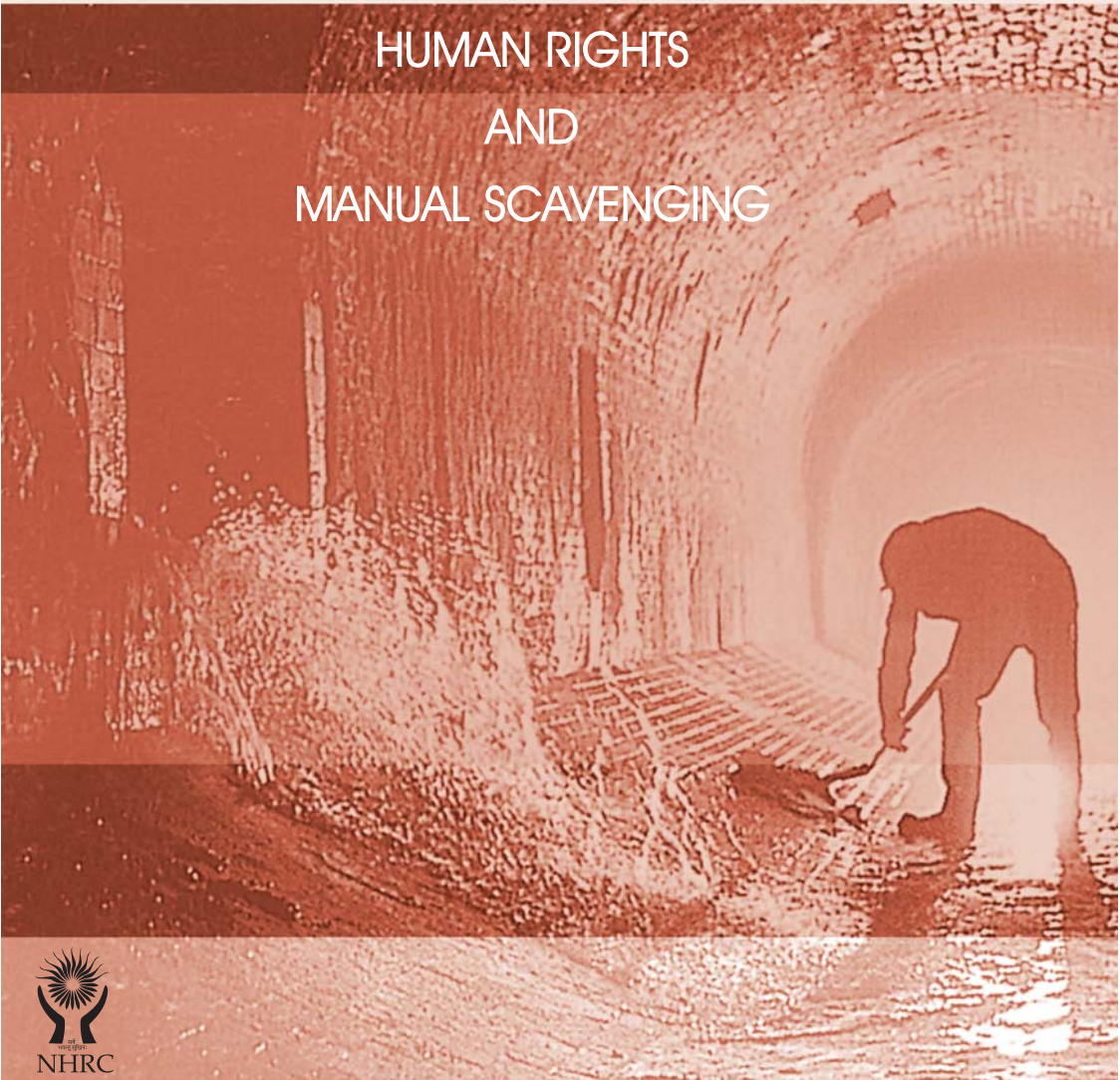


KNOW YOUR RIGHTS

HUMAN RIGHTS AND MANUAL SCAVENGING



National Human Rights Commission

Know Your Rights Series

**HUMAN RIGHTS
AND
MANUAL SCAVENGING**



**National Human Rights Commission
Faridkot House, Copernicus Marg
New Delhi-110001**

Know Your Rights Series:

Human Rights and Manual Scavenging

This publication is intended to assist a wide audience to achieve a better understanding of the basic human rights.

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INTRODUCTION

Manual scavenging is manual removal of excreta (night soil) from “dry toilets”, i.e., toilets without the modern flush system. Manual scavenging involves the removal of human excreta using brooms and tin plates. The excreta are piled into baskets which scavengers carry on their heads to locations sometimes several kilometers from the latrines. The right to be free from manual scavenging is an economic, social and cultural right and it imposes obligation on the State to abolish manual scavenging system and give relief and rehabilitation to the manual scavengers and their dependents by adopting suitable initiatives.

2. Legal Framework:

Legislative Enactments:

- ❑ ***Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993:*** The Government enacted the employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 which provides 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 sealed latrines and matters connected therewith.
- ❑ ***The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993,*** notified in the Gazette on 5 June 1993 has become applicable to Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura, West Bengal and the Union Territories (UTs) with effect from 26 January 1997.
- ❑ All the State governments have been requested to frame the rules for enforcing the Act. The Assemblies of Orissa, Punjab, Assam, Haryana, Bihar and Gujarat have also adopted the Act.
- ❑ The Act provides for a penalty of imprisonment up to 1 year with or without fine which may extend to Rs. 2000/- or both in case of

failure or contravention of the Act. Further, in case of repeated contraventions, fine to the extent of Rs. 100/- per day for the entire period of contravention is also provided.

- ❑ ***The Protection of Civil Rights Act, 1955:*** Initially the Untouchability (Offences) Act, 1955, had been enacted to abolish the practice of untouchability and social disabilities arising out of it against members of the Scheduled Castes. It was amended in 1977 and is now known as the Protection of Civil Rights Act, 1955. Under the revised Act, the practice of untouchability was made both cognizable and non-compoundable offence and stricter punishment was provided for the offenders.
- ❑ ***The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989:*** To check the commission of atrocities on Scheduled Castes and Scheduled Tribes (SC & ST), the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, came into force on 31-1-90. The Act, inter alia, specifies some types of offences as atrocities, provides for imposition of stricter penalties for the guilty and setting up of Special Courts for speedy trial of such cases. The main objective of the Act is to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

3. Magnitude of Manual Scavenging:

Despite laws banning dry latrines and the carrying of human excreta, thousands of people still make their livelihood this way, sometimes even working in government departments. Though the Central Government has made several schemes for this purpose and some States have taken very strong steps to eradicate such practice, there are still reports of the continuance of the practice and the failure of the State Governments in keeping their commitments.

The status of adoption of the Employment of Manual Scavengers & Construction of Dry Latrines (Prohibition) Act, 1993 by the States/Union Territories is as under:

<p>States/UTs who have adopted the Central Act/ States that have their own Act</p>	<p>Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Jammu & Kashmir, Tripura, Uttar Pradesh, Uttaranchal, West Bengal and the UT of Andaman & Nicobar Islands, Delhi, Arunachal Pradesh, Manipur, Punjab, Tamil Nadu, Himachal Pradesh, Sikkim (24 states and 2 UTs)</p>
<p>States/UTs who have informed that they are manual scavenging free/ do not have dry latrines</p>	<p>Nagaland, Goa, Meghalaya, Mizoram, UT of Dadra & Nagar Haveli, Lakshadweep & Puducherry, Chandigarh, (4 States & 4 UTs)</p>

4. NHRC'S Intervention Since 1993:

The National Human Rights Commission sought an update on the programme undertaken by the Ministry of Urban Development and Poverty Alleviation which is concerned with the prohibition of construction of dry latrines, and the conversion of dry latrines into the pour-flush type, as also the Ministry of Social Justice and Empowerment which is concerned with the rehabilitation of those who have been freed from scavenging.

NHRC and the National Commission for Safai Karamcharis have decided to combine their efforts to eliminate the degrading practice entailing the manual handling of human excreta.

In co-ordination with the National Commission for Safai Karamcharis, the Commission organized a joint meeting on 6 April 1999 with the competent authorities of the Central Government to chalk out a combined strategy to find ways and means to end this degrading and inhuman practice.

The Commission set up a group comprising the Secretaries of the Ministries of Urban Development and Poverty Alleviation, Social Justice and Empowerment, Law, Justice and Company Affairs and representatives

of the Planning Commission, to pursue this matter and to make appropriate recommendations to ensure that plans and programmes to end this practice and yield clear results within a reasonable time frame.

5. Recommendations of the NHRC on Manual Scavenging and Sanitation

National Human Rights Commission organized a National Workshop on Manual Scavenging and Sanitation in New Delhi on 28 August, 2008 as a part of programmes to commemorate 60 Anniversary of the Universal Declaration of Human Rights. Based on deliberations in the workshop, the following recommendations were made by the Commission:

- a) Though surveys on manual scavenging have been conducted, several anomalies have been found. Therefore, periodic comprehensive survey, at least once in three years, should be conducted in collaboration with credible Non Governmental Organizations (NGOs). It should cover dry latrines, manual scavengers and alternative livelihood options for rehabilitation.
- b) The Definition of manual scavengers is different from sanitary workers and all authorities may restrict to the definition of manual scavenging as given in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.
- c) The presence of too many agencies is often delaying the elimination of the practice of manual scavenging and the rehabilitation work. Therefore, District Magistrates should be made the nodal agency and joint instructions from the three Central Ministries concerned with manual scavenging should be issued to the States/ Union Territories and the District Magistrates to take necessary steps for coordination and convergence of efforts. At State level also, there should be a coordinating body to survey, monitor framing of appropriate rules and regulations, as envisaged in recommendation 1, conversion or demolition of dry latrines, rehabilitation of manual scavengers, prosecution of defaulters, etc.
- d) The issue of lack of space and scarcity of water in some pockets in some States has to be addressed by adopting appropriate technology and methodologies.

- e) The municipal and panchayat bye laws of the States should have provisions not to allow the construction of any new house with dry latrine or without a water sealed latrine or sanitary latrines with appropriate technology and measures should be taken so that dry latrines made in the past can be demolished and new water sealed latrines or sanitary latrines with appropriate technology be constructed. There should be a time bound limit for conversion of dry latrines into wet latrines and construction of new latrines. It should be one of the criteria for deciding grants to municipal bodies and there should be some measures to take penal action against municipalities not fulfilling their obligations in this regard.
- f) It should be ensured that the identified manual scavenger families who are entitled to get the BPL cards are issued the BPL cards.
- g) Banks must simplify their procedure for giving loans to manual scavengers for their rehabilitation.
- h) State Governments must issue advertisements in leading newspapers for informing notified authorities about cases of manual scavengers and dry latrines. The list of identified manual scavengers should be displayed on website and at important public places for inspection by public at large and must be given wide publicity. Any person who is left out can approach the notified authority. After identification, the District Magistrate should issue a certificate to the manual scavenger based on which all concerned agencies should extend benefits to which he may be eligible.
- i) The State Human Rights Commissions should start monitoring elimination of manual scavenging and consequent rehabilitation of manual scavengers in the States.

6. Intervention by State Human Rights Commissions or other commissions/committees/ statutory bodies

National Commission for Safai Karmacharis: The National Commission for Safai Karmacharis has been monitoring the various related schemes, the demolition of dry latrines and conversion of dry latrines into wet latrines along with the relief and rehabilitation of manual scavengers.

The **Planning Commission** formulated a National Action Plan for Total Eradication of Manual Scavenging by 2007. The salient features of the Plan were:

- I. Identification of Manual Scavengers
- II. The Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 should be adopted by all the States where manual scavenging exists
- III. Involvement of Non Governmental Organizations (NGOs)
- IV. Ministry of Finance should issue necessary instructions to Nationalized Banks for providing loans
- V. Incentives for Implementation

7. Initiatives

The following schemes are there in India for the relief and rehabilitation of manual scavengers:

Self-Employment Scheme for Rehabilitation of Manual Scavengers (SESRMS): The objective of the scheme is to assist the scavengers and their dependents for rehabilitation irrespective of their income, who are yet to be provided assistance under any scheme of Government of India/State Government. .

A “Scavenger” means one who is partially or wholly engaged in the obnoxious and inhuman occupation of manually removing night soil and filth. The dependent of scavengers is one who is a member of their family or is dependent on them irrespective of the fact whether they are partially or wholly engaged in the said occupation. Each individual scavenger and his/her children who are of 18 years of age and above, who are not employed (other than scavengers) will be identified and rehabilitated”. The identified scavengers will be provided training, loan, and subsidy. Credit will be provided by the banks, which will charge interest from the beneficiaries at the rates prescribed under the scheme.

Total Sanitation Campaign (TSC): Total Sanitation Campaign is a comprehensive programme to ensure sanitation facilities in rural areas

with broader goal to eradicate the practice of open defecation. TSC was initiated in 1999 when Central Rural Sanitation Programme was restructured making it demand driven and people centered. It follows a principle of “low to no subsidy” where a nominal subsidy in the form of incentive is given to rural poor households for construction of toilets. TSC gives strong emphasis on Information, Education and Communication (IEC), Capacity Building and Hygiene Education for effective behaviour change with involvement of Panchayati Raj Institutions (PRIs), Community Based Organizations (CBOs), and Non Governmental Organizations (NGOs) etc. The key intervention areas are Individual household latrines (IHHL), School Sanitation and Hygiene Education (SSHE), Community Sanitary Complex, Anganwadi toilets supported by Rural Sanitary Marts (RSMs) and Production Centers (PCs). The main goal of the Government of India is to eradicate the practice of open defecation by 2010.

Nirmal Gram Puraskar’ Yojna: To add vigour to the TSC, in June 2003, Government of India initiated an incentive scheme for fully sanitized and open defecation free Gram Panchayats, Blocks, and Districts called the ‘Nirmal Gram Puraskar’. The incentive pattern is based on population criteria. The incentive provision is for Panchayati Raj Institutions (PRIs) as well as individuals and organizations that are the driving force for full sanitation coverage.

National Scheme of Liberation and Rehabilitation of Scavengers (NSLRS): The National Scheme of Liberation and Rehabilitation of Scavengers (NSLRS) was launched by the Government in March, 1992 to provide alternate employment to the scavengers and their dependents. Under NSLRS the scavengers and their dependents are trained in trades of their aptitude which can provide them alternate employment. During the course of training, the trainees get stipend up to Rs. 500/- per month and tool kit allowance up to Rs. 2,000/-. For rehabilitation, there is a prescribed financial package for different trades by which financial assistance up to Rs. 50,000/- can be provided. Under NSLRS, the Government of India has formulated and issued guidelines to all States and their Special Central Assistance (SCAs) to form groups of 5 to 25 scavengers and start a production-cum-trading-cum service centre for large-scale conversion of dry latrines through Sanitary Marts in which the loan component would be provided by the National Safai Karamcharis Finance and Development Corporation (NSKFDC).

Pre-matric Scholarships for the Children of those Engaged in Unclean Occupations: The objective of this scheme is to provide financial assistance to enable the children of scavengers of dry latrines, tanners, flayers and sweepers who have traditional links with scavenging to pursue pre-matric education. Under the scheme, the States / UTs are now provided 100% Central assistance over and above their respective committed liabilities to implement this scheme. The scheme covers over 6 lakh students every year.

Integrated Low Cost Sanitation Scheme (ILCS): In order to eliminate the dehumanizing practice of physically carrying night soil, the Centrally Sponsored Scheme for Urban Low Cost Sanitation was initiated in 1981 by the Ministry of Home Affairs and later implemented through the Ministry of Social Justice and Empowerment. From 1989-90, it came to be operated through the erstwhile Ministry of Urban Development later named as the Ministry of Housing & Urban Poverty Alleviation since 2003-04. The scheme envisages conversion of dry latrines into low cost twin pit sanitary latrines and liberation of scavengers through total elimination of manual scavenging. The scheme has been taken up on a 'whole town basis' and is being operated through the Housing and Urban Development Corporation (HUDCO) by providing a mix of subsidy from the Central Government and loan from the HUDCO in a synchronized manner.

Pay and Use Toilet scheme

Under 'Pay and Use Toilet Scheme', Central assistance through Housing and Urban Development Corporation (HUDCO) was available to Urban Local Bodies (ULBs) for construction of toilets for footpath and slum dwellers who were unable to construct their own toilets. The period of the project was one year and the subsidy was payable in four equal installments on submission of utilization certificates of each installment. The amount was not utilized as per guidelines.

As a result, a further assistance of more than rupees seventy lakh could not be released by HUDCO. This deprived the general public and slum dwellers from availing the facility of toilets.

National Safai Karamcharis Finance And Development Corporation (NSKFDC): National Safai Karamcharis Finance and Development Corporation (NSKFDC) was incorporated on 24 January,

1997 under Section 25 of the Companies Act, 1956, as an Apex Institution for all round socio-economic upliftment of the Safai Karamcharis and their dependents throughout India and to extend concessional financial assistance to the Safai Karamcharis beneficiaries for establishment of income generating projects. NSKFDC provides loans to the Safai Karamcharis and their dependents through the State Channelising Agencies.

Target Group: The target groups of the Corporation are “Scavengers” which means persons wholly or partially employed for manual handling of human excreta and their dependents and “Safai Karamcharis” which means persons engaged in or employed for any sanitation work and their dependents.

No income limit is fixed for availing financial assistance. However, other things being equal, the Corporation accords, priority to the economic development and, rehabilitation of i) Scavengers, and amongst Scavengers, those whose income is below double the poverty line; ii) Women from among the target group and iii) Disabled persons among the target group.

Centrally Sponsored Scheme of Assistance to State Scheduled Castes Development Corporations (SCDCs)

The scheme for assistance to State Scheduled Castes Development Corporations was introduced in the year 1978-79 as a Centrally Sponsored Scheme in the States/UTs having sizeable Scheduled Castes population. At present, SCDCs are functioning in 26 States and UTs. They are playing an extremely useful role in mobilisation of finances of economic development of the Scheduled Castes living below the poverty line. They have been acting as promoters and catalysts for generating credit from financial institutions, providing missing inputs by way of margin money loans and subsidy to the target groups. SCDCs have focused their efforts for identification of eligible SC families and motivating them to undertake suitable economic development schemes, sponsoring these schemes to financial institutions for credit support, providing financial assistance in the form of margin money on low rate of interest and subsidy in order to reduce their repayment liability and providing necessary link/tie up with other poverty alleviation programmes.

Pattern of Scheme: The existing pattern of the Scheme is as follows:

The Government of India and State Governments have been participating in the share capital of the State Scheduled Castes Development Corporations in the ratio of 49:51. The cost norms of the projects/schemes have been left to the State Governments and SCDCs. The Central share of equity capital is sent directly to the State SCDCs. Wherever necessary, the Ministry may route the funds through the National Scheduled Castes Finance and Development Corporations (NSFDC).

National Commission for Safai Karamcharis:

The National Commission for Safai Karamcharis was constituted on 12 August 1994 initially, for a period of 3 years under the provision of the National Commission for Safai Karamcharis Act, 1993 to promote and safeguard the interests and rights of Safai Karamcharis. The National Commission has, inter alia, been empowered to investigate specific grievances as well as matters relating to implementation of programmes and scheme for welfare of Safai Karamcharis. The Commission is required to be consulted on all major policy matters affecting Safai Karamcharis and its term has been extended from time to time in the past years.

Recommendations of the National Workshop on Manual Scavenging and Sanitation held on 11 March, 2011

1. **The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993** should be implemented in letter and spirit at the fastest pace and the abolition of the practice of scavenging should be taken up as a national mission.
2. The States need to ensure that the data provided by them on the abolition of dry latrines and rehabilitation of manual scavengers are commensurate with the data of the Ministry of Social Justice and Empowerment. In case of any discrepancy, the State Government should take up the matter with the Ministry, to get the data rectified.
3. On synchronising of their data with the Ministry of Social Justice and Empowerment with regard to abolition of manual scavenging,

each State/UT should issue a declaration/notification with a copy to NHRC that their area is free from manual scavenging and dry latrines.

4. Till date, there is no single window to address the problems of the manual scavengers. A single window should be created in every district with a nodal officer, where manual scavengers have been identified, to facilitate and fast track the process of rehabilitation. A nodal agency on manual scavenging should also be created at the State level.
5. The cleaning of septic tanks may be mechanised to abolish manual cleaning. The concerned authorities need to adopt technology/mechanised system for manhole operations with adequate safety measure and skilled training.
6. Railway should develop a state of art technology of sanitation facilities to minimize manual interventions within a fixed time frame.
7. The guidelines for cleaning work/manhole operation by the Supreme Court/high Court (Gujarat) should be implemented by the concerned agencies/employer so that the *Safai Karamcharis* are protected from health hazards.
8. The employers must provide necessary safeguard equipment, uniform, safeguard measures to the manhole workers/scavengers to avoid fatal accidents. The structure of wages should be same for *Safai Karamcharis* all over the country.
9. Special health check-ups through mobile vans should be done in the residential areas of all *Safai Karamcharis whether permanent*, part time and contractual and in all *Harijan Bastis* followed with medical aids.
10. In case of death or disability of a *Safai Karamchari*, the dependent should be provided with immediate employment in accordance with their qualification. Compensation of at least Rs. 3 lakh should be given to the family of the deceased person.
11. The schemes like Self–Employment of Manual Scavengers (SRMS), Sarva Shiksha Abhiyan (SSA), National Rural Employment Guarantee Scheme-2005 (NREGS), etc. must be inclusive of this

segment of population. The success of these schemes must be evaluated only in terms of change they bring about in the quality of life of manual scavengers and *Safai Karamcharis*.

12. To encourage and facilitate the schooling of children of this class, residential good quality schools should be established where they should be provided with free education and study material, boarding and lodging, etc.
13. There have been instances wherein those appointed to do the cleaning work have sublet the task to the erstwhile manual scavengers of some other *Safai Karamchari*. The exploitation therefore continues, *albeit* indirectly. The trend should be discouraged. This should be made an offence and those responsible for doing it should be given severe punishment.
14. To address the gender component of the issue comprehensive measures should be taken to address their specific needs like safety, health and education issues.
15. The re-habilitated manual scavenger should be issued with BPL card along with scholarship to their children and pension to the widows of manual scavengers.
16. The existing scheme for rehabilitation of manual scavengers should be revised in order to make it more practical and viable.

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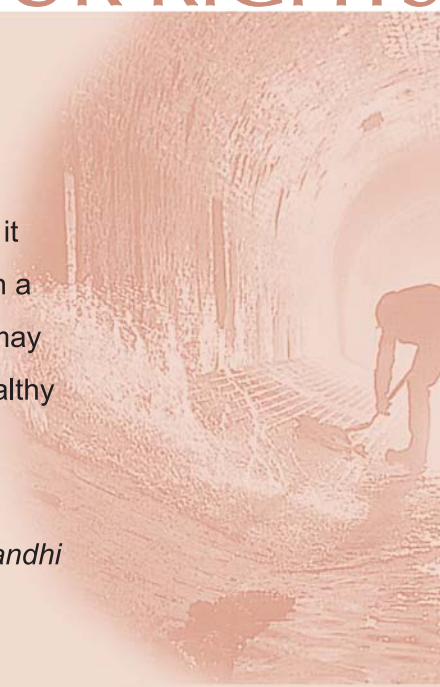
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“I may not be born again and if it happens, I will like to be born in a family of scavengers so that I may relieve them of inhuman, unhealthy and hateful practice of carrying head loads of night-soil.”

- *Mahatma Gandhi*



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