UEPA and Department of UD) should inform the States that unless satisfactory performance under the LCS programme, and especially utilization and accounting of subsidy/loan funds is reported, assistance under other urban development schemes may also be withheld. The States should be made to provide guarantee and avail of the HUDCO loan assistance for this purpose. The annual programme for each State under the ILCS should be

determined by the Ministry of Urban Development, which should then be insisted upon for release of Central Assistance to the urban sector programmes of the States.

2.31 Based on the information furnished to the Committee, the following suggestions were also made by the Planning Commission in their National Action Plan:—

1. Involvement of NGOs to provide entrepreneurial assistance and engage the liberated scavengers in the employment generated in the conversion of dry latrines, management of pay & use and community toilets, etc.
2. Wide publicity to the problem as well as alternative forms of sanitation, assistance available to BPL & other households, etc.
3. Incentives to ULBs for achieving 100% conversion of dry latrines, etc.

CHAPTER III

THE EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION) ACT, 1993*

3.1 In order to stop the shameful practice of manual scavenging, the Parliament has enacted Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 which provides for penalties for contravention of the provisions of the Act. According to the Ministry of HUPA, this Act has been adopted by the States of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Goa, Haryana, Jharkand, Karnataka, Madhya Pradesh, Maharashtra, Meghalaya, Orissa, Punjab, Tamil Nadu, Tripura, Uttaranchal, Uttar Pradesh and West Bengal. J&K has not adopted this Act so far. States of Arunachal Pradesh, Kerala, Manipur, Mizoram, Nagaland and Sikkim have not adopted the Act but have stated that there are no dry latrines. States of Rajasthan and Himachal Pradesh have their own legislation on the subject.

Penal Provisions of the Act

The penal provision of the Act are as follows:—

- Failure of contravention of the Act is punishable with imprisonment for a term which may extend to one year or with fine, which may extend to Rs. 2000/- or with both.
- In case a failure or contravention continues, with additional fine which may extend to one hundred rupees per every day during which such failure or contravention continues after the conviction for the first such failure or contravention.
- Contravention means if a person has a dry latrine in his house and continues to use it, he will be employing some scavengers for cleaning of that dry latrines and he will be flouting the provisions of the Act.

3.2 When asked so by the Committee, the Ministry, however, stated that details of prosecutions, which come under the purview of the respective State Governments were not maintained by them.

*For Act, please see Annexure-II

Amendments of the Act

The Committee were informed as under:—

- As per the advice of the Ministry of Law and Justice, the Ministry of HUPA sought comments of the Ministry of Environment and Forests regarding appropriate amendments to the “Environment (Protection) Act, 1986” so as to enable the Central Government to issue necessary directions to State Governments for protection of the environment by banning dry latrines, manual scavenging, etc. However, the Ministry of Environment and Forests in its reply categorically stated that it would not be appropriate to take penal action against scavengers for environment pollution due to disposal of excreta in household waste and also it may not be feasible to take action against large numbers of households in this connection. They also suggested that the question of effective implementation of the schemes may be addressed for better implementation of the Act.
- No State has so far pointed out any flaw in the Act. In UP more than 17,669 offenders have been prosecuted/being prosecuted under different sections of the Act. Similarly, States of Bihar, Haryana have also initiated penal actions against the offenders.
- The Department of Legal Affairs, Ministry of Law and Justice has pointed out that the problem of effective implementation was not on account of any limitation of the Act but mostly due to ineffective implementation by the States which along with appropriate monitoring mechanism needed to be activated /put in place respectively, to deliver the results.

3.3 With regard to the suggestions of the Planning Commission on the Act, the Ministry in a written note submitted the following:—

- The Act (‘the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993’) does not prohibit dry latrines and manual scavenging in a direct fashion. It operates after State Government issues a notification fixing a date for enforcing the provisions prohibiting employment of manual scavengers and dry latrines in the specified area. The notification itself can only be issued after giving a notice of ninety days, and only where adequate facilities for the use of water seal latrines in that area exist.

- All States have not adopted the Act, and those who have adopted the law have not enforced its provisions to achieve the intended results.
- The Act should be adopted by all States where manual scavenging exists. States may be informed that failure to adopt the Act may result in reduction or withholding of Central assistance towards their Annual Plans.
- The implementation of the Act in respect of conversion of dry latrines should be made more forthright.
- The States should lay down a date, say six months or a maximum of one year from the date of notification, to convert all dry latrines into water seal latrines in all urban areas. After the six month/one year period, penal action should follow. Notifications on these lines should be issued by all States by 31.12.2002. This should be given wide publicity so that householders take action to convert dry latrines with a view to complying with the law.
- Exception may be made only in the case of the urban BPL households identified by the State Government under the SJSRY programme, who may be assumed to require the subsidy and loan programme, who may be assumed to require the subsidy and loan assistance under the scheme. In the case of urban BPL households, the date of conversion may be determined based on the progress of the subsidy-cum-loan scheme of HUDCO.

CHAPTER IV

OBSERVATIONS/RECOMMENDATIONS

Recommendation No. 1

ILCS in Broader Perspective

4.1 The Committee note that in order to eliminate the dehumanizing practice of physically carrying night-soil by manual scavengers, the Centrally Sponsored Scheme for Integrated Low Cost Sanitation (ILCS) has been in operation since the year 1981. During the first five years of its existence the Scheme was implemented by the Ministry of Home Affairs. Later, it was placed under the purview of the Ministry of Welfare for the period 1985-90. The Scheme was thereafter transferred to the Ministry of Urban Development in 1989-90 and since 2003-04, the Ministry of Housing and Urban Poverty Alleviation is implementing the ILCS. The Committee are dismayed to observe that frequent transfer of this Scheme from one Ministry to other in the last two decades has done more harm to the scheme than good virtually leaving no scope for assigning any accountability to any particular Ministry. Moreover, despite crores of rupees spent on the scheme, there has hardly been any perceptible change in the situation at the ground level. The abhorrent occupation of manual scavenging, which deprives thousands of people of their fundamental right to live with dignity, still continues to dehumanize and degrade them. The Committee further note that it is only after 26 years that the Government have woken up finally and realized the fact that the Scheme is going nowhere and thus have thought of revising it. This, in the Committee's view, shows how indifferent implementing agencies had been towards the hurt and humiliation, a scavenger experiences everyday, while cleaning human excreta in dry latrines. The Committee have been made to understand that the Planning Commission have prepared a National Action Plan for eradication of manual scavenging by this year, *i.e.* 2007. However the Committee find that the Ministry is still in the process of formulating revised guidelines based on the inputs received from various State Governments regarding difficulties experienced by them in the implementation of ILCS Scheme. The revised guidelines of the ILCS may not be ready with the Ministry even during this year. The delay in revising the guidelines in itself is demonstrative of the lack of willingness on the part of the Executive to remedy the

situation. The Committee now only hope that guidelines of ILCS would be revised soon and the implementation of ILCS would gain some momentum so that in the near future, the manual scavengers are able to live life with dignity.

Recommendation No. 2

Evaluation/Revision of ILCS Scheme

4.2 The Committee note that out of 1,38,464 scavengers to be liberated only 52829 scavengers have been liberated till date. As per the guidelines of the Scheme 1538 towns were to be covered under it, out of which only 654 towns have so far been declared scavengers free. The Committee note that on the advice of the Planning Commission an evaluation of the ILCS scheme has now been entrusted to the Agricultural Finance Corporation. The Study team of Agricultural Finance Corporation was likely to submit its report by the end of July, 2007. The Committee expect that the Report of Study Team is now under the examination of Ministry of Housing and Urban Poverty Alleviation following which the Ministry would finalize the Cabinet note regarding the evaluation/revision of ILCS scheme. The Committee desire that as the eradication of the practice of manual scavenging by the year 2007 was declared by the Prime Minister as one of the priorities of the Government, the Ministry should finalize the draft cabinet note on revision of guidelines of ILCS scheme well in time taking into account all the inputs/suggestions from the State Governments/UTs, the Planning Commission, the Agricultural Finance Corporation and other stakeholders in the Scheme. The Committee only hope that with the revised guidelines, the ILCS will be able to make some difference in the lives of the manual scavengers in a reasonable timeframe.

Recommendation No. 3

Overall Implementation of ILCS

4.3 The Committee are disappointed that the implementation of ILCS has been very dismal as according to State Governments, lakhs of dry latrines are yet to converted into water seal toilets. The conversion of dry latrines is the key to removing the practice of manual scavenging. However, the physical progress upto 31.5.07 given by Ministry of HUPA shows that around 6 lakh dry latrines are yet to be converted. The Committee have also been made to understand that that this data has been reported by the State Governments and covers towns only upto 5 lakh population as per the Census of 1991.

The Committee feel that the data provided is, in all probability, outdated, and thus, are of the view that with the continuous rise in population, the situation could be worse in the present scenario. The Committee also find that according to most of the States, the number of dry latrines yet to be converted is 'NIL'. The Committee are not convinced by this declaration as it has been a matter of common knowledge/widely reported in the media that in States like Uttar Pradesh, Bihar, Tamil Nadu & Gujarat, the use of dry latrines is very much prevalent. Further, the Committee find that at present hardly 30% of the beneficiaries are able to utilize the water seal toilets constructed under the scheme due to shortage of water. As the Government is already contemplating to increase the subsidy for toilet units to Rs. 10,000/- the Committee feel that a slight design change can be made by constructing water seal toilet-cum-bathroom with a small water storage tank. Overall the Committee desire that there is need for coordinated and sincere efforts at all levels, be it the Government, ULBs or implementing agencies, for the conversion aspect, along with adequate provision of water for the water seal toilets, which would accelerate the progress of the ILCS.

Recommendation No. 4

Utilisation of Funds under ILCS

4.4 The Committee note that ILCS is demand-driven and thus funds can be released only on demands from State Governments and subject to fulfillment of certain conditions. The implementation of the Scheme is through HUDCO, which releases the subsidies to State agencies and receives the utilization status, and also provides loan to individual beneficiaries. At the instance of the Committee, information on release of subsidies and status of Utilization Certificates (UCs) was furnished, which revealed that as on 31.05.2007, out of the total amount of Rs. 30016.18 lakh subsidy released by HUDCO, Utilization Certificates (UCs) amounting to Rs. 29154.09 lakh were pending. States like Bihar and Jharkhand had not furnished a single UC regarding utilization of funds released under the scheme. The situation, in the Committee's view, is quite alarming and speaks volumes about the dismal performance of States in the implementation of ILCS.

4.5 The Committee further note that the subsidy component provided to the beneficiaries under ILCS is 45% for EWS and 25% for LIG categories which is much on the lower side. It makes the scheme less attractive. In fact, the Committee understand that the

States are awaiting the revised scheme in which the subsidy amount is likely to be raised to Rs.10000/-. Besides, though the present cost of user units have been increased substantially, there is no corresponding increase in the Government subsidy. During the oral evidence, it was also admitted by the Ministry that the pattern of Government subsidy has remained same since the beginning of ILCS. The Committee are of the view that the present subsidy component in ILCS is inadequate and desire that in the revised guidelines, the subsidy component be increased so that the States could come forward with more projects.

4.6 The Committee also note that under the loan component, 50% loan is extended to EWS and 60% loan is extended to LIG categories. However, one of the constraints in the implementation of the ILCS is poor loan recovery from individuals. Therefore, State Governments are reluctant to provide Government guarantee for securing HUDCO loan under the scheme. The Committee desire that Central Government should impress upon the State Governments to evolve a system of issuing block-guarantee under the scheme, as also suggested by the Planning Commission, for speedier implementation of the ILCS.

Recommendation No. 5

Survey of Beneficiaries

4.7 The Committee note that the task of identification/survey of manual scavengers comes under the purview of Ministry of Social Justice and Empowerment. However, during the oral evidence, the Secretary, HUPA had informed that the survey of manual scavengers is done by the State Governments and that the details about the number of scavengers available in the Central Ministry is given by the State Governments only. The Committee are of the view that proper identification of manual scavengers is an essential prerequisite, both for the purposes of their liberation and rehabilitation and for knowing the magnitude of the problem of manual scavenging. Therefore Committee desire that the Ministry of Housing and Urban Poverty Alleviation should coordinate with the Ministry of Social Justice and Empowerment and impress upon them to complete the survey and identify the actual number of manual scavengers in the country in a time bound manner. From the cumulative status report furnished to them, the Committee also note that certain States have reported either nil or very less number of scavengers, which, in all probability, does not reflect the ground

reality. The Committee urge the Ministry to impress upon the State Governments to come forward with the correct picture without which the ILCS cannot achieve the desired objective of wiping out this inhuman practice completely.

Recommendation No. 6

Manual Cleaning of Septic Tanks, Sewers and Manholes

4.8 The Committee note the labour employed for cleaning manholes and septic tanks are not treated as manual scavenger as per the definition in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Committee are of the view that manual cleaning of septic tanks and manholes is also a form of manual scavenging and desire that such a practice needs to be discouraged. They are also aware of the frequent asphyxiation accidents resulting in deaths of manhole/sewer cleaners, who undertake this task without any protective gear. In such a scenario, the Committee are of the view that the scope of guidelines of ILCS needs to be expanded to cover the labour employed for cleaning manholes and septic tanks. Besides, the Government should initiate steps for total mechanization of cleaning of septic tanks / manholes/sewers.

Recommendation No. 7

Creation of Awareness about the ILCS Scheme

4.9 The Committee feel that creating awareness among the masses to discourage use of dry latrines is fundamentally required to popularize the concept of pour-flush latrine. The Committee have been given to understand that once the revised guidelines of ILCS are approved by the Cabinet, a campaign will be launched by the Ministry through print and electronic media to sensitize the people about the urgency of proper implementation of the Scheme. The Committee desire that wide publicity to popularize the ILCS, the legal position relating to the dry latrines and manual scavenging, assistance available to the BPL households as well as to promote the use of water seal toilets should be arranged through electronic and print media, street plays and other forms throughout the country. The Government should also involve elected Corporators, Mayors, MLAs and MPs in this campaign. The Committee feel that this will draw the attention of the general public towards the need for bringing an end to manual scavenging, which is a blot on the civil

society. The Committee also desire that adequate funds for publicity purposes should be allocated in the budgetary allocation of ILCS every year.

Recommendation No. 8

Involvement of NGOs in the Implementation of ILCS

4.10 The Committee are in agreement with the views/observations of the Planning Commission on the involvement of NGOs in the implementation of ILCS. They feel that for propagation of the concept of proper sanitation, discouraging open defecation and creation of awareness about the unclean occupation of carrying of night soil, it is imperative that NGOs are associated in the effective implementation of ILCS. In fact, the involvement of NGOs throughout in the process of identification of manual scavengers, their capacity building, placement and rehabilitation seems inevitable for total eradication of manual scavenging. The Committee further desire that the role of NGOs in the eradication of manual scavenging needs to be clearly mentioned in the proposed revised guidelines of ILCS. At the same time, the Committee also recognize the need to identify NGOs with right expertise, experience and passion to work in this field and urge upon the Ministry to be extremely cautious on this aspect.

Recommendation No. 9

Construction of Community Toilets

The Committee have been given to understand that under the present ILCS, loans can be given to local bodies for construction of community toilets on "Pay and Use" principle in areas of public use like markets/bus stands etc. or in areas occupied by the poorest section of the urban population. The Committee also note that the construction of shared latrines in slums/housing chawls can also be covered under the Scheme due to non-availability of sufficient space for provision of individual latrines. However, the Ministry have also informed the Committee that the present scheme does not have a component of community toilets but their construction can be undertaken by the ULBs under the BSUP/IHSDP Schemes. The Committee find this totally confusing and counsel the Ministry to observe caution while submitting information to the Committee. The Committee further are of the view that the community toilets are the best tools to promote better sanitation practices in slums/unauthorized clusters and in congested areas where it is not possible

to construct individual waterseal toilets. The Committee desire that in the revised guidelines of the ILCS, the component of community toilets should also be included. Besides, as the schemes of Basic Services to Urban Poor (BSUP) / Integrated Housing and Slum Development Programme (IHSDP) are also implemented by the Ministry of HUPA, the Committee feel that it should not be difficult for the Ministry to dovetail ILCS with these Schemes so as to give the requisite push to the construction of community toilets in slum clusters and congested areas.

Recommendation No. 10

Constitutional Provision for Prohibition of Employment of Manual Scavengers

4.12 The Committee note that in order to eliminate manual scavenging, the Parliament had enacted the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, which provided for penalties for contravention of the provisions of the Act. The Committee however, are pained to note that all the States have not adopted the Act and even those States that have adopted the Act, have not enforced its provisions to achieve the desired results. In some States like Uttar Pradesh, Bihar, Uttaranchal and Assam more than 6 lakh dry latrines are yet to be converted into the water seal ones.

4.13 The Committee concur with the views of the Planning Commission that the Act is more like a Scheme and it has no teeth as it does not directly prohibit dry latrines and manual scavenging. The Ministry have also admitted that the Act operates after a State Government issues a notification fixing a date for enforcing the provisions prohibiting employment of manual scavengers and dry latrines in a specified area. The Committee, therefore, desire that there is an urgent need for the Central Government to take all necessary steps to translate this landmark legislation into concrete reality and if required, necessary amendments in the Act could be brought so as to prohibit and eradicate completely the evil of manual scavenging from the country in letter and spirit.

NEW DELHI;
26 October, 2007
4 Kartika, 1929 (Saka)

MOHD. SALIM,
Chairman,
Standing Committee on Urban Development.

ANNEXURE I

NUMBER OF DRY LATRINES AS PER INFORMATION
FURNISHED BY STATE/UT GOVERNMENT

Sl. No.	State/UT	Number of Dry Latrines yet to be converted as reported by State/UT Governments	Year of Survey carried out/reported by the State/UT Govt.
1	2	3	4
1.	Arunachal Pradesh	Nil	2,002
2.	Andhra Pradesh	200	Oct., 2004
3.	Assam	60,341	2002-03
4.	Bihar	200,230	As per 1989 survey report
5.	Chhattisgarh	Nil	2,001
6.	Goa	Nil	2,001
7.	Gujarat	Nil	2,003
8.	Haryana	Nil	1997-98
9.	Himachal Pradesh	Nil	As informed by State
10.	Jammu & Kashmir	63,927	1995-96
11.	Jharkhand	Nil	2,005
12.	Karnataka	Yet to report	survey will be completed in 2007
13.	Kerala	Nil	2,006
14.	Madhya Pradesh	Nil	2,000
15.	Maharashtra	Nil	2004-05
16.	Manipur	Nil	2,002
17.	Meghalaya	Nil	1,997
18.	Mizoram	Nil	prior to 2003
19.	Nagaland	607	2,006

1	2	3	4
20.	Orissa	Nil	2,001
21.	Punjab	Nil	2,004
22.	Rajasthan	Nil	2,004
23.	Sikkim	Nil	2,001
24.	Tamil Nadu	Nil	2,002
25.	Tripura	Nil	2,001
26.	Uttar Pradesh	270,911	2005-06
27.	Uttaranchal	Yet to report	survey under process
28.	West Bengal	3,441	2005-06
29.	Delhi	Nil	August, 2006
30.	Chandigarh	Nil	2,006
31.	Lakshadweep	Nil	NA
32.	Daman & Diu	Nil	2,001
33.	Dadar & Nagar Haveli	Nil	2,006
34.	Andaman & Nicobar	Nil	NA
35.	Pondicherry	Nil	2,001
	Total	599,657 600000 (approximately)	

ANNEXURE II

THE EMPLOYMENT OF MANUAL SCAVENGERS AND
CONSTRUCTION OF DRY LATRINES (PROHIBITION)
ACT, 1993

(No. 46 of 1993)

[5th June, 1993]

An Act to provide for the prohibition of employment of manual scavengers as well as construction or continuance of dry latrines and for the regulation of construction and maintenance of water-seal latrines and for matters connected therewith or incidental thereto.

Whereas fraternity assuring the dignity of the individual has been enshrined in the Preamble to the Constitution;

And Whereas article 47 of the Constitution, *inter-alia*, provides that the State shall regard raising the standard of living of its people and the improvement of public health as among its primary duties;

And Whereas the dehumanising practice of manual scavenging of human excreta still continues in many parts of the country;

And Whereas the municipal laws by themselves as a measure for conversion of dry latrines into water-seal latrines and prevention of construction of dry latrines are not stringent enough to eliminate this practice;

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 humane excreta an offence and thereby ban the further proliferation of dry latrines in the country;

And Whereas it is desirable for eliminating the dehumanising practice of employment of manual scavengers and for protecting and improving the human environment to make it obligatory to convert dry latrines into water seal latrines or to construct water-seal latrines in new constructions;

And Whereas Parliament has no power to make laws for the States with respect to the matters aforesaid, except as provided in article 249 and 250 of the Constitution;

And Whereas in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal that the matters aforesaid should be regulated in those States by Parliament by law.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Short title, application and commencement. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

(2) It applies in the first instance to the whole of the States of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal and to all the Union territories and it shall also apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of a Article 252 of the Constitution.

(3) It shall come into force in the States of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal and in the Union territories on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (1) of Article 252 of the Constitution, on the date of such adoption.

2. In this Act, unless the context otherwise Definitions requires,—

(a) “area”, in relation to any provision of this Act, means such area as the State Government may, having regard to the

requirements of that provision, specify by notification;

(b) "building" means a house, out-house, stable, latrine, urinal, sheet house, hut, wall (other than a boundary wall) or any other structure whether made of masonry, bricks, wood, mud, metal or other material;

(c) "dry latrines" means a latrine other than a water-seal latrine;

(d) "environment" includes water, air and land and the inter-relationship which exist among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(e) "environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to, be injurious to environment;

(f) "environmental pollution" means the presence in the environment of any environmental pollutant;

(g) "Executive Authority" means an Executive authority appointed under sub-Section (1) of Section 5;

(h) "HUDCO" means the Housing and Urban development Corporation Limited, a Government company registered by that name under the Companies Act, 1956;

(i) "latrine" means a place set apart for defecation together with the structure comprising such place, the receptacle therein for collection of human excreta and the fittings and apparatus, if any, connected therewith;

(j) "manual scavenger" means a person engaged in or employed for manually

carrying human excreta and the expression “manual scavenging” shall be construed accordingly;

(k) “notification” means a notification published in the Official Gazette;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “State Government”, in relation to a Union territory, means the Administrator thereof appointed under Article 239 of the Constitution;

(n) “Water-seal latrine” means a pour-flush latrine, water flush latrine or a sanitary latrine with a minimum water-seal of 20 millimetres diameter in which human excreta is pushed in or flushed by water.

CHAPTER II

PROHIBITION OF EMPLOYMENT OF MANUAL SCAVENGERS, ETC.

3. (1) Subject to sub-section (2) and the other provisions of this Act, with effect from such date and in such area as the State Government may, by notification, specify in this behalf, no person shall—

Prohibition
of
employment
of manual
Scavengers
etc.

(a) engage in or employ for or permit to be engaged in or employed for any other person for manually carrying human excreta; or

(b) construct or maintain a dry latrine.

(2) The State Government shall not issue a notification under sub-section (1) unless—

(i) it has, by notification, given not less than ninety days’ notice of its intention to do so;

(ii) adequate facilities for the use of water-seal latrines in that area exist; and

(iii) it is necessary or expedient to do so for the protection and improvement of the environment or public health in that area.

Power to exempt.

4. The State Government may, by a general or special order published in the Official Gazette, and upon such conditions, if any, as it may think fit to impose, exempt any area, category of buildings or class of persons from any provisions of this Act or from any specified requirement contained in this Act or any rule, order, notification or scheme made thereunder or dispense with the observance of any such requirement in a class or classes of cases, if it is satisfied that compliance with such provisions or such requirement is or ought to be exempted or dispensed with in the circumstances of the case.

CHAPTER III

IMPLEMENTING AUTHORITIES AND SCHEMES

Appointment of executive authorities and their powers and functions.

5. (1) The State Government may, by order published in the Official Gazette, appoint a District Magistrate or a Sub-Divisional Magistrate, as an Executive Authority to exercise jurisdiction within such area as may be specified in the order and confer such powers and impose such duties on him, as may be necessary to ensure that the provisions of this Act are properly carried out and the Executive authority may specify the officer or officers, subordinate to him, who shall exercise all or any of the powers, and 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.

(2) The Executive Authority appointed under sub-section (1) and the officer or officers specified under that sub-Section shall, as far as practicable, try to rehabilitate and promote the welfare of the persons who were engaged in or employed for as manual scavengers in any area in respect of which a notification under sub-Section (1) of Section 3 has been issued by securing and protecting their economic interests.

6. (1) The State Government may, by notification, make one or more schemes for regulating conversion of dry latrines into, or construction and maintenance of, water-seal latrines, rehabilitation of the persons who were engaged in or employed for as manual scavengers in any area in respect of which a notification under sub-section (1) of section 3 has been issued in gainful employment and administration of such scheme and different schemes may be made in relation to different areas and for different purposes of this Act:

Power of State Government to make schemes.

Provided that no such scheme as involving financial assistance from the HUDCO shall be made without consulting it.

(2) In particular, and without prejudice to the generality of the foregoing power, 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 water-seal latrines;

(h) licensing for collection of fees in respect of community latrines or shared latrines.

Power of State Government to issue directions.

7. Notwithstanding anything contained in any other law but subject to the other provisions of this Act, the State Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or local or other authority and such person, officer or a local or other authority shall be bound to comply with such directions.

Executive authorities, inspectors, officers and other employees of such authorities to be public servants.

8. All Executive Authorities, all officers and other employees of such authorities including the officers authorized under sub-section (1) of section 5, all inspectors appointed under sub-section (1) of section 9 and all officers and other employees authorized to execute a scheme or order made under this Act, when acting or purporting to act in pursuance of any provisions of this Act or the rules or schemes made or orders or directions issued thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Appointment of inspectors and their powers of entry and inspection.

9. (1) The State Government may, by notification, appoint such persons as it may think fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Every inspector within the local limits of jurisdiction of an Executive Authority shall be subordinate to such authority.

(3) Subject to any rules made in this behalf by the State Government, an inspector may, within the local limits of his jurisdiction, enter, at all reasonable times, with such assistance as he considers necessary, any place for the purpose of—

(a) performing any of the functions of the Executive Authority entrusted to him;

(b) determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules, orders or schemes made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) examining and testing any latrine or for conducting an inspection of any building in which he has reason to believe that an offence under this Act or the rules, orders or schemes made thereunder has been or is being or is about to be committed and to prevent or mitigate environmental pollution.

10. (1) On receipt of information with respect to the fact or apprehension of any occurrence of contravention of the provisions of section 3, whether through intimation by some person or on a report of the inspector or otherwise, the Executive Authority shall, as early as practicable, besides taking any other action under this Act, direct the owner or occupier of the premises to take such remedial measures, as may be necessary, within such reasonable time as may be specified therein and in case the owner or occupier, as the case may be, fails to comply with such directions, cause

Power of executive authority to prevent environmental pollution in certain cases.

such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution at the cost of such owner or occupier of the premises.

(2) The expenses, if any, incurred by the executive Authority with respect to the remedial measure referred to in sub-section (1), together with interest at such rate as the State Government may specify from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

Duty of HUDCO to extend financial assistance in certain cases.

11. (1) Notwithstanding anything contained in its Memorandum of Association or Articles of Association or schemes for the grant of loans for housing and urban development, it shall be the duty of HUDCO to extend, in suitable cases, financial assistance for the implementation of such schemes for the construction of water seal latrines as may be made under section 6.

(2) The financial assistance referred to in sub-section (1) may be extended by HUDCO on such terms and conditions (including on easy and concessional rates of interest) and in such manner as it may think fit in each case or class of cases.

Power to levy fee.

12. Any order or scheme which the State Government is empowered to make under this Act may notwithstanding the absence of any express provision to that effect, provide for levy of fees in respect of—

(a) community latrines constructed under a scheme on pay and use basis; or

(b) shared latrines constructed under a scheme; or

(c) supply of copies of documents or orders or extracts thereof; or

(d) licensing of contractors for construction of water-seal latrines; or

(e) any other purpose or matter involving rendering of service by any officer, committee or authority under this Act or any rule, direction, order or scheme made thereunder;

Provided that the State Govt. may, if it considers necessary so to do, in the public interest, by general or special order published in the Official Gazette, grant exemption on such grounds as it deems fit from the payment of any such fee either in part or in full.

13. (1) The Central Government may, by notification, constitute Constitution of Committees.

(a) one or more Project Committees for appraising of the schemes for the construction of water-seal latrines in the country;

(b) one or more Monitoring Committees to monitor the progress of such schemes;

(c) such other committees for such purposes of the Act and with such names as the Central Government may deem fit.

(2) The composition of the committees constituted by the Central Government, the powers and functions thereof, the terms and conditions of appointment of the members of such committees and other matters connected therewith shall be such as the Central Government may prescribe.

(3) The members of the committees under sub-section (1) shall be paid such fees and allowances for attending the meetings as may be prescribed.

(4) The State Government may, by notification, constitute:

(a) one or more State Co-ordination Committees for co-ordinating and monitoring of the programmes for the construction of water-seal latrines in the State and rehabilitation of the persons who were engaged in or employed for as manual scavengers in any area in respect of which a notification under sub-section (1) of section 3 has been issued;

(b) such other committees for such purpose of the Act and with such names as the State Government may deem fit.

(5) The composition of the committees constituted by the State Government the powers and functions thereof, the terms and conditions of the members of such committees and other matters connected therewith shall be such as the State Government may prescribe.

(6) The members of the committees under sub-section (4) shall be paid such fees and allowances for attending the meetings as may be prescribed.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalty for contravention of the provisions of the Act enrules, orders, directions and schemes.

14. Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules or schemes made or orders or directions issued thereunder, shall, in respect of each such failure or contravention be punishable with imprisonment for a term which may extend to one year or with fine, which may extend to two thousand rupees, or with both; and in case the failure or contravention continues, with additional fine which may extend to one hundred rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

Offences by Companies.

15. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of

its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or such other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this Section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

2 of 1974. 16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable. Offences to be cognizable.

17. (1) No Court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence under this Act. Provision in relation to jurisdiction.

(2) No prosecution for any offence under this Act shall be instituted except by or with

the previous sanction of the Executive Authority.

(3) No Court shall take cognizance of any offence under this act except upon a complaint made by a person generally or specially authorized in this behalf by the Executive Authority.

Limitation of prosecution.

18. No Court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the complainant.

CHAPTER V

MISCELLANEOUS

Information, reports or returns.

19. The Central Government may, in relation to its functions under this Act, from time to time, require any person, officer, State Government or other authority to furnish to it, any prescribed authority or officer any reports, returns, statistics, accounts and other information as may be deemed necessary and such person, officer, State Government or other authority, as the case may be, shall be bound to do so.

Protection of action taken in good faith.

20. No suit, prosecution or other legal proceedings shall be against the Government or any officer or other employee of the Government or any authority constituted under this Act or executing any scheme made under this Act or any member, officer or other employee of such authority or authorities in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules or schemes made, or the orders or directions issued, thereunder.

Effect of other laws and agreements inconsistent with the Act.

21. (1) Subject to the provisions of subsection (2), the provisions of this Act, the rules, schemes or orders made thereunder shall have effect notwithstanding anything inconsistent

therewith contained in any enactment other than this Act, custom, tradition, contract, agreement or other instrument.

(2) If any act or omission constitutes an offence punishable under this Act and also under any other Act, then, the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

22. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(i) the composition of the Project Committees, Monitoring Committees and other committees constituted by the Central Government under sub-section (1) of section 13, the powers and functions thereof, the number of members and their terms and conditions of appointment and other matters connected therewith;

(ii) the fees and allowances to be paid to the members of the committees constituted under sub-section (1) of section 13.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

23. (1) The State Government may, by notification, make rules, not being a matter for which the rules are or required to be made by the Central Government, for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(i) the composition of the State Co-ordination Committees and other Committees constituted by the State Government under sub-section (4) of section 13, the powers and functions thereof, the number of members and their terms and conditions of appointment and other matters connected therewith;

(ii) the fees and allowances to be paid to the members of the Committees constituted under sub-section (4) of section 13;

(iii) any other matter which is required to be, or may be prescribed.

(3) Every rule and every scheme made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

Power to remove difficulties.

24. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made in relation to a State after the expiration of three years from the commencement of this Act in that State.

(2) Every order made under this Section shall, as soon as may be after it is made, be laid before each House of Parliament.

ANNEXURE III

STANDING COMMITTEE ON URBAN DEVELOPMENT (2006-07)

MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE
HELD ON FRIDAY, THE 20TH JULY, 2007

The Committee sat from 1100 hrs. to 1300 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Mohd. Salim — *Chairman*

MEMBERS

Lok Sabha

2. Shri Sharanjit Singh Dhillon
3. Shri Surendra Prakash Goyal
4. Shri Anant Gudhe
5. Shri Kailash Joshi
6. Shri Sajjan kumar
7. Shri Babulal Marandi
8. Shri Shripad Yesso Naik
9. Shri Sudhangshu Seal
10. Kunwar Sarv Raj Singh
11. Kunwar Devendra Singh Yadav
12. Shri Suresh Ganpatrao Wagmare

Rajya Sabha

13. Shri Nandi Yellaiah
14. Shri B.K. Hariprasad
15. Shri Manohar Joshi
16. Shri Surendra Moti Lal Patel
17. Shri Krishan Lal Balmiki
18. Shri Penumalli Madhu
19. Shri Brij Bhushan Tiwari
20. Shri Varinder Singh Bajwa

SECRETARIAT

1. Shri S. Balshekar — *Joint Secretary*
2. Shri R.K. Saxena — *Director*
3. Smt. Anita B. Panda — *Deputy Secretary*
4. Shri Harchain — *Under Secretary*

**Representatives of the Ministry of Housing
and Urban Poverty Alleviation**

- (i) Dr. H.S. Anand, Secretary (HUPA)
- (ii) Dr. P.K. Mohanty, JS (JNNURM)
- (iii) Shri S.K. Singh, JS (Housing)
- (iv) Shri R.K. Vats, JS & FA
- (v) Shri J.P.S. Chawla, C.C.A.
- (vi) Shri Pankaj Joshi, Director (Housing)
- (vii) Shri Mukul Chaturvedi, Director (UPA)
- (viii) Shri D.S. Negi, Director (NBO)

Representatives from the HUDCO/BMPTC

- (i) Shri T. Parbhakaran, CMD, HUDCO
- (ii) Shri S.K. Tripathi, Director (CP), HUDCO
- (iii) Shri R.K. Celly, Executive Director, BMPTC

2. At the outset, Hon'ble Chairman welcomed the Members and representatives of the Ministry of Housing & Urban Poverty Alleviation to the sitting of the Committee. The Chairman then asked the Secretary, Ministry of Housing & Urban Poverty Alleviation to brief the Committee on the subjects (i) "Urban Water Supply" with respect to Basic Services to Urban Poor (BSUP) and Integrated Housing and Slum Development Programme (IHSDP) and (ii) Integrated Low Cost Sanitation Scheme (ILCS)". He also drew the attention of the representatives to the provisions under Direction 55(1) of the Directions by the Speaker.

3. Then, the Secretary, Ministry of Housing & Urban Poverty Alleviation gave a brief presentation of the measures taken by them for Urban Water Supply under Sub-Mission II *i.e.* Basic Services to Urban Poor (BSUP) of JNNURM and the Integrated Housing and Slum Development Programme (IHSDP); as well as the integrated Low Cost Sanitation Scheme (ILCS). The representatives of the Ministry then clarified the queries raised by the Members on the subject, "Integrated Low Cost Sanitation Scheme (ILCS)".

4. The Hon'ble Chairman desired to have a further briefing from the representatives of the Ministry of Housing and Poverty Alleviation on the issue concerning water supply to urban poor.

The Committee then adjourned.

ANNEXURE IV

STANDING COMMITTEE ON URBAN DEVELOPMENT (2007-2008)

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE
HELD ON THURSDAY, 18TH OCTOBER, 2007

The Committee sat from 1500 hrs. to 1545 hrs. in the Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Mohd. Salim — *Chairman*

MEMBERS

Lok Sabha

2. Smt. Botcha Jhansi Lakshmi
3. Shri Surendra Prakash Goyal
4. Shri Anant Gudhe
5. Shri Sajjan Kumar
6. Shri Sudhangshu Seal
7. Kunwar Sarv Raj Singh
8. Shri Jagdish Tytler
9. Kunwar Devendra Singh Yadav

Rajya Sabha

10. Shri Nandi Yellaiah
11. Smt. Syeda Anwara Taimur
12. Shri Surendra Moti Lal Patel
13. Shri Penumalli Madhu
14. Shri Mukul Roy

SECRETARIAT

1. Shri R.K. Saxena — *Director*
2. Smt. Anita B. Panda — *Deputy Secretary*
3. Shri Harchain — *Deputy Secretary-II*

2. At the outset, the Hon'ble Chairman welcomed the Members to the sitting of the Committee. The Committee took up for consideration the draft report on the subject "Integrated Low Cost Sanitation Scheme (ILCS)". After deliberations, the Committee adopted the draft report without any modification.

3. The Committee, then authorized the Chairman to finalize the Report on the basis of factual verification from the concerned Ministry and present the same to the Parliament.

The Committee then adjourned.