Lesson Series 65

Caste discrimination

Summary

This lesson will discuss the issue of caste discrimination in India, and how this affects people’s human rights. Based on descent, caste discrimination denies equality and various rights to an entire group of people.

The lesson will examine the legal and social premises existing in India that allow caste discrimination to continue. It will also focus particularly on the practice of manual scavenging.
Theme: India: Caste discrimination

The Issue

Discrimination of any kind, be it racial, religious or gender based, is a gross violation of basic human rights. Such discrimination directly affects the realization of all human rights, including civil and political rights, as well as economic and social rights. Caste discrimination—most commonly occurring in South Asia—is discrimination based upon descent, whereby individuals are marked by their caste from birth, and are obliged to follow various rules regarding occupation, housing and other social customs. These rules, particularly when dealing with those of a ‘lower’ caste, deny persons free will and choice regarding their lives. They also result in violations of the right to food, to land, to housing and shelter, to vote, to participate in public and social life.

The Lessons

Lesson 1 will introduce the caste system in India and examine its legal and social premises.

Lesson 2 will focus on the situation faced by Dalit communities working as manual scavengers and manhole workers, as well as the plight of Dalit women.
Lesson 1

This lesson will introduce the caste system as it exists in India, and discuss how it gives rise to discrimination and abuse, as well as its legal and social premises.

A. The caste system

According to Hindu tradition (in particular the Brahminical hierarchy), society is organized into four principal castes, the Brahmin, Kshathriya, Visya and Sudra (divided into many sub-categories), which assign individuals a certain hierarchical status. There are also those who fall outside the caste system, the ‘Dalits’ or the ‘untouchables’. They are seen as the lowest rank of society, whose presence, touch and even mere reference is considered ‘polluting’ to the ‘upper’ castes. As such, they face intense discrimination and abuse. This system was later assimilated into other countries and cultures, with its own nuances, including Bangladesh, Cambodia, Pakistan, Nepal, Sri Lanka, and Thailand. Even in countries with non-Hindu majorities, there is a trend of discrimination and ill treatment against Dalits.

The caste system is based on the following principles:

· A person’s occupation is determined for life by birth;
· There cannot be any intermarriage between persons of different castes (and any children resulting from such a marriage would take on the lower caste);
· One’s caste cannot be altered by any means;
· The positions and privileges held by each person are determined by caste. These must be demonstrated externally by the language used to address each other, by dress codes and by lifestyles;
· A harmonious society is only possible when these distinctions are maintained within a hierarchical structure;
· Disproportionate and collective punishment is used to ensure compliance; persons belonging to lower castes are given much harsher punishments than those of upper castes, including punishing families and communities for the crimes of an individual.

India’s estimated 160 million Dalits are further divided into sub-castes of Vankars, Chamars, Garodas, Mahayavanshis, Senva, Turi Barots, Dangasiyas, Nadiyas, Hadis, and Valmikis [See list of scheduled castes in India according to census data, updated March 2007: http://censusindia.gov.in/Tables_Published/SCST/
Their occupations include leather workers, cloggers, agricultural workers, street sweepers, and manual scavengers. Even within these different groups of Dalits there occurs discrimination. The Valmikis, for instance, whose traditional occupation involves disposing of dead animals and cleaning human excreta, are considered the lowest Dalit group and are treated as such by other Dalits.

The jobs undertaken by Dalits rarely provide them with enough income to feed their families or to send their children to school. As a result, many Dalits are impoverished, uneducated and illiterate. The caste system prevents them from changing their occupation however, to get better jobs. Furthermore, the perceptions of pollution and impurity force Dalit communities to live on the outskirts of towns and villages, where living conditions are poor and where there is no electricity or running water.

To protest against being left out of government development funds and at the police refusing to take action against threats received by them, the Dalit community at Nesda village, Rajkot, Gujarat decided to cease performing their caste duty of picking up and disposing of dead animals in May 2008. When this came to the attention of the dominant-caste community, they announced a social boycott against the Dalits on August 5. They forbade any Dalits from engaging in any social or economic interaction with non-Dalits. Anyone found to violate the boycott would face the same boycott.

As a result, the Dalits faced significant hardships. As they could no longer be employed in their own village, they had to travel 4-15 kilometers to work. Though one Dalit, Kasubhai Amrabhai Solanki, had a small amount of land, his wheat crop was burned and destroyed. Women were required to walk four kilometers to purchase basic necessities such as wheat or milk. In one incident, the entire non-Dalit community refused to use one of their vehicles to take a Dalit woman in labor to the hospital [See AHRC UAC-101-2009 for further details].

Such behaviour is far from being the exception throughout India. The Asian Human Rights Commission (AHRC) has issued numerous cases of social boycott and harassments of Dalits in the state of Gujarat alone in 2009. Dalits are treated as sub-humans and denied basic human rights, from the right to health, to food, to due process, to the right to vote. Such treatment is legitimized by the country’s justice system, with the police and judicial officers routinely taking no action to assist Dalits in seeking justice, but in fact preventing them from doing so.

Inhuman and cruel treatment of Dalits is practiced even by India’s non-Hindu communities, as experienced by Kiranbhai Parmar, a Dalit living in Ingoli village, Ahmadabad district, Gujarat. On his way home from work on 21 January 2009 at about 4pm, Kiranbhai took a vacated seat in a public bus while seven male members of the Khan family were standing inside the bus. One of the Khans called him a ‘dheda’ (derogatory term suggesting lower caste) and declared that as long as the ‘Khan Sahibs’ (Khan Masters) were on the bus, a ‘dheda’ cannot sit. When Kiranbhai refused to give up his seat the seven men punched and kicked him.
The Khan family belongs to the Pathan community, enjoying significant social status within the general Muslim community. After being threatened by them, the bus driver stopped the bus between the Trasad and Pisavada villages, and left Kiranbhai there, about 7km from his home village. The victim was able to get a three-wheeler and returned home at about 6pm, but pain from his internal injuries lasted several months.

Kiranbhai went to the police station with his parents Hiraben and Natubhai Parmar, the next day, to lodge a complaint. They watched as an officer called the Khans to inform them of the complaint. They then accepted the family’s application but refused to register a case, advising them to go home; if they pushed on with the complaint, they said, the family would likely not be able to stay in their village. The Khan family later called them, offering to take no action against them if they took back their complaint; the Parmars refused.

On February 5 the Khans announced a gathering at the local mosque, where they decreed that, beginning on February 6, anyone who associated with Natubhai’s family or his two brothers’ families (Ishwarbhai being the elder brother and Galabhai the younger) by offering them work or selling or giving them any goods, would be fined 5000 rupees. The three families determined to stay and fight the boycott.

However on February 9, the water pipes to the fields owned by the three brothers were cut off. On March 8, Ishwarbhai was badly beaten by 11 members of the Khan family after he rented a wheat threshing machine from a nearby village. The operator had stopped shortly after a call from a Khan who threatened to destroy the machine and burn the operator alive, and when Ishwarbhai called the police he was taken to Majid Khan’s home by an officer called Jasaratbhai. The policeman entered the house and allowed Ishwarbhai to be beaten with wooden sticks for about fifteen minutes before taking him back home [See AHRC-UAC-083-2009 for more details].

The principle of non-discrimination

The internationally accepted principles of equality and non-discrimination have no place in a caste-based society. For this reason, India’s domestic and international obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) are yet to be fully met. In fact, India has consistently maintained that caste discrimination was a domestic issue that had nothing to do with international human rights principles.

India ratified the CERD in 1969, article 1 of which defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

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The practice of caste based discrimination is one based on descent; and falls clearly under the CERD’s definition of racial discrimination. India’s continued exclusionary stand regarding its millions of lower caste citizens is a violation of their rights and its own responsibility to them.

Even after prime minister Manmohan Singh acknowledged the abysmal status of the country’s Dalits in December 2006—the first leader to do so—the country continues to lag behind in improving the lot of Dalits.

The most acute manifestations of caste discrimination are the systematic denial of the rights to food, health, education, freedom from bonded labor and ultimately, the denial of the right to justice. This denial includes the refusal to provide redress, which is an international obligation under the common article 2 of both the ICCPR and ICESCR.

The situation of Golahanpur village in Mirzapur, Uttar Pradesh is indicative of many of these rights violations. The approximately 40 Dalit houses in this village are situated outside the village boundary, as dictated by upper caste villagers. This makes them unable to enjoy public facilities such as roads, electricity and health care. The government school in the village does not allow Dalit children to sit with the upper caste children. Furthermore, most of the Dalit families do not exist in government records, as census officers refuse to record their information. This deprives them of access to food and welfare programmes.

When a 45-year-old Dalit woman named Jhaman went to the village office in August 2006 to get her children’s names registered in the village records and to request that Dalit children be allowed to sit alongside other children in the school, she was chased away by the village head. According to Jhaman, there is not a single latrine for the entire Dalit community in Golahanpur, which amounts to some 240 persons. In fact, she claims that all the government facilities available for Dalits are used up by the upper caste. And this is a village that was declared a ‘model village’ by the president of India in 2005 [see ALRC, ‘A Supplementary Document Concerning Caste Discrimination in India’, 2007, p6, submitted to the 70th session of the CERD committee for detailed information].

With regards to the right to food and bonded labor,

1. 45-year-old Mr. Teras Ram died from acute starvation on December 24, 2007. Ram is from the Chamar community in Baisa village, Jaunpur district, Uttar Pradesh State. The Chamar are a lower caste community considered to be untouchable by the caste Hindus. While India is rich in food supplies and self-sufficient in its food requirements (1), acute starvation and malnourishment remain ongoing concerns...

2. As in the case of Ram, most deaths from starvation are reported from the lower caste (Dalit) communities in the country. Discrimination within society owing to caste-based prejudices and poverty, means that the benefits of government welfare programmes does not reach this community. In order to guarantee food security, which is a fundamental right in India (3), the
government has constituted a public distribution network under the Ministry of Food and Public Distribution. However, this public distribution system (PDS), is plagued by rampant corruption, causing it to malfunction (4)…

4. Corruption in the PDS system promotes starvation. Coupled with the discriminatory practices in the government health service sector, the poor often die from malnutrition and malnutrition-induced sicknesses. 18-month-old Alina Shahin, a resident of Lohta Panchayath, Kashi Vidhya Peed Block in Varanasi District, Uttar Pradesh State, died on September 13, 2007. Prior to her death, Alina was taken to the government public health facility in Lohta. The staff at the facility not only refused treatment but assaulted Alina’s elder sister, Khusnuma, who accompanied Alina to the facility.

5. Alina was suffering from Grade IV malnutrition. The ALRC was alerted to Alina’s situation prior to her death through its local partner, the People’s Vigilance Committee on Human Rights (PVCHR). The ALRC on September 3, 2007, contacted the district administration through its sister-organisation, the Asian Human Rights Commission (AHRC). The AHRC urged the head of the district administration, the District Magistrate (DM), Ms. Veena Kumari, to ensure that Alina receive immediate medical attention. The DM refused to take action and through a press release denied the case…

8. The continuation of feudal practices in India is one more reason for starvation and food insecurity in India. The landlords, often from the upper caste, force members of the lower caste to work for them. Bonded labour is a common practice in the country (8). Most States in India are yet to legislate and implement land reforms laws. Left with no cultivable land or work, the villagers are often forced to work for the local landlords for practically nothing. The wages are often provided in the form of a daily meal. Entire families are forced to work in conditions equivalent to slavery (9).

9. The correlation between bonded labour, the absence of land reform policies and starvation is proven by the simple fact that in States where land reforms have been implemented, cases of starvation and malnutrition are far less frequently reported (10). In the past three years, not a single case of starvation deaths has been reported from the State of Kerala (11). The nation-wide implementation of land reforms is yet to materialise owing to strong political opposition. Many legislators in India are feudal lords (12) [Asian Legal Resource Centre, ‘India: Starvation deaths ongoing due to administrative neglect’, written statement made to the seventh session of the UN Human Rights Council, 21 February 2008, ALRC-CWS-07-002-2008].

Footnotes:
1. The High Level Committee constituted by the Ministry of Food and Public Distribution in India in its reports claims that the country is self-sufficient in food grain production and that the country could even face a severe drought season without engendering a shortage of food for the needy.

3. While the Indian Constitution does not explicitly mention the right to food as a fundamental right, it is implicitly enshrined in Article 21 of the Constitution under the fundamental right to life. The Supreme Court of India has also reiterated that Article 21 of the Indian Constitution guarantees the right to food.


11. The State of Kerala implemented the Kerala Land Reforms Act in 1963, bringing a statutory limit to land holding.

12. For example, of the 543 legislators in the lower house of the Indian Parliament (Lok Sabha), 120 are from the States of Uttar Pradesh and Bihar. Yet, these are the two States in India that record the lowest per capita income. The State is home to many senior politicians in India, yet it is one of the most backward States in terms of productivity and agricultural income.

(For further information and analysis, see also Lesson Series 39: The right to food: Indivisibility of rights, which looks specifically at the relationship between caste discrimination and the right to food.)

B. Social legitimacy and institutionalization of discrimination

Laws related to caste discrimination

India’s constitution includes the recognition of ‘fundamental rights’ and the prevention of untouchability. To realize the constitutional promise of the prevention of untouchability, the Protection of Civil Rights Act, 1955 was enacted, which criminalizes any acts of preaching and practising untouchability. Sections 4-7 in particular detail that punishment is to be meted to those preventing persons—on the grounds of untouchability—from entering public areas (roads, water sources, shops) or temples; preventing them from undertaking any profession or trade; from occupying or acquiring residence premises; from participating in any social or religious custom, tradition or festival; from being admitted to hospitals or denied treatment; for refusing to sell goods or render services; for practising social boycotts.

The problem with the law was that it did not specify any investigation or prosecution mechanisms, which seriously affected its implementation. Without having built-in mechanisms to prevent non-registration of complaints and mandatory provisions for the investigation and prosecution of crimes that fall under it, the law was destined to fail, since the individuals responsible for its implementation believed in a contrary social practice fortified by religion and custom. Furthermore, in comparison to the gravity of the offense, the punishment prescribed was too low—imprisonment for a minimum period of one month and not to exceed six months; and a maximum fine of 500 rupees, and not less than 100 rupees.
It is these aspects that were sought to be covered by the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 provides for penal provisions against atrocities committed against members of the Dalit community and other lower castes. The rules formulated in accordance with the legislation also provide for protection to the lower castes and are more preventive in nature. However, the law and rules are limited. They do not take away the root cause—the caste system.

In cases where compensation is awarded the amounts of damages are far below international standards.

Section 153A of the Indian Penal Code, which provides for punishment for instigating acts of enmity between groups based on religion, race, place of birth, residence, language and so on, is far less enforceable since the burden of proof in criminal trials is high. But that does not mean the standards of trial should be brought down. The chances of a probable conviction, however, are far too low. Yet all these literally do not answer the issue of caste system in India.

The human rights institutions in the country, namely the national and state-level human rights commissions, do not have any authority to make an affirmative action on receiving a complaint. The powers of these institutions are restricted to that of an advisory nature. Sections 12 and 13 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act limit the authority of the rights commissions to receipt of complaint, inquiry, inspection and either to refer the matter to appropriate authority for further action or to provide advice to the government.

The limitation may make the institutions literally incapable of taking any affirmative action for the protection of human rights. An order of compensation awarded by these institutions does not have an executable authority. Such an order can only recommend the government to collect the fine from the perpetrator and disburse the amount to the victim. If the perpetrator is not an employee of the government, the possibility of implementing the compensation order will be low. Even when the perpetrator is a government employee the order is often not executed. That makes the system itself a mockery and may result in discouraging the victims from approaching these institutions.

India also has limited its ratification to the primary international covenants by opting out from the authority of independent committees constituted under the covenants to receive individual complaints. Hence for a victim of human rights violation, the matter needs to be addressed within the country where the remedies are inadequate or almost unachievable [Bijo Francis, ‘Caste away by castes’, Human Rights SOLIDARITY, vol. 14, no. 5, September 2004, pp 29-30].
Sections 153 A & B of the Indian Penal Code 1891 can be applied in cases involving caste based discrimination, as well as cases with a religious or communal element:

153 A: Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony

(1) Whoever
(a) By words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place or birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) Commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, [or]

(c) Organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence of knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

Shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.
**153 B: Section 153B. Imputations, assertions prejudicial to national-integration**

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,

(a) Makes or publishes any imputation that any class of persons cannot, by reason or their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) Asserts, counsels, advises, propagates or publishes that any class or persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India or

(c) Makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste of community, and such assertion, counsel, pleas or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

Shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall be liable to fine.

The **Protection of Human Rights Act 1993** again has nothing to do with caste based discrimination in particular, but it established a ‘human rights commission’ at the national and state level, which could entertain complaints concerning the violation of human rights, including rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

Despite these laws, caste discrimination is still a part of India’s social and political fabric today. This is both a rule of law issue, and an issue of social perception/acceptance. For several years, the AHRC has consistently maintained that India is facing a collapse of rule of law. All sorts of laws are routinely disregarded, justice institutions are malfunctioning and public officials do everything but their jobs.
In its submission to the 70th session of the CERD Committee in 2007, the ALRC noted that

All the domestic legislations depend upon the local policing for its effective implementation… The police in India are often seen as a criminal in uniform by the ordinary Indians.

Any violation of human rights in India could be challenged at a domestic court. However, the court itself depends upon the local police to investigate and execute its orders. There are umpteen examples to how the court orders have failed in preventing further violation of rights and also in delivering the intended result… thus far various orders of the Supreme Court regarding implementation of its orders have failed to be implemented [ALRC, ‘A Supplementary Document Concerning Caste Discrimination in India’, 2007, pp10-11].

In this environment it is not surprising that laws relating to caste discrimination and untouchability are not enforced.

Social legitimacy

With regards to social perception, the caste system is ingrained into the country’s mentality. Government officials, politicians, law enforcement officers and ordinary citizens all follow these practices. While many follow them for religious or cultural reasons, others follow them to retain benefits and privileges, some of which they have become used to seeing as their ‘rights’ by virtue of descent. The AHRC routinely comes across cases for instance, where police officers refuse to file complaints made by Dalits because ‘a Dalit has no right to complain’. From a caste hierarchy perspective, Dalits deserve no better than what they get, and have no right to make complaints about individuals from upper castes. On the other hand, the police are given bribes by the perpetrators of abuse against Dalits to not file their complaints and to harass them, and may even be related or on friendly terms with them.

Not only do police and judicial officers practice untouchability in both their personal and professional lives, but government bodies employ Dalits as ‘cheap labor’ and to do ‘dirty jobs’, as can be seen in Lesson 2, with regard to the Indian Railways employing Dalits as manual scavengers. The Indian government is in fact interested in maintaining the status quo, hence its consistent refusal to acknowledge caste discrimination as a problem internationally.
Questions For Discussion

1. Discuss what makes caste discrimination so atrocious, in what ways it violates international human rights principles.
2. What is the relationship between discrimination and rule of law?
3. Discuss social aspects of caste discrimination.
Lesson 2

This lesson will focus on the situation of Dalits in the Indian state of Gujarat, in particular those working as manual scavengers and manhole workers.

A. Caste discrimination in Gujarat

(While this section focuses on Gujarat, cases of caste discrimination can be found throughout India.)

India’s western state of Gujarat has a population of 50.67 million (according to the 2001 census). Of these, an approximate 3.6 million are Dalits, representing 7.1 per cent of the state’s population. They include the Vankars, Chamars, Garodas, Mahyavanshis, Senva, Turi Barots, Dangasiyas, Nadiyas, Hadis, and Valmikis. More than 80 per cent of the Dalits in Gujarat are daily labourers, the majority of which are in the agricultural sector. Half of the Dalit population is landless or owns less than one acre of land, which forces them to work on the land of dominant castes.

The practice of untouchability is very common in Gujarat and occurs in the following forms:

- In rural areas, Dalits are often not allowed to engage in cultural and social activities with the rest of the community, including entering temples, sitting in the main spaces of villages, taking part in religious programs, and eating with the rest of the community during village ceremonies.
- Dalits are often landless, as non-Dalits often own the majority of land in the villages, and government officials often do not enforce laws and policies to allocate land for them. In those cases where the government does allocate land for the Dalits, they are often denied access to that land because of the practice of caste-based discrimination in the villages.
- Dalits are also not allowed to use the same resources/items as non-Dalits in the communities; they are not allowed to rent or even enter homes of non-Dalits, use the same wells, eat and drink from the same dishes, they are not allow to enter barber shops, they are not allow to drink tea in the cup from the tea stall.
- In schools, Dalit children are often forced to sit separately from the rest of the students during the midday meal. They are the only whom asked to clean latrines in the schools. (As a result of this caste-based discrimination in schools, Dalits are often less educated than the rest of the community.)
• Attempts to set up stores in villages by Dalits are often unsuccessful. Due to untouchability practices, the rest of the villagers refuse to purchase things from their shops.
• Dalits are forced to do some of the dirtiest jobs in Gujarat. For instance, manual scavenging is still widely practiced almost entirely by women belonging to the Valmiki asked to clean latrines in the schools.
• Government authorities often deny basic needs such as electricity, and water to Dalit families, while they provide them for non-Dalits. When Dalits petition the government to provide these facilities, their requests are often ignored.
• When Dalits do try to stand up for their legal rights, members of the dominant castes often assault them and/or practice social boycotts against the community.
• The SC/ST (Prevention of Atrocities) Act: 1989 is often not implemented properly (i.e., cases are either not registered under the Act when they should be, or are not registered under the relevant provisions) due to discriminatory practices by government officials.

The story of Geeta illustrates many of the above practices. Geeta lives in Jetpura village, Gujarat. While the upper caste community occupied the middle of the village with easy access to the market, bus stop and water tank, the Dalits lived at the far end of the village. There were 125 Dalit families living there, 45 of which were Valmikis.

Geeta lives in a one-room house with her parents, grandparents and four younger siblings. Both her parents work as manual scavengers, while Geeta helps her grandparents to make brooms at home. Once a week, an agent comes to provide the raw material (a particular kind of dry leaves) to make the brooms and collect the finished ones. They receive Rs 2 per broom, which is sold in the market for between Rs 12–15.

Geeta wanted to study, but from an early age she and her three sisters helped the family in its work. She dreams of marrying an educated person who is not involved in caste based jobs such as manual scavenging, removing dead animals or playing drums on special occasions. As a child, Geeta used to accompany her mother to clean household toilets and sewage. Those families would give her mother some leftover food, clothes and Rs 15 per month. Geeta recalls that one of the employer’s infants wanted to play with Geeta. When his mother saw Geeta touching the child however, she scolded and hit her. Geeta was tied to a tree for the rest of the day. When Geeta’s mother begged the lady to let Geeta be, she was verbally abused and told not to come to work anymore. Subsequently, even the employers’ neighbours fired her mother. The lack of work also meant the lack of leftover food, resulting in many nights of sleep on empty stomachs. When her mother started her work again sometime later, Geeta no longer accompanied her.
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The leftover food brought home by her mother was not always fresh or edible, and many times her family fell ill after eating it. Once, all her family members were hospitalized due to food poisoning and they had to spend a large amount of money on medicine. After that incident, they stopped eating leftover food.

One day Geeta went to the local school for get an admission form for her little brother Karan. The first teacher told to send her father. Finally after many requests he was ready. However, Geeta feels that the Teacher did not treat her very well. She returned home, happy and told her father that the teacher gave permission for Karan to go to school from next day. But then Geeta found that her brother Karan was not happy and asked him the reason. Karan told her that he had been treated badly in school. Other student insulted him with (caste based) slurs and the teacher told him that if he wanted to attend school he would have to clean the toilets as it was his duty because he is ‘Bhangi’. The teacher doesn’t allow him to sit in the front row, never checks his lessons and never talks to him. “So,” said Karan “I don’t like to go school alone.” After sometime he left the school altogether and now spends most of his time playing and gambling with other Dalit children. This is the situation of many Dalit children, who lack support in pursuing their education.

Manual scavengers

Manual scavengers are people who manually remove or dispose human excreta. Although the practice was eradicated in Europe and the west with the invention of flush toilets, India continues this practice for its dry (non flush) latrines. Dry latrines are walled enclosures with open ceilings and empty floors made of concrete or stone where people can defecate. From the advent of the caste system, the disposal of waste and human excreta was relegated to the lowest layer of society. These people came to be treated as polluted or untouchable due primarily to the nature of the activities they performed. They were forced to live outside the limits of upper caste dwellings and were not allowed to enter the same temples or drink water from the same wells as upper caste individuals. This ex-communication and marginalization effectively meant that a person born in this community was de-moted for life to carry out the same degrading tasks which were performed by his earlier generation. Members of the community had no resources to seek any alternative employment.

The practice of manual scavenging was legitimized during British rule, with the operation of dry latrines in military establishments and railway stations. To avoid the shame associated with the practice, the British called the manual scavengers “night soil workers”; a change of name did nothing to change the marginalization and abuse faced by this community.

Manual scavenging is carried out without any form of protective gear. Even simple equipment like a face mask is not provided. Their work begins in the early hours and continues past midnight. 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. Many scavengers suffer from
dangerous viral and bacterial infections which affect their skin, eyes, limbs and respiratory system including tuberculosis.

There are three main types of scavengers: municipality workers, contract workers, and those working in private households. While municipality workers have a fixed salary and job, this is not the case for contract and private household workers, who are offered work sporadically and paid low wages. The majority of manual scavengers are women, who are involved in some of the most degrading activities, including cleaning toilets and excreta with their bare hands and disposing of the waste in hand-pulled carts or in baskets carried on their heads.

Apart from the dry latrines, the manual scavengers also have to clean human waste from streets and fields, where a significant number of people defecate due to a lack of private toilets. Around Ahmedabad, the capital city of the state of Gujarat, scavengers work in locations populated by migrant workers, near well developed residential areas. The population of these locations varies from between 5,000-15,000 individuals. None of their dwellings have toilets, while the few existing public toilets are not enough for so many people. Moreover, most of the toilets’ flush systems do not work or water is not available. The toilets operate from 6:30am until 9pm; anyone needing the toilets before or after this time has to do their business in the open. People who cannot or do not want to pay for using the public toilets also sit in the open. In addition, these locations have drainage systems that are usually choked up due to a lack of cleaning and maintenance. Similarly, the few garbage bins available are overflowing, not having been emptied for a long time; garbage lies everywhere.

Nanajibhai Makwana has been a worker with the Ahmadabad Municipal Corporation’s sanitation department for the past seven years, but he has never been offered a permanent job. He is not happy with his daily work of cleaning human excreta, but does it out of necessity. His work area has a population of more than 15,000 people, with only two pay-and-use toilets, which are not used because of their filthy condition and as people do not want to pay. Instead, they use any convenient spot in the street as their free toilet, which Nanajibhai then has to clean.

According to Nanajibhai, the Corporation only gives them a broom and iron plate for cleaning. It used to provide them with soap as well before, but no longer does so.

Nanajibhai said he also has to destroy dead animals; “Sometimes it is unbearable for us because it smells so bad. If you work in that condition you cannot eat your food for many days. But we have to do this otherwise we will not get money for that day. If we refuse then the officers tell us there is no need to come to work from tomorrow. So it our helplessness we are not permanent workers.”

When Nanajibhai was asked if he had any habits of smoking, drinking or chewing tobacco, he laughed and said he cannot live without drinking. “What do you think, we like this work? Are we happy with this work?
Being born as a Valmiki is our only fault. Sometimes it is difficult for me to eat as my hands literally stink. If I did not drink, I would not be able to work.”

Nanajibhai said that he and his wife just want the government to consider their working situation and provide them with a proper system and equipment for work. “I know this work is banned by law but we have to do these because we have no option. How can we survive without this work? I never wish that our children do the same job. I have three children, two daughters and one son, and I sent them all to school.”

**Prohibition of dry latrines and abolishing manual scavenging**

It was not until 1993 that the Indian government passed a law to ban the practice of manual scavenging. 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.

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 written statement submitted to the UN Human Rights Council in August 2008, the Asian Legal Resource Centre (ALRC), sister organization to the AHRC, noted that

The Indian Railways, the largest rail network in the world, employs the largest number of manual scavengers. Unofficial surveys conducted by various non-governmental organizations 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.

[...] 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.
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.

March 2009 has come and gone, and there still exist close to a million Dalit manual scavengers in India today. Even in Gujarat, which claims to be a manual scavenging free state, close to 61,000 persons are still involved in this degrading activity. Unless the government takes concrete steps to end manual scavenging, laws on paper and mere rhetoric will do nothing to rehabilitate these Dalit workers. Laws and policies must be strictly enforced.

**Manhole workers**

Apart from working as manual scavengers, the Valmiki community are also employed as manhole workers, to clean the country’s drains and sewers. Unlike most countries where machines are used to pump out drains, India continues to force Dalits to do this work. Manhole workers are either employed by Municipal Corporations or by private contractors or companies. Neither of the employers follow any safety standards, leading to great concern for the safety of thousands of workers.

Like manual scavengers, manhole workers work without any protective gear or equipment. They are required to climb into the sewer, scoop a bucketful of dirt, come out and hand it over to an assistant, before going in again. This operation is usually repeated several times. In Gujarat, during the last 10 years more than 160 manhole workers have died during their work as reported in local newspapers.

The rainy season is the most dangerous time for the workers as the sewers are flooded. They enter the manholes without a rope attached and at times have difficulty finding their way back due to the dark waters. In the words of one manhole worker, “Many of us have decomposed and we might also die but this is the only livelihood for us. Not one of us lives till old age, if one does not die in an accident, a disease kills him.”

According to a study carried out by an NGO in Ahmadabad, the Sewerage Department of the Ahmadabad Municipal Corporation employed 1,200 workers involved in cleaning the sewers. The majority of these workers belonged to the Valmiki community. The study revealed the presence of toxic chemicals like chlorides, hydrochlorides, sulfates, nitrates and even metals like mercury, lead and chromium in the sewers, as well as sharp pieces of glass and metals.
Due to this, workers were suffering from various illnesses, including respiratory diseases, urinary tract infections and a range of skin diseases, eye disorders, gastrointestinal ailments, and even lung cancer. Furthermore, these workers had no access to basic amenities such as adequate housing, drinking water or electricity.

Women

It is commonly accepted that women suffer more from human rights violations than their male counterparts, and this is no different for Dalit women, who suffer from both caste and gender based violations. The majority of Dalit manual scavengers and sweepers are women. In return for cleaning filth and human excreta with their bare hands, they get leftover food, old clothes and/or cash from their upper caste employers. After suffering from discrimination by their teachers and upper caste classmates, young Dalit girls drop out of school and join their mothers as scavengers.

Many Dalit women work as agricultural labourers. They have no fixed hours and are not paid wages according to the prescribed rates. Young girls work in tobacco and cotton units. It is not uncommon for them to be sexually abused by their employers, particularly when they are forced to work night shifts.

In other instances, when their menfolk are unable to repay their loans to their landlords, Dalit women and girls are forced to work as house servants for them. They are then required to do all their domestic work, including cleaning the cattle shed, bringing fodder for the cattle, cleaning and sweeping the house. Again, the chances of sexual abuse by the landlords and their family members are high. The wages they may earn, if at all, are very low.

Another inhuman practice is the Devadasi system, ‘temple prostitution’. Devadasi literally means God’s (Dev) female servant (dasi). Many Dalit girls between 6-8 years of age are forced into this practice. Once a girl enters the temple in this manner, she is shunned by society and has no chance of marriage. The girls are raped by temple priests and upper caste persons. The Devadasi system continues to flourish in India, particularly in the states of Maharashtra, Andhra Pradesh, Tamil Nadu and Karnataka. It is interesting to note that while upper castes cannot tolerate sharing water, utensils and even temples with Dalits, sexual intercourse with Dalit girls is permissible.

India’s caste and patriarchal systems give few opportunities to Dalit women, and their plight receives little attention. Customs such as the payment of dowry and child marriages make Dalit women more vulnerable and easily abused. They are frequently subjected to verbal abuse and violence. Many times they are victims of mass attacks, gang rapes, and are forced to parade naked. Dalit women get no protection from the police or judiciary and when they have the courage to file complaints little is done to investigate them.
Questions For Discussion

1. Why is manual scavenging considered a derogatory form of labour?
2. Discuss why despite having a law against the practice, manual scavenging continues in countries like India.
3. What is the link between a non-functioning justice system and the prevention of social evils?

Appendix
