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political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.



India: Government must officially recognize manual scavengers in order to end the practice of scavenging

The Asian Legal Resource Centre (ALRC) wishes to draw the attention of the Human Rights Council to the continuing illegal and inhuman practice of manual scavenging—the cleaning and carrying of human excreta manually—prevalent in India.

An inter-ministerial task force set up by the NITI Ayog last year has counted up to 53,236 people involved in manual scavenging in India in 2018. While the four-fold increase in the number of manual scavengers from the 13,000 counted in 2017 shows a little more acknowledgement of the extent of the crisis, it is still a gross underestimation as it includes data from only 121 of the more than 600 districts in the country.

Further, the numbers do not include those involved in cleaning sewers and septic tanks and the Railways, which is the largest employer of manual scavengers in the country. More importantly, out of the total 53,000 manual scavengers identified by the task force, only 6,650 are confirmed officially by the states, exposing the under-reporting of the problem.

Such massive under-reporting makes a mockery of the Acts that prohibit the practice and ask for total rehabilitation of those engaged in manual scavenging. The practice was first outlawed in 1993 by The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act passed by the parliament. Two decades later, it was replaced with the more stringent Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

The Supreme Court of India has also repeatedly outlawed manual scavenging, and ordered the Union government as well as all state governments to enforce the provisions of the 2013 Act strictly. It did so most comprehensively in its order in *Safai Karamchari Andolan and Ors. Vs. Union of India (UOI) and Ors* case (citation: 2014(4) SCALE165). In this order, the Court further ordered the states to put an immediate end to manual scavenging, while categorically expanding the definition of manual scavenging so as to deny the authorities the loopholes they often manipulated to keep sewer workers and septic tank cleaners out of the manual scavenging list.

Sewer workers, septic tank cleaners and everyone who cleaned dry latrines were hence brought under the ambit of the Act, and the Supreme Court fixed command responsibility for implementation of the Act with the chief executive officer (or equivalent authority) of the local civic body. The Court also ordered immediate rehabilitation of those found engaged in the practice, and fixed compensation for the manual scavengers who lost their lives doing the dirty work.

One of the key problems faced in eradicating this practice is states not recognising a vast majority of manual scavengers. All laws and court orders, including rehabilitation, can only be implemented after the recognition of the workers as manual scavengers. Of the 53, 236 manual scavengers found by the task force, only 6,650 are officially recognized and thus eligible for any welfare schemes. The large state of Chhattisgarh for instance, found only three manual scavengers, while Madhya Pradesh counted 36. All the others are ignored.

A recent survey by the Government of Delhi, a state which has repeatedly denied the existence of manual scavenging in the areas governed by it, found 32 manual scavengers. Moreover, the minister responsible for the rehabilitation of manual scavengers confirmed that the numbers look like an underestimation as they all come from only two districts.

The continuing practice of manual scavenging does not merely dehumanise those engaged in it and violates their constitutional right to life with dignity, it also exposes them to many diseases and even death. While replying to a written question in the Lok Sabha, the lower house of Indian parliament, in December 2017, the Union Minister of Social Justice and Empowerment admitted to 327 deaths of manual scavengers working in sewers or septic tanks. The real number of deaths, again, will be much higher as these numbers cover only the 'reported' cases and not total deaths. The causes of death include inhalation of toxic gases due to lack of safety equipment such as masks, gloves and protective clothing. Such inhuman working conditions also lead to deaths of workers over a period of time, due to ailments and other infections from long term exposure.

To avoid responsibility for such deaths, local government bodies often bypass the law and rope in contractors, who in turn employ manual scavengers. This allows states to claim they no longer employ manual scavengers, while the practice continues with manual scavengers not even getting the official minimum wages due to contractualisation of their labour.

In light of this, the ALRC urges the Council to:

a) ask the Government of India to put an immediate end to the outlawed practice of manual scavenging along with prosecution of and exemplary punishment to those employing manual scavengers. The Government of India

should also provide rehabilitation of existing scavengers to other professions, thereby doing away with the stigma associated with scavenging and the caste ramifications of scavenging as a profession.

b) Ask the Government of India to implement The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 in letter and spirit. In addition, the Government of India must start a time bound demolition drive against dry latrines, while also asking the Indian Railways to put an end to its open toilets that cause waste to fall on the tracks, requiring manual scavengers for cleaning, as well as its denial about the same.

c) Ask the government to put an immediate end to the practice of people entering manholes or sewers in order to clean them.

d) Ask the government of India to begin a nationwide programme for bringing all Indian citizens under sanitation coverage, irrespective of their socioeconomic status.
