

MANUAL SCAVENGERS: A CASE OF DENIED RIGHTS

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INTRODUCTION

An inhuman practise of manually cleaning, carrying, disposing or handling the human excreta from dry latrines and sewers with bare hands, brooms or metal scrappers is known as manual scavenging and the people who does this are known as manual scavengers. It is a profession which has been existed from human civilisations of Harappa and Mohenjo Daro. It is said that the manual scavenging has been started in 1214 in Europe when the public toilets firth appeared. From there on, in urge of earning errands people started to work by cleaning these toilets.

The historical background of manual scavenging is the dates back in India in ancient times. According to the contents of the scriptures and other literature, scavenging is a practised by specific caste in India exist since the beginning of the civilisation. One of the 15 duties of slaves enumerated in Naradiya Samhita was of manual scavenging. This continued during the Buddhist and Maurya period also. In India, Jahangir built a public toilet at Alvar, 120kms away from Delhi for 100 families in 1556 AD. Not much documentary evidence exist about its maintenance so the scholars suggested that the Mughal women with the purdah required enclosed toilets need to be scavenged. The scavenging caste are known by different names in different states like Bhangi, Balmiki, Chuhra, Mehtar, Lal Begi, Halalkhor etc.

The biggest violator of this law in India is the Indian Railways where train carriages have toilets dropping the excreta from trains on rails and then hires scavengers. Most of the litter is spread on the railway tracks which adversely affect these workers. One of the manual scavenger in an interview said that “nobody listens to them. They cannot raise their voice, no matter what no officer hears them so ultimately they have to commit suicide.” Cleaning someone else’s excreta is far worse than anything else in the world. In Nov 2017, the NITI Aayog convened a meeting

following which a labor force was set up to carry out a survey of manual scavengers on mission mode. The task force included member from the ministries of Social Justice, Rural Development, Drinking Water and Sanitation, and Housing and Urban Affairs, and the National Safai Karamchari Finance and Development Corporation. It also involved Bezwada Wilson's Safai Karmachari Andolan and the Rashtriya Garima Abhiyan for field of operations.

RESEARCH OBJECTIVES

- To determine the relation of the practise i.e. manual scavenging and the caste system and discuss the actions by the government in favour of these manual scavengers.
- As the manual scavengers has to face loads of consequences in their daily life. So to analyse their problems along with the case of Safai Karamchari Aandolan.

ANALYSIS OF RESEARCH OBJECTIVES

- In India, due to the ancient rulings and improper working of the sewage systems this practise just spread like the pests in the field. This practise in India linked to the caste system and compartmentalisation of varna system. Deemed to polluting and filthy occupation, this job is performed exclusively by dalits and that too the sub-caste of dalits which are considered as untouchable. On 26th January 1950 our Constitution came into force with the grundnorm of civil rights protection with the source of caste and class annihilation i.e. Article 17 which states the abolition of untouchables also came into force. A plethora of legislations like Protection of Civil Rights of 1955, Scheduled Caste and Scheduled Tribes Act of 1988 etc. has been come into force to ensure an equitable and casteless society. But the conditions of the weaker sections of the society have failed to show the sign of amelioration. Even today the caste remains a major source of occupational and class division. When the world is taking steps to move forward and is progressing at a surging rate in human development, there is still a class of society in India who are who make their living by carrying human excreta

and servicing the community sanitation with the baggage of their class identity. According to the census of 2011 there is still an estimated 182,505 manual scavengers in rural India. Out of the PACS state, Bihar, Madhya Pradesh, Uttar Pradesh and Tamil Nadu are the maximum manual scavengers live. While framing the Constitution of India, Dr. B.R.Ambedkar brought up the concept of reservations for these dalit people who were deprived of any rights. But at the present scenario these people are there where they were years back. The basic reason is that they are school dropouts. As the wages given to them are not enough to have meals properly so they cannot be educated. Rather they are forced to perform the task which is associated with their so called caste. Ultimately the children of the family do what their parents do! And if amongst them one or two come to good position, they are still not given work according to the qualifications because of their backgrounds.

➤ Apart from the plethora of constitutional provisions the legislature has enacted several enactments for the upliftment of these people especially manual scavengers. The most important acts were:

- 1) The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993: This act was drafted by Ministry of Urban Development under the Narasimha Rao government and was passed by the parliament in 1993. This act provides for the prohibition of the employment of the manual scavengers and continuation construction of the dry latrines and for the regulation of construction and maintenance of water sealed latrines and matters related therewith. This act was again replaced with another act mentioned below. This act also punishes the employment of scavengers or construction of the dry latrines with imprisonment for up to one year and/or a fine of Rs 2000. The paradox of this act is since 20 years no case has been registered under this act even after so many deaths due to the manual scavenging.
- 2) The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013, or M.S. 2013: this act superseded the 1993 act and outlaws all forms of manual scavenging, prescribing penalties for those who perpetuate the

practise and protecting those who engage in it. Government has passed the new legislation in September 2013 and issued Government notification for the same and in December, 2013 Government has also formulated Rules-2013 called as PEMSR Act, 2013. The broad objectives of the act are to eliminate unsanitary latrines, prohibit the employment of manual scavengers and the hazardous manual cleaning of sewer and septic tanks, and to maintain a survey of manual scavengers and their rehabilitation.

There are abundant of problems related to this manual scavenging profession which adversely affects not only the employees but also their respective family and their children. Due to their work in the latrines and sewers they are attacked by some serious health issues because of the germs, infections, insects and what on which they have to face daily. They not only cleans the people's shit but also the unwrapped sanitary pads, diapers, dirty clothes infectious hospital waste and dangerous chemicals residue which make their condition more worse. We in normal conditions take care that no mosquito or insects should bite us and for our safety we keep our homes and surroundings so clean. What about them? They have to be in between all these things to earn their living because of the taboo that they are of low class and cannot be treated equal. Till when is this going to continue? How will our society grow! After they perform their jobs their hands stings so much that that smell don't even wend through the use of normal soaps. They have to use bleaching powder after which their hands get burnt. Due to this their children refuse to eat food from their parent's hand. This is what the present situation is. There is a documentary make by kukoo productions in which a manual scavenger says "they are dalits. Who respects them, who cares whether they live or die." The worst part is that there is no record of number of manual scavengers and they are falsely provided in the statistical data due to which the contractors earn money which is provided to them by the government for these workers. Once a worker named Paadam Narayan filed a suit for the wrong statistics in a census. He had to register and apology letter the very next day and had to beg for his job back. They misuse their powers. This money is issued by the government to them so that they can buy required equipments like gloves, masks, broomsticks etc. for these workers but as they don't even have the count they purchase a few of them give to the workers take pictures as the proof for the government and then take it back. Ultimately the money is enjoyed by the contractors and manual scavengers still work manually making their lives worse. Not only this

to avoid giving them services even the original count of the number of workers is being hidden in the report published. An inter-ministerial task strength has counted up to 53,236 people involved in manual scavenging in India, a four-fold rise from the 13,000-odd such people accounted for in official records until 2017. Advertising while the numbers are an improvement from before, when a majority of State Department denied the existence of the practice, it is still a gross underestimate as it includes data from only 121 of the more than 600 districts in the commonwealth. More importantly, it does not include those involved in cleaning sewers and septic tanks, and data from the Railroad track, which is the largest employer of manual scavengers. Of the 53,000 identified so far through the national sketch, only a sum of 6,650 have been confirmed officially by states in keeping with the trend to under-composition the prevalence of this practice.¹

MANUAL SCAVENGING		
State	Number registered	Number reported by state
AP	903	734
ASSAM	876	542
GUJARAT	146	146
HARYANA	1,040	0
KERALA	916	600
MP	8,016	0
MAHARASHTRA	3,608	429
PUNJAB	144	0
RAJASTHAN	6,643	3,143
TAMIL NADU	885	0
UTTAR PRADESH	28,796	1,056
UTTARAKHAND	1,263	0
Total	53,236	6,650

In 2014 the Supreme Court passed a judgement for the case of *Safai Karamchari Andolan V. Union of India*² that if there is death due to hazardous gas while cleaning the sewers or septic

¹ Shalini Nair, 53,000 manual scavengers in 12 states, four-fold rise from last official count, *The Indian Express*, 20 June 2018.

² *Safai Karamchari Andolan v. Union of India*, (2011) 15 SCC 611

tanks or due to any such situation, a compensation of Rs 10lakh will be given. Irony is there has been so many life losses but not a single family has got any compensation, not even a single penny! The case is being. In 1986, Bezwada began his combat to end manual scavenging. The first hurdle in his fight was at home; his folks and relatives said he ought not to concentrate his life on something that dependably existed. It was over years that they came to acknowledge that he was devoting his life to destroying manual scavenging. Too many people within the community were sheepish to even admit manual scavenging existed or that they did it. Bezwada began breaking the silence. Bezwada likewise started a letter composing effort, reaching the KGF specialists, the priest and boss pastor of Karnataka, the PM, and daily papers, however they remained to a great extent unacknowledged. In 1993, the Parliament enacted the 'Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act in 1993' which banned the construction of dry latrines and outlawed the practice of manual scavenging. Despite the ban, the practice of manual scavenging continues across India.

In 1994, Bezwada helped discovered Safai Karmachari Andolan (SKA) alongside S. R. Sankaran and Paul Diwakar. SKA will likely end the act of manual rummaging and help those occupied with it find stately work. SKA trains groups to work towards the end of manual rummaging in different Indian states. SKA at first chipped away at the state level, until 2003 when Bezwada and four other colleagues moved to Delhi to dispatch the Safai Karmachari Andolan across the country.

In 2003, Bezwada and the SKA started the recording of a Public Interest Litigation in the Supreme Court of India. SKA and 18 other common society associations, manual scroungers and people marked the affirmation as disputants naming all states and government branches of Railways, Defense, Judiciary and Education as violators of the Manual Scavenging Prohibition Act. The PIL was a noteworthy step in the efforts to nullify manual scavenging. Every one of the states and focal services were compelled to address the issue of manual searching. The Supreme Court gave strict requests that the Chief Secretaries of States and Heads of Departments of the focal services ought to show up under the watchful eye of the court for the case hearings. The relief these people got was to ensure complete eradication of dry latrines. To declare continuance of the practice of manual scavenging and the operation of Dry Latrines violative of Articles 14, 17, 21 and 23 of the Constitution and the 1993 Act. To direct the

government to issue directives to Panchayats and Municipal Corporations to strictly implement the provisions of the act and to formulate detailed time-bound plans in this regard.

Ultimately till now no actions have been taken place or no there is no implementation of the laws made which affect these people to such a level that their families get separated with each other and even the children of the house starts hating their parents for the work they have to do and the repercussions they face.

CONCLUSION

Manual scavenging continues to exist despite being unacceptable and hazardous as a method of disposal of human waste, despite scientific and technological advancement on various fronts that saves manual labour, and regardless the availability of simple and low cost alternatives which can eradicate the twin problems of manual scavenging and safe disposal of human excreta. Each and every person in our community has a right to live with dignity and be respected because no one has been under anyone's worth. They make their own name. The relationship between Caste and manual scavenging is not a simple one in the literature. Whereas we expected a detailed discussion of caste of manual scavengers, most of the literature does not question the link between caste and manual scavenging. Rather, established literature on caste and discrimination mentions manual scavenging as employment in their discussions. No profession can be defined by the caste you belong to. Caste isn't the pass to choose an occupation. Few do what they like few have to do what they are being forced to or what they have to because of the specific issues or the family trait. No one in this world would love to clean other person's poop. Leave the rest people themselves might sometimes find it unhygienic to clean their own waste. These people according to me must be respected the most. They do something everybody cannot but still everybody wants a clean and a healthy society. It passes on from generation to generation. Culture of acceptance prevailing in the world is also depriving them of their basic fundamental rights i.e. Article 14, 17 and 21.

The Constitution of India in conforming to the international position, abolished untouchability (article 17) and also prohibited caste-based discrimination (article 15). Furthermore, it interprets the protection of human dignity as an inalienable right, and as part of the fundamental

right to life. The Courts have attributed human dignity to be the most important, fundamental, inalienable and transcendental of rights. Dignity has been interpreted to include equal treatment, respect and equal protection of law. Right to human dignity carries the status of a universally recognised right as it is endorsed by instruments such as the Universal Declaration of Human Rights (UDHR) by way of Article 1, 22 and 23.

Sadly, despite such constitutional safeguards, manual scavengers remain victims of discrimination. There are a number of reasons for this.

Firstly, as India is a federal democracy and sanitation falls within the competency of its States (Entry 6, List II, Schedule VII, The Constitution of India), the implementation of the prohibition on manual scavenging rests solely within the domain of the states. Hence, no collective/nationwide action can be taken by the federal government. Secondly, the law requires that the rehabilitation of scavengers has to be carried out as per the existing schemes, even though these very schemes have not been successful in eradicating the practice in the past. Thirdly, it is not just the law but the attitude of public authorities which aggravates the plight of the scavengers. The Government has repeatedly sought an extension of the deadline to curb the problem, exhibiting its lack of commitment.

The present scheme of law therefore fails in protecting the dignity of manual scavengers. The end to manual scavenging can come not only by modernising sanitation, but by also ensuring former scavengers do not go back to it as a result of poverty or unemployment. Amendments to the current law, strict enforcement, and a change in mindset are needed.

In spite of having so many schemes, laws and policy initiatives the state has failed in its endeavours due to the lack of reliable number of manual scavengers, poor enforcement of laws, corruption and strict caste hierarchy that exists in rural and urban regions of India. The Ministry of Social Justice and Empowerment has recently drafted a proposal for an improved implementation of the Act. The proposal provides for revised safety standards, stricter punishments for contractors and better rehabilitation machinery for the scavengers. It is hoped that the proposal will be implemented quickly, which would not only ensure that the rights of the scavengers are protected by punishing the wrongdoers – it would also rehabilitate

the scavengers both monetarily and psychologically, thereby making the basic right to dignity a reality for the manual scavengers.

These workers have requested to government a lot many times to provide them with the machines which would help them to make this work easier. But they always refuse to do so because the cost per machine is around Rs 2lakh. This is not even a reason to refuse on. **Is someone's life more important than money!** I would like to conclude by quoting the following lines,

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