

New Law abolishing Manual Scavenging

Overview:

Manual scavenging is historically linked to the practice of untouchability and the continuation of such practices is forbidden under the Constitution of India (Article 17).

The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 prohibits the engagement or employment of persons for manually carrying human excreta and further prohibits the construction or maintenance of dry latrines. However, it has not seen a single conviction in the 19 years that it has been in force. A new bill was drafted in 2012 with a view to make the law regulating manual scavengers more effective. It was passed by both Houses of Parliament on September 7, 2013 as The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. Its main objectives are:

- Prohibition of employment as manual scavengers
- Rehabilitation of manual scavengers

The Act recognises the link between manual scavengers and weaker sections of the society. It therefore, views manual scavenging as being violative of their right to dignity.

Insanitary latrines and open drains or pits into which human excreta is disposed are included in the definition of a manual scavenger under s. 2(g) of the Act. However, water flush latrines in railways that require cleaning by employees are not considered as insanitary latrines, if it is done with the use of protective gear. Employees can be employed on contract or regular basis, and hence this definition has a decently wide ambit. Cantonment boards, PSUs, railways etc. have been recognised as 'appropriate government'.

The Act first provides for identification of insanitary latrines by local authorities within their jurisdiction, who must publish the report and give a notice to the occupiers of the latrines. The occupiers would then be obliged, at their own cost, to either demolish them or convert them into sanitary latrines within six months from the date of commencement of the Act. If the occupier fails to do so, the local authority will convert the latrine and recover the cost from the former.

Under chapter III, the Act prohibits construction of insanitary latrines and employment of manual scavengers. Section 6 of the Act renders void any agreement engaging a manual scavenger entered into before its commencement.

The Act has a wider scope for higher penalties than what was provided under the 1993 Act. Offences under the Act are cognizable and non-bailable and may be tried summarily.

The Act seeks to wipe out the “social stigma” by arranging for alternative jobs and offering other provisions to those in such work and their families.

Main features:

1. The Act prohibits the employment of manual scavengers, the manual cleaning of sewers and septic tanks without protective equipment, and the construction of insanitary latrines.
2. The definition of ‘manual scavenger’ has been widened to include a person engaged or employed, inter alia, for manual cleaning of human excreta in an insanitary latrine or in an open drain or pit, railway tracks etc.
3. Express provisions for identification of manual scavengers and insanitary latrines.
4. Prohibition of hazardous manual cleaning of septic tanks and sewers, so as to ensure that health and safety of such workers is not compromised.
5. More stringent penal provisions for contravention of the new Act.
6. Vigilance and monitoring Committees to be set up at the Sub-division, District, State and Central levels.

Rehabilitation provisions:

Manual scavengers who are identified in urban areas receive a photo identity card detailing dependent family members. They are to be allotted a residential plot and assistance for construction or a ready-built house, scholarship for children, training in a livelihood skill for him, and subsidy and concessional loan for taking up an alternative occupation. Legal and programmatic assistance will also be provided as notified by the Central or State government. Manual scavengers in rural areas will also be rehabilitated *mutatis mutandis* as per the previous provision relating to urban manual scavengers.

Penal provisions:

It has a wider scope for higher penalties than the 1993 Act. Offences under the Act shall be cognizable and non-bailable and may be tried summarily. The penalty could be up to five years imprisonment.

Proposed amendments that were excluded:

Thaawar Chand Gehlot (BJP) asked the government to provide health insurance to manual scavengers and ensure alternative jobs.

T N Seema (CPI-M) suggested that, 53 per cent of the country's population does not have toilets and this bill does not give financial support to states to implement the provisions of the bill.

Gaps in the legislation:

1. The 2013 Act allows the Indian Railways (if they use safety gear and maintain toilets well) to decide when they want to issue the notification on implementing the Act in the Indian Railways.
2. No specific authority is made responsible for rehabilitation. No interim measure till rehabilitation/alternative employment is secured has been provided.
3. While the new law has provision for “protective gear” and “safety measures,” CPI MP D. Raja, who moved 30 amendments in the Bill, said these provisions would only serve to continue the practice and for perpetrators to justify the practice of manual scavenging. “Manual scavenging cannot be justified with the provision of so-called protective gear and safety measures,” Mr Raja said.
4. It has been made the ‘duty’ of every local authority to use appropriate technological appliances for cleaning. However, no time period, funds or other directive has been given for such transition of methods of cleaning.

	<u>1993 Act</u>	<u>2013 Act</u>
<u>Perspective of Act</u>	Sanitation perspective	Right to dignity perspective
<u>Coverage</u>	1993 Act only covers dry latrines under its ambit.	Encompasses the sewage system, railway tracks, septic tanks etc.
<u>Enacted under</u>	State list	Concurrent List
<u>Focal points</u>	Prohibition of dry latrines	Addresses labour welfare and rehabilitation

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