



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 5 AND ISSUE 14 OF 2025

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 14 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-14-of-2025/>)

Publisher

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MANUAL SCAVENGING AS A GROSS VIOLATION OF HUMAN RIGHTS AND HUMAN DIGNITY IN INDIA

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BEST CITATION – J.PIRAVIN ANSARI, MANUAL SCAVENGING AS A GROSS VIOLATION OF HUMAN RIGHTS AND HUMAN DIGNITY IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (14) OF 2025, PG. 750-757, APIS – 3920 – 0001 & ISSN – 2583-2344.

CHAPTER I – INTRODUCTION AND RESEARCH FRAMEWORK

1.1 Introduction

Manual scavenging is one of the most inhuman, degrading, and exploitative forms of labour in India. It involves the manual handling, removal, and disposal of human excreta from dry latrines, open drains, sewers, and septic tanks¹³⁷¹. Despite constitutional guarantees of equality, dignity, and freedom from exploitation, the practice continues largely due to caste-based discrimination, poverty, lack of mechanisation, and weak enforcement of laws¹³⁷².



¹³⁷¹ The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, § 2(1)(g).

¹³⁷² National Human Rights Commission, *Report on the Status of Manual Scavenging in India* (NHRC, New Delhi)

Manual scavenging is not merely a labour issue; it is a grave human rights violation that strikes at the core of human dignity. Individuals engaged in this occupation are denied basic human rights such as equality, health, safety, and social inclusion¹³⁷³. This chapter lays down the research framework of the study.

1.2 Aim and Objectives of the Study

Aim:

To examine manual scavenging as a gross violation of human rights and human dignity in India and to analyse the constitutional, legal, and judicial mechanisms aimed at its eradication.

Objectives:

1. To understand the concept and nature of manual scavenging in India.
2. To analyse manual scavenging as a violation of fundamental human rights.
3. To examine the constitutional provisions relating to dignity, equality, and prohibition of exploitation.
4. To study the statutory framework prohibiting manual scavenging and providing rehabilitation.
5. To analyse the role of judiciary in protecting the rights of manual scavengers.
6. To identify challenges in eradication and suggest effective measures.

1.3 Research Problem

Despite constitutional abolition of untouchability and enactment of stringent laws, manual scavenging continues in various forms across India¹³⁷⁴. The persistence of this practice raises serious concerns about the effectiveness of legal enforcement, State accountability, and protection of human dignity. The research problem focuses on why manual scavenging

continues despite a robust legal framework and how it violates fundamental human rights¹³⁷⁵.

1.4 Research Questions

1. Whether manual scavenging amounts to a violation of human rights and human dignity?
2. How far has the Indian Constitution addressed the issue of manual scavenging?
3. Are existing laws sufficient to eradicate manual scavenging in India?
4. What is the role of judiciary in safeguarding the rights of manual scavengers?
5. What measures are necessary for effective eradication and rehabilitation?

1.5 Hypothesis

1. Manual scavenging is a gross violation of human dignity and fundamental human rights.
2. The persistence of manual scavenging is primarily due to failure of implementation rather than absence of law.
3. Judicial intervention has strengthened protection, but executive apathy undermines enforcement.

1.6 Research Methodology

The study adopts a **doctrinal research methodology**. Primary sources include constitutional provisions, statutes, and judicial decisions. Secondary sources include books, journal articles, reports, and international instruments. Analytical and descriptive methods are used to evaluate the legal framework and judicial response.

1.7 Scope and Limitations of the Study

Scope:

The study focuses on manual scavenging in India from a human rights and constitutional

¹³⁷³ Universal Declaration of Human Rights, 1948, Arts. 1, 3 & 23.

¹³⁷⁴ Constitution of India, Art. 17; *State of Karnataka v. Appa Balu Ingale*, (1995) 2 SCC 273.

¹³⁷⁵ *Safai Karamchari Andolan v. Union of India*, (2014) 11 SCC 224.

perspective, including international obligations and judicial developments.

Limitations:

- Empirical fieldwork is not undertaken.
- The study relies on secondary data.
- Comparative international analysis is limited.

1.8 Review of Literature

Several scholars and institutions have addressed manual scavenging as a human rights issue. Durga Das Basu emphasises human dignity as the core of constitutional rights. Reports by the National Human Rights Commission highlight administrative failure in the eradication. Judicial decisions, particularly *Safai Karamchari Andolan v. Union of India*, provide a rights-based interpretation. However, there remains a gap in implementation-focused legal analysis, which this study seeks to address.

1.9 Scheme of the Study

- **Chapter I** deals with the introduction and research framework.
- **Chapter II** examines the concept and human rights dimensions of manual scavenging.
- **Chapter III** analyses constitutional and statutory provisions.
- **Chapter IV** discusses judicial responses and enforcement challenges.
- **Chapter V** provides findings, suggestions, and a conclusion.

CHAPTER II – MANUAL SCAVENGING AND HUMAN RIGHTS

2.1 Concept and Nature of Manual Scavenging

Manual scavenging refers to the practice of manually cleaning, carrying, disposing of, or handling human excreta from dry latrines, open drains, sewers, and septic tanks¹³⁷⁶. This work

involves direct and frequent contact with human waste and is generally performed without protective equipment or safety measures¹³⁷⁷. The occupation is traditionally imposed on specific caste groups, particularly members of the Scheduled Castes, reflecting deep-rooted caste hierarchies and social exclusion¹³⁷⁸.

The practice of manual scavenging is hereditary in nature, with individuals often compelled to continue the occupation due to lack of alternative employment opportunities, poverty, and social discrimination. It is socially stigmatised, as those engaged in this work are treated as “untouchables” and face exclusion from mainstream society. The hazardous nature of manual scavenging exposes workers to severe health risks, including respiratory diseases, skin infections, musculoskeletal disorders, and psychological trauma.

Thus, manual scavenging is not merely an occupational issue but a structural social problem that combines caste discrimination, economic exploitation, and denial of basic human rights.

2.2 Manual Scavenging as a Violation of Human Dignity

Human dignity is the cornerstone of all human rights and is recognised as an inherent and inalienable attribute of every individual. The practice of compelling human beings to manually handle human excreta is inherently degrading and humiliating, as it reduces individuals to sub-human conditions of existence. Such work strips individuals of their self-respect, autonomy, and social worth¹³⁷⁹.

Manual scavenging violates the moral foundation of a civilised society and negates the constitutional vision of a dignified life. The Supreme Court of India has consistently held that the right to life includes the right to live with dignity. When individuals are forced to perform

¹³⁷⁶ The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, § 2(1)(g).

¹³⁷⁷ National Commission for Safai Karamcharis, *Annual Report on Sanitation Workers*, Government of India.

¹³⁷⁸ Dr. B.R. Ambedkar, *Annihilation of Caste* (1936).

¹³⁷⁹ International Covenant on Civil and Political Rights, 1966, Art. 7.

degrading labour due to social compulsion and lack of alternatives, their dignity is systematically violated¹³⁸⁰.

The continuation of manual scavenging reflects societal acceptance of indignity for certain communities, which is incompatible with constitutional morality and human rights jurisprudence. It represents a direct assault on the idea that all human beings are equal in worth and entitled to respect¹³⁸¹.

2.3 Violation of Equality and Non-Discrimination

Manual scavenging is deeply rooted in caste-based discrimination and occupational segregation. The practice assigns degrading work to individuals based solely on their birth, thereby denying them equal status in society. This violates the principle of equality before law and equal protection of laws, which forms the foundation of the constitutional framework¹³⁸².

The concentration of manual scavengers within particular caste groups demonstrates systemic discrimination and social injustice. Such discrimination not only perpetuates inequality but also reinforces social hierarchies that the Constitution seeks to dismantle. Manual scavenging is a continuing manifestation of untouchability, which is expressly abolished under the Constitution¹³⁸³.

By allowing the practice to continue, the State fails in its obligation to ensure substantive equality and non-discrimination. The persistence of manual scavenging thus represents a denial of equal citizenship and equal participation in social life.

2.4 Right to Life, Health, and Safe Working Conditions

The right to life encompasses more than mere physical existence; it includes the right to health, safety, and humane working conditions. Manual scavengers are routinely exposed to toxic

gases, infectious waste, and hazardous environments, leading to frequent accidents, chronic illnesses, and even death. Sewer deaths, in particular, highlight the extreme dangers associated with this occupation¹³⁸⁴.

The absence of protective equipment, lack of mechanisation, and inadequate medical support further aggravate the vulnerability of manual scavengers. Occupational diseases, psychological stress, and shortened life expectancy are common among those engaged in this work. Such conditions amount to a gross violation of the right to life and health¹³⁸⁵.

The State has a constitutional and moral obligation to ensure safe working conditions and prevent hazardous employment. The failure to eliminate manual scavenging and ensure safety measures reflects a serious breach of human rights and State responsibility¹³⁸⁶.

CHAPTER III – CONSTITUTIONAL AND STATUTORY FRAMEWORK

3.1 Constitutional Provisions

The Indian Constitution provides a strong normative framework for the protection of human dignity, equality, and freedom from exploitation¹³⁸⁷. The practice of manual scavenging stands in direct violation of several fundamental rights and directive principles enshrined in the Constitution.

3.1.1 Article 17 – Abolition of Untouchability

Article 17 of the Constitution abolishes untouchability in all its forms and declares its practice to be an offence punishable by law. Manual scavenging is widely recognised as a contemporary and functional manifestation of untouchability, as it assigns degrading work to individuals based solely on their caste. The continuance of this practice reinforces social exclusion and caste-based discrimination, which Article 17 seeks to eliminate completely.

¹³⁸⁰ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

¹³⁸¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹³⁸² Constitution of India, Art. 14.

¹³⁸³ Constitution of India, Art. 17.

¹³⁸⁴ *Safai Karamchari Andolan v. Union of India*, (2014) 11 SCC 224.

¹³⁸⁵ International Covenant on Economic, Social and Cultural Rights, 1966, Arts. 7 & 12.

¹³⁸⁶ ILO Convention No. 155 on Occupational Safety and Health.

¹³⁸⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*.

Judicial interpretation has clarified that untouchability is not limited to traditional notions but includes any practice that results in social disability or humiliation of a particular class. Thus, manual scavenging directly violates Article 17 and undermines constitutional morality¹³⁸⁸.

3.1.2 Article 21 – Right to Life with Dignity

Article 21 guarantees the right to life and personal liberty, which the Supreme Court has expansively interpreted to include the right to live with human dignity. This includes the right to health, safe working conditions, and protection from degrading and hazardous labour¹³⁸⁹.

Manual scavengers are compelled to work in conditions that are unsafe, unhealthy, and humiliating, thereby stripping them of their dignity and reducing life to mere survival. Sewer deaths, occupational diseases, and psychological trauma faced by manual scavengers clearly demonstrate a violation of Article 21. The failure of the State to prevent such conditions amounts to a constitutional breach of the right to life¹³⁹⁰.

3.1.3 Article 23 – Prohibition of Forced Labour

Article 23 prohibits traffic in human beings, begar, and other forms of forced labour. Although manual scavenging may not always involve physical force, it operates through social coercion, economic compulsion, and caste-based pressure. Individuals are often left with no meaningful choice but to continue in this occupation due to poverty, illiteracy, and social exclusion¹³⁹¹.

The Supreme Court has held that labour extracted under conditions of economic necessity and absence of alternatives amounts to forced labour. Therefore, manual scavenging falls within the ambit of Article 23 and constitutes unconstitutional exploitation.

3.1.4 Directive Principles of State Policy

The Directive Principles of State Policy further strengthen the constitutional mandate against manual scavenging.

- **Article 38** obligates the State to promote social justice and reduce inequalities.
- **Article 39** directs the State to ensure adequate livelihood and prevent exploitation of workers.
- **Article 42** mandates just and humane conditions of work.
- **Article 46** requires the State to protect Scheduled Castes from social injustice and exploitation.

Although non-justiciable, these principles impose a moral and constitutional obligation on the State to eliminate practices like manual scavenging and rehabilitate affected persons¹³⁹².

3.2 Statutory Framework

To give effect to constitutional mandates, Parliament has enacted specific legislations aimed at prohibiting manual scavenging and rehabilitating affected individuals¹³⁹³.

3.2.1 Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

The 1993 Act was the first legislative attempt to prohibit the employment of manual scavengers and the construction of dry latrines. The Act sought to criminalise the practice and encourage conversion of dry latrines into sanitary latrines¹³⁹⁴.

However, the Act suffered from serious shortcomings, including limited applicability, absence of strict penal provisions, and lack of effective enforcement mechanisms. The responsibility was largely placed on local authorities, who often failed to implement the

¹³⁸⁸ B.K. Mathew, *Constitutional Law of India*.

¹³⁸⁹ *Consumer Education and Research Centre v. Union of India*, (1995) 3 SCC 42.

¹³⁹⁰ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

¹³⁹¹ NHRC, *Report on Manual Scavenging*.

¹³⁹² *Minerva Mills v. Union of India*, (1980) 3 SCC 625.

¹³⁹³ Law Commission of India, *Reports on Labour Reforms*.

¹³⁹⁴ *Employment of Manual Scavengers Act, 1993*.

law. As a result, the Act had minimal impact in eradicating manual scavenging¹³⁹⁵.

3.2.2 Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013

Recognising the failure of the earlier legislation, the Parliament enacted the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. This Act marked a significant shift from mere prohibition to a rights-based approach focusing on rehabilitation and dignity.

The 2013 Act:

- Expanded the definition of manual scavenging to include hazardous cleaning of sewers and septic tanks.
- Completely prohibited employment of manual scavengers.
- Criminalised hazardous manual cleaning without protective equipment.
- Mandated identification of manual scavengers by local authorities.
- Provided for rehabilitation measures such as financial assistance, skill development, housing, and alternative employment.

Despite its progressive framework, implementation remains weak due to lack of political will, poor identification processes, and inadequate monitoring.

3.3 International Human Rights and ILO Standards

India is a party to several international human rights instruments that impose obligations relevant to the eradication of manual scavenging.

The **Universal Declaration of Human Rights (1948)** recognises dignity, equality, and freedom from degrading treatment as fundamental human rights. The **International Covenant on Civil and Political Rights (1966)** prohibits inhuman and degrading treatment

and forced labour. The **International Covenant on Economic, Social and Cultural Rights (1966)** guarantees the right to health, just and favourable conditions of work, and social security¹³⁹⁶.

Additionally, **ILO Convention No. 111** prohibits discrimination in employment and occupation. Manual scavenging, being caste-based and hazardous, violates these international standards¹³⁹⁷. India's failure to completely eliminate manual scavenging reflects non-compliance with its international human rights obligations, reinforcing the need for effective domestic implementation¹³⁹⁸.

CHAPTER V - FINDINGS, SUGGESTIONS, AND CONCLUSION

5.1 Findings

The present study reveals that manual scavenging is not merely an occupational practice but a **systemic violation of human rights and human dignity**, deeply embedded in caste hierarchies and social exclusion. The continuation of this practice reflects a denial of the constitutional promise of equality, dignity, and freedom from exploitation.

Firstly, manual scavenging constitutes a **gross violation of fundamental rights**, particularly Articles 14, 17, 21, and 23 of the Constitution. It perpetuates untouchability, subjects individuals to inhuman and degrading treatment, and exposes them to life-threatening working conditions. The hazardous nature of this work directly undermines the right to life and health.

Secondly, although India possesses a **robust legal framework**, including the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, the effectiveness of these laws is severely undermined by weak enforcement. Inadequate identification of manual scavengers, poor monitoring by local authorities, and lack of prosecutions have

¹³⁹⁶ ICESCR, 1966, Arts. 7 & 12.

¹³⁹⁷ ILO Convention No. 111.

¹³⁹⁸ UN Human Rights Committee Observations on India.

¹³⁹⁵ Ibid.

allowed the practice to persist in covert and modernised forms.

Thirdly, judicial intervention has played a **significant and progressive role** in recognising manual scavenging as unconstitutional and directing rehabilitation and compensation. However, the study finds that **judicial activism alone is insufficient** in the absence of effective executive implementation and administrative accountability. Court directions often remain unfulfilled due to systemic apathy and lack of political commitment.

Finally, the persistence of manual scavenging highlights a **disconnect between constitutional ideals and social reality**, revealing deeper structural inequalities rooted in caste-based discrimination and socio-economic deprivation.

5.2 Suggestions

To effectively eradicate manual scavenging and restore human dignity, the following measures are suggested:

5.2.1 Complete Mechanisation of Sanitation Work

The State must ensure total mechanisation of sewer and septic tank cleaning. Manual entry into sewers should be completely prohibited except in extraordinary circumstances, and even then only with full protective gear and safety protocols. Investment in modern sanitation technology is essential to eliminate hazardous human labour.

5.2.2 Strict Penal Accountability and Monitoring

There is an urgent need for strict enforcement of penal provisions under the 2013 Act. Officials, contractors, and authorities employing manual scavengers must be held personally accountable. Independent monitoring bodies should be established at the national and state levels to ensure compliance and transparency.

5.2.3 Effective and Sustainable Rehabilitation

Rehabilitation must go beyond one-time financial assistance. Comprehensive measures

including skill development, education, housing, healthcare, and long-term employment opportunities are necessary to prevent re-entry into manual scavenging. Special emphasis should be placed on educating the children of manual scavengers to break the intergenerational cycle.

5.2.4 Social Sensitisation and Caste-Eradication Measures

Legal abolition alone cannot eradicate manual scavenging without social transformation. Large-scale awareness programmes, community engagement, and inclusion of caste sensitisation in educational curricula are essential. Society must collectively reject caste-based occupational segregation and uphold the constitutional value of equality.

5.3 Conclusion

Manual scavenging represents not only a **constitutional failure** but also a profound **moral and humanitarian crisis**. Despite constitutional guarantees, legislative prohibitions, and judicial condemnation, the continued existence of this practice exposes the limitations of legal reform in the absence of effective implementation and social change.

The eradication of manual scavenging requires a **rights-based and dignity-centred approach**, grounded in constitutional morality, State accountability, and social justice. It demands coordinated action by the legislature, executive, judiciary, and civil society. Only through strict enforcement of laws, meaningful rehabilitation, technological advancement, and sustained efforts to dismantle caste hierarchies can India realise the constitutional promise of human dignity for all.

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INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 14 OF 2025

APIS – 3920 – 0001 (and) ISSN – 2583-2344

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