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### **HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION**

**Written statement\* submitted by the Asian Legal Resource Centre (ALRC),  
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.

[25 August 2008]

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\* This written statement is issued, unedited, in the language(s) received from the  
submitting non-governmental organization(s).

## **INDIA: Manual scavenging, a shame on the nation**

Mr. Nagin Ranchod Solanki (40) and Mr. Harish Magan Solanki (49) were manual scavengers employed by the Vadodara Municipal Corporation in India's Gujarat State. At about 8:00 pm on 26 May 2008, Nagin and Harish were asked to work inside a foul sewer to assist the repairing of a damaged valve. At around 10:30 pm, both of them were found dead inside the manhole near the Kalaghoda sewer pumping station. An autopsy conducted on the bodies revealed that Nagin and Harish had died from suffocation after inhaling toxic gasses in the sewer.

Men, women and children - particularly from the Chuhar, Mehathar, Halalkhor, Lalbaghi, Bangi, Thotti and Jamadar lower castes - are commonly employed as manual scavengers in India. These caste subgroups are generally referred to as Valkimi in India. The Valmiki is considered to be the lowest among the lowest in the caste hierarchy.

Upper-caste Hindus consider the Dalits as being untouchable. The presence, touch or even the mere reference to a lower caste is considered to be polluting by the upper caste. The Dalits employed as manual scavengers are considered to be untouchable even by other Dalits.

As the lowest in the caste hierarchy and due to the perceptions of pollution and impurity imposed upon them, the members of these communities are forced to live in isolated and remote corners within the cities and municipal corporations where they are employed. These places are often a corner in the municipal burial ground or a reclaimed garbage ground. The living conditions in these places are very poor.

Facilities like schools and health centres do not exist for these families. Being numerically low in the area these families reside, the government does not provide any such facilities for these families. Perceived as the lowest of the castes and due to the prejudices that exist in the Indian society, the children from these families are often prevented from attending schools and the members of these communities are denied medical treatment even in government facilities. This probably explains the large ratio of deaths in the manual scavenging community.

For example, within the past eight months in the Pune Municipal Corporation of Maharashtra State, 40 manual scavengers died from various diseases acquired at work. In the past three years about 327 manual scavengers died out of 6826 persons employed by the Pune Municipal Corporation. Though it is extremely rare for an employer to compile and publish data of this nature in India, the above information was published by the Pune Municipal Corporation.

Manual scavenging is carried out without any form of protective gear. Even simple equipment like a face mask is not provided. A scavenger who enters a sewer without any protective gear is exposed to many forms of toxic chemicals and disease-causing bacteria.

Manual scavenging is not limited to clearing clogs in sewers. It is common in India to find dry latrines (non-flush) across the country. Dry latrines are constructed and maintained by villages, municipalities and even the Indian railways.

Dry latrines are walled enclosures with open ceilings and empty floors made of concrete or stone where people can defecate. Manual scavengers are employed to clean these latrines. Their work begins in the early hours and continues past midnight. Such work in large municipal corporations is completed in two shifts. The human faeces is manually collected into buckets or baskets using brooms and spades and carried away to an area where the waste is discarded. Often the scavengers carry this nauseating waste on their heads.

The Asian Legal Resource Centre (ALRC) and its sister-organisation, the Asian Human Rights Commission (AHRC), have conducted studies that prove that the practice of manual scavenging is associated with caste-based discrimination. Scholars like Ms. Sita Agarwal and Dr. Romila Thapar agree that the practice existed at the advent of the caste system itself. It was during the British rule that the practice of manual scavenging was legitimised in India. Railway stations and military establishments during the British colonial rule had dry latrines. This practice was later conveniently adopted by the government and other agencies after 1947.

The Indian Railways, the largest rail network in the world, employs the largest number of manual scavengers. Unofficial surveys conducted by various non-governmental organisations and research groups project that about 1,200,000 persons are employed as manual scavengers in India. These surveys also project that among the manual scavengers, 98% are Dalits, of which 95% are females. Manual scavenging is however prohibited by law in India.

In 2003, the Ministry of Social Justice and Empowerment of India admitted that there are about 9,200,000 dry latrines in India as of 2002. In the absence of any specific government schemes to rehabilitate manual scavengers during the past four years, the number of persons employed as manual scavengers has in fact increased. The rapid expansion of urban areas and the scarcity of water has increased the number of dry latrines.

The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, prescribes punishment to an employer who employs manual scavengers and also to those who construct dry latrines. The punishment prescribed is imprisonment for up to one year and/or a fine. In cases where the employees are the members of the Scheduled Caste or the Scheduled Tribe, the employers are also liable to prosecution under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, these laws are poorly implemented in India. Not all states in India have ratified this central law.

It took about four years for the central government to even notify the law in the government gazette. Not all states in the country have implemented this law. According to a study conducted by the Safai Karamchari Andolan about 33% of Indians still use dry latrines. Another 33% of the population do not have toilets in their houses and find it convenient to defecate in open spaces. In spite of express provisions in the law, nobody has yet been punished in India for employing manual scavengers or for the construction and maintenance of dry latrines in India.

Mainstream Dalit organisations like the Navsarjan, the National Council for Dalit Human Rights (NCDHR), and Drishti-Media, Arts and Human Rights (DMAHR), are actively engaged in reporting cases and campaigning against manual scavenging. Asian regional

organisations like the AHRC and the ALRC, and international organisations like Human Rights Watch (HRW) and the International Dalit Solidarity Network (IDSN), are engaged in reporting and campaigning against manual scavenging in India.

UN agencies like the ILO, the Committee of Economic Social and Cultural Rights and the CERD Committee have expressed their concern about the continuing practice. The ILO also has expressed further concern about the meagre wages paid to manual scavengers.

The ILO report on India concerning the ILO Declaration of Fundamental Principles and Rights at Work, released in May, 2007, in New Delhi, also expresses concern about the continuing practice of manual scavenging in India. In this report, the ILO not only expresses its concern about the practice of manual scavenging as a form of caste-based discrimination and an inhuman form of labour that is often underpaid, but also further states that manual scavenging is also a form of bonded labour.

The CERD Committee in its recommendation CERD/C/IND/CO/19, dated May 5, 2007, has expressly opined that the continuing practice of manual scavenging in India is a form of racial discrimination. The Committee, after reviewing India's periodic reports in 2007, in its concluding observations requested the government of India to take steps to end the practice of manual scavenging.

Since 1949, several committees and commissions were set-up by the government to study manual scavenging and to recommend to the government measures to end manual scavenging. The Barve Committee of 1949, the Scavenging Conditions Enquiry Committee of 1957, the National Commission of Labour Committee of 1968 and the National Commission for Safai Karmacharies have all recommended to the government various means to prevent manual scavenging in India.

The National Human Rights Commission (NHRI) of India in its 2007 annual report also expressed its concern about the practice of manual scavenging. In the same year the National Planning Commission of India declared that it would initiate actions to eradicate manual scavenging by the end of 2007. However none of these recommendations or resolutions were implemented in actual practice in India.

Manual scavenging in India was recently brought to the limelight at the UN. 28 women manual scavengers from India participated in a cultural programme organised at the UN to celebrate the 2008 - International Year of Sanitation. The government that took the trouble to send these women to the UN, however, has thus far failed to do anything to prevent the practice of manual scavenging in India.

The Minister for Social Justice and Empowerment, Ms. Meira Kumar, in March 2008 urged the Union Rural Development Minister, Mr. Raghuvansh Prasad Singh, and Minister of State for Housing and Urban Poverty Alleviation, Ms. Selja, to ensure that all dry latrines in rural areas of India are converted into water-seal latrines by March 2009. March 2009 is also set to be the target date for rehabilitation of all manual scavengers in India.

Other than all these rhetoric, nothing is visibly being done on the ground to prevent manual scavenging. A typical example is the families of Nagin and Harish. Their deaths were reported to the State Government of Gujarat, the Government of India and to UN agencies

within days. The Vadodara Municipal Corporation denied that Nagin and Harish had died from suffocation and refused to admit that both men were employed as manual scavengers.

Manual scavenging in India can only be prevented if the law prohibiting the practice of manual scavenging is fully enforced. But the enforcement of this law cannot be achieved in isolation. A multi-faceted approach for the rehabilitation of manual scavengers, the prevention of the construction of dry latrines and the employment of manual scavengers has to be carried out across India. Along with this, the law against caste-based discrimination has to be strictly enforced. Heads of municipal corporations and other local bodies like panchayats must be prosecuted for any breach in the domestic law against manual scavenging.

For all this to materialise the law enforcement agencies in the country must function well. The functioning of these agencies is currently in such a state that the common person's perception about these agencies, particularly the police, is that the law enforcing officer is a criminal in uniform. As a result, it is feared that practices like manual scavenging will continue unabated for years to come.

It is therefore vital for the Human Rights Council to take note of this problem and monitor the Indian authorities' actions to ensure that it halts this practice and meets the needs of manual scavengers in India.

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