
Manual Scavenging Evil in India: A need of Plethora of Reforms

Maj Dr Anil Balhera

Asst Professor, Dept of Laws, BPS Women University Khanpur –Klan, Sonapat, Haryana

Abstract:

Manual scavenging is an occupation which has been in continuation since the human civilization and its compartmentalization into Varna system in India. The inhuman practice of manually removing night soil which involves removal of human excreta from dry toilets with bare hands, brooms or metal scrappers; carrying excreta and baskets to dumping sites, is not only diabolic but perhaps the utmost degree of human rights violation. Manual scavenger is class person which is often ignored when it comes to protection of human rights, civil rights or fundamental rights granted under Constitution of India. These are the people who suffer from deadly diseases, live a very inhuman life and criticized the most for their lifestyle.

This research paper will discuss the condition of manual scavengers and laws related to employment of manual scavengers and their standard of health.

Keywords: Scavenging, Prohibition, Manual, safeguards, Dalits, Employments, Insanity, Rehabilitation.

Introduction

The inhuman practice of manually removing night soil which involves removal of human

excreta from dry toilets with bare hands, brooms or metal scrappers; carrying excreta and baskets to dumping sites, is not only diabolic but perhaps the utmost degree of human rights violation. These wastes are the cause of many notorious enteric diseases such as cholera, dysentery, infectious hepatitis, hookworm, diarrhea and other such deadly diseases. Number of studies reveal that majority of the infectious diseases are contagious and are responsible for causing nearly 80 per cent of the infections in developing countries (Srivastava, 1997). Death or serious injuries while performing such low-grade job with no proper equipment and safeguards are not rare incidents.

Manual scavenging is an occupation which has been in continuation since the human civilization and its compartmentalization into Varna system in India. Important fact about this job is that this job is preformed exclusively by dalits and that too, to a sub-caste of dalits who are considered even by other dalits sub-castes to be wretched and ‘untouchable’.

With the passing of the bill on Prohibition of Employment as Manual Scavengers and their Rehabilitation, 2012 in the Parliament of India on 7 September 2013, it is becoming ever more difficult to ignore this relevant issue. According to Section 2 (g) ¹of the Prohibition of

¹ <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavengingcaste-and-discrimination-india/visited> on 10 Jan 17.

Employment as Manual Scavengers and their Rehabilitation Act, 2013 (hereinafter the PEMSAR Act, 2013) manual scavenger is “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 of², or on a railway track or in such other spaces or premises...”

Manual scavenger is class person which is often ignored when it comes to protection of human rights, civil rights or fundamental rights granted under Constitution of India. These are the people who suffer from deadly diseases, live a very inhuman life and criticized the most for their lifestyle. Many reports say that people involved in these jobs are habitual drinker because in their sane condition they cannot perform such degrading job. Despite of their condition and risk of life in job their pay scale is very low. Most sanitation work in the country has been contractualised. That way, the government can easily circumvent the labour laws which ensure the security and welfare of workers. Sanitation workers aren't provided with health benefits, provident funds, pension funds or life insurance facilities – things many of us enjoy and take for granted. Without any economic guarantees or safety nets, it becomes even more challenging for sanitation workers to come out of their dangerous and dehumanizing job. They are rarely even granted the loans they need to start up small businesses.

RESEARCH METHODOLOGY

² https://edurev.in/studytube/Social--Part-2--Current-Affairs--July-2017/a3847b79-70fc-42b5-a34d-9bd6638c4518_t/visited on 11 Jan 17.

Present research work is based upon secondary data in form of articles, news clippings, judicial decisions, documentaries and government survey reports on the life of manual scavengers in India.

Legal provisions for manual scavengers

- Delhi Commission for Safai Karamcharis Act, 2006 (No. 7 of 2006)
- Employment of Manual Scavengers and construction of dry latrines (Prohibition) Act, 1993 (No. 46 of 1993)
- Employment of Manual Scavengers and construction of dry latrines (Prohibition) Rules, 1995
- National Commission for Safai Karamcharis Act, 1993 (No. 64 of 1993)
- National Safai Karamcharis Finance Development Corporation
- Protection of Civil Rights Act, 1955 (No. 22 of 1955)
- Protection of Human Rights Act, 1993 (No. 10 of 1994)
- Schedule Castes and the Schedule Tribes Prevention of Atrocities Act, 1989 (No. 33 of 1989)
- Schedule Castes and the Schedule Tribes Prevention of Atrocities Rules, 1995,

Policies/Schemes

- Housing and Urban Policy in India.
- Integrated Low-Cost Sanitation Scheme (ILCS) Revised guidelines, 2008
- National Commission for Safai Karamcharis
- National Safai Karamcharis Finance and Development Corporation (NSKFDC)³

³ <https://www.lawkam.org/supreme/court-india-scavengers-andolan/16448/6/> visited on 16 Jan 17.

- National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents, 1991
- National Urban Sanitation Policy (Ministry of Urban Development, India)
- Planning Commission, National Action Plan for Total Eradication of Manual Scavenging by 2007
- Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS)⁴

CONSTITUTION OF INDIA

- **Article 14:** Equality before law
- **Article 15:** Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
- **Article 16:** Equality of opportunity in matters of public employment⁵
- **Article 17:** Abolition of untouchability- "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law⁶.
- **Article 23:** Prohibition of traffic in human beings and forced labour
- **Article 37:** Application of the principles contained in this Part. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.
- **Article 38:** State to secure a social order for the promotion of welfare of the

people- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

- **Article 39:** Certain principles of policy to be followed by the State-The State shall, in particular direct policy towards securing- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against moral and material abandonment.

- **Article 46:** Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other

⁴ Ibid.

⁵ <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>/visited on 17 Jan 17.

⁶ Ibid.

weaker sections-The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Casts and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

ELEVENTH SCHEDULE

Article 243G

- **Entry 23:**Health and sanitation, including hospitals, primary health centers and dispensaries.
- **Entry 27:**Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

TWELFTH SCHEDULE

Article 243W

- **Entry 6:** Public health, sanitation conservancy and solid waste management.

In *SafaiKaramchariAndolan&ors v. Union of India (2014)*¹, the Supreme Court confirmed that approximately 9.6 million dry latrines in India are still being manually emptied, , if not more, are identified as Dalits, and are mostly women.

In *Delhi Jal Board v. National Campaign for Dignity & Rights of Sewerage&*

*AlliedWorkers*², the Supreme Court passed a landmark judgement identifying and highlighting the apathy and plight of the disadvantaged sections of the society, particularly the scavengers and sewage workers, who risk their lives by going down the drainage without any safety equipment and security and have been deprived of fundamental rights to equality, life and liberty for last more than six decades.

What reports says?

According to the India Census 2011, there are more than 2.6 million dry latrines in the country. There are 13,14,652 toilets where human excreta are flushed in open drains, 7,94,390 dry latrines where the human excreta is cleaned manually. Seventy three percent of these are in rural areas and 27 percent are in urban areas.

According to the House Listing and Housing Census 2011, states such as Andhra Pradesh, Assam, Jammu and Kashmir, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal account for more than 72 percent of the insanitary latrines in India³

1. 2014 (4) SCALE 165.
2. 2011 (8) SCC 568.
3. <http://in.one.un.org/page/breaking-free-rehabilitating-manual-scavengers/> 17 Jan 17.

Ministry of Social Justice and Empowerment
Survey of Manual Scavengers in Statutory Towns

State/UT -wise no. of Insanitary Latrines - Urban Areaa

S.No.	State/UT	Number of Urban households	No. of Households by type of Insanitary Latrines				
			Urban				
			Nightsoil disposed into open drain	Serviced Manually	Sub Total (4+5)	Serviced by animal	Total (6+7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	ALL INDIA	78,865,937	942,643	208,323	1,150,966	178,782	1,329,748
1	ANDAMAN & NICOBAR ISLANDS	34,346	12	-	12	7	19
2	ANDHRA PRADESH	6,778,225	140,150	7,111	147,261	26,429	173,690
3	ARUNACHAL PRADESH	65,891	230	100	330	139	469
4	ASSAM	992,742	7,036	6,178	13,214	3,360	16,574
5	BIHAR	2,013,671	10,347	3,822	14,169	5,230	19,399
6	CHANDIGARH	228,276	163	-	163	30	193
7	CHATTISGARH	1,238,738	3,377	184	3,561	1,271	4,832
8	DADRA & NAGAR HAVELI	37,655	5	113	118	2	120
9	DAMAN & DIU	47,631	24	-	24	14	38
10	GOA	198,139	404	-	404	1,813	2,217
11	GUJARAT	5,416,315	17,648	1,158	18,806	2,297	21,103
12	HARYANA	1,751,901	26,180	685	26,865	2,161	29,026
13	HIMACHAL PRADESH	166,043	2,040	-	2,040	108	2,148
14	JAMMU & KASHMIR	517,168	54,167	17,673	71,840	3,931	75,771
15	JHARKHAND	1,495,642	5,702	775	6,477	3,107	9,584
16	KARNATAKA	5,315,715	52,474	5,688	58,162	15,607	73,769
17	KERALA	3,620,696	7,546	1,653	9,199	402	9,601
18	LAKSHADWEEP	8,180	-	-	-	-	-
19	MADHYA PRADESH	3,845,232	30,467	2,717	33,184	6,178	39,362
20	MAHARASHTRA	10,813,928	133,456	5,331	138,787	32,901	171,688
21	MANIPUR	171,400	10,688	3,965	14,653	448	15,101
22	MEGHALAYA	116,102	215	305	520	140	660
23	MIZORAM	116,203	506	14	520	15	535
24	NAGALAND	115,054	404	108	512	61	573
25	NCT OF DELHI	3,261,423	67,651	583	68,234	560	68,794
26	ODISHA	1,517,073	12,876	7,547	20,423	6,796	27,219
27	PUDUCHERRY	206,143	555	108	663	21	684
28	PUNJAB	2,094,067	16,711	840	17,551	2,590	20,141
29	RAJASTHAN	3,090,940	83,992	1,800	85,792	4,118	89,910
30	SIKKIM	35,761	15	-	15	6	21
31	TAMIL NADU	8,929,104	133,535	17,414	150,949	13,415	164,364
32	TRIPURA	235,002	1,812	118	1,930	289	2,219
33	UTTAR PRADESH	7,449,195	95,054	106,681	201,735	21,539	223,274
34	UTTARAKHAND	592,223	4,860	1,250	6,110	468	6,578
35	WEST BENGAL	6,350,113	22,341	14,402	36,743	23,329	60,072

Survey report of ministry shows that still there is lot of dry latrines in each state and there is continuous practice of employment of manual scavengers. Survey was conducted in the year 2013.

The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 - Salient Features⁷

1 This act has been enacted to provide for the prohibition of employment as manual

scavengers, rehabilitation of manual scavengers and their families, and for other incidental matters.

2. Terms such as “hazardous cleaning”, “insanitary latrine” and “manual scavenger” have been explicitly defined in the act.

⁷ <https://blog.ipleaders.in/manual-scavengers-sweepers-rights/visited> on 19 Jan17.

3. The act contains provisions for identification of Insanitary Latrines and converting them into Sanitary Latrines. The local authorities will carry out a survey of insanitary latrines existing within its jurisdiction⁸. It will also give notice to the occupier to either demolish the insanitary latrine or convert it into a sanitary latrine within a period of six months. The local authority also must construct such number of sanitary community latrines as it considers necessary, in the areas where insanitary latrines have been found. [Section 4]

4. No person or authority construct an Insanitary Latrine or employ a Manual Scavenger to do manual scavenging. Also, every existing insanitary latrine, shall either be demolished or be converted into a sanitary latrine, by the occupier at his own cost within six months. If any occupier fails to demolish an insanitary latrine or convert it into a sanitary latrine within the stipulated period, the local authority having jurisdiction shall after giving notice, either convert such latrine into a sanitary latrine, or demolish such insanitary latrine, and shall be entitled to recover the cost of such conversion or demolition from the Occupier. [Section 5]

5. All previous Contracts and agreements entered into before the commencement of this act, engaging or employing a person for manual scavenging shall be terminated and such contract, agreement or other instrument shall be void. [Section 6 (1)]

6. No person employed as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging. [Section 6 (2)]

⁸ <https://blog.ipleaders.in/manual-scvengers-sweepers-rights/visited> on 20 Jan 17.

7. Section 7 of the Act reads as under:

“Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks- No person, local authority or any agency shall, from such date as the State Government may notify, which shall not be later than one year from the date of commencement of this Act, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank.”

8. Section 8 and Section 9 of the Act provide for penalty and punishment in this regard. The maximum punishment is One Year Imprisonment (first time offender) and 2 Years imprisonment (second time offenders) and maximum penalty is fifty thousand rupees (first time offender) and one lakh (for subsequent offenders).

9. The act also contains provisions with respect to identification and rehabilitation of Manual Scavengers. A list of manual scavengers shall be made and published by the government.

10. All those Manual Scavengers will be entitled to

- a. One Time Cash Assistance.
- b. His children shall be entitled to scholarship.
- c. He shall be allotted a Residential Plot and Financial Assistance for House Construction.
- d. At least One Adult Member of his family shall be given training in a livelihood skill and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training.
- e. At least one adult member of his family shall be given subsidy and concessional loan for

taking up an alternative occupation on a sustainable basis.

f. Such other legal and programmatic assistance.

11. District Magistrate and the local municipal authorities will be the responsible persons in this regard. They will have to make sure that no person is employed as manual scavenger, no one constructs or uses an insanitary latrine and manual scavengers are rehabilitated as per the provisions of the act.

12. The government may also appoint Inspectors for the purpose of this act to exercise their powers under this Act.

13. The Act also provides for the establishment of Vigilance Committees for proper implementation of this act and it will also oversee rehabilitation of manual scavengers monitor the registration of offences under this Act for each district and each sub-division. It will be presided over by the District Magistrate.

14. Take *suomotu* notice of matter relating to non-implementation of this Act.

Issues and challenges in abolition and rehabilitation

In a country like India where is diversity in religion and division in caste and then sub-caste, difference in opinion, wide history supporting “untouchability” and “discrimination” on the basis of race, caste, and sex. It is very difficult task to eliminate caste as well as class division. There are many challenges which are and will be faced by government to abolish the practice of employment of manual scavengers and their rehabilitation. This is not a task which could be

achieved in few month or years. For the attainment of this objective government need to make proper law which can be implemented properly. Here is a list issues and challenges which could be faced by government: -

- illegal employment of manual scavengers by local households.
 - Due to Prevalent discrimination for Dalits, they require significant assistance in accessing the criminal justice when they are victims of crime. They face police inaction and outright refusals to investigate their complaints, these problems are intensified for these socially and economically backward people. Manuals scavenging communities are susceptible to this type of treatment due to the caste bias by police and local government officials.
 - According to Human Rights Watch Report of 2014, women who practice manual scavenging confessed that since dry toilets are cleaned daily, they face pressure from the community if they miss even a day².
1. Cleaning Human Waste “Manual Scavenging,” Caste, and Discrimination in India, Report by Human Rights Watch (HRW) at 42, Aug. 2014
- Lack of employment opportunities for Dalits and inhumane condition of work.
 - Inadequate surveys and failure to identify people still engaged in manual scavenging.
 - Apart from the social atrocities that manual scavenger face, they are exposed to certain health problems by virtue of their occupation. These health hazards include exposure to harmful gases such as methane and hydrogen sulfide, cardiovascular degeneration, musculoskeletal disorders like osteoarthritic changes and intervertebral disc herniation, infections like hepatitis, leptospirosis and helicobacter, skin problems, respiratory system problems and

altered pulmonary function parameters. There is a need for regular health checkups.

- The government needs to realize that loan and subsidy make for only an apology for rehabilitation. These troubled families deserve larger financial support in the form of allowances, rather than loans, such as inclusion in the BPL list and related various benefits thereof, housing under Indira Awas Yojana, etc.
- Indian railway plays a major role in the employment of manual scavengers and manages some of the longest roof open latrines in the world. There are approximately of 1, 72,000 toilets in Indian railway which are functioning today using no modern technology but improper mode of service which requires the use of manual scavengers to clean the human excreta which is directly discharged on to the railway track.

Remedies and measures to be adopted to abolish practice of manual scavengers

1. Abolition of appointment of manual scavengers on contractual basis by private dealers.
2. Effective implementation of present laws regarding manual scavenging.
3. Regular health checkup of people doing such a nasty job. These workers should also be benefited from occupational health services, which should include pre placement and periodic health monitoring.
4. As much as possible machines or modern techniques should be used to clean gutters and other form of latrines.
5. Regular awareness programs should be conducted to convey education regarding safer work procedures and use of personal protective devices.
6. Regular surveys should be conducted to identify manual scavengers so that they can

be benefited of all the governmental schemes.

Conclusion

Manual scavenging is an act in which sub caste Dalits and people who are below poverty line are engaged because of their caste or financial reasons. Since 1950 after implementation of Indian constitution many laws have come into force for the protection of rights of these people. Particularly in 1993 government made law for safai karamchari and in 2013⁹ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act came into force. In spite of these efforts there are thousand of people who are still engaged in such job suffering daily. These are basically dalit people who often get neglected of government schemes and get discriminated on the basis of their jobs and caste. The Scavenger and sewage workers suffer mainly from chemical and biological hazards. This can be prevented through engineering, medical and legislative measures.

⁹<https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavengingcas/visited> on 22 Jan 17.