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## “CURSED LIVES: THE UNADDRESSED PERILS OF MANUAL SCAVENGERS IN INDIA!”

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### ABSTRACT

In India Garbage Collectors, Sweepers, Sanitation workers, and Manual Scavengers mostly belong to the Low Caste groups. Manual Scavenging is perhaps deemed to be one of the worst existing signs of being a Dalit or an Untouchable. It is an occupation involving the collection of human excreta and cleaning of drains with bare hands. The present article is an attempt to give an integrated outlook on Manual Scavenging in Modern India.

The main objective of the article is to provide homogenous information and assessment of the plight of Manual Scavengers in India. The article begins with a general introduction, briefing about the background of the study. A thorough review of literature is given followed by defining the term, Manual Scavenging. Further, the article has discussed the history, origin, and prevalence of the practice in India.

Detailed analysis of Women Scavengers is provided followed by the impacts of such a practice in society. The later part of the article gives a statistical overview of data relating to the existing Manual Scavengers, the number of deaths, and the presence of dry latrines in India. It further highlights the recent instances of deaths.

Further, the article has elaborated on the constitutional, legislative, Judicial, and International approach towards Manual Scavenging. The Loopholes in the Legislation are also underlined. The author has attempted to understand the reasons for its existence even today despite the efforts taken and the situation during the COVID-19 times. The last part of the article provides for the author's observatory remarks followed by recommendations and conclusion.

**Keywords**– Manual Scavenging, Scavengers, Dalits, Excreta, Sewage, Dry Latrines.

### 1. INTRODUCTION–

*“Enjoy the fruits of labor”, they say.*

*Hard it is to eat later in the day.*

*Manual Scavenger by birth, not by choice.*

*I am a Human, I too have a voice!”*



In India concepts like cleanliness and purity are often associated with the Caste System which has been prevalent for ages. Casteism in India is a vicious web. Even today allocation of occupation is extensively based on the caste of

an Individual. For countless generations, there exists a community of 'Manual Scavengers' which is making its living by carrying human excreta with bare hands and surviving in the noxious air of exclusion and rejection from society.

Manual Scavenging is one such dehumanizing practice in India which is underlined by the subsistence of Untouchability. This form of employment is usually referred to as a 'Cultural Occupation' and is assigned to caste groups traditionally placed at the bottom of the hierarchy namely the Dalits (which includes the Hindu Dalits, a few Muslim Dalits, and some converted Dalit Christians) and the other Scheduled Caste communities. These tasks of manually cleaning the dry latrines and manholes are viewed as disgraceful and low-grade by the high caste groups.

It is an irony that after decades of attaining independence and making advances in the Economic and Scientific arenas, modern form of Caste disparity like Manual Scavenging is still prevailing in major parts of our country.

## 2. RESEARCH METHODOLOGY-

This article is based upon secondary data sources such as Research Papers, Journals, Thesis/Dissertation, Governmental and Non-Governmental Organization Reports, Government Ministry Reports, Census Data, Books, Documentaries, and Websites.

## 3. REVIEW OF LITERATURE-

As a community, Manual Scavengers have not acquired sufficient consideration from sociologists and anthropologists. A limited study and few research papers are accessible on them in our country.

### A. **Bakshi D. Sinha et al.** <sup>2128</sup>

In their study, they have evaluated the present Socio-Economic status of the Manual Scavengers on implementation of the various

developmental policies and strategies of the Central and the State Government. The study was conducted in four states of India namely Maharashtra, Andhra Pradesh, Rajasthan, and Orissa. The Result of the study was as follows:

- No efforts were found to be taken to deal with the hardships faced by the Scavenger families.
- The major cause for a steady growth was the ineffective coordination of authorities at various levels in implementing the schemes and policies for manual scavengers.

### B. **Rajiv Kumar Singh** <sup>2129</sup>

Singh in his study stated that manual scavengers live in extremely poor and unhygienic conditions. They are often poverty-stricken and are deprived of necessities of housing, sanitation, electricity, food, and clean water.

### C. **Sridhar** <sup>2130</sup>

He pointed out that the Dalit Households engaged in Manual Scavenging are generally very poor and have limited or no control over their assets. They often face inequality in accessing fundamental needs such as food, water, shelter, etc.

### D. **Baruah** <sup>2131</sup>

According to him, Manual Scavenging is a caste-based and hereditary occupation for Dalits that is mostly connected with slavery. The Dalit community has been suffering from horrifying discrimination with the addition of physical and sexual violence.

## 4. WHAT IS MANUAL SCAVENGING?

***"India can send rockets to the moon but it won't invest in technology that removes the need for humans to clean toilets manually!"***

***-Bezwada Wilson, Convenor, Safai Karamchari Andolan***

<sup>2128</sup> Bakshi D. Sinha, P.S.K. Menon and Arun K. Ghosh, *Restoration of Human Dignity: Impact of Development Programmes on Scavengers*, Arnold Publishers, New Delhi (1994).

<sup>2129</sup> Rajiv Kumar Singh, *Manual Scavenging as a Social Exclusion: A Case Study*, Economic, and Political Weekly (2009).

<sup>2130</sup> Sridhar, *Deprivation among Dalits Remain High*, The Hindu (2011).

<sup>2131</sup> Baruah, *The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013: A review*, Space and Culture, India (2014).



Manual Scavenging is an inhumane practice that involves the lifting and removal of human excreta from private homes and toilets with bare hands, brooms, or metal scrappers into woven baskets or buckets. These scavengers then carry the same on their heads, shoulders, in wheelbarrows, or against their hips to the dumping locations or into the water bodies for disposal. In addition to this many scavengers are also employed to gather, carry and dispose of excreta from septic tanks, drains, sewers, and railway tracks. They usually clean up the dry latrines. A latrine has a casket that can hold the human excreta but a dry latrine has no receptacles, no pits, no doors, and no water which makes the task of the scavengers more difficult.

### **The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013**

defines a 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 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.<sup>2132</sup>

### **5. ORIGIN AND HISTORY-**

There is no uniform explanation of the origin of Manual Scavenging in India. However many Sociologists have claimed that it dates back to the Ancient Era. As listed in the Naradiya Samhita, a Hindu holy text, one of the fifteen duties of the slaves was Manual Scavenging.<sup>2133</sup> This belief continued even in the Buddhist and Mauryan periods.

Caste was classified into four Varnas namely the Brahmanas, Kshatriyas, Vaishyas, and Sudras. The Dalits (Untouchables) who were not even placed in the hierarchy were assigned the lowliest and polluting jobs by the elites. They

were known by varied names like Bhangis (Broken Identity), Balmiki, Chuhra, Mehtar, Lal Begi, Halalkhor, Chachati, Pakay, Metriya, etc. in different regions of India.<sup>2134</sup>

A **Government of India Report of 1992**<sup>2135</sup> stated that in the Mughal Era, women under purdah required toilets that were attached to their harem. This need for female speculation and privacy in defecating resulted in the need to dispose of the excreta away from their home and this task was given to the inferior communities.

Later in the British Era, with the coming of municipalities, manual scavengers were employed to collect waste from public toilets. Dalits continued doing this job. The British did nothing to eliminate this practice and much to keep it going.

### **6. THE CONTINUING LEGACY OF SUFFOCATION AND STIGMA -**

One of modern India's greatest misfortune is its failure to suppress this humiliating practice. At present, there are millions of people in India who begin and end their day collecting human feces. A country with rich civil history, which has inspired the entire world through its Freedom Movements, it is quite disturbing to know that caste privileges and discriminations remain engraved here. A major chunk of society is still not fortunate enough to watch the dawn of freedom. In 1993 even though this cruel practice was banned, it is still prevailing in the Indian communities being passed from generation to generation as an occupation.

### **7. NUMBERS SPEAKING VOLUMES: STATISTICAL OVERVIEW-**

Surveys, Records, and Evidences put together by the Governmental/Non-Governmental Organizations and Civil Society Organizations unveil the widespread practice of Manual Scavenging in India.

<sup>2132</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, § 2(g), Acts of Parliament, 2013 (India).

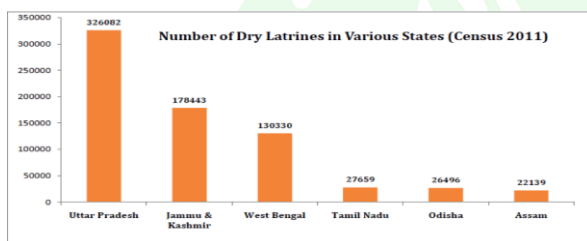
<sup>2133</sup>Bindeshwar Pathak, *Road to Freedom: A Sociological Study on the abolition of Scavenging in India*, Motilal Banarsidass Publisher, 38 (1999).

<sup>2134</sup> B.N.Srivastava, *Manual Scavenging in India: A Disgrace to the Country*, Concept Publishing Company, New Delhi, 20 (1997).

<sup>2135</sup> Abhishek Gupta, *Manual Scavenging: A Case of Denied Rights*, ILI Law Review, 40 (2016).

An estimation based on the **Census 2011**<sup>2136</sup> data reveals that there are approximately 1.2 million people involved in Manual Scavenging in India.

The latest survey by the **Union Ministry of Social Justice and Empowerment**<sup>2137</sup> with the assistance of the **National Safai Karamchari Finance and Development Corporation** (NSKFDC), conducted across eighteen states of India identified 20,596 people as Manual Scavengers. The survey was however conducted only in 163 districts with over more than 500 districts left uncovered which means that the number is likely to rise.

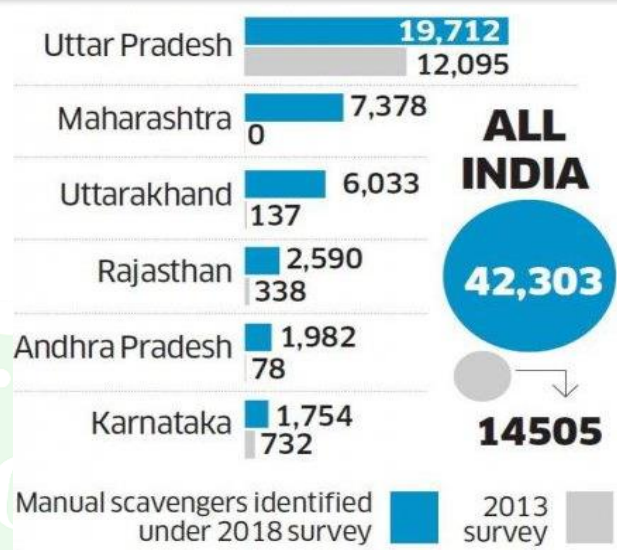


**Figure 1:** Number of Dry Latrines in the Various States<sup>2138</sup>

(Source:

Census 2011)

**Figure 1** depicts the data collected in the Census 2011. It stated that there are 7,94,390 dry latrines (73% in rural areas and 27 % in urban areas) and 13,14,652 toilets where human excreta is flushed in open drains which are also cleaned up by human beings. The Census also claims that there are around 4,97,236 toilets in our country where human excreta is cleaned by animals by eating it.



**Figure 2:** States having highest Manual Scavengers<sup>2139</sup>

(Source: 2018 Survey)

**Figure 2** shows that the highest number of Manual Scavengers were found in the State of Uttar Pradesh followed by Maharashtra, Uttarakhand, Rajasthan, Andhra Pradesh, Karnataka, Punjab, Daman & Diu, and Bihar. States like Goa, Assam, and Chandigarh had no manual scavengers.

## 8. SEXUAL DIVISION OF LABOUR: WOMEN AS MANUAL SCAVENGERS-

***"Many times it drips on my head. In monsoon it gets worse, the worms multiply. My whole body smells like a piece of shit!"***

**-Badambai, Manual Scavenger**



Manual Scavenging in India is not just a caste-based occupation but also a gender-based occupation with 95 % of women preferred over

<sup>2136</sup>Census 2011, MINISTRY OF HOME AFFAIRS, Government of India (Jan. 01, 2025, 4:30 PM), <https://censusindia.gov.in/>.

<sup>2137</sup>THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/newa/politics-and-nation/over-20500-manual-scavengers-identified-in-india-survey/articleshow/66043626.cms> (last visited Jan. 01, 2025).

<sup>2138</sup> Socio-Economic Caste Census of India, Ministry of Home Affairs, Government of India (2011).

<sup>2139</sup>Nationwide 2018 Survey, <https://www.deccanherald.com/national/large-number-of-manual-scavengers-yet-to-get-benefits-785761.html> (last visited 04 Feb, 2025).

men to clean dry latrines. Men are often engaged in physically demanding work like cleaning sewage and pit holes. Women are made to carry loads of excreta in leaking cane baskets, discard placenta post deliveries, work on railway tracks, and exhume dead bodies.

A study<sup>2140</sup> conducted in 2014 surveyed 480 women from Bihar, Madhya Pradesh, and Uttar Pradesh revealed that 85 % of them were married. They have to do it because a 3000-year-old social hierarchy says so. This occupation is passed on post marriage to work with their mother-in-law. Any refusal in doing so result in a boycott by their families and villages.

They have to endure the burden of taking care of their families as well as working as Manual Scavengers and are often stigmatized, victimized, and oppressed in both the social and household spheres of life.

According to the **Human Rights Watch, 2014**<sup>2141</sup> an average woman gets paid between the range of Rs.10/- to Rs. 20/- every month per household (with a meal during festivals) while men earn up to Rs.300/- for clearing the sewers.

In addition to this women have to also undergo sexual harassment, social exclusion, and a trauma worth a lifetime. They are kept at a length and are not allowed to take part in religious ceremonies. Even if these women quit scavenging for good, society knows who they were in the past and does not let them come of that shell.

## 9. A STINKING TRAGEDY: IMPACTS OF MANUAL SCAVENGING-

*"I was about four months pregnant. No one helped me carry the heavy basket. I used to carry it on my head or against my hip. Because of that, I faced miscarriage. My baby died in my womb!"*

- **Kiran, Manual Scavenger**

<sup>2140</sup> A Study by Jan Sahas Society Development Society, 2014, EMPOWER (Jan. 02, 2025, 1:30 PM), <http://empowerweb.org/global-reach/country/india-1/jan-sahas>.

<sup>2141</sup> World Report, 2014, <https://www.hrw.org/sites/default/files/reports/india0814ForUpload0.pdf> (last visited Jan. 01, 2025).

Manual Scavenging is not just a violation of Human Rights but is also a disgrace to human dignity and humanity on the whole. According to the 2012 United Nations Development Programme Report, Manual Scavengers face discrimination in social, political as well as economic spheres.<sup>2142</sup> The impacts of Manual Scavenging can be studied under the following heads:

### 9.1. Health Impacts:

Apart from all the other atrocities faced by the manual scavengers, their health is always at risk. The working conditions are very poor with no masks, no gloves, no boots, no brooms, and no protection.

The sanitary jobs make them get in contact with harmful gases like Methane and Hydrogen Sulphide which leads to a lot of irreparable health issues such as Skin Diseases (Rotting of fingers and limbs), Permanent Hair Loss, Rashes, Sore Throat, Brain Fever, Respiratory Disorders, Cardiovascular Degeneration, Cancer, Infections like Hepatitis, Leptospirosis, and Helicobacter, Musculoskeletal Disorders like Osteoarthritic Changes and Intervertebral Disc Herniation, and Altered Pulmonary Function Parameters.<sup>2143</sup> They also get infections on coming in contacts with animals like pigs and their waste.

As per the data collected by the **National Commission for Safai Karamcharis**,<sup>2144</sup> there have been 634 deaths of Manual Scavengers since the year 1993 with Tamil Nadu reporting the highest deaths (194) followed by Gujarat(122), Karnataka (68), and Uttar Pradesh (51). Upon death, there is no remuneration provided to the family.

<sup>2142</sup> The United Nations Development Programme Report, 2012, <file:///C:/Users/user/Downloads/Social-inclusion-of-Manual-Scavengers.pdf> (last visited Feb. 01, 2025).

<sup>2143</sup> Rashtriya Garima Abhiyan, *Manual Scavengers and their health*, MFCINDIA (Jan. 06, 2025, 11:30 AM), <https://www.mfcindia.org/main/bgpapers/bgpapers2013/am/bgpap2013h.pdf>.

<sup>2144</sup> 634 Deaths related to Manual Scavengers recorded in 25 years: National Commission for Safai Karamcharis, <https://swachhindia.ndtv.com/634-deaths-due-t-manual-scavenging-in-25-years-25106/> (last visited Jan. 07, 2025).



Women scavengers on the other hand are at great risk of getting numerous diseases since they have close contact with human excreta every day. The use of bare hands for the same leads to many fatal skin infections, hand, foot, and mouth diseases. 90 % of scavengers are not provided with proper equipment to safeguard them against feces-borne illness.<sup>2145</sup>

Most women tend to be addicted to tobacco (Gutka) and men to liquor in an attempt to decrease the nauseating and revolting nature of their work and rebuff their state of helplessness.

## 9.2. Structural and Physical Violence:

This community is forced to submit itself to structural forces. Even if their life is at risk the multilevel structural domination makes it a point that they do this dirty job with no other option left. Many times they are exposed to physical violence. The prevalent culture on caste justifies the violence against them. They also face threats and domination when they refuse or try to leave their profession.

The Human Rights Watch has reported many such instances:<sup>2146</sup>

1. In November 2012, when Gangashri from Uttar Pradesh along with 12 other women voluntarily stopped cleaning dry latrines, the dominant Thakurs of the village terrorized them that they will be thrown out of the village.

2. Several women who wished to leave scavenging informed the Human Rights Watch that the local authorities refused to interfere when they were threatened. As a punishment for leaving the job their access to community lands and resources was repudiated.

## 9.3. Social Discrimination:

Manual Scavengers are often stigmatized by society because of the nature of the job they do. Their families too suffer at the hands of the mark. The children of manual scavengers face

discrimination at every level. Most of them drop out of school at a very early age as they are avoided by the teachers or the fellow students. They are ill-treated, made to sit in a corner, and are asked to clean toilets. Thus they are forced to take up the same jobs as their parents even when they do possess qualifications to be employed for any other better job.

The Human Rights Watch has identified many instances where Manual Scavenging is linked with untouchability and social ostracism. Many of them are refused to have access to water, religious places, goods and services, and are subjected to prejudice from the upper-caste groups.

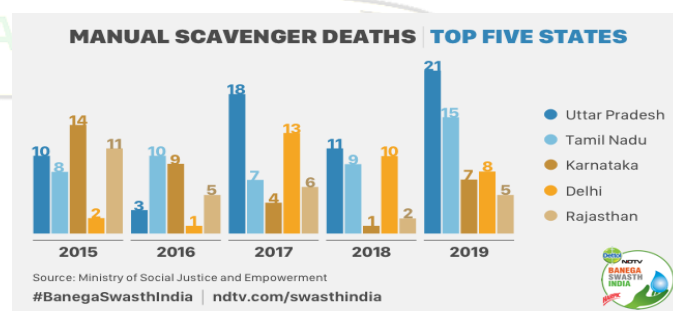
## 9.4. Denial of Basic Human Dignity:

Manual Scavengers are also denied their basic human dignity. This can be evident from the various mortifying gestures received by them. They are also given disrespectful nomenclatures. Their worth is reduced to that of dirt.

To quote Rekhabai from the Devgarh Village of Madhya Pradesh:

***“They would give me stale chapattis and leftover food. They dropped these items into my hand from a distance as if I am an animal. They had promised to pay me Rs. 10/- each month. But sometimes for months, I was left unpaid!”***

## 10. DEATH BY EXCRETA: STORIES FROM SEWERS-



<sup>2145</sup> Supra note no 16.

<sup>2146</sup> Nikhil Kumar Agarwal, *India should recognize that Manual Scavenging is akin to slavery*, THE WIRE (Jan. 06, 2025, 5:30 PM), <https://thewire.in/caste/india-should-recognise-that-manual-scavenging-is-akin-to-slavery>.



**Figure 3:** Death of Manual Scavengers in top Five states <sup>2147</sup>

(Source: Ministry of Social Justice and Empowerment)

**Figure 3** depicts the total number of deaths of Manual Scavengers from the year 2015 to 2019. The data revealed that approximately 376 people died of Asphyxia (breathlessness) while cleaning the sewers and septic tanks. The highest deaths (110) were reported in 2019 with an increase in 62% of the deaths (68) that were reported in 2018. Uttar Pradesh topped the list followed by the other four states.

India has a long list of instances where Manual Scavenging has claimed the lives of poor innocent people who were trying to make a living for themselves and their family.

1. On 1<sup>st</sup> January, 2018 four workers died while fixing a sewer line in Mumbai. While being lifted by a crane the cable broke and three of them died on the spot. One worker died the next day and the only surviving worker broke his legs and had to undergo a surgery. <sup>2148</sup>

2. In 2019 Arun Kumar, a Manual Scavenger died of asphyxiation (breathlessness) while cleaning a septic tank of a commercial mall in Chennai. Reportedly his brother went inside the tank first and collapsed immediately. To help him Arun jumped in and pushed his brother out but failed to save himself. He suffocated inside the tank due to the toxic fumes and was killed. He is survived by his wife and a 2-year old daughter. His family blamed the contractor of the mall for not providing him with adequate safety kit to clean the tank which resulted in his death. <sup>2149</sup>

3. On 15<sup>th</sup> June 2019, in the Vadodara district of Gujarat, Seven people- Three Employees of a hotel and four sanitation workers died while clearing the sewer of the hotel on account of inhalation of the poisonous gases released from the sewer. <sup>2150</sup>

4. Recently in February 2021, Narayana, a 37 years-old who worked as a sweeper in the Maddur Town Municipal Corporation, Karnataka committed suicide after he faced harassments from officials to engage into manual scavenging. He is survived by his wife and three daughters. <sup>2151</sup>

#### 11. CONSTITUTIONAL FRAMEWORK-

***"In India, a man is not a Scavenger because of his work. He is a Scavenger because of his birth irrespective of the question whether he does Scavenging or not!"***

**Dr. B.R. Ambedkar**

Manual Scavengers belong to the backward sections of the society. They are entitled to general and special rights and protection under the Constitution of India. The relevant Constitutional provisions on the same are as follows:

1. Equality before Law and Equal Protection of Law <sup>2152</sup>
2. No discrimination based on place of birth, race, religion, caste, and sex <sup>2153</sup>
3. Equality of opportunity in the matters of public employment <sup>2154</sup>
4. Abolition of Untouchability <sup>2155</sup>
5. Right to practice any profession, or to carry on any occupation, trade, or business <sup>2156</sup>

<sup>2147</sup> Barkha Mathur, *Manual Scavenging: 376 die in 5 years*, SWATCH INDIA NDTV (Jan. 06, 2025, 5:30 PM), <https://swachindia.ndtv.com/manual-scavenging-376-die-in-5-years-only-half-of-the-families-given-compensation-minister-to-lok-sabha-41680/>.

<sup>2148</sup> Sheeva Dubey, Dhamma Darshan Nigam, *Seven Manual Scavengers died in seven days-Why is there still silence*, THE WIRE (Feb 06, 2025, 3:30 PM), <https://thewire.in/caste/seven-manual-scavengers-died-seven-days-still-silence>.

<sup>2149</sup> Lokpria Vasudevan, *How Manual Scavenging claimed the life of a 25- Year old*, INDIA TODAY (Jan 11, 2025, 4:25 PM), <https://www.indiatoday.in/india/story/manual-scavenging-arun-kumar-killed-all-you-need-to-know-about-1618614-2019-11-13>.

<sup>2150</sup> Press Trust of India, *7 Suffocated to death while cleaning hotel sewer in Gujarat's Vadodara*, INDIA TODAY (Jan. 06, 2025, 10:30 AM), <https://www.indiatoday.in/india/story/7-suffocated-to-death-while-cleaning-hotel-sewer-in-gujarat-s-vadodara-1549381-2019-06-15>.

<sup>2151</sup> Ananya Srivastava, *Karnataka Sweeper ends life after being forced to clean sewage: Why Manual Scavenging persists in 21<sup>st</sup> Century India*, FIRST POST (Jan. 11, 2025, 4:30 PM), <https://www.firstpost.com/india/karnataka-sweeper-ends-life-after-being-forced-to-clean-sewage-why-manual-scavenging-persists-in-21st-century-india-9341791.html>.

<sup>2152</sup> INDIA CONST.art.14.

<sup>2153</sup> INDIA CONST.art.15.

<sup>2154</sup> INDIA CONST.art.16, cl.2.

<sup>2155</sup> INDIA CONST.art.17.

<sup>2156</sup> INDIA CONST.art.19, cl.1(g).

6. Right to Life and Personal Liberty <sup>2157</sup>
7. Prohibition of traffic in human beings and forced labor, etc. <sup>2158</sup>
8. Right to work, to education, and public assistance in certain circumstances <sup>2159</sup>
9. Just and Human conditions of work <sup>2160</sup>
10. Duty of the State to promote educational and economic interests of the Scheduled Castes, Scheduled Tribes, and other weaker sections <sup>2161</sup>
11. Duty of the state to raise the level of nutrition and the standard of living to improve public health <sup>2162</sup>
12. Constitution of a National Commission for Scheduled Caste <sup>2163</sup>

## 12. LEGISLATIVE APPROACH-

The practice of Manual Scavenging is banned under the Indian Laws. The legislature has enacted several enactments for the betterment of the Scheduled Caste and Scheduled Tribes including the Manual Scavengers. Some of the prime legislations are as follows:

### 12.1. The Protection of Civil Rights Act, 1955 (Revised): <sup>2164</sup>

Initially known as the Untouchability (Offences) Act, 1955, this act abolished untouchability. It was amended in 1977 and was renamed as the Protection of Civil Rights Act, 1977. The new Act made Untouchability a cognizable and non-compoundable offence with stricter punishments to the offenders.

### 12.2. The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989: <sup>2165</sup>

The prime objectives of this Act are:

- a. To prevent the commission of any offences against the members of the Scheduled Castes and Scheduled Tribes
- b. To provide Special Courts for trial of such offences
- c. To provide relief and rehabilitation to the victims of such offences

The Act was further built up in relation to Manual Scavenging by recent amendments which makes it a punishable offence to employ, permit or make any person belonging to SC/ST community to do Manual Scavenging. <sup>2166</sup> The punishment for the same is an imprisonment for a term not less than six months which can be extended to five years and fine.

### 12.3. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993: <sup>2167</sup>

This Act was the formal attempt to ban Manual Scavenging in India. It made employing of Manual Scavengers or Construction of dry latrines a cognizable offence. This Act was replaced by The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013.

### 12.4. National Commission for Safai Karamcharis Act, 1993: <sup>2168</sup>

This Act established the National Commission for Safai Karamcharis to study, evaluate, and monitor the implementation of various schemes for the Safai Karamcharis and redress their grievances. A statutory responsibility is bestowed on the National Commission for Safai Karamcharis to monitor the implementation

<sup>2157</sup> INDIA CONST.art.21.

<sup>2158</sup> INDIA CONST.art.23.

<sup>2159</sup> INDIA CONST.art.41.

<sup>2160</sup> INDIA CONST.art.42.

<sup>2161</sup> INDIA CONST.art.46.

<sup>2162</sup> INDIA CONST.art.47.

<sup>2163</sup> INDIA CONST.art.338.

<sup>2164</sup> The Protection of Civil Rights Act, 1955, No.22, Acts of Parliament, 1955 (India) and The Protection of Civil Rights Rules, 1977 (India).

<sup>2165</sup> The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, No. 33, Acts of Parliament, 1989 (India) and The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (India).

<sup>2166</sup> The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, No.1, Acts of Parliament, 2016 (India).

<sup>2167</sup> Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, No.46, Acts of Parliament, 1993 (India).

<sup>2168</sup> National Commission for Safai Karamcharis Act, 1993, No.64, Acts of Parliament, 1993 (India).

and enquire into the contraventions and non-implementation of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.<sup>2169</sup>

## 12.5. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013:<sup>2170</sup>

While the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 focused on sanitation requirements it failed to provide long lasting measures to demolish the deeply rooted social evil of Manual Scavenging existing from the country. Therefore upon thorough discussion, the Parliament enacted the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 which aimed to take up matters which was left unaddressed by the earlier legislations.

### 12.5.1. Characteristics of the Act:

**The Primary Characteristics of the Act are as follows:**

1. It prohibits and penalizes the employment of Manual Scavengers
2. It prohibits construction of dry latrines
3. It imposes a duty on the local authority to identify dry latrines and demolish or convert them into Sanitary latrines
4. The state is bound to provide the victims with rehabilitation, training, and loans

### 12.5.2. Important Provisions:

1. **Section 5:** Prohibition on Construction of insanitary latrines and engagement/employment of Manual Scavengers.
2. **Section 6:** Any contract/ agreement comprising the engagement or employment of Manual Scavengers shall be void and no compensation will be provided in place of the same.

3. **Section 7:** Prohibition on any person, local authority, or agency to employ any person for hazardous cleaning of a sewer, or a septic tank.

4. **Section 8:** Any contradiction with Section 5 and 6 will attract an imprisonment of one year with or without fine up to Rupees Fifty Thousand for the first time and an imprisonment of two years with or without fine up to Rupees One Lakh for subsequent violations.

5. **Section 9:** Any contravention with Section 7 shall attract an imprisonment of two years with or without fine up to Rupees Two Lakhs for the first time and an imprisonment of five years with or without fine up to Rupees Five Lakhs in case of subsequent violations.

6. **Section 13:** Municipalities to provide rehabilitation to all persons identified as Manual Scavengers within a period of One Month.

7. **Section 16:** Panchayat to provide rehabilitation to all persons identified as Manual Scavengers within a period of One Month.

8. **Section 33:** Duty of Local Authorities and other agencies to use modern technologies for cleaning of sewers and handling of human excreta.

### 12.5.3. Loopholes in the Act:

1. Definitions like Manual Scavengers, Insanitary Latrines, hazardous cleaning, and protective gear are not very clear.
2. The Act has focused only on insanitary latrines, open drains, and pit and has failed to inculcate provisions to stop open defecation which is one of the main causes of spread of manual scavenging.
3. The Act is silent on the procedure to be followed by implementing authority to apply the provisions and also on how the surveys are to be conducted.
4. The Act does not speak on actions to be taken against the implementing authority for

<sup>2169</sup> The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, § 31, No.25, Acts of Parliament (2013).

<sup>2170</sup> The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, No.25, Acts of Parliament (2013).



non-implementation of the provisions of the Act.

5. The Act mentions that a practice will not be considered as Manual Scavenging if it is done with proper safety equipment. However it does not elaborate on what should constitute safety measures. This provision can be misinterpreted and misused.

### 13. JUDICIAL APPROACH-

***"In no country in the world people are sent to gas chambers to die. This is the most inhumane way to treat human beings!"***

***-Justice Arun Mishra, Supreme Court, 2019***

The Indian Judiciary has played an active role in highlighting the cause of Socio-Economic Welfare. Many Directive Principles of State Policies have been translated into enforceable rights for the betterment of the poor and weaker bunch of the society. As far as Manual Scavenging is concerned the Judiciary has taken a serious note of the same with an intention to eliminate this practice from the society. Some of the landmark Judgments are as follows:

#### 1. ***Reaveen Rashtrapal, I.R.S (Retd.) v. Chief Officer, Kadi Municipality and Others***<sup>2171</sup>

In this case a petition was filed in the High Court of Gujarat demanding the setting up of a committee to examine the living standards of man-hole employees and provide interim protection measures to them while carrying out the operation till a permanent solution was obtained.

The High Court of Gujarat on considering the Fundamental Right to Health under Article 21 of the Constitution issued directions to the concerned authorities for the upliftment and improvement of the sewage workers.

#### 2. ***Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers and Others***<sup>2172</sup>

The Supreme Court identified and highlighted the problems and situation of the disadvantaged sections of the society particularly the Manual Scavengers and the Sewage Workers who risk their lives by engaging in such a dangerous occupation on account of poverty and helplessness. The Court observed that these people have been deprived of their Fundamental Right to Equality, Life, and Liberty for a long time.

The Court extensively criticized the inability of the Central and the State Government to provide safety to these people and further directed the civic bodies to immediately implement the orders passed by the Delhi High Court regarding safety and security of the Manual Scavengers and Sewage Workers and also ordered them to pay higher compensation to the families of the deceased.

#### 3. ***Safai Karamchari Andolan v. Union of India***<sup>2173</sup>

In this case, a writ petition was filed as a Public Interest Litigation so that a writ of Mandamus be issued to the Union of India, Union Territories, and the State Governments asking them to strictly enforce The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Petitioners also contented that their Rights under Articles 14, 17, 21, and 47 were being violated.

The Supreme Court ordered the Government to provide Rupees Ten Lakhs each to the family of the deceased who had lost their lives since the year 1993. The Court also gave certain guidelines for prevention of happening of such inhuman instances in the future.

<sup>2171</sup> (2006) (3) GLR 1809.

<sup>2172</sup> (2011) (8) SCC 568.

<sup>2173</sup> (2014) (4) SCALE 165.

#### 4. *Chinnamma and Others v. State of Karnataka and Others*<sup>2174</sup>

Here the High Court of Karnataka passed an order in favor of one Mr. Chenchiah, who died of Asphxia while cleaning a drain as a result of drowning. Although compensation of Rupees Two Lakhs was awarded but the family insisted on rehabilitation.

The Court referred to the previous two cases and ordered that the family to be provided with rehabilitation within a period of one month as per the Section 13 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

#### 14. INTERNATIONAL PERSPECTIVE-

The International Labor Organization (ILO) has distinguished between three forms of Manual Scavenging namely:

1. Removal of Human Excreta from Public streets and dry latrines
2. Cleaning of Septic Tanks
3. Cleaning Gutters and Sewers

The recent **ILO Global Report** <sup>2175</sup> on Discrimination has stated that discrimination on both grounds of sex and social origin continue to trap successive generations of Dalit Women in traditionally caste based occupations. Manual Scavenging is one of those occupations mostly held by women with 95 % of engagement.

The **World Bank Report** <sup>2176</sup> states that one of every ten deaths in India is because of poor sanitation. Around 50% of India's population defecate in the open which accounts for 60 % of the World's total open defecations.

The inhumane practice of Manual Scavenging is also a violation of the International laws on Human Rights including protection guaranteed

under **The Universal Declaration of Human Rights, 1948**;<sup>2177</sup> **The International Convention on Elimination of All Forms of Discrimination against Women, 1979**;<sup>2178</sup> and **The International Convention on Elimination of All Forms of Racial Discrimination, 1965**.<sup>2179</sup>

International Agencies such **The International Labor Organization**,<sup>2180</sup> **The World Health Organization**,<sup>2181</sup> **The United Nations International Children's Emergency Fund**,<sup>2182</sup> and **The United Nations Development Programme** <sup>2183</sup> have advocated to end this cruel practice.

#### 15. INITIATIVES BY THE INDIAN GOVERNMENT TO CURB THE MENACE-

The Indian Government has announced several National and State a Schemes which are aimed at ending the hazardous practice of Manual Scavenging and promoting Modernized Sanitation. Some of the schemes are as follows:

##### A. **Integrated Low Cost Sanitation Scheme (1960-61 (Revised))**:<sup>2184</sup>

This Scheme was launched to convert dry latrines into pour flush latrines thereby liberating the Manual Scavengers from this age old and obnoxious practice of collecting human excreta with bare hands.

<sup>2177</sup>The Universal Declaration of Human Rights, 1948, UNITED NATIONS (Jan. 11, 2025, 12:30 PM), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>2178</sup> The International Convention on Elimination of All Forms of Discrimination Against Women, 1979, UNITED NATIONS WOMEN (Jan. 11, 2025, 1:00 PM), <https://www.un.org/womenwatch/daw/cedaw/>.

<sup>2179</sup> The International Convention on Elimination of All Forms of Racial Discrimination, 1965, OFFICE OF HIGH COMMISSIONER OF HUMAN RIGHTS (Jan. 11, 2025, 1:30 PM), <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>.

<sup>2180</sup> The International Labor Organization, INTERNATIONAL LABOUR ORGANIZATION (Jan. 12, 2025, 2:30 PM), <https://www.ilo.org/global/lang-en/index.htm>.

<sup>2181</sup> The World Health Organization, WORLD HEALTH ORGANIZATION (Jan. 12, 2025, 4:30 PM), <https://www.who.int/>.

<sup>2182</sup> The United Nations International Children's Emergency Fund, THE UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND (Jan. 12, 2025, 5:35 PM), <https://www.unicef.org/org/>.

<sup>2183</sup> The United Nations Development Programme, THE UNITED NATIONS DEVELOPMENT PROGRAMME (Jan. 12, 2025, 9:30 PM), <https://www.in.undp.org/>.

<sup>2184</sup> Integrated Low Cost Sanitation Scheme, SMART NET (Jan. 12, 2025, 12:30 PM), <https://smartnet.niua.org/content/>.

<sup>2174</sup> Writ Petition Number 16365 of (2014).

<sup>2175</sup> Director General, ILO Global Report on Equality at Work: The Continuing Challenge, INTERNATIONAL LABOUR ORGANIZATION (Jan. 11, 2025, 10:30 AM), <https://www.ilo.org/wcmsp5/groups/public---ednorm/---relconf/documents/meetingdocument/wcms154779.pdf>.

<sup>2176</sup> World Bank Report on Sanitation, THE WORLD BANK (Jan. 11, 2025, 11:00 AM), <https://worldbank.org/en/topic/sanitation>.

### B. Self-Employment Scheme For Rehabilitation of Manual Scavenging (2007):<sup>2185</sup>

This Scheme aims at liberating Manual Scavengers and rehabilitating them. Manual Scavengers are provided with one-time cash assistance, training with stipend, and concessional loans with subsidy for taking up alternative occupation.

### C. The Swachh Bharat Abhiyan (2014):<sup>2186</sup>

The Nirmal Bharat Scheme (2009-2014) was replaced by the Swachh Bharat Abhiyan in 2014 which aimed at the following:

- Eradication of Manual Scavenging
- Elimination of Open Defecation
- Modern and Scientific Municipal Solid Waste Management
- To effect behavioral change regarding healthy sanitation practices

### D. Safaimitra Suraksha Challenge (2021):<sup>2187</sup>

Launched on the World Toilet Day (19<sup>th</sup> November), this is a programme initiated in 243 cities of India with an aim to prevent hazardous cleaning and promote mechanized cleaning. Cities will be awarded a cash prizes on successful completion of the target.

### 16. STILL IN SEARCH OF DIGNITY: WHY DOES THE PRACTICE CONTINUE TO EXIST IN INDIA?

Despite all these efforts it is distressing to know that this horrific practice of Manual Scavenging still prevails like a dark spot in India. The plight of Manual Scavengers is still the same, in fact has worsened over the years. The welfare measures have been effective at a snail's pace. The question is where lies the problem?

a. The Government surveys and studies are very much ineffective in identifying the Manual Scavengers and Insanitary Latrines.

b. The Government has miserably failed in stopping the illegal employment of Manual Scavengers by local households.

c. There is weak legal protection surrounding the subject.

d. Existing laws on abolition of the practice have failed in their implementation due to lack of enforcement thereby making the laws a Toothless one.

e. The Accountability Mechanism is not functioning properly. Safety equipment such as Gloves, Masks, Protective Gears, and Boots are not provided by the employers to the workers even though the law mandates them to do so.

f. No convictions have been reported in any case.

g. The Victims face difficulties in accessing justice due to the prevalent discrimination against them. Many authorities refuse to investigate or even register their grievances.

h. They are been made so powerless and vulnerable that they are neither aware about their rights nor they are competent enough to fight for their rights.

i. The societal attitude towards these people still remains a challenge. The caste designated occupation braces the social stigma and discrimination that they are unclean or dirty. The society has refused to accept them.

j. Many people continue carry out the occupation on account of threats and harassments from the employers or due to lack of employment alternatives.

k. Municipalities and Panchayat lack in funds to set up machines to clean sewers and to provide safety kit to the workers.

l. Many states are stepping back from declaring the figures due to the fear of contempt of Court.

<sup>2185</sup> *Self-Employment Scheme For Rehabilitation of Manual Scavenging*, MINISTRY OF SOCIAL JUSTICE AND DEVELOPMENT (Jan. 12, 2025, 3:00 PM), <https://socialjustice.nic.in/SchemeList/Send37?mid>.

<sup>2186</sup> *The Swachh Bharat Abhiyan*, MY GOVERNMENT (Jan. 11, 2025, 3:14 PM), <https://swachhbharat.mygov.in/>.

<sup>2187</sup> *Safaimitra Suraksha Challenge*, PRESS INFORMATION BUREAU (Jan 11, 2025, 4:14 PM), <https://pib.gov.in/PressReleasePage.aspx?PRID=1674015>.



m. Efforts taken to prohibit this practice have not curtailed it any way but instead has forced its happening underground.

n. Banks are also not supportive. They refrain from providing loans to these people due to slow recovery from them.

o. Rehabilitation programs have also failed to serve its purpose due to lack of budgets and lack of confidence amongst the victims to avail any skill development training.

p. A major portion of the subsidy or funds goes into corruption. Like for Instance in Madhya Pradesh, 165 women were found to be engaged in Manual Scavenging but not a single name was listed as a beneficiary.<sup>2188</sup> This is the reason why benefits are still far the reach of these people.

#### 17. THE WORSENE SITUATION AMIDST THE COVID-19 PANDEMIC-

The COVID-19 Pandemic has doubled the risk for the sewer cleaners and sanitation workers. The dangerous virus has and is claiming the lives of Lakhs of people in India. The problems of the Manual Scavengers still remains unaddressed and ignored amid the Pandemic. They are continuing with their jobs without proper measures just to make a living, facing a lot of health hazards.

The health hazards of the Manual Scavengers call out for an emergency at the health care unit but because of COVID-19 cases the chances of getting admitted and treated seems negligible making them vulnerable and prone to death.<sup>2189</sup>

#### 18. A WAY FORWARD: RECOMMENDATIONS-

A review of the legislative history and the Governmental programs reveal that despite these tactics, the plight of Manual Scavengers remains unchanged in India, reasons being already discussed in the above paragraphs.

However the following constructive recommendations can be adopted to improve the position:

a. We must begin with a change in the society. The root cause of Manual Scavenging is Caste prejudice. The link between caste and occupation has be broken. This will require the collective support of the Law, the Judiciary, the Government, the local authorities, and the public at large.

b. Various amendments must be made in the existing statutes ensuring stringency in the punishment to the perpetrators and also to maintain a consistency in the social welfare of the Sanitation Workers.

c. A favorable environment must be created for the effective implementation of the laws and the schemes.

d. A community awareness and sensitization is a must to educate people to adopt sanitary measures and discouraging Manual Scavengers to do such menial tasks.

e. A leadership has to be grown in the public to give a voice to the socio, economic, and political problems of these people.

f. Performance based rewards should be given to encourage people participate in the good cause.

g. Disposal of excreta is the responsibility of every individual. Dalit women specifically are made to do this dirty jobs. Strict action has to be taken against the offenders who engage women for doing such tasks.

h. A survey has to be carried out in rural as well as urban areas through community participation to bring Manual Scavengers on record.

i. The Municipality and the Panchayat have a big role to play. They should identify the dry latrines and immediately pass orders to demolish them or convert them into wet latrines. Deliberate discussions are a must on improving the status of Manual Scavengers.

<sup>2188</sup> Rashtriya Garima Abhiyan, *The Inhumane Caste and Gender-Based Sanitation Practice of Manual Scavenging in India*, INTERNATIONAL DALIT SOLIDARITY NETWORK, 1,6 (2017).

<sup>2189</sup> Anmol Chugh, Anjali Bisht, Nikita Sharma, Shubhangi Koushik, Pawan Harsana, & Sana Khan, *Living on the margins: An interpretative study of sanitation workers amidst COVID-19*, Volume 1 Issue 2, VANTAGE: JOURNAL OF THE THEMATIC ANALYSIS, 127,144 (2020).

j. There is a need for a National Level Monitoring Committee whose task will be to regularly monitor the practice of such cruelty.

k. The drainage system has to be adequately designed so that people are stopped from dumping solid and liquid wastes into the drains. Dustbins have to be provided to avoid littering on streets.

l. There is a need to promote rehabilitation of the workers. Centre and State should utilize the funds allocated for the purpose. Rehabilitation schemes and programs for women must be redesigned where these women can be assigned job of workers, assistants, and cooks in Anganwadi centres.

m. Alternate livelihood options and training programs to be provided to the victims.

n. Insurance Provisions for the Manual Scavengers and their families have to be made.

o. The educational status of their children should also be improved.

p. Alternatives like Bio-Toilets in railways can be of great help.

q. Society can be convinced through social media, newspapers, skit, movies, or advertising.

r. Technology can be used in the best possible way. Mini Jet Machines, Bandicoot developed by Genrobotics, Sucking Machines, Modern Septic tanks and sewage networks with proper safety kit like shoes, gloves, coat and oxygen masks can help in cleaning the sewer lines quickly thereby preventing manhole-related deaths.

s. The underground sewage network and drainage should be enlarged and the sewage plant coverage should be improved.

#### 19. CONCLUDING REMARKS-

Pandit Jawaharlal Nehru once said, ***"The day everyone in India gets a toilet to use, I shall know that our country has reached the pinnacle of progress!"*** Seventy Four years post India's Independence and Nehru's words are still a million steps apart. The sight of a human

carrying another human's excreta on his or her head erodes the very purpose of Indian Freedom Struggle.

No doubt there have been efforts taken to curb this peril. The ongoing campaign, Swatchta Hih Seva is a welcoming step. However just by preaching slogans we won't be able to defeat this practice. The idea of Clean India will only remain an illusion unless all the required developments are made. As rightly said by Dr. B.R. Ambedkar, ***"Today our battle is not just for wealth or power. It is a battle for freedom. It is a battle of reclamation of Human Personality!"***

***If we are Humans, let us treat and be treated as one!***