

32

**STANDING COMMITTEE ON SOCIAL JUSTICE AND
EMPOWERMENT
(2012-13)**

(FIFTEENTH LOK SABHA)

**MINISTRY OF SOCIAL JUSTICE AND
EMPOWERMENT**

**THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS
AND THEIR REHABILITATION BILL 2012**

THIRTY SECOND REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2013/Phalguna, 1934(Saka)

THIRTY SECOND REPORT
STANDING COMMITTEE ON SOCIAL JUSTICE AND
EMPOWERMENT (2012-13)

(FIFTEENTH LOK SABHA)

MINISTRY OF SOCIAL JUSTICE AND
EMPOWERMENT

THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS
AND THEIR REHABILITATION BILL 2012

Presented to Lok Sabha on 4.3.2013

Laid in Rajya Sabha on 4.3.2013



LOK SABHA SECRETARIAT
NEW DELHI

March, 2013/Phalguna, 1934(Saka)

CONTENTS

| | PAGE(s) |
|------------------------------------|---------|
| COMPOSITION OF THE COMMITTEE | (iv) |
| INTRODUCTION | (vi) |
| REPORT | 1 |

ANNEXURES

| | |
|---|-----|
| I. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012 | 38 |
| II. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 | 66 |
| III. Census 2011 Data on Latrine Facility. | 78 |
| IV. State/UT-wise Number of Insanitary Latrines. | 79 |
| V. Survey of Manual Scavengers and their dependents Guidelines. | 80 |
| VI. Minutes of the Second sitting of the Standing Committee on Social Justice and Empowerment held on Thursday, 1 st November, 2012 | 107 |
| VII. Minutes of the Fourth sitting of the Standing Committee on Social Justice and Empowerment held on Thursday, 6 th December, 2012 | 110 |
| VIII. Minutes of the Sixth sitting of the Standing Committee on Social Justice and Empowerment held on Friday, 11 th January, 2013 | 113 |
| IX. Minutes of the Seventh sitting of the Standing Committee on Social Justice and Empowerment held on Monday, 21 st January, 2013 | 120 |
| X. Minutes of the Eighth sitting of the Standing Committee on Social Justice and Empowerment held on Wednesday, 27 th February, 2013 | 123 |

**COMPOSITION OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND
EMPOWERMENT (2012-2013)**

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri M. Anandan
3. Smt. Susmita Bauri
4. Shri Devidhan Besra
5. Shri Tarachand Bhagora
6. Smt. Rama Devi
7. Shri Gorakh Prasad Jaiswal
8. Shri Mohan Jena
9. Shri Dinesh Kashyap
10. Shri Kirodi Lal Meena
11. Kumari Meenakshi Natarajan
12. Shri Wakchaure Bhausahab R.
13. Smt. Sushila Saroj
14. Shri N. Dharam Singh
15. Shri Pradeep Kumar Singh
16. Dr. Naramalli Sivaprasad
17. Shri Lalit Mohan Suklabaidya
18. Shri Kabir Suman
19. Vacant
20. Vacant
21. Vacant

**MEMBERS
RAJYA SABHA**

22. Smt. Jharna Das Baidya
23. Shri Avtar Singh Karimpuri
- *24. Shri Rishang Keishing
25. Shri Mangala Kisan
26. Shri Ahmad Saeed Malihabadi
27. Prof. Mrinal Miri
28. Shri Jesudasu Seelam
29. Shri Mohammad Shafi
30. Shri Shivpratap Singh

31. Shri Shankarbhai N. Vegad

* Resigned from the Committee w.e.f. 22.2.2013

LOK SABHA SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri Kusal Sarkar - Additional Director
4. Smt. Neena Juneja - Committee Officer

INTRODUCTION

I, the Chairman of the Standing Committee on Social Justice and Empowerment having been authorized by the Committee to submit the Report on their behalf, do present this Thirty-second Report of the Committee on "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012" pertaining to the Ministry of Social Justice and Empowerment.

2. The Bill was introduced in Lok Sabha on 3.9.2012 and was referred to the Committee by the Hon'ble Speaker, Lok Sabha on 9.9.2012 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from Ministry of Social Justice and Empowerment, who also briefed them at their sitting held on 1.11.2012.

4. Written suggestions and memoranda were sought from the some of the NGOs working in the field of rehabilitation of manual scavenging namely, Safai Karamchari Andolan, Sulabha International Social Service Organization and Rashtriya Garima Abhiyan. The Sulabha International Social Service Organization gave no suggestions stating that they found the Bill to be in order. Safai Karamchari Andolan forwarded certain suggestions and also deposed before the Committee. Suggestions were also received from Shri P.S. Krishnan, IAS (Retired). Written information was also received obtain from the Ministries of Urban Development, Housing and Urban Poverty Alleviation, Drinking Water and Sanitation and Railways.

5. The Committee, at their sitting held on 6.12.2012 heard the views of an NGO (Safai Karamcharis Andolan) on the Bill.

6. The Committee took oral evidences of the Ministries of Urban Development, Housing and Urban Poverty Alleviation, Drinking Water and Sanitation and Railways on 11.1.2013 and Ministry of Social Justice and Empowerment on 21.1.2013. The representatives of the Ministries of Law and Justice (Legislative Department), Urban Development, Housing and Urban Poverty Alleviation, Drinking Water and Sanitation and Railways were also present at the meeting held on 21.1.2013.

7. The Committee undertook on-the-spot study visit to Bengaluru, Chennai and Hyderabad and interacted with NGOs, Railway Safai Karamcharis, Chief Secretaries of Karnataka, Tamil Nadu and Andhra Pradesh and Railway authorities in connection with implementational aspects of the Bill. The observations of the Committee are based on the appraisal of the suggestions received, views expressed by NGOs, evidences of the Ministries of Social Justice and Empowerment, Urban Development, Housing and Urban Poverty Alleviation, Drinking Water and Sanitation and Railways as also the deliberations of the study visit.

8. The Committee considered and adopted the Draft Report on “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012” at their sitting held on 27.2.2013.

9. The Committee wish to express their thanks to the officials of the Ministries of Social Justice and Empowerment, Urban Development, Housing and Urban Poverty Alleviation, Drinking Water and Sanitation and Railways, representatives of Ministry of Law and Justice (Legislative Department), State Governments of Karnataka, Tamil Nadu and Andhra Pradesh and NGOs for their cooperation in placing before them their considered views and perceptions on the provisions of the Bill and for furnishing written notes and information that the Committee had desired in connection with the examination of the Bill.

10. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

New Delhi;
27 February, 2013
8 Phalguna, 1934 (Saka)

HEMANAND BISWAL,
Chairman,
Standing Committee on Social
Justice and Empowerment.

REPORT

BACKGROUND

1.1 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 nightsoil 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.

1.2 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 (**Annexure-I**). The Bill was referred to the Standing Committee on Social Justice and Empowerment on 9.9.2012 for examination and making a report thereon.

1.3 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 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.

1.4 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 6 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 **Annexure-II**.

- 1.5 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".

- 1.6 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, 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.

House listing and Housing Census 2011

- 1.7 House listing and Housing Census 2011' data released by the Registrar General of India in March, 2012, shows that there are still some 26 lakh insanitary latrines in the country. They have given the following broad, category-wise break-up:-

Table 1.7: Insanitary Latrines as per Census 2011

| <u>Category</u> | <u>Approx. No.</u> |
|---|--------------------|
| a. Latrines from which Nightsoil is disposed into open drain; | 13 lakh |
| b. Service latrines in which nightsoil is: - | |
| i) removed by humans, | 8 lakh |

| | |
|---------------------------------|--------|
| and ii) serviced by animals. | 5 lakh |
|---------------------------------|--------|

An abstract of the total households in the country, those with and without latrines, and with different types of latrines, is enclosed at **Annexure-III**. The State/Union Territory wise figures of various types of insanitary latrines are given in **Annexure-IV**.

1.8 Elaborating on the Census Data, the Ministry of Urban Development stated that;

"As per 2011 Census, 81.40% urban households are having latrine facility and the remaining 18.60% households are sharing both public latrines (6.00%) and defecating in open (12.60%). Out of 81.40% households having latrine facility, 38.20% households are having septic tanks, 32.70% households are connected with pipe sewerage system, 8.80% households are having pit latrines (single & double, etc.) and 1.70% of households are having insanitary latrines (connected to open drains, night soil removed by human, dry and bahao etc.)".

1.9 When the issue of the number of insanitary latrines was discussed with the representatives of the Ministry of Social Justice, the Secretary submitted;

"Let me clarify, Sir. The Registrar General has given a report in which he *inter-alia*, talks about only insanitary latrines. He has not canvassed the number of manual scavengers. In the Census data form in which they collect the data, there are various columns. One of the columns pertains to the kind of latrine that is available inside the house. So, based on the replies received throughout the country; the Registrar General of India has arrived at the conclusion that there are three kinds of latrines which can be termed as insanitary latrines".

1.10 Further the Secretary, Ministry of Social Justice informed that State Governments have disputed the data and have filed affidavits in the Supreme Court. He deposed before the Committee;

"They have filed affidavits. I do not think they have carried out any survey. I am presuming that they have not carried out any survey because if they had carried out a survey, then they would have shared the data and the result with everybody. We have not received any reports from the State Governments saying that they have carried out a survey in the State and based on the results of the survey their conclusion is that there is no insanitary latrine in the States and there are no manual scavengers. They have certainly filed affidavits to that effect in the Supreme Court but they have not shared any such report with us".

1.11 Explaining on the need for a stronger legislation in view of the census data 2011, the Ministry stated that;

"It would be seen from the Census, 2011 data that the problem of insanitary latrines and therefore manual scavenging still persists in the country. Therefore, a need was felt for a stronger Central legislation to eliminate these twin evils i.e. insanitary latrines and manual scavenging as well as for the proper rehabilitation of the remaining manual scavengers. Further the 1993 Act's ambit was only dry latrines and manual scavengers engaged therein, whereas, in reality, all the above three categories of insanitary latrines i.e. those from which night soil is disposed into open drain or removed by human and serviced by animals may entail manual scavenging."

A. GENERAL

2.1 The Ministry of Social Justice and Empowerment has enumerated the shortcomings in the 1993 Act which have been addressed in the new Bill as mentioned below:-

Table 2.1: Comparison between the Act of 1993 and the Bill.

| SI No. | Provision | 1993 Act | The Bill |
|--------|--|---|--|
| 1. | Prohibition of Dry/Insanitary Latrines | prohibits "dry latrines" | prohibits "insanitary latrines". |
| 2. | Definition of Dry/Insanitary Latrines | "dry latrine" as any latrine, other than a water-seal latrine | " insanitary latrine ", in a more specific manner, as one which requires human excreta to be cleaned or otherwise handled manually, before complete decomposition, either <i>in situ</i> or in an open drain or pit into which the excreta is discharged or flushed. |
| 3. | Definition of Manual Scavenger | a person employed for "manually carrying human excreta" | a person employed 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 human excreta from insanitary latrines is disposed of, or on a railway track, before the excreta fully decomposes..." |
| 4. | Prohibition of hazardous manual cleaning of sewer & septic tanks in the 1993 Act. | No Provision | Clause 7 prohibits this. |
| 5. | Penal Provisions | 1 st contravention- upto 1 year of imprisonment | <u>For violation of provisions of prohibition of insanitary</u> |

| SI No. | Provision | 1993 Act | The Bill |
|--------|---|--|--|
| | | and fine upto Rs. 2000/-. | <u>latrines and manual scavenging</u> 1 st contravention- upto 1 year of imprisonment and fine upto Rs. 50000/-, or both. Double in case of 2 nd and subsequent offences. <u>For violation of provisions of prohibition of hazardous cleaning of septic tanks and sewers</u> 1 st contravention- upto 2 years of imprisonment and fine upto Rs. two lakh. In 2 nd and subsequent offences - 5 years and fine upto Rs. Five lakh, or both. |
| 6. | Offences to be Cognizable and Non-bailable | Cognizable | Cognizable and non-bailable. |
| 7. | Jurisdiction of Courts | Metropolitan Magistrate or Judicial Magistrate of the 1 st Class | Executive Magistrate may be conferred powers to the or Judicial Magistrate of the 1 st Class |
| 8. | Identification of Manual Scavengers and their Rehabilitation | No provision for survey and identification | Detailed provisions for identification. |
| 9. | Implementation mechanism | DM or SDM is to be appointed as executive authority for implementation of the Act. | Appropriate Govt. shall confer powers on local authority and District Magistrates to carry out provisions of this Act. |
| 10. | Vigilance Mechanism | Central and State Govts. may constitute committees of various kinds. | Vigilance and Monitoring Committees shall be constituted at the Sub-division, District, State and Central Levels. National Commission for Safai Karamcharis (NCSK) to monitor implementation of the Act. |

| SI No. | Provision | 1993 Act | The Bill |
|--------|---|--|---|
| 11. | Responsibility of Local Authorities to provide Sanitary Community Latrines | No such obligation. | Mandatory. |
| 12. | Cognizance of offence | Upon a complaint made by a person generally or specially authorized in this behalf by the Executive Authority (Section 17(3)) | Upon a complaint is made by a person. (Clause 10) |

2.2 Asked whether the new legislation will supersede the existing Employment of Manual Scavengers and Constructions of dry latrines (Prohibition) Act 1993, The Ministry replied that the present Bill has an overriding clause, which reads as follows:-

“Clause 3 - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 or in any other law, or in any instrument having effect by virtue of any other law.”

The Ministry further clarified that by virtue of the above provision in the Bill, the existing Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 would become practically infructuous.

2.3 Further, when it was enquired whether the Ministry wanted two laws instead of one consolidated and comprehensive one, the Ministry submitted;

"The Ministry of Law and Justice was consulted regarding repeal of the 1993 Act. It was advised by them that the repeal of the 1993 Act would have to follow the same procedure, as was followed for its enactment i.e. resolution by two or more State Govts. for its repeal and thereafter adoption of the repeal Act by each State. This would have only delayed the new legislation".

Stake-holders in the implementation of the proposed Legislation

2.4 The Ministries of Urban Development, Housing and Poverty Alleviation and Drinking Water and Sanitation of the Central Government are implementing sanitation related schemes, the details of which are given as under :-

- (i) Ministry of Urban Development is responsible for broad policies and programmes and assists State Governments / UTs in providing technical assistance in sanitation.
- (ii) Ministry of Housing and Urban Poverty Alleviation has been vested with the responsibility to monitor the implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Ministry is responsible for implementation of the Integrated Low Cost Sanitation Scheme in the urban area.
- (iii) Ministry of Drinking Water & Sanitation is implementing the Nirmal Bharat Abhiyan Scheme for rural areas.
- (iv) The Ministry of Railways is to be involved in the implementational aspect of the Bill to prevent manual scavenging on railway lines and railway lands.

2.5 When asked about the mechanism of coordination of these Ministries, it was informed that a Central Monitoring Committee under the Chairmanship of Cabinet Secretary has been constituted which coordinates with various

Ministries in regard to the issues regarding manual scavenging. The Committee reviews the progress of eradication of manual scavenging and rehabilitation of manual scavengers, periodically. The Members of the Committee are the Secretaries of the Ministries concerned with the subject.

Scheme on Assistance for Mechanical Cleaning of Sewers and Septic Tanks

2.6 The Bill prohibits the engaging or employing of persons for hazardous cleaning of sewers and septic tanks. The Ministry of Urban Development have informed that Hon'ble supreme Court of India has directed the need for proper equipment, adequate protection and safety gears to sewer workers who enter into the manhole for cleaning blocks. The Central Monitoring Committee under the Chairmanship of the Cabinet Secretary at its meeting held on 31.8.2012 while reviewing the implementation of the "Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993", recommended that a "Scheme on Assistance for Mechanical Cleaning of Sewers and Septic Tanks" may be formulated by the Ministry of Urban Development, Government of India. The scheme which is under finalization by this Ministry envisages to switch over from manual cleaning to mechanical cleaning of sewers & septic tanks with the objective to eliminate the need for engaging sanitation workers for the hazardous cleaning of sewers and septic tanks manually.

2.7 Elaborating on the scheme in response to a query during evidence, the Secretary, Ministry of Urban Development stated :-

"the proposed scheme envisages provision of 100 per cent financial support to the municipalities for procurement and mechanical devices for cleaning of sewers and septic tanks for five year period ending 2017 of the 12th Five Year Plan and the Operation and Maintenance cost for one year for cleaning of the sewers and septic tanks with the objective of providing mechanical devices for cleaning of sewers and septic tanks for elimination of manual cleaning of sewers and septic tanks; and switching over to mechanical means and also providing training of the existing sanitation workers."

2.8 In regard to monitoring mechanism, the Secretary deposed :-

"We have also proposed that for prioritising the towns, the State Government would constitute State level sanctioning and monitoring committee and the scheme would be implemented by the Ministry of Urban Development with a separate Mission Directorate with the post of Mission Director at the level of Joint Secretary and supporting staff of Directors etc., and a project management unit. The Mission Director is to be the nodal officer for handling the scheme.

We have also proposed an inter-Ministerial group. The overall progress of eradication of manual scavenging shall be monitored by the inter-Ministerial group headed by the hon. Minister for Urban Development. Other members will include the hon. Ministers from related Ministries such as HUPA Ministry, Finance, Environment and Forests, Social Justice and Empowerment, and the Planning Commission. The IMG shall meet at least once in a year for overall monitoring of the progress and the status of eradication of manual scavenging. That is the proposal in our scheme".

Integrated Low Cost Sanitation Scheme for Urban Areas

2.9 The Ministry of Housing & Poverty Alleviation has been implementing the scheme of ILCS (Revised) in the urban areas of the country since 2008 in order to facilitate the State Government in the task of conversion of all reported Dry Latrines into sanitary twin pit pour flush toilets for the Economically Weaker Section (EWS) households. Through conversion of dry latrines this Scheme envisages eradication of Manual Scavenging. Both

Manual Scavengers and EWS households who are generally vulnerable sections of the society are benefited under the scheme.

2.10 As informed by the Ministry of HUPA the revised ILCS was implemented during the 11th Plan (2008-12) with a target to convert 6 lakh dry latrines estimated by States, with an outlay of Rs. 545.16 crores. These figures were changed by the State Governments after the reported house to house survey conducted by the States in all municipal areas. Funds were eventually sought to eliminate 2,51,963 dry latrines (Rs. 214.572). Sanctions were accorded for conversion of all reported dry latrines and States have reported that they have been successfully completed. There was a provision to approve 25% of this for New Construction of toilets to EWS beneficiaries having no latrines.

2.11 Main features of the revised scheme are:-

- (i) Unit cost of twin pit pour flush latrines increased from Rs. 10,000/- to Rs. 15,000/- (for Hilly areas from Rs. 12,500 to Rs. 18,750/-).
- (ii) In case the States decide to adopt environment friendly and maintenance free technologies like bio-toilets/eco-san toilets or any other such innovative technologies, additional funding of 15%, over and above the normal cost is provided.
- (iii) The above costs are financed by Central subsidy-75%, State subsidy - 15% and the remaining 10% - beneficiary share.

The Scheme also has provision for construction of new sanitary toilets where none exists for which 25% of the budget is utilized. The following are the achievements during the last three years, under the Scheme:-

Table 2.11: Achievements of Integrated Low Cost Sanitation Scheme

| Year | No. of units sanctioned | Central Subsidy Released to States (Rs. in crore) | Central Subsidy Utilized by States (Rs. in crore) |
|--------------|-------------------------|---|---|
| 2009-10 | 42,662 | 62.50 | 51.40 |
| 2010-11 | 30,418 | 99.43 | 56.56 |
| 2011-12 | 69,296 | 53.23 | 5.95 |
| Total | 142,376 | 215.16 | 113.91 |

2.12 Responding to a query regarding the continuation of the ILCS, the Secretary, Ministry of Housing and Urban Poverty Alleviation submitted as follows :-

"The Cabinet allowed us to continue with the ILCS programme till March, 2014. And we have also revised the support system that we wanted to give. The original support of Rs.10,000 per toilet was revised to Rs.15,000. In difficult cases it became Rs.18,000. And we also kept some provision.

So, effectively, even without getting any information from the State Governments about the existence of the dry latrines and about the existence of the manual scavenging, the Cabinet has already approved for us an extension of the scheme for two more years and then we have also released the guidelines. So, we have got whatever money is required and that is Rs.350 crore odd. That has been sanctioned and this has been informed to the State Governments".

2.13 Elaborating on the fundamental differences of the two legislations and definition of dry latrine and of manual scavenging, the Secretary apprised the Committee as follows :-

"Here the definition of dry latrines has been expanded. So it is not only dry latrine which is cleaned, now it is also converted to an insanitary latrine in which it is said in a more specific manner where excreta is cleaned or otherwise handled manually before complete decomposition either in situ or in an open drain or pit into which the excreta is discharged or flushed.

So, the definition has been widened. Manually carrying of human excreta has also been changed. Now, we say that 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 human excreta from insanitary latrines is disposed of, or on a railway track before the excreta fully decomposes. The fundamentals are these two major differences".

The Secretary further desired that there was a need to further strengthen the administrative machinery in the municipalities of the towns and panchayats in implementation of the Bill, he deposed before the Committee;

"I cannot delink manual scavenging with toilets, community toilets, sewerage systems, drainage systems, etc. It is sanitation work. But these two bills make it mandatory for municipalities to provide all protection gears and provide mechanisation of things. So, we have been separately writing to the Ministry of Urban Development to please come up with a new scheme. It is because once it is passed, the Ministry of Urban Development, the State Governments and the municipalities will have to come up with new schemes. So, to answer to your question whether we come up with new scheme or not, may be we would not be required to come up but the Ministry of Urban Development and the State Governments will have to come up with new schemes to implement this Act".

Nirmal Bharat Abhiyan for Rural Areas

2.14 The Ministry of Drinking Water and Sanitation is implementing the Nirmal Bharat Abhiyan scheme to accelerate the progress of sanitation in rural areas. The objective of NBA is to achieve sustainable behavior change with provision of sanitary facilities in entire communities in a phased, saturation mode with 'Nirmal Grams' as outcomes. The new strategy is to transform rural India into 'Nirmal Bharat' by adopting community saturation

approach. NBA goal is to achieve 100% access to sanitation for all rural households by 2022.

2.15 The scheme of Nirmal Bharat Abhiyan has the following components :-

- Provision of incentive amount to Below Poverty Line (BPL) and identified Above Poverty Line (APL) for construction of Individual household latrines, **including for conversion of bucket latrine**, include the following:-

Unit cost of Individual Household Latrine – upto Rs. 10,000 (upto Rs. 10,500 for hilly and difficult areas), with the following break-up:-

- Central incentive -Rs. 3200 (Rs. 3700 in Hilly and difficult areas)
- State share -Rs. 1400
- Upto Rs. 4500 from convergence from MGMNREGA (20 mandays unskilled labour + 6 mandays skilled labour)
- Beneficiary share- Rs. 900
- Provision of Toilets in Schools and Anganwadis.
- Construction of Community Sanitary Complexes.
- Assistance to Production Centers of sanitary materials and Rural Sanitary Marts
- Solid and Liquid Waste Management

The achievements made by the Ministry of Drinking Water & Sanitation during the last three years, under the Scheme are as under:-

Table 2.15:- Achievements made by Ministry of Drinking Water & Sanitation in NBA.

| Year | Total Central Assistance Released to States (Rs. in | Central Assistance Utilized by States for construction of Individual Household | No. of Individual Household Latrines constructed (In |
|------|---|--|---|
|------|---|--|---|

| | crore) | Latrines (Rs. in crore) | lakh) |
|--------------|----------------|----------------------------|---------------|
| 2009-10 | 1038.85 | 906.50 | 124.08 |
| 2010-11 | 1175.07 | 814.91 | 122.43 |
| 2011-12 | 1440.59 | 847.31 | 87.99 |
| Total | 3654.51 | 2568.72 | 334.50 |

2.16 When asked about the workability of the NREGA in the amount allocated, the Secretary, Ministry of Drinking Water and Sanitation submitted before the Committee during evidence :-

"The States have reported that convergence with NREGA is not in practice workable easily because of the coordination problems on the ground. Therefore, the Ministers of the State Governments who were present on the 21st of December 2012 suggested that we should delink our programme from NREGA and add that money in our scheme so that it is coordinated at one place".

2.17 When asked about the fund requirement of the scheme, the Secretary, Ministry of Drinking Water and Sanitation informed the Committee that the requirement was about Rs. 5200 crore for the next year from the Planning Commission.

2.18 Further, the Ministry has informed that since 1999, over 8.97 crore toilets have been provided for rural households under the TSC/NBA. A significant achievement has also been made in the construction of 12.58 lakh school toilet units and 4.24 lakh Anganwadi toilets. The cumulative achievements against project objectives as reported by the States through the

on-line Monitoring system maintained by the Ministry as of November, 2012 under NBA/TSC are as under :-

Table 2.18:- Achievements of Project Objectives in Construction of Latrines

| Component | Sanctioned | Achievement | % |
|-------------------------------|-------------------|--------------------|----------|
| Individual household latrines | 12,57,26,727 | 8,97,42,398 | 71.38 |
| School Toilet Units | 13,75,234 | 12,58,181 | 91.49 |
| Anganwadi Toilets | 5,34,931 | 4,24,434 | 79.34 |
| Community Complexes | 33,684 | 25,174 | 74.74 |

2.19 Regarding provision of toilets in schools etc., the Secretary informed that there was a Supreme Court order on this and they were pressing for it by writing to State Governments to achieve this target because the Supreme Court will ask for States' affidavits.

2.20 The Ministry further informed the Committee that the State wise number of villages having night soil removed by humans as per information received from Registrar General of India (RGI) have been forwarded to all States for making detailed, time bound Action Plans and set up robust monitoring mechanisms for conversion of all dry latrines into sanitary latrines.

Manual Scavenging on railway coaches, tracks and railway land

2.21 The Ministry of Railways have informed that they have about 7114 Mail/Express/Ordinary trains (as per Year Book 2010-11) (including Meter Gauge (MG) and Narrow Gauge (NG)) being run daily on IR's network. These are having direct discharge or Controlled Discharge Toilet System type of toilets where human excreta is directly discharged on the track.

2.22 When asked further, they have informed that:-

"For dealing with general cleanliness at stations, more and more mechanical cleaning gadgets are being introduced and better types of cleaning agents are being used to achieve improved standard of cleanliness at railway stations. Contracts are given for supply of machines like scrubbers, high pressure jet cleaners, mops, etc. Railways are also providing washable aprons (Ballast less track) on platform lines at railway stations with jet cleaning arrangements. Zonal Railways have been directed to provide long stick brooms and jet pipes to the workers involved in cleaning at stations and also provide them with protective gear and aprons. It is planned to proliferate IR-DRDO bio-toilets in passenger coaches on large scale and provision of vacuum toilets in coaches of certain selected trains. A project for trial of aircraft type vacuum toilets in Shatabdi Express is also under process".

2.23 On the issue of Bio-toilets, the Ministry have informed that it is planning to induct IR-DRDO (Indian Railways-Defence Research & Development Organization) bio-toilets progressively in Indian Railways' passenger coaches. If there is no technical/safety/operational set back during the development and induction process with such a design of bio-toilets, IR is targeting to eliminate production of new coaches fitted with direct discharge system by 2016-17 and elimination of direct discharge system from all coaches by 2021-22.

The Ministry have furnished the following data regarding the funds spent on environment friendly toilets during last five years:-

Table 2.23 : Expenditure by Railways on Environment friendly toilets

| | |
|---------|-------------------|
| 2007-08 | Rs. 2,96,26,400/- |
| 2008-09 | NIL |
| 2009-10 | NIL |
| 2010-11 | Rs. 49,32,321/- |
| 2011-12 | Rs. 2,53,13,480/- |

2.24 Regarding the bio-toilets, the Ministry have informed that it is IR's endeavor to provide environment friendly bio-toilets in all coaches at the earliest. Indian Railways is a pioneer in the adoption of this indigenous bio-technology jointly developed with DRDO (Defence Research & Development Organization) which is being used for the first time in the railway coaches. There is no precedence of use of this indigenously developed technology in any other railway system in the world. So far these toilets have been fitted in new coaches because securing arrangement of bio-tank needs to be carried out in a conducive environment. Highly skilled workmanship and special welding technique is required for the welding of brackets and mounting of bio-tanks as these tanks are to be fitted below the coach and any fitment failure during run can adversely affect safety of the train.

2.25 The Ministry have also specified certain problems being faced in the Indian Railways in implementation of bio-toilets in coaches such as:-

- (1) Clogging of the toilets: The bio-toilets are found clogged due to passengers throwing polythenes /plastics/napkins/bottles etc, into the toilet.
- (2) Fitment problem of mounting brackets: Some cases of welding failures in the mounting brackets have been observed in few of the coaches fitted with bio-toilets that are running in service.
- (3) In new coaches the mounting arrangement is done when the under frame of the coach is in upside down position. This cannot be done in

case of an existing coach, as coach cannot be over turned. Thus, retrofitment of the bio-toilets in the existing in-service coaches can only be done when the headstock of the coach is being changed, as there are welding/fitment constraints in the old coaches, etc. apart from other technical problems.

2.26 When the representatives of the Ministry of Railways was asked about the steps taken to ensure that railway employees do not get down on the tracks to clean the human excreta, he stated before the Committee :-

"Our efforts is to avoid manual handling of excreta falling on platform. For this, surface should be such as the excreta may pass into the drain. As you have told that the employees have to get down the platform, this situation must be avoided. There are 390 such platforms where trains mostly stop in morning rather than in evening time and surface being not as stated above, the safai karamcharis have to work hard and have to get down the platform to clean the excreta. For this a plan has been formulated to construct the platforms with concrete. An amount of one to one and half of crores is likely to be incurred on this. For this sanctioning power has been delegated to the Manager and if sanction is required from the Board that, also, has been done. There are some problems in implementation of this since the trains also run in the same period and stoppages are required to be given to them".

Study Tour of the Standing Committee on Social Justice on implementational aspects of the Bill.

2.27 As the implementation of the proposed legislation at the ground level has to be done by State Governments and local authorities, the Committee during the study tour to Bengaluru, Chennai and Hyderabad (5th to 9th February, 2013) interacted with Principal Secretaries of the Social Welfare Departments and Other State Government officials on how the new Bill would

be enforced to eradicate manual scavenging and rehabilitate the manual scavengers. The representatives of the State Governments were wholeheartedly in favour of the Bill though they put emphasis on strengthening of local bodies for undertaking the task. The Committee, further interacted with some NGOs and Railways Safai Karamcharis. They submitted that most of the safai karamcharis were hired on contract basis. Moreover, there was inadequacy in the health & safety measures of the Safai Karamcharis.

2.28 It was also brought to the notice of the Committee that as per the definition of the manual scavenger, the practice of handling human excreta was not considered an offence if the excreta was fully decomposed. However, the representatives of the safai karamcharis expressed serious apprehension that the sanitary staff may be asked to handle or remove the human excreta not really decomposed and therefore pleaded for providing safeguards in this behalf.

2.29 In oral submission before the Committee during the Study tour, the representatives of one of the NGO pointed out that while Government are no more engaging the manual scavengers/sanitation worker directly, they are outsourcing these jobs by awarding Contract to private firms. They brought to the notice of the Committee that a prominent private firm, which have a Pan India presence, was getting the sanitation contract regularly and employing the very same persons who have been retrenched/rehabilitated by the Government, at a much lower salary, thereby depriving them of the statutory

salary and other benefits. The representatives of the NGO urged the Committee to look into the matter and make suitable recommendations so that these contracts are awarded to the local NGOs, working in this field, which in turn could negotiate better remuneration and benefits for the sanitation workers.

General Observations/Recommendations

- 3.1 The Committee note that in order to eradicate the dehumanizing practice of manual scavenging, the Government enacted "The Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993" under Article 252 of the Constitution of India. The Act declares the employment of manual scavengers and construction of dry latrines to be a punishable offence. Although some State Governments are reported to have filed affidavits in the Supreme Court claiming there were no insanitary latrines or manual scavengers in their State, the Census 2011 has reported 26 lakhs insanitary latrines in the country. Concerned over the persisting obnoxious practice of manual scavenging and the inefficacy of the 1993 Act to eradicate manual scavenging lock, stock and barrel, the Government introduced the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012 in Lok Sabha on 3.9.2012. The Bill seeks to eliminate manual scavenging and insanitary latrines and to provide for**

the rehabilitation of manual scavengers through a multi-pronged strategy consisting of legislative and programmatic interventions. The Committee welcome the laudable objects of the new Bill. The Committee are optimistic that the new Act and the rules to be framed there-under would be implemented with utmost sincerity and with a sense of purpose so that the new legislation attains its intended objectives within the given time frame.

3.2 During their Study Tour to Karnataka, Tamil Nadu and Andhra Pradesh in February (5th to 9th) 2013, the Committee noted with satisfaction that representatives of State Governments and municipalities whole heartedly welcomed the proposed legislation. The representatives of the Government of Andhra Pradesh however, did indicate that the stipulated time of 9 months for demolition of the existing insanitary latrines and converting them into sanitary ones, was rather short, given the enormity of the task and the time involved in denovo identification of manual scavengers and the insanitary latrines. Mindful of the federal structure, the Committee note that the successful implementation of the new Act would largely depend on how the Corporations, Municipalities and Other Local Bodies like the Gram Panchayats are motivated and geared up for meeting the challenges to be thrown up by the new Act. Undoubtedly, the entire Governmental apparatus need to be revamped by strengthening the executing agencies by providing them with adequate human resources, latest

equipment and gadgets and above all adequate funds well on time. Besides the statutory provisions of the new Act, the implementing agencies and officers would require utmost understanding of the socio-economic conditions of the hapless manual scavengers. They consider it incumbent upon the Government to liberate and rehabilitate the manual scavengers in terms of section 13 of the Bill without outsourcing these jobs to the private NGOs / firms with a view to ensuring that they do not relapse in the same pernicious practice. The Committee would also like to caution the Government to ensure that the proposed law does not become a double edged sword for penalizing the unsuspecting poor people. The Committee recommend that, subject to their willingness, and the relevant provisions of the Constitution of India, efforts should be made to suitably employ the manual scavengers in the municipalities, corporations and other local bodies.

3.3 The Committee note that Clause 29 of the Bill provides for setting up of a Central Monitoring Committee, comprising the Secretaries of various stakeholder Ministries to look into the implementational aspects of the Bill. As a corollary to this, Committee feel that there should also be coordination at Ministerial Level for making the entire exercise more effective and fruitful. The Committee therefore, recommend that an Inter Ministerial Group (IMG) also be formed to oversee the implementation of the new Act and the rules to be framed thereunder. This would remove the bottlenecks, overlapping of functional jurisdiction of various

Ministries and provide greater vigor and unified direction in addressing the need for effective inter-ministerial coordination.

3.4 The Committee note with concern that under the new legislation, a great responsibility devolves on the Ministry of Railways so far as Manual Scavenging is concerned. There are reportedly about 7114 mail/express/ordinary trains which have direct discharge or controlled discharge system type of toilets. The Committee have been informed that the Railways have started constructing concrete washable aprons under the railway tracks at important stations so that the safai karamcharis can clean the track with high pressure water jet cleaning system, instead of doing it manually. The Committee recommend the construction of more such concrete aprons on all railway stations in a time bound manner.

3.5 The Committee also find that allocation of funds for environment friendly toilets during the last five years was either nil or very low with an allocation of only Rs. 2,53,13,480 in 2011-12. The Committee recommend that the Ministry of Railways should seek more allocation of funds for conversion of all toilets into bio-toilets in the Twelfth Five Year Plan itself for completely eliminating all direct discharge toilets to escape penalty under the Act.

3.6 As part of the multi-pronged strategy of the Government, the Ministry of Urban Development have been entrusted with the responsibility for formulating a scheme on 'Assistance for Mechanical

Cleaning of Sewers and Septic Tanks'. The proposed scheme envisages a provision of 100 percent financial support to the municipalities for procurement of mechanical devices for cleaning of sewers and septic tanks for five years period ending 2017. The Ministry have also proposed that the State Governments should constitute State Level Sanctioning and Monitoring Committee. Keeping in view the Supreme Court's direction for providing equipments, adequate protection and safety gears to those who enter the manhole for cleaning blocks, the Committee recommend that the scheme on 'Assistance for Mechanical Cleaning of Sewers and Septic Tanks' should be finalized and executed within the timeframe as stipulated in the new Bill. The Committee also desire that funds sought under the scheme should be allocated by the Planning Commission in the financial year 2013-14 itself so as to aid the municipalities in the implementation of the Act. The State Governments should also be sensitized about this since manual cleaning of septic tanks and sewers is banned in the Bill.

3.7 The Committee note that the Government are running schemes like Nirmal Bharat Abhiyan in Rural Areas and the Integrated Low Cost Sanitation Scheme for occupiers of insanitary latrines in Urban Areas for people belonging to BPL and other categories of EWS. The Committee would like these schemes to be extended to all 'occupiers' irrespective of their economic status. The Committee feel that this would go a long way in implementing the provisions of the proposed

legislation. Since the existence of insanitary latrines would give rise to manual scavenging, the Committee are of the considered view that there has to be a proactive participation of both the Government and the Owners / Occupiers of such latrines for bringing in a swift end to this scourge. Taking note of the piecemeal approach adopted by the Act of 1993 and its failure to address the problem, the Committee strongly feel that it is incumbent upon the Central Government to finance and fund the entire project of demolition of insanitary latrines and constructions of sanitary latrines in close cooperation with the State Governments. Money should not be a constraint for eradicating such a pernicious practice which is a blot on human dignity and a matter of shame for the entire nation.

B. CLAUSE-WISE AND ISSUE-WISE ANALYSIS OF THE BILL

Preamble of the Bill

4.1 *"AND WHEREAS the dehumanizing practice of manual scavenging, arising from the continuing existence of insanitary latrines and a highly iniquitous caste system, still persists in various parts of the country, and the existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging";*

4.2 **After hearing the submissions of the NGOs, the Committee feel that the wordings of the Preamble of the Bill are not strong enough to decry the centuries old practice of manual scavenging, which is an**

anathema to any civilized society. The Committee would therefore like the Government to consider the desirability or otherwise of incorporating, the words 'which is a National shame' after the words 'highly iniquitous caste system' in the Preamble of the Bill.

Chapter I Preliminary

- 4.3 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.
- 4.4 **The Committee find merit in the apprehension of safai karamcharis that they may be asked to handle human excreta which is not decomposed in the absence of any stipulated time period provided for decomposing or certification of decomposition by independent authority or expert. The Committee, therefore, desire that this aspect should be appropriately dealt with while framing the rules in this regard.**

CHAPTER-III Prohibition of Insanitary Latrines and Employment and Engagement as Manual Scavenger

- 4.5 Clause 5(2) (b) Proviso of the Bill states :-
- (i) *Provided further that the State Government may give assistance for conversion of insanitary latrines into sanitary latrines to occupiers from such categories of persons and on such scale, as it may, by notification, specify :*
 - (ii) *Provided also that non-receipt of State assistance shall not be a valid ground to maintain or use an insanitary latrine, beyond the said period of nine months.*

4.6 Keeping in view the recommendation in Para 3.7 of the Report, the second Proviso may be deleted.

4.7 Clause 6 of the Bill states :-

(1) *Any contract, agreement or other instrument entered into or executed before the commencement of this Act, engaging or employing a person for the purpose of manual scavenging shall, on the date of commencement of this Act, be terminated and such contract, agreement or other instrument shall be void and inoperative and no compensation shall be payable therefor.*

(2) *Notwithstanding anything contained in sub-section (1), no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.*

4.8 The Committee desire that their recommendation in Para 3.2 should be taken into consideration while implementing this Clause.

4.9 Clause 8 of the Bill states :-

Whoever contravenes the provisions of section 5 or section 6 shall for the first contravention be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both, and for any subsequent contravention with imprisonment which

may extend to two years or with fine which may extend to one lakh rupees, or with both.

4.10 Asked to show justification for stringent penalty as specified in clause 8 and 9 of the Bill, the Ministry submitted in a written reply :-

"Appropriate penalty have been proposed to act as an effective deterrent for the violation of the provisions of the Act, and to ensure that the abominable practice of manual scavenging is eliminated forthwith".

4.11 **The Committee feel that although deterrent punishment for implementation of the Act is a necessity, this should be done after giving due consideration to the financial status of the occupier / owner of the insanitary latrine. The Committee are of the considered opinion that acceptance and implementation of the recommendation in Para 3.7 of the Report would take care of this aspect. The Committee further recommend that full and proper publicity be given to the provisions of the Act both in print and electronic media especially with regard to provisions dealing with financial and other assistance to be given to the affected families and the penal provisions against the occupiers of insanitary latrines.**

4.12 Clause 10 of the Bill states :-

No court shall take cognizance of any offence punishable under this Act except upon a complaint thereof is made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence.

4.13 During the Study Visit of the Committee it was pointed out by some representative of the State Government that the time period of three months from the date of the occurrence of the offence is too long and it should be reduced to 30 days. The Committee would like the Government to give a thoughtful consideration to this suggestion.

CHAPTER-IV

Identification of Manual Scavengers in Urban and Rural, Areas and their Rehabilitation

4.14 Clause 11 of the Bill states :-

- (1) If any Municipality has reason to believe that some persons are engaged or employed in manual scavenging within its jurisdiction, the Chief Executive Officer of such Municipality shall cause a survey to be undertaken to identify such persons.*
- (2) The content and methodology of the survey referred to in sub-section (1) shall be such as may be prescribed, and it shall be completed within a period of two months from its commencement in the case of Municipal Corporations, and within a period of one month in the case of other Municipalities.*
- (3) The Chief Executive Officer of the Municipality, in whose jurisdiction the survey is undertaken, shall be responsible for accurate and timely completion of the survey.*

4.15 **Pilot Survey:** Explaining about the pilot survey, the Ministry have stated that the objective of the pilot phase of the survey was to start the survey in limited area so that the bugs in the survey methodology, forms etc. or problems of the main survey, if any, could be identified and corrected, before taking up full fledged survey in all the 3546 statutory towns of the country. The States/UT concerned have not reported any problem in conducting the pilot survey, except for a few suggestion with respect to the survey form. Further, in the light of pilot survey it was felt appropriate to review the methodology and efficacy of the existing survey guidelines recommended earlier by the Committee, for its finalization, with or without modifications. Accordingly, a meeting of the Committee was held on 23.1.2013 where it was inter alia decided to revise the survey guidelines and the form being used in the survey. The work of revision of the guidelines have been started.

4.16 **The Committee feel that since survey is a very important part of the whole process of implementation of the new legislation, it should be properly planned and conducted. The format should specifically mention the number of years the manual scavenger has been working in the profession with a cutoff date specified for eligibility in the guidelines of the survey so as to give benefit to the genuine persons. It has come to the notice of the Committee that some NGOs have been trying to register bogus manual scavengers. The Government should look at the**

preventive measures in this regard and make the procedure for identification and rehabilitation of manual scavengers as transparent as possible. The Committee feel that there should be some penal provision in the Bill for furnishing of false information to prevent bogus claims.

4.17 Clause 13 (l) of the Bill gives various provisions for rehabilitation of the manual scavengers.

4.18 In response to a query on the linking of 'Aadhar Card' to the scheme of rehabilitation, the Ministry have responded that 'Aadhar Card' will be considered for extending benefits of rehabilitation schemes to manual scavengers.

4.19 **The Committee note that a photo identity card containing inter-alia details of all members of the family dependent on him would be issued to the manual scavenger. The Committee desire that 'Aadhar Card' should be linked to the rehabilitation schemes. A suitable provision in this behalf needs to be made under the Rules to be framed under the Act.**

CHAPTER-V

Implementing Authorities

4.20 Clause 11 of the Bill states :-

The District Magistrate and the authority authorized under section 18 or any other subordinate officers specified by them under that section shall ensure that, after the expiry or such period as specified for the purpose of this Act, -

- (a) *No person is engaged or employed as manual scavenger with their jurisdiction;*
- (b) *No one constructs, maintains, uses or makes available for use, an insanitary latrine;*
- (c) *Manual scavengers identified under this Act are rehabilitated in accordance with section 13, or as the case may be, section 16; and*
- (d) *persons contravening the provisions of section 5, section 6 or section 7 are investigated and prosecuted under the provisions of this Act;*
- (e) *all provisions of this Act applicable within his jurisdiction are duly complied with.*

4.21 To a query that in case the DM or the authority concerned fails to discharge the duty within the given time, how the accountability of the DM or the designated authority would be ensured, the Ministry have stated that clauses 24 to 32 of the Bill will ensure accountability of concerned authorities. Further, negligence on the part of the officials in discharging their duties under the Bill, would make them liable for disciplinary action under the existing conduct rules.

4.22 **The Committee recommend that duties and responsibilities of the officials, concerned should be fixed and some penalty be imposed on them for delay in implementing the Act especially with regard to delay in granting various benefits under Clause 13 of the Act on the lines of**

the RTI Act, 2005, besides taking suitable administrative measures against them.

CHAPTER-VII Vigilance Committees, Clause 24 to 32

4.23 Clause 24, 25, 26, 27, 28 and 29 gives the details of the constitution of various Vigilance Committee, the State Monitoring Committees, the Central Monitoring Committees.

4.24 When it was enquired whether the constitution of so many monitoring agencies at different levels would not impinge upon one another's domain of functioning thereby causing delay in implementation of the various provisions of the Bill, the Ministry have stated;

"While the Committee at the Sub-division and District level would be mainly concerned with actual implementation of the Act, the Committees at the State and National Level would be monitoring the implementation of the Act on a regular and periodic basis. The State and National Commissions supervision is more of a nature of watchdog. Thus the multiplicity of the committees appears to be necessary".

4.25 **The Committee note that Vigilance and Monitoring Committees have been constituted at the sub-division, District, State and National level to oversee the implementation of the Act. The Committee recommend that there should be suitable representation of women in these Committees to the extent feasible. The Committee desire that the**

Government should consider more frequent meetings of these Committees and submit six monthly progress report to Parliament until the obnoxious practice is completely eradicated from across the country.

Subject to the foregoing observation and recommendations, the Committee recommend that necessary further action be taken by the Government in the matter to enact the Bill.

**NEW DELHI:
27 February, 2013
8 Phalgun, 1934 (Saka)**

**HEMANAND BISWAL
Chairman,
Standing Committee on
Social Justice and Empowerment**

03 SEP 2012

AS INTRODUCED IN LOK SABHA

Bill No. 96 of 2012

THE PROHIBITION OF EMPLOYMENT AS MANUAL
SCAVENGERS AND THEIR REHABILITATION BILL, 2012

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.
3. Act to have overriding effect.

CHAPTER II

IDENTIFICATION OF INSANITARY LATRINES

4. Local authorities to survey insanitary latrines and provide sanitary community latrines.

CHAPTER III

PROHIBITION OF INSANITARY LATRINES AND EMPLOYMENT AND ENGAGEMENT AS
MANUAL SCAVENGER

5. Prohibition of insanitary latrines and employment and engagement of manual scavenger.
6. Contract, agreement, etc., to be void.
7. Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks.
8. Penalty for contravention of section 5 or section 6.
9. Penalty for contravention of section 7.
10. Limitation of prosecution.

CHAPTER IV

IDENTIFICATION OF MANUAL SCAVENGERS IN URBAN AND RURAL AREAS AND
THEIR REHABILITATION

11. Survey of manual scavengers in urban areas by Municipalities.
12. Application by an urban manual scavenger for identification.
13. Rehabilitation of persons identified as manual scavenger by a Municipality.
14. Survey of manual scavengers in rural areas by Panchayats.
15. Application by a rural manual scavenger for identification.
16. Rehabilitation of persons identified as manual scavengers by a Panchayat.

CHAPTER V

IMPLEMENTING AUTHORITIES

17. Responsibility of local authorities to ensure elimination of insanitary latrines.
18. Authorities who may be specified for implementing the provisions of this Act.

(ii)

CLAUSES

19. Duty of District Magistrate and authorised officers.
20. Appointment of inspectors and their powers.

CHAPTER VI

PROCEDURE FOR TRIAL

21. Offences to be tried by Executive Magistrate.
22. Offence to be cognizable and non-bailable.
23. Offences by companies.

CHAPTER VII

VIGILANCE COMMITTEES

24. Vigilance Committees.
25. Functions of Vigilance Committee.
26. State Monitoring Committee.
27. Functions of the State Monitoring Committee.
28. Duty of States or Union territories to send periodic reports to the Central Government.
29. Central Monitoring Committee.
30. Functions of the Central Monitoring Committee.
31. Functions of the National Commission for Safai Karamcharis.
32. Power of State Government to designate an appropriate authority to monitor the implementation of this Act.

CHAPTER VIII

MISCELLANEOUS

33. Duty of local authorities and other agencies to use modern technology for cleaning of sewers, etc.
34. Protection of action taken in good faith.
35. Jurisdiction of civil courts barred.
36. Power of appropriate government to make rules.
37. Power of Central Government to make model rules.
38. Power to remove difficulties.
39. Power to exempt.

AS INTRODUCED IN LOK SABHA

**THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS
AND THEIR REHABILITATION BILL, 2012**

A
BILL

to provide for the prohibition of employment as manual scavengers, rehabilitation of manual scavengers and their families, and for matters connected therewith or incidental thereto.

WHEREAS promoting among the citizens fraternity assuring the dignity of the individual is enshrined as one of the goals in the Preamble to the Constitution;

AND WHEREAS the right to live with dignity is also implicit in the Fundamental Rights guaranteed in Part III of the Constitution;

AND WHEREAS article 46 of the Constitution, *inter alia*, provides that the State shall protect the weaker sections, and, particularly, the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation;

AND WHEREAS the dehumanising practice of manual scavenging, arising from the continuing existence of insanitary latrines and a highly iniquitous caste system, still persists in various parts of the country, and the existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging;

AND WHEREAS it is necessary to correct the historical injustice and indignity suffered by the manual scavengers, and to rehabilitate them to a life of dignity.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

| | | |
|---|--|----|
| Short title, extent and commence- ment. | 1. (1) This Act may be called the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2012. | 5 |
| | (2) It extends to the whole of India except the State of Jammu and Kashmir. | |
| | (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint: Provided that the date so notified shall not be earlier than sixty days after the date of publication of the notification in the Official Gazette. | 10 |
| Definitions. | 2. (1) In this Act, unless the context otherwise requires,— | |
| | (a) “agency” means any agency, other than a local authority, which may undertake sanitation facilities in an area and includes a contractor or a firm or a company which engages in development and maintenance of real estate; | |
| | (b) “appropriate government”, in relation to cantonment boards, railway lands, and lands and buildings owned by the Central Government, a Central Public Sector Undertaking or an autonomous body wholly or substantially funded by the Central Government means, the Central Government and in all other cases, the State Government; | 15 |
| | (c) “Chief Executive Officer”, in relation to a Municipality or Panchayat, means, its senior-most executive officer, by whatever name called; | 20 |
| | (d) “hazardous cleaning” by an employee, in relation to a sewer or septic tank, means its manual cleaning by such employee without the employer fulfilling his obligations to provide protective gear and other cleaning devices and ensuring observance of safety precautions, as may be prescribed or provided in any other law, for the time being in force or rules made thereunder; | 25 |
| | (e) “insanitary latrine” means a latrine which requires human excreta to be cleaned or otherwise handled manually, either <i>in situ</i> , or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes: Provided that a water flush latrine in a railway passenger coach, when cleaned by an employee with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be an insanitary latrine. | 30 |
| | (f) “local authority” means,— | |
| (i) a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution, which is responsible for sanitation in its area of jurisdiction; | 35 | |
| (ii) a Cantonment Board constituted under section 10 of the Cantonments Act, 2006; and | 41 of 2006. | |
| (iii) a railway authority; | | |
| (g) “manual scavenger” means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a | 40 | |

railway 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.

Explanation.— For the purpose of this clause,—

5 (a) "engaged or employed" means being engaged or employed on a regular or contract basis;

(b) a person engaged or employed to clean excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be a 'manual scavenger';

10 (h) "National Commission for Safai Karmacharis" means the National Commission for Safai Karmacharis constituted under section 3 of the National Commission for Safai Karmacharis Act, 1993 and continued by Resolution of the Government of India in the Ministry of Social Justice and Empowerment *vide* No.17015/18/2003-SCD-VI, dated 24th February, 2004 and as amended from time to time;

64 of 1993.

15 (i) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(j) "occupier" in relation to the premises where an insanitary latrine exists, or someone is employed as a manual scavenger means the person who, for the time being, is in occupation of such premises;

20 (k) "owner" in relation to the premises where an insanitary latrine exists or someone is employed as a manual scavenger, means, the person who, for the time being has legal title to such premises;

(l) "prescribed" means prescribed by the rules made under this Act;

25 (m) "railway authority" means an authority administering railway land, as may be notified by the Central Government in this behalf;

24 of 1989. (n) "railway land" shall have the meaning assigned to it in clause (32A) of section 2 of the Railways Act, 1989;

(o) "sanitary latrine" means a latrine which is not an 'insanitary latrine';

30 (p) "septic tank" means a water-tight settling tank or chamber, normally located underground, which is used to receive and hold human excreta, allowing it to decompose through bacterial activity;

(q) "sewer" means an underground conduit or pipe for carrying off human excreta, besides other waste matter and drainage wastes;

35 (r) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(s) "survey" means a survey of manual scavengers undertaken in pursuance of section 11 or section 14.

41 of 2006. (2) Words and expressions used and not defined in this Act, but defined in the Cantonments Act, 2006, shall have the same meanings respectively assigned to them in that Act.

40

(3) The reference to a Municipality under Chapters IV to VIII of this Act shall include a reference to, as the case may be, the Cantonment Board or the Railway Authority, in respect of areas included within the jurisdiction of the Cantonment Board and the railway land, respectively.

Act to have overriding effect.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 or in any other law, or in any instrument having effect by virtue of any other law. 46 of 1993.

CHAPTER II

5

IDENTIFICATION OF INSANITARY LATRINES

Local authorities to survey insanitary latrines and provide sanitary community latrines.

4. (1) Every local authority shall, —

(a) carry out a survey of insanitary latrines existing within its jurisdiction, and publish a list of such insanitary latrines, in such manner as may be prescribed, within a period of two months from the date of commencement of this Act; 10

(b) give a notice to the occupier, within fifteen days from the date of publication of the list under clause (a), to either demolish the insanitary latrine or convert it into a sanitary latrine, within a period of six months from the date of commencement of this Act:

Provided that the local authority may for sufficient reasons to be recorded in writing extend the said period not exceeding three months; 15

(c) construct, within a period not exceeding nine months from the date of commencement of this Act, such number of sanitary community latrines as it considers necessary, in the areas where insanitary latrines have been found.

(2) Without prejudice to the provisions contained in sub-section (1), Municipalities, Cantonment Boards and railway authorities shall also construct adequate number of sanitary community latrines, within such period not exceeding three years from the date of commencement of this Act, as the appropriate government may, by notification, specify, so as to eliminate the practice of open defecation in their jurisdiction. 20

(3) It shall be the responsibility of local authorities to construct community sanitary latrines as specified in sub-sections (1) and (2), and also to make arrangements for their hygienic upkeep at all times. 25

CHAPTER III

PROHIBITION OF INSANITARY LATRINES AND EMPLOYMENT AND ENGAGEMENT AS MANUAL SCAVENGER

30

Prohibition of insanitary latrines and employment and engagement of manual scavenger.

5. (1) Notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, no person, local authority or any agency shall, after the date of commencement of this Act,— 46 of 1993.

(a) construct an insanitary latrine; or

(b) engage or employ, either directly or indirectly, a manual scavenger, and every person so engaged or employed shall stand discharged immediately from any obligation, express or implied, to do manual scavenging. 35

(2) Every insanitary latrine existing on the date of commencement of this Act, shall either be demolished or be converted into a sanitary latrine, by the occupier at his own cost, before the expiry of the period so specified in clause (b) of sub-section (1) of section 4: 40

Provided that where there are several occupiers in relation to an insanitary latrine, the liability to demolish or convert it shall lie with,—

(a) the owner of the premises, in case one of the occupiers happens to be the owner, and

(b) all the occupiers, jointly and severally, in all other cases: 45

Provided further that the State Government may give assistance for conversion of insanitary latrines into sanitary latrines to occupiers from such categories of persons and on such scale, as it may, by notification, specify:

5 Provided also that non-receipt of State assistance shall not be a valid ground to maintain or use an insanitary latrine, beyond the said period of nine months.

10 (3) If any occupier fails to demolish an insanitary latrine or convert it into a sanitary latrine within the period specified in sub-section (2), the local authority having jurisdiction over the area in which such insanitary latrine is situated, shall, after giving notice of not less than twenty one days to the occupier, either convert such latrine into a sanitary latrine, or demolish such insanitary latrine, and shall be entitled to recover the cost of such conversion or, as the case may be, of demolition, from such occupier in such manner as may be prescribed.

15 6. (1) Any contract, agreement or other instrument entered into or executed before the commencement of this Act, engaging or employing a person for the purpose of manual scavenging shall, on the date of commencement of this Act, be terminated and such contract, agreement or other instrument shall be void and inoperative and no compensation shall be payable therefor.

Contract's agreement, etc., to be void.

20 (2) Notwithstanding anything contained in sub-section (1), no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.

7. No person, local authority or any agency shall, from such date as the State Government may notify, which shall not be later than one year from the date of commencement of this Act, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank.

Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks.

25 8. Whoever contravenes the provisions of section 5 or section 6 shall for the first contravention be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both, and for any subsequent contravention with imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both.

Penalty for contravention of section 5 or section 6.

30 9. Whoever contravenes the provisions of section 7 shall for the first contravention be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both, and for any subsequent contravention with imprisonment which may extend to five years or with fine which may extend to five lakh rupees, or with both.

Penalty for contravention of section 7.

35 10. No court shall take cognizance of any offence punishable under this Act except upon a complaint thereof is made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence.

Limitation of prosecution.

CHAPTER IV

IDENTIFICATION OF MANUAL SCAVENGERS IN URBAN AND 40 RURAL AREAS AND THEIR REHABILITATION

45 11. (1) If any Municipality has reason to believe that some persons are engaged or employed in manual scavenging within its jurisdiction, the Chief Executive Officer of such Municipality shall cause a survey to be undertaken to identify such persons.

Survey of manual scavengers in urban areas by Municipalities.

(2) The content and methodology of the survey referred to in sub-section (1) shall be such as may be prescribed, and it shall be completed within a period of two months from its commencement in the case of Municipal Corporations, and within a period of one month in the case of other Municipalities.

(3) The Chief Executive Officer of the Municipality, in whose jurisdiction the survey is undertaken, shall be responsible for accurate and timely completion of the survey.

(4) After completion of the survey, the Chief Executive Officer shall cause to be drawn up a provisional list of persons found to be working as manual scavengers within the jurisdiction of his Municipality, shall cause such provisional list to be published for general information in such manner, as may be prescribed, and shall invite objections to the list from the general public.

(5) Any person having any objection, either to the inclusion or exclusion of any name in the provisional list published in pursuance of sub-section (4), shall, within a period of fifteen days from such publication, file an objection, in such form as the Municipality may notify, to the Chief Executive Officer.

(6) All objections received in pursuance of sub-section (5), shall be enquired into, and thereafter a final list of persons found to be working as manual scavengers within the local limits of the municipality, shall be published by it in such manner, as may be prescribed.

(7) As soon as the final list of manual scavengers, referred to in sub-section (6) is published, the persons included in the said list shall, subject to the provisions of sub-section (2) of section 6, stand discharged from any obligation to work as manual scavengers.

Application
by an urban
manual
scavenger for
identification.

12. (1) Any person working as a manual scavenger in an urban area, may, either during the survey undertaken by the Municipality in pursuance of section 11, within whose jurisdiction he works, or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the Municipality, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 11, or, when no such survey is in progress, within fifteen days of receipt of such application, to ascertain whether the applicant is a manual scavenger.

(3) If an application is received under sub-section (1) when a survey under section 11 is not in progress, and is found to be true after enquiry in accordance with sub-section (2), action shall be taken to add the name of such a person to the final list published under sub-section (6) of section 11, and the consequences mentioned in sub-section (7) thereof shall follow.

Rehabilita-
tion of
persons
identified as
manual
scavengers
by a Muni-
cipality.

13. (1) Any person included in the final list of manual scavengers published in pursuance of sub-section (6) of section 11 or added thereto in pursuance of sub-section (3) of section 12, shall be rehabilitated in the following manner, namely:—

(a) he shall be given, within one month,—

(i) a photo identity card, containing, *inter alia*, details of all members of his family dependent on him, and

(ii) such initial, one time, cash assistance, as may be prescribed;

(b) his children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) he shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority;

(d) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than rupees three thousand, during the period of such training;

(e) he, or at least one adult member of his family, shall be given, subject to

eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority;

5 (f) he shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

(2) The District Magistrate of the district concerned shall be responsible for rehabilitation of each manual scavenger in accordance with the provisions of sub-section (1) and the State Government or the District Magistrate concerned may, in addition, assign 10 responsibilities in his behalf to officers subordinate to the District Magistrate and to officers of the concerned Municipality.

14. If any Panchayat has reason to believe that some persons are engaged in manual scavenging within its jurisdiction, the Chief Executive Officer of such Panchayat shall cause a survey of such manual scavengers to be undertaken, *mutatis mutandis*, in accordance with 15 the provisions of section 11 and section 12, to identify such person.

Survey of manual scavengers in rural areas by Panchayats.

15. (1) Any person working as a manual scavenger, in a rural area, may, either during the survey undertaken by the Panchayat within whose jurisdiction he works, in pursuance of section 14 or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the concerned Panchayat, or to any other officer authorised by him in 20 this behalf, for being identified as a manual scavenger.

Application by a rural manual scavenger for identification.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 14 or when no such survey is in progress, within fifteen days of receipt of such application, so as to ascertain whether the applicant is a manual scavenger.

25 16. Any person included in the final list of manual scavengers, published in pursuance of section 14 or added thereto in pursuance of sub-section (2) of section 15 shall be rehabilitated, *mutatis mutandis*, in the manner laid down for urban manual scavengers in section 13.

Rehabilitation of persons identified as manual scavengers by a Panchayat.

CHAPTER V

IMPLEMENTING AUTHORITIES

30 17. Notwithstanding anything contained in any other law for the time being in force, it shall be the responsibility of every local authority to ensure, through awareness campaign or in such other manner that after the expiry of a period of nine months, from the date of commencement of this Act,—

Responsibility of local authorities to ensure elimination of insanitary latrines.

35 (i) no insanitary latrine is constructed, maintained or used within its jurisdiction; and

(ii) in case of contravention of clause (i), action is taken against the occupier under sub-section (3) of section 5.

40 18. The appropriate government may confer such powers and impose such duties on local authority and District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out, and a local authority and the District Magistrate may, specify the subordinate officers, who shall exercise all or any of the powers, and 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.

Authorities who may be specified for implementing provisions of this Act.

45 19. The District Magistrate and the authority authorised under section 18 or any other subordinate officers specified by them under that section shall ensure that, after the expiry of such period as specified for the purpose of this Act,—

Duty of District Magistrate and authorised officers.

(a) no person is engaged or employed as manual scavenger within their jurisdiction;

(b) no one constructs, maintains, uses or makes available for use, an insanitary latrine;

(c) manual scavengers identified under this Act are rehabilitated in accordance with section 13, or as the case may be, section 16; and

(d) persons contravening the provisions of section 5, section 6 or section 7 are investigated and prosecuted under the provisions of this Act; 5

(e) all provisions of this Act applicable within his jurisdiction are duly complied with.

Appointment
of inspectors
and their
powers.

20. (1) The appropriate government may, by notification, appoint such persons as it thinks 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. 10

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

(a) examining and testing any latrine, open drain or pit or for conducting an inspection of any premises or place, where he has reason to believe that an offence under this Act has been or is being or is about to be committed, and to prevent employment of any person as manual scavenger; 15

(b) examine any person whom he finds in such premises or place and who, he has reasonable cause to believe, is employed as a manual scavenger therein, or is otherwise in a position to furnish information about compliance or non-compliance with the provisions of this Act and the rules made thereunder; 20

(c) require any person whom he finds on such premises, to give information which is in his power to give, with respect to the names and addresses of persons employed on such premises as manual scavenger and of the persons or agency or contractor employing or engaging them; 25

(d) seize or take copies of such registers, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or agency; and

(e) exercise such other powers as may be prescribed. 30

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code. 45 of 1860.

(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any such search or seizure under sub-section (2) as they apply to such search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974. 35

CHAPTER VI

PROCEDURE FOR TRIAL

Offences to
be tried by
Executive
Magistrate.

21. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class. 40 2 of 1974.

(2) An offence under this Act may be tried summarily.

Offence to be
cognizable
and non-
bailable.

22. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable and non-bailable. 45 2 of 1974.

23. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by companies.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall 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.

CHAPTER VII

VIGILANCE COMMITTEES

24. (1) Every State Government shall, by notification, constitute a Vigilance Committee for each district and each Sub-Division.

Vigilance Committees.

(2) Each Vigilance Committee constituted for a district shall consist of the following members, namely:—

(a) the District Magistrate—Chairperson, *ex officio*;

(b) all members of the State Legislature belonging to the Scheduled Castes elected from the district—members:

Provided that if a district has no member of the State Legislature belonging to the Scheduled Castes, the State Government may nominate such number of other members of the State Legislature from the district, not exceeding two, as it may deem appropriate.

(c) the district Superintendent of Police — member, *ex officio*;

(d) the Chief Executive Officer of,—

(i) the Panchayat at the district level—member, *ex officio*;

(ii) the Municipality of the district headquarters—member, *ex officio*;

(iii) any other Municipal Corporation constituted in the district—member, *ex officio*;

(iv) Cantonment Board, if any, situated in the district—member, *ex officio*;

(e) one representative by the railway authority located in the district to be nominated;

(f) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the district, to be nominated by the District Magistrate;

(g) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

(h) the district-level officer in-charge of the Scheduled Castes Welfare—Member-Secretary, *ex officio*;

(i) district-level officers of Departments and agencies who, in the opinion of the District Magistrate, subject to general orders, if any, of the State Government, have a significant role to play in the implementation of this Act.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:— 5

(a) the Sub-Divisional Magistrate—Chairperson, *ex officio*;

(b) the Chairpersons and the Chief Executive Officers of Panchayats at intermediate level of the Sub-Division, and where Panchayats at intermediate level, do not exist, Chairpersons from two Panchayats at Village level to be nominated by the Sub-Divisional Magistrate—member, *ex officio*; 10

(c) the Sub-Divisional Officer of Police—member, *ex officio*;

(d) Chief Executive Officer of—

(i) the Municipality of the Sub-Divisional headquarters—member, *ex officio*; and

(ii) Cantonment Board, if any, situated in the Sub-Division—member, *ex officio*; 15

(e) one representative to be nominated by the railway authority located in the Sub-Division—member, *ex officio*;

(f) two social workers belonging to the organisation working for the prohibition of manual scavenging and rehabilitation of the manual scavengers, or representing the scavenger community resident in the Sub-Division, to be nominated by the District Magistrate; 20

(g) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(h) the Sub-Divisional level officer in-charge of Scheduled Castes welfare—Member-Secretary, *ex officio*; 25

(i) Sub-Divisional level officers of Department and agencies who in the opinion of the Sub-Divisional Magistrate, subject to any general orders of the State Government or the District Magistrate, have a significant role to play in the implementation of this Act—member, *ex officio*. 30

(4) Each Vigilance Committee constituted at district and Sub-Divisional level shall meet at least once in every three months.

(5) No proceeding of a Vigilance Committees shall be invalid merely by reason of any defect in its constitution.

Functions of
Vigilance
Committee.

25. The functions of Vigilance Committee shall be— 35

(a) to advise the District Magistrate or, as the case may be, the Sub-Divisional Magistrate, on the action which needs to be taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to oversee the economic and social rehabilitation of manual scavengers;

(c) to co-ordinate the functions of all concerned agencies with a view to channelise adequate credit for the rehabilitation of manual scavengers; 40

(d) to monitor the registration of offences under this Act and their investigation and prosecution.

26. (1) Every State Government shall, by notification, constitute a State Monitoring Committee, consisting of the following members, namely:—

State Monitoring Committee.

(a) the Chief Minister of State or a Minister nominated by him—Chairperson, *ex officio*;

5 (b) the Minister-in-charge of the Scheduled Castes Welfare, and such other Department, as the State Government may notify;

(c) Chairperson of the State Commissions for Safai Karamcharis, and Scheduled Castes, if any—member, *ex officio*;

10 (d) representatives of the National Commission for Scheduled Castes, and Safai Karamcharis—member, *ex officio*;

(e) not less than two members of the State Legislature belonging to the Scheduled Castes, nominated by the State Government;

15 Provided that if any State Legislature has no Member belonging to the Scheduled Castes, the State Government may nominate the members belonging to the Scheduled Tribes;

(f) the Director-General of Police—member, *ex officio*;

(g) Secretaries to the State Government in the Departments of Home, Panchayati Raj, Urban Local Bodies, and such other Departments, as the State Government may notify;

20 (h) Chief Executive Officer of at least one Municipal Corporation, Panchayat at the district-level, Cantonment Board and railway authority as the State Government may notify;

(i) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the State, to be nominated by the State Government;

25 (j) State-level head of the convener Bank of the State Level Bankers' Committee—member, *ex officio*;

(k) Secretary of the Department of the State Government dealing with development of the Scheduled Castes—Member-Secretary, *ex officio*;

30 (l) such other representative of Departments of the State Government and such other agencies which, in the opinion of the State Government, are concerned with the implementation of this Act.

35 (2) The State Monitoring Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

27. The functions of the State Monitoring Committee shall be—

Functions of the State Monitoring Committee.

(a) to monitor and advise the State Government and local authorities for effective implementation of this Act;

(b) to co-ordinate the functions of all concerned agencies;

40 (c) to look into any other matter incidental thereto or connected therewith for implementation of this Act.

28. Every State or Union territory Government and Union territory administration shall send such periodic reports to the Central Government about progress of implementation of this Act, as the Central Government may require.

Duty of States or Union territories to send periodic reports to the Central Government.

45 29. (1) The Central Government shall, by notification, constitute a Central Monitoring Committee in accordance with the provisions of this section.

Central Monitoring Committee.

(2) The Central Monitoring Committee shall consist of the following members, namely:—

(a) The Union Minister for Social Justice and Empowerment—Chairperson, *ex officio*;

(b) Chairperson of the National Commission for Scheduled Castes— member, *ex officio*; 5

(c) Minister of State in the Ministry of Social Justice and Empowerment— member, *ex officio*;

(d) Chairperson, National Commission for Safai Karamcharis— member, *ex officio*;

(e) the Member of the Planning Commission dealing with development of the Scheduled Castes—member, *ex officio*; 10

(f) three elected members of Parliament belonging to Scheduled Castes, two from the Lok Sabha and one from the Rajya Sabha;

(g) Secretaries of the Ministries of,—

(i) Social Justice and Empowerment, Department of Social Justice and Empowerment; 15

(ii) Urban Development;

(iii) Housing and Urban Poverty Alleviation;

(iv) Drinking Water and Sanitation;

(v) Panchayati Raj; 20

(vi) Finance, Department of Financial Services; and

(vii) Defence—members, *ex officio*;

(h) Chairman, Railway Board—member, *ex officio*;

(i) Director-General, Defence Estates— member, *ex officio*;

(j) representatives of not less than six State Governments and one Union territory, as the Central Government may, notify; 25

(k) not more than six social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the country, to be nominated by the Chairperson; 30

(l) Joint Secretary, Department of Social Justice and Empowerment in the Ministry of Social Justice and Empowerment, looking after development of Scheduled Castes—Member-Secretary, *ex officio*;

(m) such other representatives of Central Ministries or Departments and agencies which, in the opinion of the Chairperson, are concerned with the implementation of this Act. 35

(3) The Central Monitoring Committee shall meet at least once in every six months.

Functions of
the Central
Monitoring
Committee.

30. The functions of the Central Monitoring Committee shall be,—

(a) to monitor and advise the Central Government and State Government for effective implementation of this Act and related laws and programmes; 40

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental to or connected with implementation of this Act.

31. (1) The National Commission for Safai Karamcharis shall perform the following functions namely:—

Functions of National Commission for Safai Karamcharis.

(a) to monitor the implementation of this Act;

5 (b) to enquire into complaints regarding contravention of the provisions of this Act, and to convey its findings to the concerned authorities with recommendations requiring further action; and

(c) to advise the Central and the State Governments for effective implementation of the provisions of this Act.

(d) to take *suo-motu* notice of matter relating to non-implementation of this Act.

10 (2) In the discharge of its functions under sub-section (1), the National Commission shall have the power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

32. (1) The State Government may, by notification, designate a State Commission for Safai Karamcharis or a State Commission for the Scheduled Castes or such other statutory or 15 other authority, as it deems fit, to perform, within the State, *mutatis mutandis*, the functions specified in sub-section (1) of section 31.

Power of State Government to designate an appropriate authority to monitor the implementation of this Act.

(2) An authority designated under sub-section (1) shall, within the State, have, *mutatis mutandis*, the powers of the National Commission for Safai Karamcharis as specified in sub-section (2) of section 31.

20

CHAPTER VIII

MISCELLANEOUS

33. (1) It shall be the duty of every local authority and other agency to use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control with a view to eliminating the need for the manual handling of excreta in the process 25 of their cleaning.

Duty of local authorities and other agencies to use modern technology for cleaning of sewers, etc.

(2) It shall be the duty of the appropriate government to promote, through financial assistance, incentives and otherwise, the use of modern technology, as mentioned in sub-section (1).

34. No suit, prosecution or other legal proceeding shall lie against an appropriate 30 government or any officer of the appropriate government or any member of the Committee for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

35. No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done by or under this Act.

Jurisdiction of civil courts barred.

36. (1) The appropriate government shall, by notification, make rules for carrying out the provisions of this Act, within a period not exceeding three months from the date of commencement of this Act.

Power of appropriate government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

40 (a) the obligation of an employer, under clause (d) of sub-section (1) of section 2;

(b) the manner of carrying out survey of insanitary latrine and publishing list thereof under clause (a) of sub-section (1) of section 4;

45 (c) procedure of giving notice and recovering cost of demolition of an insanitary latrine under sub-section (3) of section 5;

(d) content and methodology of the survey under sub-section (2) of section 11;

(e) publication of provisional list of persons found to be working as manual scavengers under sub-section (4) of section 11;

(f) publication of final list of persons found to be working as manual scavengers under sub-section (6) of section 11;

(g) manner of application to be made to the Chief Executive Officer of the municipality, or to an officer authorised by him in this behalf, under sub-section (1) of section 12 or, as the case may be, sub-section (1) of section 15;

(h) provision of initial, one time, cash assistance under sub-clause (ii) of clause (a) of sub-section (1) of section 13;

(i) such other powers of Inspectors under clause (e) of sub-section (2) of section 20; and

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

(3) Every rule made under this Act by the Central Government 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.

(4) Every rule made under this Act by the State Government shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Power of Central Government to make model rules.

37. (1) Notwithstanding anything contained in section 36 of this Act:— 25

(a) the Central Government shall, by notification, publish model rules for the guidance and use of State Governments; and

(b) in case the State Government fails to notify the rules under section 36 of this Act within the period of three months specified therein, then the model rules as notified by the Central Government shall be deemed to have come into effect, *mutatis mutandis*, in such State, till such time as the State Government notifies its rules. 30

(2) The model rules made by the Central Government under this Act shall be laid, as soon as may be after they are 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 make any modification in the rule, the rule shall thereafter have effect only in such modified form; so, however, that any such modification shall be without prejudice to the validity of anything previously done under that rule. 35

Power to remove difficulties.

38. (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: 40

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. 45

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

39. (1) The appropriate government may, by a general or special order published in the Official Gazette, for reasons to be recorded, and subject to such conditions as it may 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, bye-laws or scheme made thereunder or dispense with the observance of any such requirement in a class or classes of cases, for a period not exceeding six months at a time.

Power to exempt.

(2) Every general or special order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament or each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

STATEMENT OF OBJECTS AND REASONS

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 dehumanising 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. 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.

2. 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 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.

3. 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.

4. The Bill seeks to achieve the above objectives.

MUKUL WASNIK

NEW DELHI;
The 27th August, 2012.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 12015/3/2008-SCD IV, dated 27th August, 2012 from Shri Mukul Wasnik, Minister of Social Justice and Empowerment to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012, recommends the introduction of the Bill under article 117(1) of the Constitution.

Notes on Clauses

Clause 1.—This clause provides for short title, extent and commencement of the proposed legislation.

Clause 2.—This clause seeks to define certain words and expressions used in the Bill such as agency, hazardous cleaning, insanitary latrine, local authority, manual scavenger, occupier, owner, septic tanks, etc.

Clause 3.—This clause provides that the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 or in any other law, or in any instrument having effect by virtue of any other law.

Clause 4.—This clause provides for the local authority to carry out survey of insanitary latrine existing within its jurisdiction and to publish a list thereof within a period of two months from the date of commencement of the Act; give notice to the occupier within fifteen days from the date of publication of the list to either demolish the insanitary latrine or convert it into a sanitary latrine within a period of six months from the date of commencement of the Act; construct within a period not exceeding nine months from the date of commencement of the Act such number of sanitary community latrines as it considers necessary, in the areas where insanitary latrines have been found. It also provides that the municipalities, cantonment boards and railway authorities to construct adequate number of sanitary community latrines within such period not exceeding three years from the date of commencement of the Act so as to eliminate the practice of open defecation in their jurisdiction and to make arrangement for their hygienic upkeep at all times.

Clause 5.—This clause provides that notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines, (Prohibition) Act, 1993, no person, local authority or any agency shall, after the commencement of the Act,—construct insanitary latrine, engage or employ either directly or indirectly manual scavenger and every person so engaged or employed shall stand discharged immediately from any obligation to do manual scavenging. It further provides that every insanitary latrine existing on date of commencement of this Act shall either be demolished or be converted into sanitary latrine by the occupier at his own cost before the expiry of period of nine months from the date of commencement of this Act. It also provides that if any occupier fails to demolish an insanitary latrine or convert it into sanitary latrine within the specified period, the local authority having jurisdiction after giving notice of twenty-one days to the occupier either convert such latrines into sanitary latrines or demolish it and shall be entitled to recover the cost from such occupier.

Clause 6.—This clause provides that any contract, agreement or other instrument through which engagement or employment of person for the purpose of manual scavenging has been made shall on the date of the commencement of this Act be terminated and such contract, etc., be void and inoperative and no compensation shall be paid therefor. It also provides that no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.

Clause 7.—This clause provides for prohibition of persons from engagement or employment of hazardous cleaning of sewers and septic tanks, etc.

Clause 8.—This clause provides for penalty for contravention of clause 5 and clause 6 to the extent of imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both. It also provides that for any

subsequent contravention the punishment may extend to two years or with fine which may extend to one lakh rupees or with both.

Clause 9.—This clause provides for penalty for first contravention of clause 7 to the extent of imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both and for any subsequent contravention with imprisonment which may extend to five years or with fine which may extend to five lakh rupees, or with both.

Clause 10.—This clause provides that no court shall take cognizance of an offence under the Act, except upon a complaint made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence.

Clause 11.—This clause provides for Municipality to undertake survey of manual scavenging in urban areas and to identify persons engaged or employed in manual scavenging. It further provides that such survey shall be completed within a period of two months from its commencement in case of Municipal Corporation and within one month in case of other Municipality. It also provides for the Chief Executive Officer to draw up a provisional list of persons found to be working as manual scavengers and shall cause such provisional list to be published for general information and shall also invite objections. It also provides for the persons having any objection to object within a period of fifteen days to such list for inclusion or exclusion of any name in the provisional list. It also provides for the municipality to enquire into the objection and to publish the final list and thereafter the persons included in the said list shall be discharged from any obligation to work as manual scavengers.

Clause 12.—This clause provides for person working as manual scavenger in the urban areas to apply to the Chief Executive Officer or any officer authorised by him for being identified as a manual scavenger either during the survey undertaken or at any time thereafter. It also provides for the Chief Executive Officer to enquire into the facts within fifteen days of receipt of such application to ascertain whether the applicant is a manual scavenger and if found to be true after enquiry to take action to add the name of such person in the final list.

Clause 13.—This clause provides for provisions for rehabilitation of persons identified as manual scavengers by the municipality, such as, to give photo identify card, such initial one time cash assistance, assistance to his children for scholarship, entitlement for residential plot and financial assistance for house construction or ready built house subject to eligibility, training in a livelihood skill and monthly stipend of not less than three thousand during such training, subsidy and concessional loan for taking up an alternative occupation and such other legal or programmatic assistance. It also cast the responsibility on the District Magistrate of the District concerned for rehabilitation of manual scavenger.

Clause 14.—This clause provides for the Panchayat to cause a survey of manual scavengers to be undertaken to identify such persons in accordance with the provisions of clause 11 and clause 12.

Clause 15.—This clause provides for the manual scavengers to apply to the Chief Executive Officer or any officer authorised by him for being identified as a manual scavenger either during the survey undertaken or at any time thereafter. It also provides for the Chief Executive Officer to enquire into the facts within fifteen days of receipt of such application to ascertain whether the applicant is a manual scavenger.

Clause 16.—This clause provides for the person included in the final list of manual scavengers published in pursuance of clause 14 and clause 15 to be rehabilitated, *mutatis mutandis*, in the manner laid down for the urban manual scavengers in clause 13.

Clause 17.—This clause provides for the responsibility of local authority to ensure elimination of insanitary latrines and in case of contravention action be taken against the occupier.

Clause 18.—This clause provides for the appropriate Government to confer power and impose duties on local authority and District Magistrate to ensure for the proper implementation of the provisions of the Act.

Clause 19.—This clause provides for the duty of the District Magistrate and the authority, etc., to ensure that after the expiry of such period specified in the Act, no person is engaged or employed as manual scavenger; no one constructs, maintains, uses or makes available for use insanitary latrines; manual scavengers identified are rehabilitated in accordance with the provisions of this Act; persons contravening the provisions of clause 5, clause 6 or clause 7 are investigated and prosecuted and all the provisions of this Act applicable within his jurisdiction are duly complied with.

Clause 20.—This clause provides for the appropriate Government to appoint inspectors and define their local limits within which they shall exercise their powers. It also provides the powers of the inspector, such as to enter the premises or place for the purpose of examining and testing any latrine, etc., where he has reason to believe an offence has been or is being or is about to be committed and to prevent employment of any person as manual scavengers; examine any person found in such premises and place; require any person found in such premises to give information with respect to the names and addresses of persons employed on such premises as manual scavenger or agency or contractor employing or engaging them; seize or take copies of such registers, records of wages, etc., as he may consider relevant and exercise such other powers as may be prescribed.

Clause 21.—This clause provides for the State Government to confer powers on an Executive Magistrate, the powers of the Judicial Magistrate of the first class for the trial of offences under the Act; and, on such conferment of power, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class and provides for summary trial.

Clause 22.—This clause provides that the offences under the Act shall be cognizable and non-bailable.

Clause 23.—This clause provides that where an offence under the Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. It also provides that notwithstanding anything contained in sub-clause (1), where any offence under the Act has been committed by a company and it is proved that offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Clause 24.—This clause provides for the State Government to constitute a Vigilance Committee for each district and each Sub-Division and provides for the constitution of members of such a Committee. It also provides that the Committee shall meet at least once in every three months and no proceedings of the Committee shall be invalid merely by reason of any defect in its constitution.

Clause 25.—This clause provides for the functions of the Vigilance Committee, such as to advise the District Magistrate or as the case may be the Sub-Divisional Magistrate, on the action which needs to be taken, to ensure that the provisions of the Act or of any rule made thereunder are properly implemented; to oversee the economic and social rehabilitation of manual scavengers; to co-ordinate the functions of all concerned agencies with a view to channelise adequate credit for the rehabilitation of manual scavengers; to monitor the registration of offences under the Act and their investigation and prosecution.

Clause 26.—This clause provides for the State Government to constitute a State Monitoring Committee consisting of the Members specified therein. It also provides that the State Monitoring Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

Clause 27.—This clause provides for the functions of the State Monitoring Committee such as, to monitor and advise the State Government and local authorities for effective implementation of the Act; to co-ordinate the functions of all concerned agencies and to look into any other matter incidental thereto or connected therewith for implementation of the Act.

Clause 28.—This clause provides that the State or Union territory Government and Union territory administration shall send such periodic reports to the Central Government about progress of implementation of the Act, as the Central Government may require.

Clause 29.—This clause provides for the Central Government to constitute the Central Monitoring Committee consisting of the members specified therein. It also provides that the Central Monitoring Committee shall meet at least once in every six months.

Clause 30.—This clause provides for the functions of the Central Monitoring Committee such as, to monitor and advise the Central Government and State Government for effective implementation of the Act and related laws and programmes to co-ordinate the functions of all concerned agencies and to look into any other matter incidental to or connected with implementation of the Act.

Clause 31.—This clause provides for the National Commission for Safai Karmacharis to perform the functions such as, to monitor the implementation of the Act; to enquire into complaints regarding contravention of the provisions of the Act, and to convey its findings to the concerned authorities with recommendations requiring further action and to advise the Central and the State Governments for effective implementation of the provisions of this Act. It also provides that in the discharge of its functions under sub-clause (1), the National Commission shall have the power to call for information with respect to any matter specified in that sub-clause from any Government or local or other authority.

Clause 32.—This clause provides for the State Government to designate a State Commission for Safai Karmacharis or a State Commission for the Scheduled Castes or such other statutory or other authority, as it deems fit, to perform, within the State, *mutatis mutandis*, the functions specified in sub-clause (1) of clause 27. It also provides that an authority designated under sub-clause (1) shall, within the State, have, *mutatis mutandis*, the powers of the National Commission for Safai Karmacharis as specified in sub-clause (2) of clause 27.

Clause 33.—This Clause provides for duty on every local authority and other agency to use appropriate technological appliances for cleaning of sewers, septic tanks with a view to eliminating the need for the manual handling of excreta in the process of their cleaning. It also provides for duty on the appropriate Government to promote through financial assistance, incentives and otherwise to use the modern technology.

Clause 34.—This clause provides that no suit, prosecution or other legal proceeding shall lie against an appropriate Government or any officer of the appropriate government or any member of the Committee for anything which is in good faith done or intended to be done under the Act.

Clause 35.—This clause provides that no civil court shall have jurisdiction in respect of any matter to which any provision of the Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done by or under the Act.

Clause 36.—This clause provides for the appropriate government to make rules for carrying out the provisions of this Act within a period not exceeding three months from the date of commencement of the Act. It further provides the provisions for which the rules shall be made. It also provides that every rule made under the Act shall be laid, before each House of Parliament and the State Legislatures as the case may be.

Clause 37.—This clause provides for the Central Government to publish the model rules for the guidance of the State Government. It also provides that till the State Government make rules, the model rules notified by the Central Government shall be deemed to have the effect in such State.

Clause 38.—This clause empowers the Central Government to remove the difficulties that arise in giving effect to the provisions of the Bill. Every order of the Central Government under this clause is to be laid before each House of the Parliament. This power is exercisable only for three years from the commencement of the Act.

Clause 39.—This clause provides for power to exempt the appropriate government by a general or special order published in the Official Gazette, for reasons to be recorded, and subject to such conditions as it may impose, exempt any area, category of buildings or class of persons from any provisions of the Act or from any specified requirement contained in this Act or any rule, order, notification, bye-laws or scheme made under or dispense with the observance of any such requirement in a class or classes of cases, for a period not exceeding six months at a time. It also provides that every general or special order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament or each House of State legislature, where there are two Houses and where there is one House of State Legislature, before that House.

FINANCIAL MEMORANDUM

Clause 13 of the Bill provides for rehabilitation of manual scavengers and their families. Sub-clause (2) of clause 4 of the Bill provides that the Municipalities, Cantonment Boards and railway authorities shall construct adequate number of sanitary community latrines. Clause 17 of the Bill, *inter alia*, provides that every local authority shall, through awareness campaign or in such other manner, ensure that after the expiry of a period of nine months, from the date of commencement of the Act, no insanitary latrine is constructed, maintained or used within its jurisdiction. The total estimated expenditure, in addition to the expenditure of existing Schemes and programmes, is rupees 4825 crores. The expenditure shall be borne out of the Plan allocation of the concerned Central Ministries and Departments.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 36 of the Bill empowers the appropriate government to make rules for carrying out the provisions of the Act. The matters in respect of which such rules may be made, *inter alia*, to provide for (i) the obligation of an employer to provide protection gear and other cleaning devices and ensuring observance of the safety precautions; (ii) the manner of carrying out of survey of insanitary latrines identification of manual scavengers and publish a list of such insanitary latrines and manual scavengers by the local authority; (iii) the procedure of giving notice and thereafter to recover the cost of the conversion or demolition of an insanitary latrine, as the case may be, by the local authority; (iv) such other powers of the inspector and any other matter which is to be, or may be prescribed, by rules.

2. Clause 37 of the Bill seeks to empower the Central Government to make model rules for the guidance and use of State Governments.

3. Clause 39 of the Bill seeks to empower the appropriate government by a general or special order to exempt any area, category of buildings or class of persons, etc., from any provisions of the Act, or dispense with the observance of any such requirement for a period not exceeding six months at a time.

4. Every rule made by the Central Government and the State Government is required to be laid, before each House of Parliament or each House of State Legislature, where there are two Houses and where is one House of State Legislature, before that House.

5. The delegation of legislative power under the aforesaid provisions relate to matters of procedure or administrative detail or to matters in respect of which it is not practicable to make detailed provisions. Hence, the delegation of legislative power is of a normal character.

LOK SABHA

CORRIGENDA

to

THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND
THEIR REHABILITATION BILL, 2012

[To be/As introduced in Lok Sabha]

1. Page 3, line 1,-
for "Central or"
read "Central Government or"
2. Page 5, line 1,-
for "Provided further"
read "Provided"
3. Page 5, line 4,-
for "Provided also"
read "Provided further"
4. Page 5, in marginal heading against clause 6,-
for "Contract's"
read "Contracts"
5. Page 5, line 13,-
for "commencement of"
read "date of commencement of"
6. Page 6, line 47,-
for "rupees three thousand,"
read "three thousand rupees,"

PTO

7. Page 8, line 4,-
for "section 16; and"
read "section 16;"
8. Page 8, line 5,-
for "section 5, section 6"
read "section 5 or section 6"
9. Page 8, line 6,-
for "this Act;"
read "this Act; and"
10. Page 9, lines 37 and 38,-
for "one representative by the railway authority located in the district to be nominated;"
read "one representative to be nominated by the railway authority located in the district;"
11. Page 18, line 31,-
for "photo identify card,"
read "photo identity card,"
12. Page 21, line 13,-
for "the commencement"
read "the date of commencement"
13. Page 23, line 6,-
for "latrines identification"
read "latrines and identification"

NEW DELHI;

August 30, 2012
Bhadrapada 8, 1934 (Saka)

ANNEXURE - II

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



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 human 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

- Short title, application and commencement.
1. (1) This Act may be called the 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 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.
- Definitions.
2. In this Act, unless the context otherwise 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-
 - (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.

Prohibition of
employment
of manual
scavengers
etc.

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.

Power of State Government to make schemes.

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: 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.

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.

Power of State Government to issue directions.

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.

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

45 of 1860.

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.

Appointment of inspectors and their powers of entry and inspection.

(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 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.

Power of Executive Authority to prevent environmental pollution in certain cases.

(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.

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

Duty of HUDCO to extend financial assistance in certain cases.

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.

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-

Power to levy fee.

- (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

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.

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

- Offenses 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.

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

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. Protection of action taken in good faith.
21. (1) Subject to the provisions of sub-section (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. Effect of other laws and agreements inconsistent with the Act.
- (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.

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 of State Government to make rules.

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**Census of India 2011****Houses, Household Amenities and Assets****Figures at a Glance**

| Item No. | House list Item | Absolute number | | | Percentage | | |
|----------|---|-----------------|-------------|------------|------------|-------|-------|
| | | Total | Rural | Urban | Total | Rural | Urban |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Q | Households by type of latrine facility | | | | | | |
| Q.1 | Total number of households | 246,692,667 | 167,826,730 | 78,865,937 | 100.0 | 100.0 | 100.0 |
| Q.2 | Latrine facility within the premises | 115,737,458 | 51,575,339 | 64,162,119 | 46.9 | 30.7 | 81.4 |
| Q.3 | Water Closet | 89,852,052 | 32,616,824 | 57,235,228 | 36.4 | 19.4 | 72.6 |
| Q.4 | - Piped sewer system | 29,471,391 | 3,696,144 | 25,775,247 | 11.9 | 2.2 | 32.7 |
| Q.5 | - Septic tank | 54,758,885 | 24,671,448 | 30,087,437 | 22.2 | 14.7 | 38.2 |
| Q.6 | - Other system | 5,621,776 | 4,249,232 | 1,372,544 | 2.3 | 2.5 | 1.7 |
| Q.7 | Pit Latrine | 23,279,128 | 17,681,985 | 5,597,143 | 9.4 | 10.5 | 7.1 |
| Q.8 | - With slab/ ventilated improved pit | 18,813,022 | 13,746,699 | 5,066,323 | 7.6 | 8.2 | 6.4 |
| Q.9 | - Without slab/ open pit | 4,466,106 | 3,935,286 | 530,820 | 1.8 | 2.3 | 0.7 |
| Q.10 | Other Latrine | 2,606,278 | 1,276,530 | 1,329,748 | 1.1 | 0.8 | 1.7 |
| Q.11 | -Night soil disposed into open drain | 1,314,652 | 372,009 | 942,643 | 0.5 | 0.2 | 1.2 |
| Q.12 | - Night soil removed by human | 794,390 | 586,067 | 208,323 | 0.3 | 0.3 | 0.3 |
| Q.13 | - Night soil serviced by animals | 497,236 | 318,454 | 178,782 | 0.2 | 0.2 | 0.2 |
| Q.14 | No Latrine within the premises | 130,955,209 | 116,251,391 | 14,703,818 | 53.1 | 69.3 | 18.6 |
| Q.15 | - Public latrine | 7,997,699 | 3,253,892 | 4,743,807 | 3.2 | 1.9 | 6.0 |
| Q.16 | - Open | 122,957,510 | 112,997,499 | 9,960,011 | 49.8 | 67.3 | 12.6 |

ANNEXURE – IV

State/UT – wise number of Insanitary Latrines

| S. No | State/UT | Total number of households | No. of Households by type of Insanitary latrines | | | | | |
|-------|---------------------------|----------------------------|--|--------------------|-----------------|---------------------|-------------|-----------------------|
| | | | Night soil disposed into open drain | Service d Manually | Sub Total (4+5) | Service d by animal | Total (6+7) | % of col. 8 to col. 3 |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
| | ALL INDIA | 246,692,667 | 1314652 | 794390 | 2109042 | 497236 | 2606278 | 1.06 |
| 1. | Andaman & Nicobar Islands | 93,376 | 151 | 11 | 162 | 57 | 219 | 0.33 |
| 2. | Andhra Pradesh | 21,024,534 | 165673 | 10357 | 176030 | 52767 | 228797 | 1.09 |
| 3. | Arunachal Pradesh | 261,614 | 1865 | 1059 | 2924 | 9579 | 12503 | 4.78 |
| 4. | Assam | 6,367,295 | 54381 | 22139 | 76520 | 35394 | 111914 | 1.76 |
| 5. | Bihar | 18,940,629 | 39246 | 13587 | 52833 | 35009 | 87842 | 0.46 |
| 6. | Chandigarh | 235,061 | 164 | - | 164 | 32 | 196 | 0.08 |
| 7. | Chhattisgarh | 5,622,850 | 4881 | 736 | 5617 | 3484 | 9101 | 0.16 |
| 8. | Dadra & Nagar Haveli | 73,063 | 55 | 168 | 223 | 28 | 251 | 0.34 |
| 9. | Daman & Diu | 60,381 | 29 | 16 | 45 | 14 | 59 | 0.10 |
| 10. | Goa | 322,813 | 667 | - | 667 | 3151 | 3818 | 1.18 |
| 11. | Gujarat | 12,181,718 | 25234 | 2566 | 27800 | 4890 | 32690 | 0.27 |
| 12. | Haryana | 4,717,954 | 32432 | 1343 | 33775 | 4752 | 38527 | 0.82 |
| 13. | Himachal Pradesh | 1,476,581 | 3069 | 310 | 3379 | 561 | 3940 | 0.27 |
| 14. | Jammu & Kashmir | 2,015,088 | 64479 | 178443 | 242922 | 13109 | 256031 | 12.71 |
| 15. | Jharkhand | 6,181,607 | 9317 | 1836 | 11153 | 5986 | 17139 | 0.28 |
| 16. | Karnataka | 13,179,911 | 61802 | 7740 | 69542 | 28995 | 98537 | 0.75 |
| 17. | Kerala | 7,716,370 | 12052 | 3011 | 15063 | 1713 | 16776 | 0.22 |
| 18. | Lakshadweep | 10,703 | - | - | - | - | - | - |
| 19. | Madhya Pradesh | 14,967,597 | 41363 | 5664 | 47027 | 13948 | 60975 | 0.41 |
| 20. | Maharashtra | 23,830,580 | 154331 | 9622 | 163953 | 45429 | 209382 | 0.88 |
| 21. | Manipur | 507,152 | 27713 | 10062 | 37775 | 2964 | 40739 | 8.03 |
| 22. | Meghalaya | 538,299 | 1792 | 1962 | 3754 | 4126 | 7880 | 1.46 |
| 23. | Mizoram | 221,077 | 583 | 121 | 704 | 562 | 1266 | 0.57 |
| 24. | Nagaland | 399,965 | 1208 | 786 | 1994 | 2481 | 4475 | 1.12 |
| 25. | NCT of Delhi | 3,340,538 | 68424 | 583 | 69007 | 633 | 69640 | 2.08 |
| 26. | Odisha | 9,661,085 | 30567 | 26496 | 57063 | 24222 | 81285 | 0.84 |
| 27. | Puducherry | 301,276 | 638 | 133 | 771 | 88 | 859 | 0.29 |
| 28. | Punjab | 5,409,699 | 28274 | 3465 | 31739 | 9460 | 41199 | 0.76 |
| 29. | Rajasthan | 12,581,303 | 94061 | 2572 | 96633 | 8781 | 105414 | 0.84 |
| 30. | Sikkim | 128,131 | 93 | - | 93 | 126 | 219 | 0.17 |
| 31. | Tamil Nadu | 18,493,003 | 149455 | 27659 | 177114 | 26020 | 203134 | 1.10 |
| 32. | Tripura | 842,781 | 3760 | 830 | 4590 | 3733 | 8323 | 0.99 |
| 33. | Uttar Pradesh | 32,924,266 | 151717 | 326082 | 477799 | 80291 | 558090 | 1.70 |
| 34. | Uttarakhand | 1,997,068 | 6730 | 4701 | 11431 | 2562 | 13993 | 0.70 |
| 35. | West Bengal | 20,067,299 | 78446 | 130330 | 208776 | 72289 | 281065 | 1.40 |

Source : Census, 2011

SURVEY OF MANUAL SCAVENGERS AND THEIR DEPENDENTS GUIDELINES

1. Background

1.1 National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents (NSLRS): NSLRS was started in March, 1992 to rehabilitate manual scavengers and their dependents in alternative occupations. As per information furnished by State Governments, there were about 7.70 lakh manual scavengers and their dependents to be rehabilitated under the scheme. Out of this about 4.23 lakh manual scavengers and their dependents were assisted for rehabilitation during 1992 to 2005.

1.2 Self-Employment Scheme for Rehabilitation of Manual Scavengers (SRMS): The Ministry of Social Justice & Empowerment introduced SRMS in January, 2007 to rehabilitate the remaining 3.42 lakh Manual Scavengers and their dependents in alternative occupations by March, 2009. Subsequently, the deadline was extended up to 31.3.2010. 18 States/UTs reported existence of Manual Scavengers to be covered at the beginning of this scheme. All these States/UTs confirmed disbursement of loans to all eligible and willing 78,941 beneficiaries for alternative occupations by 30.6.2010.

1.3 Recommendations of the National Advisory Council (NAC): The NAC, in its resolution dated 23.10.2010 on the issue of manual scavenging, urged the Central Government to ensure that the practice of manual scavenging is fully abolished latest by the end of the 11th Plan period in coordination with all the Central Government Departments, including Railways, and concerned States/ Local Governments. The resolution states, inter alia, that this would require (a) new survey in every State and UT, with wide public involvement, of remaining dry latrines and manual scavengers; (b) demolition of dry latrines; (c) psycho-social and livelihood rehabilitation in modern marketable skills of all manual scavengers and their families, and formulation of a Centrally Sponsored Scheme by the Ministry of Social Justice & Empowerment to support the rehabilitation initiative; (d) special programme for education, including higher education and computer education of all children of manual scavengers; and (e) to amend the law to ensure sharper definition of manual scavenging, and accountability of public officials who employ, or fail to prevent, manual scavenging.

1.4. In pursuance of the resolution of the NAC, two meetings were held in November, 2010, among the Secretaries of Ministries of Housing and Poverty Alleviation, Social Justice & Empowerment, Urban Development, and Railways. These meetings were followed by a meeting under the Chairmanship of the Cabinet Secretary.

1.5. After the above meetings, a consultation meeting was held on 24-25 January, 2011, jointly by Ministries of Social Justice & Empowerment, Housing and Poverty Alleviation, Urban Development, Representatives of State Governments and Civil Society Organizations.

1.6. Pursuant to the recommendations of the above meetings, a Task Force was constituted on 10.2.2011 by the Ministry of Social Justice & Empowerment to recommend detailed modalities for undertaking a fresh survey of manual scavengers and their dependents who are yet to be rehabilitated. The Task Force submitted its Report on 6.5.2011. The Task Force, inter alia, recommended for appointment of a National level Technical Agency (NTA) for countrywide survey of manual scavengers and their dependents. However, the same could not be finalized due to unavailability of an appropriate agency.

2. Setting up of a Committee for recommending modalities for conducting survey

2.1. The Ministry of Social Justice and Empowerment, vide its Order No.19014/12/2011-SCD-IV dated 04.04.2012 constituted a Committee for recommending modalities for conducting a survey of manual scavengers and their dependents, in the light of data available from Census, 2011, and the Socio- economic and Caste Census(Rural), currently underway, under the Chairmanship of Secretary, Ministry of Statistics and Programme Implementation and the Secretary, Ministry of Social Justice and Empowerment as its Co-chair. Committee submitted its report on 19.6.2012. Based on the recommendations of the Committee, which have been accepted by this Ministry, survey guidelines have been finalized.

3. OBJECTIVE AND SCOPE OF SURVEY

3.1. Objectives of the Survey

- i. To identify the persons who are still engaged in manual scavenging, (and their dependents – both adult and minor) which, would include:
 - a. those covered under SRMS but who have not yet actually given up manual scavenging, and
 - b. those *not covered* under SRMS
- ii. To ensure that all genuine manual scavengers are identified, and at the same time, possibility of inclusion of non-genuine scavengers is minimized, if not eliminated.
- iii. To ascertain the social, economic, educational, health and skill status of the identified manual scavengers, and their willingness for taking up alternative self employment ventures.

- iv. To ascertain details of the insanitary latrines, open drains, etc., to clean which the manual scavengers identified, as above, are engaged/employed.

3.2. Distinction between Manual Scavengers and Safai Karamcharis:

(i) Safai Karamcharis normally include persons engaged as 'Sweepers' or 'sanitation/cleaning workers' in municipalities, government and private offices. They may be direct employees of these bodies (municipalities, government/private sector organizations) or may be contract employees who happen to be working for these organizations. However, Safai karamcharis, per se, are not manual scavengers.

(ii) Manual Scavengers are usually self employed or contract employees. "Self employed" means a person who scavenges a group of household dry latrines or drains etc. in a particular ward, for payment in cash and/or in kind, by the house-owners. Contract employees would normally be those who are hired through contractors, by a municipal body, any other organization or a group of house-owners, to scavenge individual or community dry latrines and open drains where night soil is disposed.

3.3. Definition of Manual Scavenger and insanitary latrine:

***"manual scavenger"** means a person engaged or employed by an individual or a local authority or a public or private agency, 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 human excreta from insanitary latrines is disposed of, or on a railway track, before the excreta fully decomposes, and the expression "manual scavenging" shall be interpreted accordingly;*

Explanation.- (a) "engaged or employed" means being engaged or employed on a regular or contract basis;

(b) a person engaged or employed to clean excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be a 'manual scavenger';

***"insanitary latrine"** means a latrine which requires human excreta to be cleaned or otherwise handled manually, either in situ, or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes: Provided that a water flush latrine in a railway passenger coach, when cleaned by an employee with the help of appropriate*

devices(like high pressure water jet etc.) and using proper protective gear will not be deemed to be an insanitary latrine.

3.4. Geographical Scope of the Survey

- (i) The proposed Survey would be conducted straight away in the statutory towns without waiting for the outcome of Socio Economic & Caste Census (SECC),Rural, 2011,. The scope of the survey would be limited to (4041-495 = 3546 statutory cities/towns where the Census 2011 has pointed out the existence of insanitary latrines. State/UT wise details are at **Annexure-V(a) . Categorisation of Statutory Cities/Towns according to No. of Insanitary Latrines is as follows:-**

| S. No. | Number of Households having insanitary latrines | Number of Cities/Towns |
|---------------|--|-------------------------------|
| 1 | 0 | 495 |
| 2 | 1-999 | 3351 |
| 3 | 1000-9999 | 184 |
| 4 | > = 10000 | 11 |
| | Total | 4041 |

- (ii) SECC, 2011(Rural) would yield the State-wise no. of manual scavengers in rural areas but would not yield all the information about them which the survey on Manual Scavengers aims to collect. **Outcome of SECC (rural) may be awaited so that the no. and identity of rural manual scavengers becomes known. Thereafter, an exercise would be undertaken to collect only that information about these identified rural manual scavengers, which is necessary as per the Form appended at Annexure-II with this Scheme, but which is not being collected as part of SECC (rural) [e.g. information on health status, preferred alternative employment, etc].**

4. METHODOLOGY AND THE PROCESS FOR THE SURVEY

4.1. Awareness Campaign

- (i) **A Media Plan would** be prepared by the Ministry of Social Justice & Empowerment for giving wide publicity about the survey for identification of Manual Scavengers, its dates, etc, through Print, and

- audio-visual Media, outdoor publicity, etc. After finalisation of the Media Plan, Doordarshan, All India Radio and Directorate of Advertising and Visual Publicity will undertake publicity work.
- (ii) **Awareness campaign** would also be carried out at the State level and in the 3546 cities/towns and their wards having insanitary latrines. The information about wards/pockets having insanitary latrines would be collected from the office of Registrar General of India (RGI) and Census Commissioner, New Delhi. The RGI would also be requested to instruct State Govt. & Regional Directors of Census Operations to provide ward/EB wise data to District Collectors. [In case, required data is not made available by the Office of RGI, concerned Town Level Survey Committee/Office of Municipality would elicit support of community leaders/activists, NGOs working for welfare of Safai Karamcharis in identification of wards/pockets having concentration of insanitary latrines.]
- (iii) The awareness campaign would basically invite manual scavengers to declare themselves and have their details verified during a period and at places, which will be specified. A Toll-free helpline would also be established in each town and district to assist manual scavengers being counted in the survey.

4.2. Self-Declaration by Manual Scavengers:

Pursuant to the above awareness campaign, manual scavengers would be expected to file declarations/claims of being manual scavengers at designated place(s) during the specified period. Designated places should as far as possible be nearer to wards/bastis/ areas where manual scavengers reside. Chief Executive Officer of Municipalities will designate officers for recording information of manual scavengers in the Personal Computer/ Hand Held Device available at the designated places. The Local Authority [Municipality/Cantonment Board] would notify designated places, dates and time for recording information from manual scavengers by Enumerator(s)/ Data Entry Operator(s). It would also be ensured that at least one enumerator/data entry operator will be available at designated places. **A copy of the Form (Annexure-V(b))** filled in would be instantly given to the respondent for his/her information and record.

In addition to self-declaration by manual scavengers at designated places as above, the Local Authority may also, in appropriate cases, direct house-to-house visit in bastis of manual scavengers by enumerators, to record their declarations.

4.3. Cent Percent Verification by Enumerators:

After filling up the information of self-declaring manual scavengers

at designated places, verification of each such declaration would be done by Enumerator who would normally be an employee of the Municipality or the State Govt. Enumerator would visit households of Manual Scavengers and verify the information, which was recorded in Personal Computer/ Hand Held device at the time of self declaration. In case the enumerator finds any information in the self-declaration to be incorrect, he will record the correct information, after verification, on the spot. The information recorded by the enumerator will not be disclosed to the declarant.

4.4. Sample check by Supervisors:

Sample checks of the work done by the enumerators would be carried out by Supervisors designated by the local authority for the purpose, on the basis of random selection, to the extent shown below : -

- (i) 100% check will be carried out in 3351 cities/towns, having less than 1000 households with insanitary latrines,
- (ii) 50% of the declarations verified by each enumerator will be checked in 184 cities/towns having 1000 to 9999 households with insanitary latrines and
- (iii) 33% of the declaration verified by each enumerator will be checked in 11 Cities/Towns having 10,000 or more households of the above type

In categories (ii) & (iii), if sample check of the work of any enumerator reveals an error of >10%, a 100% check of his work will be carried out by the Supervisor.

4.5. Preparation of the Draft List of Manual Scavengers and its Publication

A draft list of identified manual scavengers for each city/town, as verified by the Supervisors, would be published by the concerned local authority in local newspapers and displayed in its own office and at the offices of the local Tehsildar and the Sub-Divisional Officer (also, the Collectorate in the case of district headquarters, towns). A copy of the draft list would also be made available to members of the Local Authority and of the Town-level Survey Committee. While publishing the Draft List, the Local Authority would call upon members of the public to file claims and objections vis-à-vis, the list, within a period of two weeks, in prescribed proforma.

4.6. Filing of Claims and Objections to the Draft List.

Claims and objections would be received within the above period of two weeks. A claimant or objector may also support his/her claim with documentary evidence. Forms for filing claims & objections would be made available to the applicants free of charge on demand at the designated place(s), as also through the website of Distt./Local Authority. The District Collector would notify officers not below the rank of Tehsildar/Block Development Officer for enquiring into claims and objections received and giving their findings. Summary hearings would be conducted by such officers. They may also order fresh verification by a suitable functionary, if necessary. After summary hearing and such further verification (if ordered), the officer would pass an appropriate order, accepting or rejecting the claim/objection, as the case may be. A copy of the order would be given to the persons concerned.

4.7 Publication of Final List of Manual Scavengers

After settlement of claims & objections by the Competent authority, the local authority would carry out necessary corrections in the draft list and transmit it to the Town-Level Survey Committee for its consideration. Once the Town Level Survey Committee is satisfied with the survey work carried out and the final list prepared on its basis, it would transmit it to the District Level Survey Committee for its approval to publish. After the approval of the list by the District Level Survey Committee, it would be duly published at the offices of the municipality, tehsil, sub-divisional and district offices concerned, and local news papers, etc. The final list would also be uploaded on the website of the Distt. and the State Government.

4.8 Compilation of Final Lists of Manual Scavengers at District, State and National levels.

The Town Level Survey Committee would submit finally published list of identified manual scavengers to the District Level Survey Committee. The District Level Survey Committee would cause compilation of lists of manual scavengers received from each Town and prepare a list of manual scavengers for the district which the Distt. Collector will forward to the State nodal Deptt. for the Survey. The State nodal Department would have the lists of manual scavengers received from various districts, compiled and prepare a consolidated State list of Manual Scavengers for the consideration and approval of the State Survey Committee. After this approval, the State nodal Deptt. would send the State List to the Ministry of SJ&E, which would compile the National level list of manual scavengers and publish it after approval of the National-level Survey Committee.

4.9 Preparation of Analytical Reports at the Town, District, State and National Level

After finalization of Lists of Manual Scavenger at town, Distt, State & National levels, the Local Body, Collector, State Government/UT Administration and the Ministry of SJ&E would also prepare and publish in due course, suitable reports analyzing the respective Lists from various angles e.g. gender, geographical distribution, socio-economic, educational & skill status, aspirations of manual scavengers in regard to alternative vocation etc. They may undertake this task themselves or may engage specialized agency for the purpose.

5. Pilot survey and Pre-testing of form for identification of Manual Scavengers

A pilot survey and pre-testing of the recommended methodology for conducting survey of manual scavengers would be carried out, before launching full scale survey, in one District from each region - North, North-East, West, South and East. Based on the outcome of the pilot survey, Survey Form, Instructions Manual, and process for conducting the survey would be suitably modified and finalised.

6. Time frame for completing the Survey

The Survey would take about eight months as per Schedule given below:

| Sl. No. | Activity | Period | Sl. No | Activity | Period | Sl. No | Activity | Period |
|---------|---|----------|--------|---|----------|--------|---|----------|
| 1 | Approval of Recommendations of the Committee reg. Survey modalities | Zero | - | - | - | - | - | - |
| 2 | Pilot Survey in five districts of five States i) Issues of Advisory to States 1 week ii) Orientation of State Functionaries 1 week iii) Actual Survey & Compilation of its Results- 6 weeks | 2 months | 1 | Design & Finalisation of Mass Awareness Campaign at the national level i) Preparation of media material by Ministry (7 Week) ii) Communication to States (1 week) | 2 months | 1 | Creation of a Cell for the Survey in the Ministry of SJ&E | 2 months |

| | | | | | | | | |
|---|---|---------|---|---|----------|---|--|---------|
| 3 | i) Finalisation & Printing of Survey Forms & Instruction Manual (2 weeks) ii) Orientation of State functionaries (2 weeks) | 1 month | 2 | Design & Finalisation of Mass Awareness Campaign at the State level | 1 month | 2 | Creation of a Cell for the Survey in the State Govt. | 1 month |
| | | | 3 | i) Printing of Survey forms in State language (2 weeks) ii) Orientation of Distt. & City functionaries (2 weeks) | 1 month | 3 | Awareness campaign at State & local levels | 1 month |
| | | | 4 | Actual Survey & Publication of final City/Town-wise Lists i) Self declaration – 1 week ii) Verification by enumerators – 1 week iii) Sample check – 1 week iv) Publication of draft list -1 week v) Claims & objections – 2 week vi) Disposal of claims & objections vii) Publication of | 2 months | | | |

| | | | | | | | | |
|--|--|--|---|---|-----------------|--|--|--|
| | | | | final city/town list – 2 weeks (for vi&vii) | | | | |
| | | | 5 | Compilation of Distt. Lists | 2 weeks | | | |
| | | | 6 | Compilation of State Lists | 2 weeks | | | |
| | | | 7 | Compilation of National Lists | 4 weeks | | | |
| | | | | | 8 months | | | |

7. INSTITUTIONAL SET UP FOR CONDUCTING THE SURVEY

7.1. Executive responsibility for the Survey at various levels would be as follows:-

| S.No. | Level | Responsibility |
|-------|-----------|--|
| 1. | National | Central Govt. (Ministry of SJ&E be the nodal Ministry, Ministry of Statistics & Programme Implementation and RGI to be technical partners) |
| 2. | State | State Govt. [Each State Govt. to designate a suitable nodal Deptt., and other collaborating Deptt. (Organisation)] |
| 3. | Distt. | Distt. Collector (with assistance of Distt. level officers of concerned Deptt.) |
| 4. | City/Town | Commissioners/CEO of Municipal Corporation /Municipality/Cantonment Board, as the case may be |

7.2. Each executive agency will discharge the following functions at its respective levels : -

- i) Awareness Campaign
- ii) Appointment/Designation of officers/manpower for various tasks
- iii) Orientation of above functionaries
- iv) Preparation/Printing of forms
- v) Data Collection & its validation and compilation
- vi) Timely completion of Survey & Publication of final List of Manual

Scavenger.

7.3. Formation of Survey Committees:

In order to :-

- Oversee the above work of the executive agencies,
- Achieve coordination of all concerned deptts/agencies in the survey,
- Ensure involvement of civil society/stakeholders in the survey work, and
- Validation of survey data,
- formation of Survey Committees would be as per **Annexure-V(c)**.

8. Orientation of Key Functionaries

One-day orientation programmes for Key functionaries would be conducted at various levels as follows to acquaint them with the survey methodology :-

| <u>Level of Key functionaries</u> | <u>Level of which Orientation will be conducted</u> |
|-----------------------------------|---|
| State | National |
| Distt. | State |
| Town | Distt. |

9. Assessment of number of Enumerators, Data Entry Operators and Supervisors & their Appointment

Each Local body will assess the numerical requirement of enumerators & supervisors, and will appoint its own employees and/or employees of the State Govt, made available for the Survey as Enumerators for conducting the survey. A suitable no. of Data Entry Operators may be appointed as per need.

10. Training of Enumerators, Data Entry Operators and Supervisors

Each Local Body will organize, under the guidance of the Collector a one-day orientation/training programme for Enumerators, Data Entry Operators and Supervisors about survey methodology, filling up of form for manual scavengers, verification procedure, etc.

11. Creation of Cell at National & State levels

11.1. A Cell in the Ministry of SJ&E would be created under its DDG (Statistics), with the following manpower :-

| Sl. No. | Name of Post | No. of Posts |
|---------|---|--------------|
| 1. | Professional Survey Statistician as Adviser * | 1 |
| 2. | Director | 1 |
| 3. | Joint Director | 1 |
| 4. | Statisticians | 2 |
| 5. | Data Entry Operators | 4 |
| | Total | 9 |

The above Cell would coordinate the following functions:

- Providing technical inputs, preparation of detailed guidelines for the survey, modules for training at various levels, and publicity material,
- organizing training programmes for State level Officers,
- overseeing and ensuring the smooth conduct of survey at the State and district levels, and
- compilation, validation, scrutiny and collation of reports received from the States, and preparation of the National level Lists & Reports on the survey.

11.2. State Government/UT Administration would likewise create a Cell at their level to perform the functions, mutatis mutandis, mentioned in para 11.1 above. Central assistance would be provided to States on a suitable Scale, looking to the size of the State/UT, to meet expenditure on the State-level Cell. Average expenditure norms for States/UTs may be taken to be Rs.10 lakh per annum.

12. Outsourcing of Data Processing

Data Processing work at the national level would be outsourced to a reputed agency by the Ministry of Social Justice & Empowerment. At the State, district & local levels, the State Governments would facilitate utilization of available IT infrastructure for data entry, data processing, and analysis and compilation of reports. States may utilize IT infrastructure of NIC, District Informatics Centre or any other IT infrastructure of State Government.

13. Estimated Financial Implications

It is difficult to accurately estimate the financial implications of the proposed Survey, in the absence of data on the magnitude of the work involved. However, a preliminary cost estimate of carrying out survey in the 3546 statutory towns, is about Rs 18.50 crore. Corresponding financial norms of the survey are as per details given below:.

| (Amount in Rs Crore) | | |
|----------------------|---|-----------------------|
| Sl. No. | Activity | Estimated Expenditure |
| 1. | National & State Level Media Campaign | 3.00 |
| 2. | Distt. & Town level Awareness Campaign @ Rs. 1 lakh per district x 600 districts | 6.00 |
| 3. | (i) Translation of Instruction Manual and Survey Forms into local language by States/UTs. (ii) Finalization & Printing of 5000 Instructions Manual & 3.50 lakhs Form in Local language / Hiring of Hand Held Device for self declaration. Rs. 50 per Instruction Manual and Form x 3.55 lakh (including 10% wastage) | 1.80 |
| 4. | Orientation of State and District level officers | 0.40 |
| 5. | Orientation of Enumerators, Data Entry Operators and Supervisors | 1.00 |
| 6. | Pre-Testing of Forms and Pilot Survey in 5 districts | 0.50 |
| 7. | Honorarium to Enumerators and Data Entry Operators Rs. 1000 x 2400 Enumerators & 2400 Data Entry Operators Honorarium to Supervisors @Rs.2000 x 1600 supervisors | 0.48 0.32 |
| 8. | Creation of Cells at States/UTs @ Rs.10 lakh per State/UT x 30 | 3.00 |
| 9. | Creation of a Cell in the Ministry i) Recurring 0.5 + ii) Non-recurring 0.5 | 1.0 |
| 10. | Outsourcing of data processing | 1.0 |
| | Total | 18.5 |

As soon as a State Government agrees to undertake the Survey, it will work out a proposal for seeking central assistance for it using the norms given above. It will also designate a State-level Corporation or other autonomous body to which central funds for the purpose should be released. The Ministry of Social Justice and Empowerment will examine the proposal and release upto 75% of the entitlement of Central assistance to the designated body through the NSKFDC. The State-level body will, in turn, release this assistance to Municipalities & District Panchayats etc., based on approval of State Level Survey Committee. Utilisation certificates for the Central grant will be forwarded by local bodies to the District level, by Districts to the State-level body, and by it to the NSKFDC. Balance 25% of the funds will be released

after receipt of periodical utilization statements to the extent of at least 50% of the funds released as first installment.

Annexure-V(a)**State/UT wise No. of households having insanitary latrines in (4041) statutory Cities/Towns- Census , 2011**

| S. No. | State/UT | No. of statutory towns | No. of Households in Statutory towns with Insanitary latrines | | | % Total |
|--------|-------------------|------------------------|---|-----------------------------|------------------|--------------|
| | | | Night soil disposed into open drain | Night soil removed by human | Total | |
| 1 | Uttar Pradesh | 648 | 92,819 | 100,634 | 193,453 | 18.2 |
| 2 | Tamil Nadu | 721 | 128,097 | 13,794 | 141,891 | 13.4 |
| 3 | Andhra Pradesh | 125 | 131,621 | 4,127 | 135,748 | 12.8 |
| 4 | Maharashtra | 256 | 129,138 | 4,996 | 134,134 | 12.6 |
| 5 | Rajasthan | 185 | 82,931 | 1,420 | 84,351 | 8.0 |
| 6 | Jammu & Kashmir | 86 | 53,935 | 14,405 | 68,340 | 6.4 |
| 7 | Karnataka | 220 | 50,714 | 5,581 | 56,295 | 5.3 |
| 8 | NCT of Delhi | 3 | 52,550 | 583 | 53,133 | 5.0 |
| 9 | Madhya Pradesh | 364 | 29,882 | 2,614 | 32,496 | 3.1 |
| 10 | Haryana | 129 | 25,569 | 607 | 26,176 | 2.5 |
| 11 | West Bengal | 80 | 14,097 | 6,465 | 20,562 | 1.9 |
| 12 | Odisha | 107 | 12,357 | 6,511 | 18,868 | 1.8 |
| 13 | Gujarat | 195 | 16,038 | 1,119 | 17,157 | 1.6 |
| 14 | Punjab | 143 | 15,863 | 775 | 16,638 | 1.6 |
| 15 | Bihar | 139 | 10,064 | 3,738 | 13,802 | 1.3 |
| 16 | Manipur | 28 | 9,580 | 2,764 | 12,344 | 1.2 |
| 17 | Assam | 88 | 5,183 | 5,025 | 10,208 | 1.0 |
| 18 | Uttarakhand | 74 | 4,569 | 930 | 5,499 | 0.5 |
| 19 | Jharkhand | 40 | 4,594 | 498 | 5,092 | 0.5 |
| 20 | Kerala | 59 | 3,554 | 843 | 4,397 | 0.4 |
| 21 | Chattisgarh | 168 | 3,354 | 148 | 3,502 | 0.3 |
| 22 | Himachal Pradesh | 56 | 2,039 | - | 2,039 | 0.2 |
| 23 | Tirpura | 16 | 1,613 | 108 | 1,721 | 0.2 |
| 24 | Puducherry | 6 | 547 | 108 | 655 | 0.1 |
| 25 | Mizoram | 23 | 506 | 14 | 520 | 0.0 |
| 26 | Nagaland | 19 | 399 | 108 | 507 | 0.0 |
| 27 | Meghalaya | 10 | 163 | 281 | 444 | 0.0 |
| 28 | Arunachal Pradesh | 26 | 230 | 100 | 330 | 0.0 |
| 29 | Goa | 14 | 220 | - | 220 | 0.0 |
| 30. | Sikkim | 8 | 15 | - | 15 | 0.0 |
| 31. | Chandigarh | 1 | 11 | - | 11 | 0.0 |
| 32 | Daman & Diu | 2 | 9 | - | 9 | 0.0 |
| 33 | A&N Islands | 1 | 9 | - | 9 | 0.0 |
| 34 | D & N Haveli | 1 | 1 | - | 9 | 0.0 |
| 35 | Lakshadweep | 0 | 0 | 0 | 0 | 0 |
| | TOTAL | 4041 | 882,271 | 178,296 | 1,060,567 | 100.0 |

Survey Form
Identification of Manual Scavenger

Annexure-V(b)

(Office Use)

Photo of manual scavenger

- **Name of the State:**
- **District:**
- **Municipality:** _____ **Town** _____ **Ward :** _____
-

Family Photo of manual scavenger

Picture post card
6'x4'

1. **Name of the Manual Scavenger:** _____
2. **Name of Father / Mother / Spouse:** _____

* Delete whichever is inapplicable
3. **Age:** _____

4. **Sex :** Male Female

5. **Marital Status :** (Put a / mark in the appropriate box)

| | | | | | |
|---------|-----------|-----------|----------|-------|---------|
| Married | Unmarried | Separated | Divorced | Widow | Widower |
| | | | | | |

6. **Educational Status :** (Put a / mark in the appropriate box)

(i) a) Literate b) Not literate

(ii) If literate level of education:-

a) Studied: Class 1-5: Class 6-10: Class 11-12: Class above 12:

7. **Occupation :**

ii) Carrying/disposing/cleaning of human excreta manually from insanitary latrine

ii) Cleaning untreated human excreta from (a) open drain
(b) Railway Track

(c) Pit line

8. **Status of Employment:-**

| | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |

**M- Male, F – Female,
Separated**

M- Married, UM- Unmarried W- Widow, WR-Widower, D- Divorce, S-

14. Social Background:

a) Whether SC/ST/OBCs/Others _____

b) Caste/ Sub Caste _____

15. Discrimination (Put a ✓ mark in the appropriate box)

i) Do You feel that you are doing this work

(a) Because of your caste Yes No

(b) Poor economic condition Yes No

(c) Because you are a woman Yes No

ii) Do You feel that others are looking down on you because you are doing manual scavenging:

Yes No

iii) Do You feel that in school your children are treated badly because you are manual scavenger:

Yes No

16. Religion: (Put a ✓ mark in the appropriate box)

Hindu Muslim Sikh Buddhist
 Christian Parsi Other (Specify)

17. Economic Condition: (Put a ✓ mark in the appropriate box)

a) Housing

i)

| | |
|--------------------------|--------------------------|
| Living in rented house | Owned House |
| <input type="checkbox"/> | <input type="checkbox"/> |

ii)

| | | |
|--------------------------|--------------------------|--------------------------|
| Pucca | Semi Pucca | Katcha |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Condition of house: -

b) Land Owned: (Put a ✓ mark in the appropriate box)

| | |
|---|--------------------------|
| Irrigated Land (Acres) | <input type="checkbox"/> |
| Un-irrigated Land (Acres) | <input type="checkbox"/> |
| Other land (Acres) (Land put to non-agriculture use) | <input type="checkbox"/> |

c)

domestic animals):

i) Cow ii) Buffalo iii) Goat
 iv) Sheep v) Pigs vi) Others

d) Ration Card (Put a ✓ mark in the appropriate box):

| Sl. No. | Name Of the Card | Yes | No |
|---------|------------------|--------------------------|--------------------------|
| (1) | B.P.L Card | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) | Antodaya Card | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) | Health card | <input type="checkbox"/> | <input type="checkbox"/> |

18. Incidence of Indebtedness

| Borrowed from | Amount | Rate of interest per month |
|----------------------------------|----------------------|----------------------------|
| Money lender | <input type="text"/> | <input type="text"/> |
| Bank | <input type="text"/> | <input type="text"/> |
| Employer | <input type="text"/> | <input type="text"/> |
| Mortgaged gold or other articles | <input type="text"/> | <input type="text"/> |

| | | |
|--------|--|--|
| Others | | |
|--------|--|--|

19. Have you received any benefit from the government rehabilitation scheme?
(Put a ✓ mark in the appropriate box)

a)

| | |
|-----|----|
| Yes | No |
| | |

b) Name of the scheme (Put a ✓ mark in the appropriate box):

| | Name of the Schemes | Rupees |
|-----|---|--------|
| (1) | National Scheme for liberation and rehabilitation of scavengers (NSLRS) | |
| (2) | Self Employment Scheme for rehabilitation for manual scavengers (SRMS) | |
| (3) | Any other (Please specify the name of Scheme(s)) | |

c) If yes, whether project funded through above scheme is running:

| | | |
|-----|----|---------------------------------|
| Yes | No | If yes, monthly income (Rs.) |
| | | |

d) Whether he/she is defaulter:

| | | |
|-----|----|---|
| Yes | No | If yes, since when (date of defaulting) |
| | | |

20. Have you received the benefit of any Govt. Educational Scheme for your children?
(Put a ✓ mark in the appropriate box)

a)

| | |
|-----|----|
| Yes | No |
| | |

b) Name of the scheme (Put a ✓ mark in the appropriate box):

| Sl. No. | Name of the Schemes | Which child | | | | | | | |
|---------|--|-------------|----|-----------------|----|-----------------|----|-----------------|----|
| | | Ist | | 2 nd | | 3 rd | | 4 th | |
| (1) | Pre Matric scheme of scholarship for Children of those engaged in unclean occupation | | | | | | | | |
| (2) | Did They get admission in the special residential school | Yes | No | Yes | No | Yes | No | Yes | No |
| (3) | Post matric scholarship for scheduled caste | Yes | No | Yes | No | Yes | No | Yes | No |
| (4) | Any other scholarships | Yes | No | Yes | No | Yes | No | Yes | No |

21. (a) Are you engaged in any occupation other than scavenging? : Yes No

(b) If yes, specify: _____

22. Any other skills you possess:

- i) Construction
- ii) Carpentry
- iii) Driving
- iv) Cooking
- v) Tailoring
- vi) Any other (specify)

23. Alternative Occupation Proposed:
(Please specify)

24. Health problems, if any:

Respiratory Stomach Skin TB Eye
Others(specify)

Name and Address of Manual Scavenger: _____

Signature / Thumb Impression of Manual Scavenger:

Date: _____

Name of Data Entry Operator: _____

Signature: _____ Date: _____

Name of Enumerator: _____

Signature: _____ Date: _____

Name of Supervisor: _____

Signature: _____ Date: _____

Verified by Ward Councilor/Equivalent
(name & Signature of the Councilor)

Survey Form Details of Insanitary Latrine

1. Details of Individual Insanitary Latrine (IDL):

| Sl. No | Name of the owner of Insanitary Latrine | Location of the | | Monthly Salary/ wages of the Manual Scavenger (Rs.) | |
|--------|---|-----------------|---|---|---------------------|
| | | dry latrine | latrine from which excreta is being flushed into open drain | In cash | In food grains etc. |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total Number of the Individual Insanitary Latrines :

(Note: Please give detailed description of the individual Insa Cleaned by the Manual Scavengers. In case you need to write extra information kindly photocopy this page and attach with the survey form)

2. Detail of Community Open Drains:

| S.No | Location of Open Drains in which excreta from the insanitary latrines is being flushed | Salary/wages of the manual scavengers | |
|------|--|---------------------------------------|---------------|
| | | In cash (Rs.) | In kind (Rs.) |
| | | | |

| | | | |
|--|--|--|--|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

(Note: If the number of involved manual scavengers in CDL is more than one then please fill up the each form for each scavenger)

Annexure-V(c)

Survey Committees : Composition and Functions

| Sl. No | Town level Survey Committee | | | District level Survey Committee | State level Survey Committee | National level Survey Committee |
|--------|---|---------------------------------|-------------|---------------------------------|------------------------------|---------------------------------|
| | Towns having Municipal Corporations where the Municipal Commissioner is of a higher rank than the Distt. Magistrate | Other District Headquarter Town | Other Towns | | | |
| | | | | | | |

| 1. Composition | | | | | | | |
|------------------|-----------------------|---|---|--|--|--|---|
| | (i) Chairman | Municipal Commissioner | Distt. Magistrate | Sub-Divisional Magistrate | District Magistrate | An Additional Chief Secretary or Principal Secretary nominated by the State Government | Secretary, Ministry of Social Justice & Empowerment |
| | (ii) Member Secretary | Chief Executive Officer of the Local body. | Chief Executive Officer of the Local body | Chief Executive Officer of the Local body. | District Level Officer dealing with Scheduled Castes Affairs. | Principal Secretary/ Secretary dealing with Scheduled Castes, if the Committee is chaired by Addl. Chief Secretary. If Principal Secretary, SC Welfare, himself is the Chairman then Director, SC Welfare. | Joint Secretary (SCD), Ministry of Social Justice & Empowerment. |
| | (iii) Members | - | - | - | (i) District Statistical Officer | (i) Director, Economic & Statistics | (i) Representative of Ministry of Statistics & Programme Implementation |
| | | - | - | - | - | - | (ii) Representative of Ministry of Housing and Urban Poverty Alleviation. |
| | | (i) Representative of Municipal Corporation. | (i) Representative of Municipal body. | (i) Representative of Municipal body. | (ii) District level officer of Urban Development Department/Local Self Govt. Deptt. | (ii) Secretary, Urban Dev. Deptt./ Department of Local Self Government. | (iii) Representative of Ministry of Urban Development. |
| | | - | - | - | - | (iii) Regional Director Census Operation | (iv) Registrar General of India & Census Commissioner. |
| | | (ii) One Representative of Railways * | (ii) One Representative of Railways * | (ii) One Representative of Railways * | (iii) One representative of Railways* | (iv) One representative of Railways* | (v) One representative of Railways* (vi) One representative of Cantonment Board |
| | | (iii) Upto two representatives of NGOs working for Welfare of Manual Scavengers and Safai Karamcharis | (iii) Upto two representatives of NGOs working for Welfare of Manual Scavengers and Safai Karamcharis | (iii) Upto two representative of NGOs working for Welfare of Manual Scavengers and Safai Karamcharis | (iv) Upto two representatives of NGOs working for Welfare of Manual Scavengers and Safai Karamcharis | (v) Upto two representatives of NGOs working for Welfare of Manual Scavengers and Safai Karamcharis | (vii) Upto two representatives of NGOs working for Welfare of Manual Scavengers and Safai Karamcharis |
| | | (iv) Upto two Community Representative of whom one should be a woman | (iv) Upto two Community Representative of whom one should be a woman | (iv) Upto two Community Representative of whom one should be a woman | (v) Upto two Community Representative of whom one should be a woman | (vi) Upto two Community Representative of whom one should be a woman | (viii) Upto two Community Representative of whom one should be a woman |
| Functions | | | | | | | |

| | | | | | | | |
|----|--|--|---|---|--|---|--|
| 2. | | (i) To ensure proper and timely conduct of survey. | (i) To ensure proper and timely conduct of survey | (i) To ensure proper and timely conduct of survey | (i) To conduct and oversee the survey process at District level. | (i) To coordinate and monitor work of survey of manual scavengers at State level. | (i) To coordinate and monitor work of survey of manual scavengers at National level. |
| | | - | | | - | (ii) States/ UTs will translate the media material into local language so received from Ministry of Social Justice & Empowerment. | (ii) The Ministry will prepare Media material and distribute to States/UTs. |
| | | - | | | (ii) Districts will distribute media material to Towns. | (iii) States/UTs will distribute media material to districts. | - |
| | | (ii) To arrange local level publicity through local news-papers, posters etc. about survey of manual scavengers. | (ii) To arrange local level publicity through local news-papers, posters etc. about survey of manual scavengers | (ii) To arrange local level publicity through local news-papers, posters etc. about survey of manual scavengers | (iii) To arrange publicity through local newspapers, etc. about survey of manual scavengers. | - | (iii) The Ministry will also launch media campaign through print and electronic media at National level. |
| | | (iii) To distribute translated Survey Form and Instructions Manual to Enumerators and Supervisors. | (iii) To distribute translated Survey Form and Instructions Manual to Enumerators and Supervisors | (iii) To distribute translated Survey Form and Instructions Manual to Enumerators and Supervisors | (iv) To distribute translated survey material to Town Level Survey Committee. | (iv) To distribute translated survey material in local language to District Level Survey Committee. | (iv) To send survey material - Survey Form and Instruction Manual to States/UTs. |
| | | (iv) Preparation of draft list of manual scavengers | (iv) Preparation of draft list of manual scavengers | (iv) Preparation of draft list of manual scavengers | - | - | - |
| | | (v) Inviting claims and objections on the draft list | (v) Inviting claims and objections on the draft list | (v) Inviting claims and objections on the draft list | | | |
| | | (vi) Disposal of claims and objections | (vi) Disposal of claims and objections | (vi) Disposal of claims and objections | | | |

| | | | | | | | |
|--|--|---------------------------------|---------------------------------|---------------------------------|---|---------------------------------------|---|
| | | | - | - | (v) Approval of final list of manual scavengers for all Towns/Cities in the District. | - | - |
| | | (vii) Publication of final list | (vii) Publication of final list | (vii) Publication of final list | (vi) Publication of final list | | |
| | | | | | | (v) Compilation of State level lists. | (v) Publication of national level report of the Suvery. |

** Applicable to Towns having Railway only.*

**MINUTES OF THE SECOND SITTING OF THE STANDING COMMITTEE ON
SOCIAL JUSTICE AND EMPOWERMENT HELD ON THURSDAY, 1st
NOVEMBER, 2012**

The Committee met from 1130 hrs. to 1320 hrs. in Committee

Room 'D', Parliament House Annexe, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri M. Anandan
3. Smt. Susmita Bauri
4. Shri Devidhan Besra
5. Shri Tarachand Bhagora
6. Smt. Rama Devi
7. Shri Gorakh Prasad Jaiswal
8. Shri Mohan Jena
9. Kumari Meenakshi Natarajan
10. Shri Lalit Mohan Suklabaidya

MEMBERS

RAJYA SABHA

11. Shri Rishang Keishing
12. Shri Mangala Kisan
13. Shri Ahmad Saeed Malihabadi
14. Shri Jesudasu Seelam
15. Shri Mohammad Shafi
16. Shri Shankarbhai N. Vegad

LOK SABHA SECRETARIAT

1. Shri C.S. Joon - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri Kusal Sarkar - Additional Director

REPRESENTATIVES OF THE MINISTRY/DEPARTMENT/ORGANIZATION

| Sl. No. | Name of the Officer | Designation & Organization |
|---------|-----------------------|--|
| 1. | Shri Anil Goswami | Secretary, Ministry of Social Justice and Empowerment |
| 2. | Shri Anoop Srivastava | Additional Secretary, Ministry of Social Justice and Empowerment |
| 3. | Shri Sanjeev Kumar | Joint Secretary, Ministry of Social Justice and Empowerment |
| 4. | Shri Lalit Kohli | Managing Director, National Safai Karamcharis Finance and Development Corporation (NSKFDC) |

2. At the outset, Hon'ble Chairman welcomed the Members and representatives of the Ministry of Social Justice and Empowerment to the sitting of the Committee. He then requested the Secretary to brief the Committee on the contents of the "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012" as well as its objectives and reasons and also drew his attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The representative of the Ministry of Social Justice and Empowerment explained the various provisions of the Bill as well as the background and need for the proposed legislation with the help of a power point presentation.

4. Thereafter, the Members raised various queries, which *inter-alia* pertained to:-

- (i) Procedure for identification and rehabilitation of Manual Scavengers.
- (ii) Financial requirement for implementation of the Bill.
- (iii) Lack of sanitation and the need for construction of sanitary latrines by Ministry of Urban/Rural Development/other agencies.
- (iv) Provision of stringent punishment for contravention of certain clauses of the Bill.

- (v) Inclusion of persons who remove dead bodies within the ambit of the Bill.
- (vi) Implementation of the proposed Bill by railway authorities so as to maintain cleanliness of railway tracks and railway land.
- (vii) Representation of MPs/MLAs in the Monitoring Committees.
- (viii) Survey conducted and steps taken by the Government to redress the difficulties faced by manual scavengers.
- (ix) Improvement of infrastructure like cleanliness and availability of water to maintain sanitation in community toilets.

5. The representatives of the Ministry responded to the queries raised by the Members to the extent possible. The Hon'ble Chairman directed them to furnish replies to those points which could not be replied to in the meeting.

6. The Hon'ble Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner on various issues.

7. A verbatim record of the proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

**MINUTES OF THE FOURTH SITTING OF THE STANDING COMMITTEE
ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON THURSDAY,
6TH DECEMBER, 2012**

The Committee met from 1500 hrs. to 1610 hrs. in Committee Room 'D',
Parliament House Annexe, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

1. Smt. Susmita Bauri
2. Shri Devidhan Besra
3. Smt. Rama Devi
4. Shri Mohan Jena
5. Shri Dinesh Kashyap
6. Shri Kirodi Lal Meena
7. Kumari Meenakshi Natarajan
8. Shri Wakchaure Bhausahab R.
9. Shri Lalit Mohan Suklabaidya

**MEMBERS
RAJYA SABHA**

10. Smt. Jharna Das Baidya
11. Prof. Mrinal Miri

LOK SABHA SECRETARIAT

- | | | | |
|----|-------------------|---|---------------------|
| 1. | Smt. Anita Jain | - | Director |
| 2. | Shri Kusal Sarkar | - | Additional Director |

LIST OF NON-OFFICIAL WITNESSES

| Sl. No. | Name | Organization |
|----------------|----------------------|--------------------------------|
| 1. | Shri Bezwada Wilson | Safai Karmachari Andolan (NGO) |
| 2. | Smt. Deepthi Sukumar | -do- |
| 3. | Dr. Y Moses | -do- |
| 4. | Smt. Bhasha Singh | -do- |
| 5. | Dr. Renu | -do- |

2. At the outset, Hon'ble Chairman welcomed the Members of the Committee and representatives of Safai Karmachari Andolan, an NGO working for rehabilitation of manual scavengers, to the sitting of the Committee. He then requested the non-official witnesses to brief the Committee on their views on "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012" and also drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The representatives of Safai Karmachari Andolan then put forth before the Committee their views/suggestions on various provisions of the Bill. They suggested the following changes/amendments in the proposed legislation :-

- (i) The preamble of the Bill should adequately reflect the outrage and shame of society on the practice of manual scavenging.
- (ii) The need to make the Bill more gender sensitive.
- (iii) Need to develop a sanitation perspective to abolish the practice of manual scavenging.
- (iv) Use of suction machines and vacuum cleaners for hazardous cleaning of drains and sewerage holes and lines.
- (v) Need to reform the structure of the toilets on trains (Indian Railways).
- (vi) New survey and rehabilitation of manual scavengers and issues regarding release of Grants-in-aid and loans to manual scavengers.
- (vii) Requirement for establishment of a sanitation technology institute in the country.
- (viii) The structure and working of the monitoring and vigilance Committees in implementation of the Act.

4. The Hon'ble Chairman thanked the non-official witnesses for giving valuable suggestions and information to the Committee on the Bill under

examination and also for expressing their views in a free and frank manner on various issues.

5. A verbatim record of the proceedings has been kept.

*The witnesses then withdrew.
The Committee then adjourned.*

**MINUTES OF THE SIXTH SITTING OF THE STANDING COMMITTEE ON
SOCIAL JUSTICE AND EMPOWERMENT HELD ON FRIDAY, 11th JANUARY,
2013**

The Committee met from 1100 hrs. to 1600 hrs. in Committee
Room 'E', Parliament House Annexe, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

1. Shri M. Anandan
2. Smt. Susmita Bauri
3. Smt. Rama Devi
4. Shri Gorakh Prasad Jaiswal
5. Shri Mohan Jena
6. Kumari Meenakshi Natarajan
7. Shri Lalit Mohan Suklabaidya

**MEMBERS
RAJYA SABHA**

8. Smt. Jharna Das Baidya
9. Shri Avtar Singh Karimpuri
10. Shri Ahmad Saeed Malihabadi
11. Prof. Mrinal Miri
12. Shri Jesudasu Seelam
13. Shri Mohammad Shafi
14. Shri Shankarbhai N. Vegad

LOK SABHA SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri Kushal Sarkar - Additional Director

REPRESENTATIVES OF THE MINISTRY OF URBAN DEVELOPMENT

| Sl. No. | Name | Designation |
|---------|----------------------|---|
| 1. | Dr. Sudhir Krishna | Secretary |
| 2. | Shri Ashok Singhvi | Joint Secretary |
| 3. | Dr. M. Dhinadhayalan | Deputy Advisor, Central Public Health & Environmental Engineering Organization (CPHEEO) |

2. At the outset, the Chairman welcomed the Members and representatives of the Ministry of Urban Development to the sitting of the Committee. He then asked the Secretary, Ministry of Urban Development to brief the Committee on the various aspects of “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012” and the role of Ministry of Urban Development in implementation of the proposed legislation. The Chairman drew his attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The Members raised queries on various issues which *inter-alia* included :-

- (i) The definition of 'manual scavenger' and ambit of the Bill to be broadened to include septic tanks and sewers.
- (ii) Devising of scheme for mechanical cleaning of sewers and septic tanks.
- (iii) Allocation of funds for making available modern equipments for cleaning of sewers and septic tanks, etc.
- (iii) Implementation of Jawahar Lal Nehru National Urban Renewal Mission (JnNURM) for eradication of manual scavenging.

4. The representatives of the Ministry responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish replies to those points which could not be replied to in the meeting within a week.

5. The Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner on various issues.

The representatives of the Ministry of Urban Development then withdrew.

**REPRESENTATIVES OF THE MINISTRY OF HOUSING
AND URBAN POVERTY ALLEVIATION**

| Sl. No. | Name | Designation |
|----------------|-----------------------|---------------------------|
| 1. | Shri Arun Kumar Misra | Secretary, |
| 2. | Shri Susheel Kumar, | Joint Secretary (Housing) |
| 3. | Shri V.P. Baligar | CMD, HUDCO |

6. The Chairman then welcomed the representatives of Ministry of Housing and Urban Poverty Alleviation and requested them to brief the Committee on the implementational aspects of the “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012” *vis-à-vis* "The Employment of Manual Scavengers and construction of Dry Latrines (Prohibition) Act, 1993 as well as the schemes such as Integrated Low Cost Sanitation (ILCS) scheme executed by the Ministry.

7. The Members raised queries and sought clarifications on various issues which *inter-alia* included :-

- (i) Implementational aspects of the 1993 legislation on Dry Latrines.
- (ii) Continuation of Integrated Low Cost Sanitation scheme for construction of sanitary latrines upto 2014 and finances available under the scheme.
- (iii) Widening the definition of 'manual scavenger'.
- (iv) Provisions of a new law reportedly to be enacted by Ministry of Labour on the conditions of work of sanitation workers.

8. The representatives of the Ministry responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish replies to those points which could not be replied to in the meeting.

9. The Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner.

The representatives of the Ministry of Housing and Urban Poverty Alleviation then withdrew.

REPRESENTATIVES OF THE MINISTRY OF DRINKING WATER AND SANITATION

| Sl. No. | Name | Designation |
|----------------|-----------------------|-----------------------|
| 1. | Shri Pankaj Jain | Secretary |
| 2. | Shri Saraswati Prasad | Joint Secretary |
| 3. | Smt. Pratima Gupta | Director (Sanitation) |

10. The Chairman, then welcomed the representatives of Ministry of Drinking Water and Sanitation and requested them to brief the Committee on the implementational aspect of “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012” as also the scheme of Nirmal Bharat Abhiyan i.e. the Total Sanitation Campaign (TSC).

11. The Members raised certain issues and sought clarifications which *inter-alia* included :-

- (i) The number of insanitary toilet in rural areas.
- (ii) Delinking of NREGA from the Nirmal Bharat Abhiyan scheme.
- (iii) Construction of community toilets in rural areas and their upkeep and sanitation.
- (iv) Full financial grant for construction of sanitary toilets in rural areas to BPL and landless labourers.

12. The representatives of the Ministry responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish replies to those points which could not be replied to in the meeting.

13. The Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner on various issues.

The representatives of the Ministry of Drinking Water and Sanitation then withdrew.

REPRESENTATIVES OF THE MINISTRY OF RAILWAYS

| Sl. No. | Name | Designation |
|----------------|----------------------|--|
| 1. | Shri A.K. Vohra | Member Staff, Railway Board |
| 2. | Shri Keshav Chandra | Member Mechanical, Railway Board |
| 3. | Shri K.K. Srivastava | Member Traffic, Railway Board |
| 4. | Dr. V.K. Ramteke | Director General (RHS) |
| 5. | Shri R. Vijaya Kumar | Additional Member (Mechanical Engineering) |
| 6. | Shri S.K. Sharma | Additional Member (Production Units) |
| 7. | Shri H.V. Sharma | OSD (PRI) |
| 8. | Smt. Saroj Rajware | Adviser (Finance) |

14. The Chairman then welcomed the representatives of Ministry of Railways and requested them to brief the Committee on the implementational aspects of the “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012” as also the efforts being made to fit bio-toilets on all trains.

15. The Members raised queries on various issues which *inter-alia* included:-

- (i) The toilet system existing on trains and their manual cleaning.
- (ii) Use of water jet system to avoid manual handling of human excreta.
- (iii) Efforts being made to install bio-toilets on trains.
- (iv) Need to increase the allocation of funds to introduce bio-toilets on all trains.

16. The representatives of the Ministry responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish replies to those points which could not be replied to in the meeting.

17. The Chairman thanked the officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner on various issues.

18. A verbatim of the proceedings was kept on record.

*The representatives of the Ministry of Railways then withdrew.
The Committee then adjourned.*

**MINUTES OF THE SEVENTH SITTING OF THE STANDING
COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON
MONDAY, 21st JANUARY, 2013**

The Committee met from 1500 hrs. to 1625 hrs. in Committee
Room No. 62, Parliament House, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

1. Shri M. Anandan
2. Smt. Susmita Bauri
3. Shri Tarachand Bhagora
4. Smt. Rama Devi
5. Shri Mohan Jena
6. Kumari Meenakshi Natarajan
7. Smt. Sushila Saroj
8. Shri N. Dharam Singh
9. Shri Lalit Mohan Suklabaidya

**MEMBERS
RAJYA SABHA**

10. Shri Avtar Singh Karimpuri
11. Shri Ahmad Saeed Malihabadi
12. Prof. Mrinal Miri
13. Shri Jesudasu Seelam
14. Shri Mohammad Shafi
15. Shri Shankarbai N. Vegad

LOK SABHA SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri Kusal Sarkar - Additional Director

REPRESENTATIVES OF THE MINISTRY/DEPARTMENT/ORGANIZATION

| Sl. No. | Name | Designation and Organization |
|----------------|-----------------------|---|
| 1. | Shri Anil Goswami | Secretary, Ministry of Social Justice and Empowerment |
| 2. | Shri Anoop Srivastava | Additional Secretary, Ministry of Social |

| | | |
|----|--------------------|--|
| | | Justice and Empowerment |
| 3. | Shri Sanjeev Kumar | Joint Secretary, Ministry of Social Justice and Empowerment |
| 4. | Shri Lalit Kohli | Managing Director, National Safai Karamcharis Finance and Development Corporation (NSKFDC) |

REPRESENTATIVES OF OTHER MINISTRIES

| Sl. No. | Name | Designation and Organization |
|---------|-----------------------|--|
| 1. | Smt. Sharda Jain | Joint Secretary, Ministry of Law and Justice (Legislative Department). |
| 2. | Dr. Ashok Singhvi | Joint Secretary, Ministry of Urban Development |
| 3. | Shri Susheel Kumar, | Joint Secretary (Housing), Ministry of Housing and Urban Poverty Alleviation |
| 4. | Shri Saraswati Prasad | Joint Secretary, Ministry of Drinking Water and Sanitation |
| 5. | Shri S.K. Seth | Additional Member Staff, Railway Board |
| 6. | Shri Nitin Chaudhary | Executive Director, Mechanical Engineering (Dev.), Railway Board |
| 7. | Shri D.R. Gupta | Executive Director (Land & amenities), Railway Board |

2. At the outset, the Chairman welcomed the Members and representatives of the Ministry of Social Justice and Empowerment to the sitting of the Committee. The Committee then took evidence of representatives of the Ministry of Social Justice and Empowerment on "The Prohibition of Manual Scavengers and their Rehabilitation Bill, 2012". The Chairman drew the attention of the witnesses to Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The Members then raised queries on the various aspects of the Bill which *inter-alia* included :-
- (i) Improvements in the new legislation over the previous act "The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 and reasons for the non-implementation of old Act.
 - (v) Model Rules to be drafted in consultation with the States in regard to the under proposed legislation / Bill.
 - (vi) The financial provisions for implementation of the new legislation and the rehabilitation programme chalked out for the same.
 - (iv) Co-ordination among various Ministries involved and the gearing up of the machinery of State/local bodies for the mammoth task of implementation of the proposed legislation.
4. The representatives of the Ministry responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish written replies to those points which could not be replied to orally.
5. The Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner on various issues.
6. The verbatim proceedings were kept on record.

*The witnesses then withdrew.
The Committee then adjourned.*

MINUTES OF THE EIGHT SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON WEDNESDAY, 27TH FEBRUARY, 2013.

The Committee met from 1500 hrs. to 1525 hrs. in Committee Room No. 'C', Parliament House Annexe, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri M. Anandan
3. Smt. Susmita Bauri
4. Smt. Rama Devi
5. Shri Gorakh Prasad Jaiswal
6. Shri Mohan Jena
7. Shri Dinesh Kashyap
8. Shri Wakchaure Bhausahab R.
9. Shri Lalit Mohan Suklabaidya

RAJYA SABHA

10. Shri Ahmad Saeed Malihabadi
11. Prof. Mrinal Miri
12. Shri Jesudasu Seelam
13. Shri Mohammad Shafi
14. Shri Shankarbhai N. Vegad

LOK SABHA SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Shri Kushal Sarkar - Additional Director

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them that the sitting had been convened for consideration and adoption of the draft (Thirty-second) Report of the Committee on "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill 2012.

3. The Committee then took up for consideration the draft Thirty-second Report. Some Members re-emphasized the need for taking into consideration possible harassment that might be caused by the implementing agencies on the issue of prosecution and imposing penalty on the poor who, being mostly illiterate/ignorant of the provisions of the Act may not understand the adverse implications of the new Act.

4. The Committee also felt strongly that wide publicity, both in print and electronic media, should be given to the provisions of the Act, especially those which would affect the lives of poor people, be the manual scavengers or the owners/occupiers of the insanitary latrines, so that they are fully educated about their rights and liabilities under the Act. The Chairman observed that the concerns and suggestions of the Members have been suitably incorporated in the Report.

5. The Committee then authorized the Chairman to finalize the draft Report and present the same to Parliament.

The Committee then adjourned.

