

Manual Scavenging: Poverty and Caste Interfaces in India

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How to cite this article:

M Shamima Parveen / Manual Scavenging: Poverty and Caste Interfaces in India. Indian J Law Hum Behav 2020;6(2):91-94.

<p>Author Affiliation Guest Faculty, Department of Law, Tamil Nadu Dr Ambedkar Law University, Chennai, Tamil Nadu 600028, India.</p> <p>Corresponding Author M Shamima Parveen, Guest Faculty, Department of Law, Tamil Nadu Dr Ambedkar Law University, Chennai, Tamil Nadu 600028, India. E-mail: shamimaparveen1985@gmail.com</p>	<p>Abstract</p> <p>The exercise of manual foraging in India dates to ancient times. This paper attempts to draw attention to the distress reaction of human faces who works to scavenge human faeces, still in this 21st Century. The paper explores the willful breach of fundamental and human rights met out to manual scavenging humans in India while various central and state legislations for the abolition and protection of manual scavengers also exists in parallel. The ineffable plights of Manual foraging in their daily life is deliberated by the author so as to conclude with the suggestive legal reforms more truly to be implemented by authorities in the government to end the Manual Scavenging trade from the society.</p> <p>Keywords: Manual Scavenging; Caste Interfaces in India.</p>
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Introduction

Simply imagining on manually handling human excreta which has not fully decomposed and without protective gear, should make one to realize how horrible it is to do the job of manual scavenging. The inhumane manual scavenging practice enslaves an estimated 12 lakhs people in India, who belong to the scheduled castes.¹

Dalits who work as manual scavengers are usually from the Hindu Valmiki sub-caste, which is further subdivided into regionally named groups such as, Bhangi, Balmiki, Chuhra, Mehtar, Mazhabi, Lal Begi, Halalkhor Chuhada, Rokhi, Mehatar, Malkana, and Mela. The Muslim Hela sub-caste and Christian and Muslim Dalits are also involved in manual foraging in many areas and their situation is also critical.

Some areas in India still have dry-toilets. Manual foraging still endures in parts of India without proper drainage systems. It is most prevalent in many states of India like Maharashtra, Uttar Pradesh has the greatest number of manual

scavengers registered while Maharashtra follows up in second place.

Their position includes constant contact to gases like methane, leptospirosis, hepatitis, respiratory problems, and other critical health exposures. Manual scavengers face serious health concerns - manual contact with excreta exposes them to various diseases, skin infections, rotting of fingers and limbs, tuberculosis and nausea. Most women from the manual scavenging communities tend to be addicted to tobacco (Gutka) and men to liquor, in an attempt to diminish the nauseating nature of their work and beat back their state of despair.

Constitutional Safeguards & Legislations

Every law is ought to be endowed with reason and conscience and should act well intertwined with one another in a spirit of Liberty, Equality, and Fraternity assured by the Indian Constitution.

- Article 14, provides for equality and equal opportunity for all people. It is also enshrined equality on par the nature of work one does.

- Article 15, ensures no discrimination and prohibition of discrimination on the ground of religion, race, caste, sex, or place of birth. It also provides access to hotel, public places, temples without discrimination.
- Article 15(2) and Article 16 (4) of the Indian Constitution wherein the States have been given the power to make any special provision regarding the upliftment of these vulnerable minority.
- Article 17, abolished untouchability
- Article 19, provides right to practice any profession, or to carry on any occupation, trade or business.
- Article 21, right to life also includes dignified life and personal liberty.
- Article 23, Prohibition of traffic in human beings and forced labor etc.
- Article 41, Right to work, to education and public assistance in certain circumstances.
- Article 42, Just and humane conditions of work
- Article 46, Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.
- Article 47, Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
- Article 51, directive principles and state policy states that State need to respect international laws and treaties.

India has also enacted some of the protective laws enacted by the centre, The Protection of Civil Rights Act, 1955, National commission for schedule caste (NCSC), and Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, as to safeguard the fundamental, constitutional and other legal rights as seen applicable to the manual scavengers also.

Human Rights Violations on Manual Scavengers

There exists an abhorrent situation of human rights violations meted out by the manual scavengers in India. The International Labor Organization (ILO) distinguishes three forms of manual scavenging:

The biggest violator of this law in India is the Indian Railways where many train carriages have toilets dropping the excreta from trains on the tracks and who employ scavengers to clean the tracks manually. These tasks are subdivided by

gender. Women are involved in manual scavenging, especially in village.² Those that practice manual scavenging are routinely denied access to communal water sources and public places of worship, prevented from purchasing goods and services, excluded from community religious and cultural events, and subjected to private discrimination from upper-caste community members.³

International View on Indian Situation on Manual Scavenging

India has ratified both UN declaration and human rights and International Covenant on Civil and Political Rights, 1966. Various provisions of the Universal Declaration of Human Rights, to which India is a signatory, hold all human beings to be equal and the practice of manual scavenging of human faeces violates several of its provisions;

Article 1, of the Universal Declaration of Human Rights (UDHR) inter alia, provides, "All human beings are born free and equal in dignity and rights."

Article 6, of the Declaration read along with Article 16 of the International Covenant on Civil and Political Rights confer on every individual, a right of recognition as a person before the law.

UN High Commissioner for Human Rights: "India already has strong legal prohibitions on caste discrimination, so the key to the new law will be effective accountability and enforcement. It is also crucial that adequate resources are provided to enable the comprehensive rehabilitation of liberated manual scavengers.

One of the major developments in evolving norms and standards regarding discernment based on work and ancestry or caste. Discrimination (Employment and Occupation) Convention, 1958 which deals with issue of work-related discernment and promotes the equality in service and work and also this convention states that government needs to adopt the laws for contesting discernment through creation of educational agendas for equal opportunity, adoption of national policy.

Indian Laws versus Reality

While Constitution upholds the provisions of Right of Equality, Equal Protection of Laws, Indiscrimination, Abolished Untouchability, and dignified life and personal liberty, on the other side the reality on field is so painful digest.

India has been delimited by the status arrangement, which is a system of social layer. and confined to occupations. Their caste description

also renders them socially “unclean” or “unrivalled” and is used to justify discriminatory practices. The manual scavengers are placed in the lowest rung of Hindu society as “untouchables among the untouchables.”

As section 2 (g) of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (hereinafter the PEMSR Act, 2013) defines manual scavenger as “a person engaged or employed. 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.” So, manual scavenging still formally holds its place as an accepted practice in the society and yet to be legally abolished.

India reacts to Manual Scavenging

India has understood that the root cause of manual scavenging is the insanitary waste disposal practices (dry latrines, open defecation etc.).³

Total Sanitation Campaign (TSC) was conceived in 1999 which was retitled as Nirmal Bharat Abhiyan in 2012 to ensure 100% sanitation in rural and urban areas by 2017. Various other schemes and projects like (SRMS), Nirmal Bharat Abhiyan (2009) and recently the Swachh Bharat Abhiyaan (2014), National scheme of liberation and rehabilitation of scavengers and their dependents (NSLRSD), Nirmal Bharat Abhiyaan (NBA) (2009-14) and Swach Bharat Abhiyaan (SBA) (2014- 19) were all brought by the Government to contain and control the manual scavenging practices and for the exhilarate of the people involved in the practice.

Most importantly, Indian Courts have reacted strongly on manual scavengers’ pains through its various landmark judgments. This is a welcome happening and many judgments are coming out through its judicial reviews. However, a lot more needs to be done to completely integrate the judgment and actions in reality.

In the A Narayana v Chief Secretary (Madras 2008) Case, the court got a bit further, with a slightly more cooperative attitude from the State Chennai Metro Water provided a report of what mechanization equipment is available, and arrangements to prevent blocking of sewers to minimize need for human intervention Set of limited conditions in which manual entry is necessary Obligations of state vis-à-vis employees

and contract workers Focus on skewered areas, but some directions on banning human entry into septic tanks and obligation of municipalities to ensure mechanized cleaning. But deaths have continued in Chennai and in Tamil Nadu.

In the Delhi Jal Board v. National Campaign for Dignity & Rights of Sewerage & Allied Workers 2011 (8) SCC 568, the Supreme Court observed that raising the bogey of judicial activism or judicial outsmart and the orders issued for benefit of the weaker sections of the society are invariably subjected to challenge in the higher courts. In large number of cases, the sole object of this litigative exercise is to tire out those who genuinely promote the cause of the weak and poor. In this case, the Supreme Court not only directed to pay higher compensation to the families of the deceased, but also directed the civic bodies to ensure immediate compliance of the directions and orders passed by the Delhi High Court for ensuring safety and security of the sewage workers.

In 2013, the Hon’ble Supreme Court in the Safai Karamchari Andolan v. Union of India 2014 (4) SCALE 165, held that the PEMSR Act, 2013 expressly acknowledges article 17 and 21 of the constitution as the rights of persons engaged in sewage cleaning and cleaning tanks as well persons cleaning human excretion on railway tracks.

In Court on its own motion v. UOI (Punjab & Haryana 2019) emphasis on state legal obligations for eradication & rehabilitation Compensation for deaths to include Monthly pension of Rs. 35,000 for families of persons who have died, who were engaged in a private capacity Class IV jobs for families of persons who have died, who were employees of govt.

Conclusion

India has a long road ahead to total eradication of manual scavenging with the present disposal method of solid waste of human and such work conditions must improve towards complete abolishment of manual scavenging. We have moved 70 years since Independence but these things are still happening in a very conventional manner.

There is still a unanimous screaming that every present manual scavenging laws stays superficial when it comes to answering real time difficulties and challenges involved with solid waste disposal of humans. The Government should take adequate steps to prohibit and strictly punish any government organization or private organizations or private

persons from unlawfully involving or employing or engaging manual scavengers even without adequate precautionary measures and protective gears, to handle present unpleasant contemporary manual scavenging practices.⁹

Finally, given above the bundle of pains faced by manual scavengers, the author believes that the absence of technology innovations involving the authorities, researchers, and inventors to put in their concerted efforts to bring out technology leverage to accurately and effectively handle scavenging of solid wastes of human and animals so that manual scavengers presently working in this area are let free and empowered in their public and private lives as any other citizen of India.

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