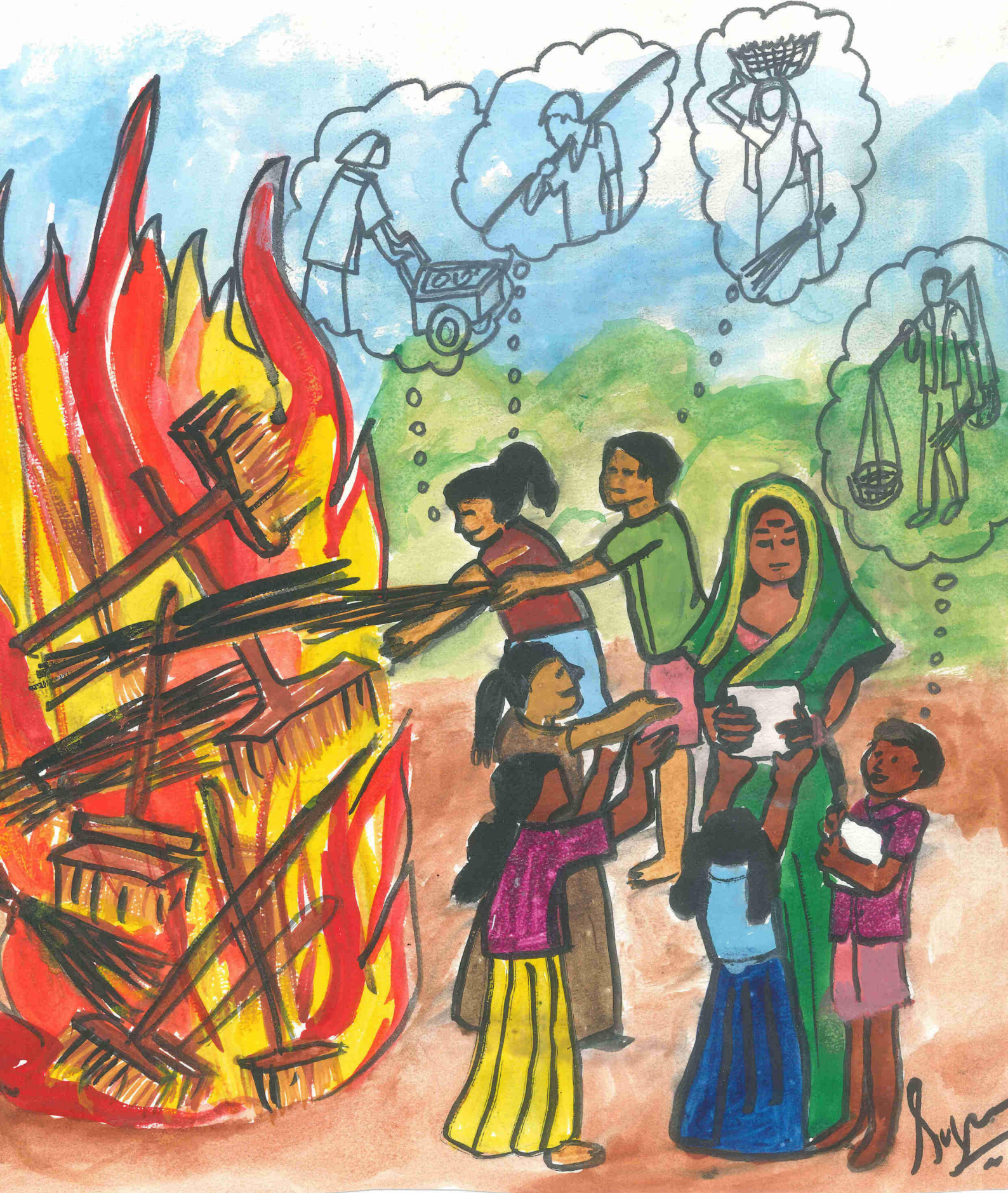


Manual Scavenging in Karnataka A Situation Assessment



ಸಫಾಯಿಕರ್ಮಚಾರಿ ಕಾವಲು ಸಮಿತಿ-ಕರ್ನಾಟಕ

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Safaikarmachari Kavalu Samithi – Karnataka

Table of Contents

1. Introduction.....	3
1.1 Typology of Sanitation Systems and Forms of Manual Scavenging.....	3
1.2 Prevalence of Various Types Sanitation Systems in Urban and Rural Karnataka.....	8
1.3 Estimated Number of Persons engaged in Manual Scavenging in Karnataka.....	9
2. Legal Framework for Eradication of Manual Scavenging.....	11
2.1 Status of Identification of Persons engaged as Manual Scavengers in Karnataka.....	12
2.2 Government Schemes for Rehabilitation and the Status of their Implementation.....	14
2.3 Gaps in the Rehabilitation Framework and its Implementation.....	16
2.4 Implementation of the Penal Provisions under the 2013 Act.....	17

1. Introduction

Manual scavenging is the practice of manually cleaning, carrying, disposing or any other form of handling of uncomponded human excreta. The practice of manual scavenging is one of the most stigmatizing practice among the category of occupations classified as 'unclean' occupations in India. Often, those working as manual scavengers in a particular area are *dalits* and among *dalits* also they are members of the most marginalized caste groups in the area. A recent study carried out by National Law School of India University, Bengaluru reported that 92.33% of workers engaging in this occupation across 30 districts of Karnataka were *dalits*, and 3.3% belonged to Scheduled Tribes. Among those surveyed, about 74% belonged to *madiga* community. Often manual scavenging is a hereditary occupation, and gets passed on from one generation to the next, unless this cycle is broken through external interventions like provision of quality education or transition to alternative livelihoods. Because those who carry out this work belong to the most marginalized section of the society, the issue of elimination of manual scavenging has not gained priority, within government, policy-making and civil society circles. Continuing existence of the practice of manual scavengers indicates that although as a society we want cleanliness around us, but we don't stop to ask, who will clean the waste. Thus, while the issue of 'safe' disposal of waste has been receiving increasing policy attention in the recent time, the idea of 'safe' doesn't encompass the health, dignity and life of the person handling the waste.

1.1 Typology of Sanitation Systems and Forms of Manual Scavenging

The nature of the practice is closely related to the nature of sanitation system in a particular area. Before the arrival of flush toilets, human excreta was collected by workers and carried over their heads for disposal. This is the oldest and most familiar form of manual scavenging. This form of manual scavenging is associated with cleaning of open defecation and insanitary latrines. Although various local, state and union governments claim that open defecation has been eliminated or is close to be eliminated, open defecation continues in India and those who work as *safaikarmacharis* are usually asked to clean it using a basic broom and basket. Insanitary latrines are defined as those latrines which requires human excreta to be cleaned or otherwise handled manually before the

excreta fully decomposes

- a) either *in situ* (these are also referred to as *dry latrines* since they don't have pour flush system) or
- b) in an open drain or pit into which the excreta is discharged or flushed out

Both these kinds of latrines and associated forms of manual scavenging continue to exist in Karnataka.



Illustration 1: Manual Scavenging Type: Open Defecation: Tumkuru, Karnataka



Illustration 2: Manual Scavenging Type: Open Defecation, Yadgiri, Karnataka



Illustration 3: Manual Scavenging Type: Dry Latrine: Tumkuru, Karnataka

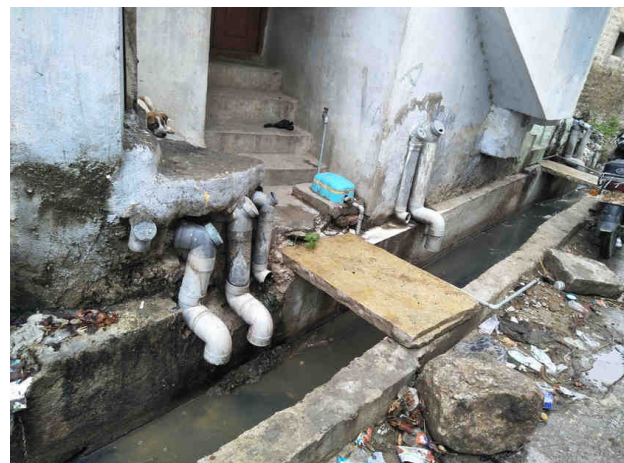


Illustration 4: Manual Scavenging Type: Open Drain: Yadgiri, Karnataka

With the expansion of pour flush toilets, on-site containment mechanisms like soak pits and septic tanks came in. While open defecation areas and insanitary latrines requires regular (if not daily) cleaning, septic tanks and soak pits require periodic cleaning in intervals, which depend on capacity, usage and design of the containment mechanism. The most common

containment mechanism in Karnataka is the single pit mechanism, where a rudimentary pit is dug in the ground and covered with slabs and the excreta from one or more latrines flows into these pits. These pit latrines which require manual cleaning also fall under the definition of insanitary latrines.

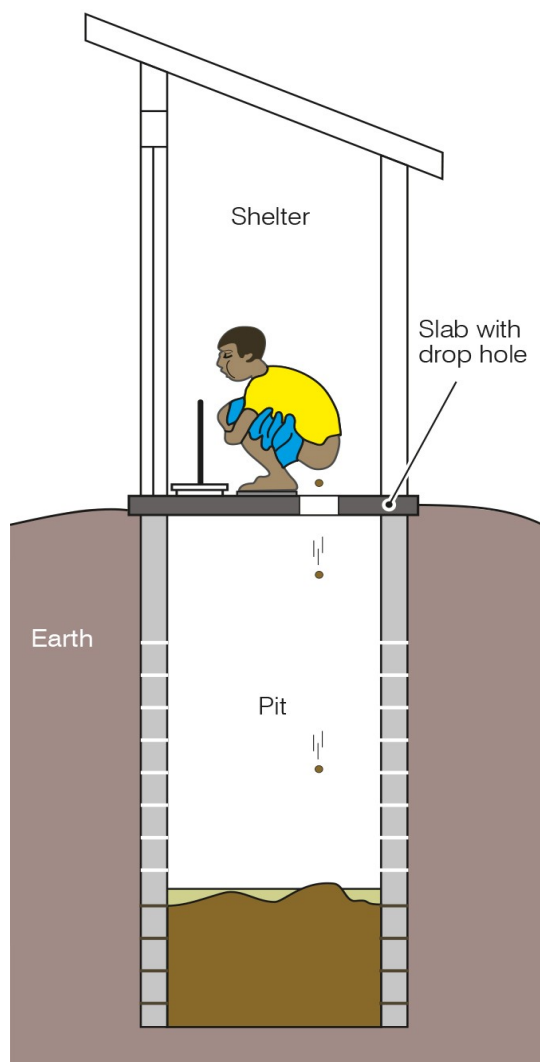


Illustration 5: Schematic of a Single Pit Toilet



Illustration 6: Manual Scavenging Type: Cleaning of Pits: Yadgiri, Karnataka



Illustration 7: Manual Scavenging Type: Cleaning of Pit Latrine: Yadgiri, Karnataka

The second most prevalent form of containment mechanisms in Karnataka are septic tanks which are basically rectangular underground structure usually lined with cement to which excreta from one or more latrines drain into. A septic tank may or may not be connected to

a soak/leach pit which allows the liquid overflowing from the septic tank to leach into the ground.

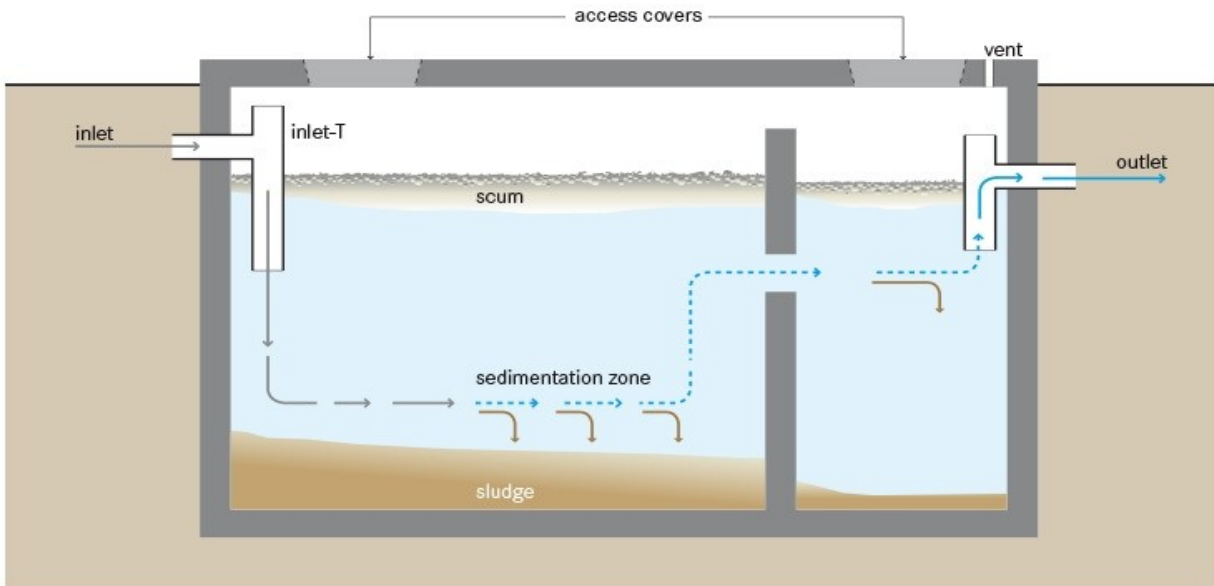


Illustration 8: Schematic of a Septic Tank

Recently, the Swachh Bharat Mission (SBM) had started promoting twin leach pit toilets wherein after the first pit gets filled up, the excreta flows into the second pit, allowing time for the waste in the first pit to decompose.

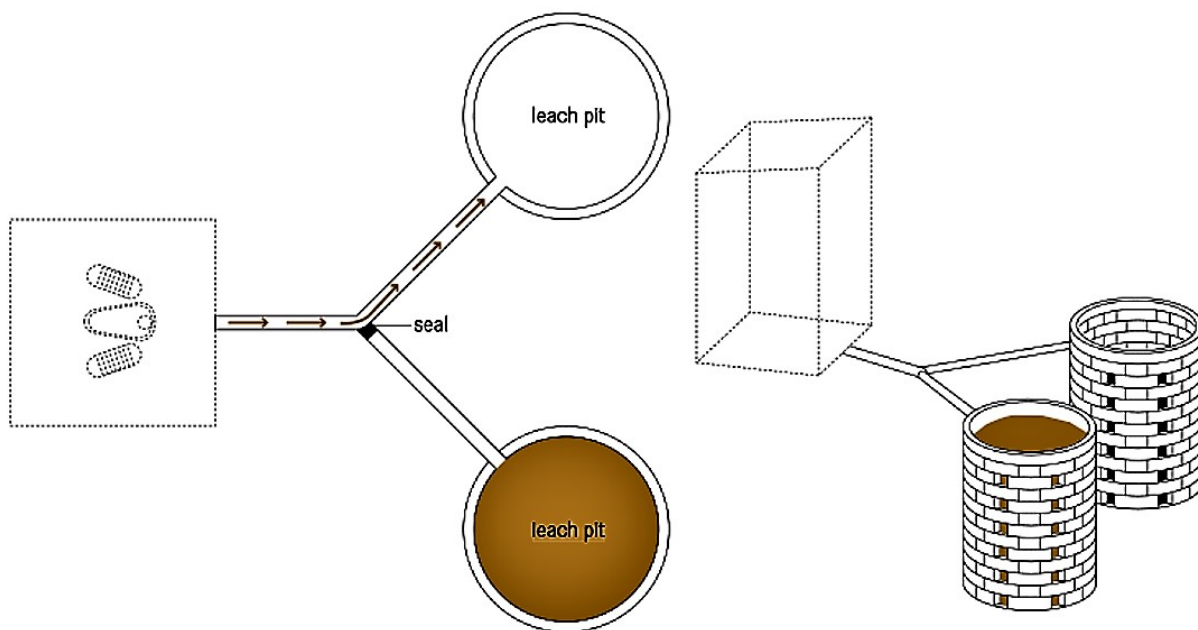


Illustration 9: Schematic of Twin Leach Pit Latrines

Although, twin leach pits are considered to be safer, in terms of manual handling of decomposed waste when the pits are to be emptied, whether this will shift the burden of cleaning from those who work as manual scavengers to the house-owners is not clear. In any case, a survey conducted by Quality Council of India has shown that 92% of the latrines constructed under the SBM in rural Karnataka are single-pit latrines. Thus, in absence of any strong push for twin-pit toilets, the incremental addition to households having toilets in their houses has been through single pit technology. With the introduction of sewer systems, has emerged another form of manual scavenging in urban areas, wherein workers are made to go down manholes to clear blockages and silting. Although technologies like Sucking and Jetting Machines have become available in the last decade which can be used to eliminate manual handling of waste while emptying pits or septic tanks or to clear blockages in the sewer lines, but the penetration of these technologies remains limited¹ and in most instances these tasks are done by workers with their bare hands.



Illustration 10: Death of Three Workers while cleaning a manhole in C V Raman Nagar, Bengaluru

¹ <http://www.thamate.org/sucking-and-jetting-machines-with-various-ulbs-in-karnataka/>

With urbanization there has been a increase in generation of sewage and thus the need for treatments. Cities like Bengaluru have installed Sewage Treatment Plants (STPs) for treatment of sewage conveyed through sewers and also passed regulations which mandate installation of apartment-level STPs.² These technologies require regular maintenance and they often breakdown, and in absence of any regulations government maintenance of these STPs, casual workers are hired to clean them, giving rise to newer forms of manual scavenging. In Bengaluru alone there are over 30,000 apartment-level STPs as per an estimation by BWSSB.

1.2 Prevalence of Various Types Sanitation Systems in Urban and Rural Karnataka

The most recent information that we have on the prevalence of various kinds of sanitation system in Karnataka is from the 2011 Census. As shown in Table below, as per Census 2011 there were 98,537 insanitary latrines (Row 1.3 + 1.4).

Table 1.1: Use of Manual Intervention in Sanitation System in Karnataka (2011 Census)

S. no.	Category	Rural	Urban	Total (%)
1	Number of households having latrine facility within the premises	2234534	4514862	6749396 (51.21)
1.1	With Flush			
1.1.1	Piped sewer system	160870	28833740	2994610 (22.72)
1.1.2	Septic tank	805618	906083	1711701 (12.99)
1.1.3	Other system	90803	64626	155429 (1.18)
1.2	Pit latrine			
1.2.1	With slab/ventilated improved pit	1127230	618180	1745410 (13.24)
1.2.2	Without slab/open pit	25245	18464	43709 (0.33)
1.3	Night soil disposed into open drain	9328	52474	61802 (0.47)
1.4	Service Latrine			
1.4.1	Night soil removed by human	2052	5688	7740 (0.06)
1.4.2	Night soil serviced by animal	13388	15607	28995 (0.22)
2	Number of households not having latrine facility within the premises	5629662	800853	6430515 (48.79)
2.1	Public latrine	272968	231249	504217 (3.3)
2.2	Open Defecation	5356694	569604	5926298 (44.96)
3	Total	78,64,196	53,15,715	1,31,79,911

It is being claimed by the government that all the insanitary latrines has been converted to

² <http://www.thamate.org/note-on-stps-and-their-implications-for-manual-scavenging/>

sanitary latrines under SBM but anecdotal evidence suggests that this claim is not borne out and several insanitary latrines continue to exist and their exact numbers would be revealed in the next Census. Over 48% of the households enumerated in 2011 didn't have a Individual Household Latrine (IHHL) and this is the population that SBM claims to have covered upto 100% in terms of construction of latrines. Over 22% households were connected to sewerage system (Row 1.1.1) while a majority of those who had household tilets relied on on-site containment mechanisms like septic tanks (12.99%, Row 1.1.2) and pit latrines (13.57%, Row 1.2).

1.3 Estimated Number of Persons engaged in Manual Scavenging in Karnataka

Table 1.2 below provides estimates of number of manual scavengers in Karnataka engaged in cleaning latrines draining into pits and septic tanks. We first arrive at the projected number of households (Row 2) in Karnataka for the year 2019 using the Compound Annual Growth Rate (CAGR) for the last decade (2001-11) for urban and rural Karnataka.

Table 1.2: Estimate of Number of Manual Scavengers in Karnataka

S. no.	Estimates	Rural	Urban	Total
R1	No. of Households (2011)	78,64,196	53,15,715	1,31,79,911
R2	No. of Households (2019, projected)	89,66,186	73,30,741	1,62,96,926
R3	Total Increase of household latrines between 2011 and 2019 [=R 2 - R1]	11,01,990	20,15,025	31,17,015
R4	Increase in number of latrines with pits and septic tanks [=0.9xR3]	9,91,791	18,13,522	28,05,313
R5	Total no. of latrines with pits and septic tanks (2011) [Table 1.1: R 1.1.2+R1.2]	19,58,093	15,42,727	35,00,820
R6	Latrines built under SBM for those defecating in open or using insanitary latrines [Table 1.1: R1.3+R1.4]	56,45,102	8,22,148	64,67,250
R7	Total no. of latrines with pits and septic tanks (2019, projected) [=R4+R5+R6]	85,94,986	41,78,398	1,27,73,384
R8	Total no. of latrines with pits and septic tanks being cleaned manually (2019, projected) [=0.6xR7]	5156992	2507039	7664031
R9	Estimated number of MS engaged in cleaning latrines with pits and septic tanks (2019, projected)=[(4xR8)/(3*3*52)]	44,077	21,428	65,505

Assuming that every new household created between 2011 and 2019 has built a latrine either on their own or using the subsidy under SBM, and that 90% of them are single pit or septic tank latrines³, we arrive at the additional number of latrines with septic tanks and pits created between 2011 and 2019 (Row 4). To this we add, the number of such latrines existing in 2011 (Row 5) and the number of latrines created under SBM for those who were defecating in the open, or using public toilets, or using insanitary latrines in 2011 (Row 6), and we arrive at the estimate of number of latrines with single pits or septic tanks in 2019 (Row 7). We assume that 40% of these latrines are being cleaned by machines (an ambitious figure since, the penetration of machines in rural area is very low), and arrive at the number of such latrines being cleaned manually (Row 8). Finally we assume that, each of this latrines are required to be cleaned once every three years, they are cleaned by groups of four workers and each groups gets called for this thrice per week, and arrive at the total number of workers engaged in manual cleaning of latrines with septic tanks and pits. This estimate arrives at a number of 65,505 just for this form of manual scavenging. If we add to it those, who may be engaged in cleaning open defecation sites, public latrines, manhole cleaning etc, the final estimate may range between 75,000-80,000 across Karnataka.

3 The number arrived at by Rural Development and Panchayat Raj Ministry of Government of Karnataka is 92%

2. Legal Framework for Eradication of Manual Scavenging

In terms of recognizing the need of eradicating the practice of manual scavenging, Karnataka was a pioneering state. In 1972, the state government had constituted a Committee to study the living and working conditions of Sweepers and Scavengers in the State under the chairmanship of I P D Salappa which submitted its final report in 1976. Based on the interim recommendations of this Committee, a circular was issued which provided for banning of the practice of carrying night soil as head load or the manual handling thereof in any manner and for the practice to be eradicated by 15.8.1973. But unfortunately, the directions issued through the circular were not seriously implemented. In 1993, the Parliament passed *The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993* which proscribed the construction of dry latrines and employment of persons to clean them. The definition of manual scavenging included only cleaning of dry latrines i.e. handling night soil, and excluded from its purview other forms of manual scavenging like cleaning open drains, open defecation, sewer lines etc. The Act had to be adopted and implemented by the states. Few adopted it and none implemented it. After the complete failure of *The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993* to make a dent in the practice of manual scavenging, the Parliament of India passed in 2013, *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act*.

The 2013 PEMSAR Act prohibits any construction or continued maintenance of insanitary latrines.⁴ All existing insanitary latrines were to be surveyed by the local authority (Gram Panchayath or Urban local body) within two months of notification of the Act⁵, and the owners of the premises were to be issued notices for demolition of such latrines or conversion of such latrines to sanitary latrines within 15 days of issuance of notice.⁶ The 2013 Act prohibits employment of persons 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.⁷ Along with this form of manual scavenging, 'hazardous cleaning' has also been prohibited which includes cleaning of sewers or septic tanks, without provision of protective gear, safety

⁴ Sec 5(a) of *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013*.

⁵ The Act was notified on Sept 13, 2013

⁶ Sec 4 of *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013*.

⁷ Sec 5(b) of *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013*.

devices⁸ and cleaning devices⁹; and observance of safety provisions before¹⁰, during¹¹ and after¹² the cleaning process. While the cleaning of septic tanks with these precautions and safety measures has been allowed, the cleaning of sewers using human beings is allowed only in exceptional circumstances even with all precautions and safety gears¹³. Violation of any of these prohibitions are non-bailable and cognizable offenses.¹⁴

All those found working as manual scavengers on the date of passage of the Act are to be identified as manual scavengers and rehabilitated. The Act provided two modes of identification of those working as manual scavengers:

- a) through a Survey by a Municipality or a Panchayath, if they have a reason to believe that persons are being engaged as manual scavengers;¹⁵
- b) through filing of self-declaration forms either during a ongoing survey or at any other time with the Chief Executive Officer of the Municipality or Panchayath.¹⁶

The initiative remains with the local body in mode (a) while the initiative lies with the workers in (b), but the government has been extremely reluctant in accepting the self-declaration forms submitted to them, and instead have chosen to not act on the applications filed even when the Act requires them to do so within a period of 14 days. The next section provides the status of the identification process in Karnataka

2.1 Status of Identification of Persons engaged as Manual Scavengers in Karnataka

In Karnataka, so far 2,647 persons have been identified as manual scavenger as shown in Table 3.1 below. So far three rounds of survey have been conducted in the state. The first survey was conducted in selected towns and cities in the state which were found to have insanitary latrines during 2011 Census enumerations. A total of just 302 persons were identified in this round of survey across 4 districts in the state. A survey of rural areas was conducted by Rural Development and Panchayat Raj Department in 2016, which identified 435 persons as manual scavengers across 12 districts. In 2018, self-identification forms filed

8 Rule 4 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013.

9 Rule 5 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013.

10 Rule 6 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013.

11 Rule 7 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013.

12 Rule 8 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013.

13 Rule 3 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013.

14 Sec 8, 9 and 22 of *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013*.

15 Sec 11 and 14 of *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013*.

16 Sec 12 and 15 of *The Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013*.

by 156 persons with Davangere Municipal Corporation were accepted after a long struggle by Safaikarmachari Kavalu Samithi (SKKS) and these 156 persons were issued ID cards.

Table 3.1: Number of Workers Identified as Manual Scavengers in Karnataka

Phase	Year	Districts	Rural/Urban	Number Identified
I	2013 (Survey)	Bengaluru (U)	Urban (302)	202
		Bengaluru (R)		7
		Kolar		91
		Koppal		2
II	2016 (Survey)	Raichur	Rural (435)	44
		Mandya		42
		Udupi		3
		Shivamogga		24
		Yadgiri		19
		Bidar		2
		Ballari		10
		Bengaluru (U)		94
		Haveri		8
		Chikkaballapura		15
		Bangaluru (R)		25
		Kolar		149
III	2018 (Self-identification)	Davangere	Urban (156)	156
IV	2018 (Survey)	Bengaluru (Urban)	Urban+Rural (1754)	48
		Bengaluru (Rural)		78
		Kalburgi		52
		Kolar		291
		Mysore		1226
		Hubli-Dharwad		59
V	2019 (Survey)	Raichur, Vijayapura, Davangere, Belagavi, Bagalkote	Urban+Rural	On-going
Total				2647

Responding to the demand for a re-survey after the apparent gross under-identification of persons engaged in manual scavenging, the Union government through National Safaikarmachari Finance and Development Corporation (NSKFDC) have decided to carry out phase-wise identification exercise. The first phase was conducted in 6 districts in Karnataka during 2018 and 1754 persons have been identified as shown in the Table below. The

second phase of this re-survey is underway across another 5 districts in Karnataka. Thus, out of an estimated 75,000-80,000 persons engaged in this work, only 2,647 persons have been identified.

2.2 Government Schemes for Rehabilitation and the Status of their Implementation

All the identified persons and their families are required to be rehabilitated in accordance with Sec 13 of the 2013 Act, which provides for:-

- 1) One-time Cash Assistance (OTCA) within a month of identification;
- 2) Educational Scholarship to children;
- 3) Residential plot and financial assistance for house construction;
- 4) Training in livelihood skill to the worker or any one adult family member along with stipend of Rs 3000/- per month during the period of training;
- 5) Subsidy and Concessional Loan to the worker or any one adult family member to take up alternative occupation.

Part (1), (3) and (4) of these rehabilitative measures as prescribed by the Act, have been operationalized through the Self-Employment Scheme for the Rehabilitation of Manual Scavengers (SRMS) as revised on 02.12.2013 in view of the PEMSR Act coming into force on 06.12.2013. The funds for the scheme are provided by National Safaikarmachari Finance and Development Corporation (NSKFDC) but the onus of uploading details of identified persons, raising request for transfer of OTCA , for placing request for capital subsidy on loans for self-employment lies on the State Nodal Agency which in the case of Karnataka, is the Karnataka State Safaikarmachari Finance and Development Corporation (SKFDC). The status of the these three components of the rehabilitation process comprising the SRMS scheme is shown in Table 2.2 below. Of the 2647 identified persons, details of 2486 persons have been provided to NSKFDC by the SKFDC. Among those 302 persons who were identified in 2013, i.e. 6 years back, 13% are yet to receive OTCA. Among those identified in 2016, 9.4% people are yet to receive OTCA. None of the workers who were identified in Davangere in 2018, have received any OTCA since their details have not been uploaded by SKFDC yet. Of those identified as part of NSKFDC's re-survey across 6 districts in 2018, only

60.7% have been provided OTCA. In terms of skill-development training, only 159 people from the cohort identified in 2013 have been provided any training. In terms of provision of capital subsidy for self-employment loans, only 190 (65%) persons among the first cohort identified in 2013 have been provided the assistance, while for rest of the identified persons, the process is yet to begin. Effectively, the rehabilitation process in rural areas has not taken off at all beyond the provision of OTCA.

Table 3.2: Status of Implementation of SRMS Scheme as on 31 July 2018

Phase	Areas	No. of Manual Scavengers Identified	No. of Manual Scavengers whose details Uploaded	One-Time Assistance		No. of Beneficiaries Completed Skill Development Training	Self Employment
				Not to be provided OTCA as per norm of one MS per family	Cash Provided OTCA (No. of MS)		Capital Subsidy Released (No. of Beneficiaries)
I	Urban	302	297	NA	254 (86.9%)	159 (54.5%)	190 (65.0%)
II	Rural	435	435	NA	385 (90.6%)	0 (0.0%)	0 (0%)
III	Urban	156	0	0	0 (0.0%)	0 (0.0%)	0 (0.0%)
IV	Rural+ Urban	1754	1754	0	956 (54.5%)	0 (0.0%)	0 (0.0%)
	Total	2647	2486	20	1595 (60.7%)	159 (6.05%)	190 (7.23%)

Part (2) of the rehabilitation measures, pertaining to provisioning of educational scholarships to children of those identified as manual scavengers has been operationalized through Pre-Matric Scholarship for Children of Those Engaged in Occupations Involving Cleaning and Prone to Health Hazards. Data obtained through RTI shows that the Scheme for Pre-Matric Scholarship for Children of Those Engaged in Occupations Involving Cleaning and Prone to Health Hazards was operationalized in Karnataka only in 2017-18 and there are zero beneficiaries in Karnataka from families engaged in manual scavenging.

Part (3) of the rehabilitation package pertaining to provisioning of housing hasn't been operationalized through any specific scheme but as part of Central Housing schemes like

Pradhan Mantri Awas Yojana and State Housing Schemes like Devaraj Urs Housing Scheme or Dr. Ambedkar Housing Scheme, families of workers identified as manual scavengers can be given priority. But in Karnataka, none of the local bodies have taken steps towards providing housing to the families of those identified as manual scavengers.

2.3 Gaps in the Rehabilitation Framework and its Implementation

Beyond the numbers, the litmus test for an effective rehabilitation is if it has been able to facilitate a sustainable transition towards alternative income-generating occupation away from manual scavenging work. This is reflected in the design of the SRMS scheme. The purpose behind providing one-time-cash-assistance is to make up for the disruption in income from discontinuance of the manual scavenging work. The implementing authority is then required to quickly ascertain from the family of the identified person their choice of alternative occupation, nature of skill development training required and the capital subsidy loan needed. While the identified person or any other adult family member undergoes training a stipend of Rs 3000 per month should be provided and the capital subsidy loan should be arranged to enable the family to transition into the new livelihood. During and after this period also, if any programmatic assistance is required, the same should be provided to the family.

In not a single instance of rehabilitation examined by us, has this ideal process been followed. The implementation of the SRMS scheme in the state has been marred by large instances of incomplete/stalled rehabilitation process and the delays between each successive steps. As a result, there is a wide variance in the observed outcomes: while a significant percentage of those having received OTCA still continue to make a living from manual scavenging, there are several instances of people having used just the OTCA money to buy livestock, or having invested the money in street vending etc. Several of the families who have received the capital subsidy loans complain that while they had proposed projects requiring 1 to 4 lakhs for buying for example sewing machine, or setting-up a computer center or buying a taxi or an auto, officials only sanctioned loans of 20-30k for street vending. The Dr. B R Ambedkar Development Corporation was the State Nodal/Channelizing Agency (SNA/SCA) for SRMS till Jan 2018 after which the newly created Karnataka State Safaikarmachari Finance and Development Corporation was appointed as the SNA/SCA. The process of rehabilitation which was progressing in fits and starts under

Dr. B R Ambedkar Development Corporation has now completely stalled under Karnataka State Safaikarmachari Finance and Development Corporation.

Thus in terms of implementation of the provisions of the 2013 Act, the first gap is that a large number of those working as manual scavengers have not been identified by the government owing to lack of will in acknowledging the extent of the practice. Secondly, even for those who have been identified, the process of rehabilitation has not been carried out properly and completely. Even for those, who have been provided with OTCA, training and financial assistance under SRMS, the gap in these inter-linked steps, and the low-balling of loans has hindered potential outcomes.

In addition to these, the rehabilitation measures provided for in the 2013 are insufficient to address the need for quality education for the children of those engaged in manual scavenging, for at least two generations to ensure that the hereditary cycle of manual scavenging is broken. Additionally, there is nothing in the Act which addresses the health and nutrition needs of the workers.

2.4 Implementation of the Penal Provisions under the 2013 Act

The 2013 Act was considered to be an improvement on the 1993 Act because it improved on the penal provisions of the previous Act, which were intended to act as deterrent against the reckless continuance of the practice of manual scavenging. Firstly, the 2013 Act expanded the definition of ‘manual scavenging’ to also include hazardous cleaning of pit latrines and sewers, albeit with several exception to this general prohibition.¹⁷ Secondly,

¹⁷ Section 5 of the 2013 Act prohibits employment of any person as manual scavenger which is defined as

2(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 railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly.

Section 7 of the 2013 Act prohibits “hazardous cleaning” of septic tanks and sewers defined as

2(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

the offences now attracted greater punishment and were also non-bailable and cognizable. The 1993 Act penalized both the employer and the worker for an act of manual scavenging, which deterred workers from making complaints under the Act. The 2013 Act holds only the employer guilty of offences under the Act. Lastly, 1993 Act allowed registration of a police complaint only by an Executive authority appointed under the Act, a conditionality which the 2013 Act does away with. The fact that these limitations of the 1993 Act came in the way of registration of complaints is borne out by the fact that after coming into effect in 1997 in Karnataka, till today, only 22 cases were registered under the Act and four of which ended in an conviction. The low rate of registration of cases under the 1993 Act and low rates of conviction, were cited as the reason behind the introduction of a new law in 2013.

But the 2013 law has not fared any better in terms of the penal provisions of the Act. As per information obtained through RTI, 70 cases had been filed under the 2013 Act. Table 3.3 shows the status of these cases as on 3rd September 2019.

Table 3.3: Status of Cases filed under PEMSAR Act 2013 (as on September 2019)

Year	REG	DIS/ACQ	CON	FC	PT	UI	OD	UD	AB
2014	10	0	0	2	7	0	1	0	0
2015	8	3	0	0	4	0	0	1	0
2016	5	0	0	0	5	0	0	0	0
2017	18	0	0	2	11	5	0	0	0
2018	18	0	1	1	8	7	0	0	1
2019 (till June)	11	0	0	1	1	9	0	0	0
Total	70	3	1	6	36	21	1	1	1

REG: Registered; DIS: Dismissed; ACQ: Acquittal; CON: Conviction; FC: False Case; PT: Pending Trial; UI: Under Investigation; OD: Other Disposal; UD: Undetected; AB: Abated.

As the data shown in the Table above shows, out of the 70 cases registered till June 2019, only one case has resulted in a conviction. In Karnataka, since 1995 and till Jan 2020, 45 fatal cases of manual scavenging have been reported in Karnataka leading to the death of 85 persons.

An analysis of cases filed in the local courts in Bengaluru city since the passage of 2013 Act conducted by Safaikarmachari Kavalu Samithi-Karnataka shows worrying trends. In all, we

in any other law, for the time being in force or rules made thereunder;

Contraventions of Sec 5 and Sec 7 are non-bailable and cognizable offences under the 2013 Act. (Sec 22)

located 27 such cases, of which 12 resulted in fatalities, while 15 were cases of non-fatal manual scavenging cases. In the 15 fatal cases of manual scavenging, 22 persons died. Table 3.4 below shows the status of these cases.

Table 3.4: Status of Manual Scavenging Cases in Bengaluru District Courts

Total Cases	Concluded				No Chargesheet	Framing	NBW/ Summons	Evidence
	Abated	B-Report	C-Report	Conviction				
27	1	2	1	0	9	6	5	3

Thus, so far, there have been no convictions under the 2013 Act in Bengaluru city. We observed few patterns in our analysis. In some instances, PEMSR Act 2013 has not been invoked even when the facts warrant it. For example, in **Hennur PS vs M Venkatakishore & Others¹⁸**, the postmortem report read “Death was due to Asphyxia as a result of inhalation of some noxious substance present in the sewerage/drainage”, yet the PEMSR Act 2013 was not invoked. In **Byapanahalli PS vs Ayodhya Ramareddy¹⁹**, three workers had died while cleaning a sewer but PEMSR Act 2013 was dropped at the stage of filling chargesheet.

Secondly, in only 3 cases of fatalities out of 12, was IPC Sec 304 Part II invoked. The general pattern is to invoke only IPC 304A, which is a bailable offence and attracts maximum two years imprisonment.

Lastly, in several cases the principal employer are not being made accused in the cases. For example, **Byapanahalli PS vs Ayodhya Ramareddy²⁰**, the BWSSB in-charge engineer, the owner of the contractor company were dropped as accused at the chargesheet stage while only supervisors were made accused.

Thus, the penal provisions of the revamped law are also not adding any deterrence value to the effort to eradicate the practice of manual scavenging.

¹⁸ Case No. CC 51499/2016 in XI Addl CMM Court, Mayo Hall Complex, Bangalore

¹⁹ Case No CC 52636/2018 in X Addl CMM Court, CMM Court Complex, Bangalore

²⁰ Case No CC 52636/2018 in X Addl CMM Court, CMM Court Complex, Bangalore