

BONDED TO CASTE AND HUMILIATION: WORST SURVIVING SYMBOL OF UNTOUCHABILITY

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ABSTRACT

Untouchables (Dalits) are traditionally used in manual scavenging, often associated with forced labor and slavery. This article aims to provide a quick overview of the history of manual cleaning in India. To help those in this marginalized group, successive Governments have made constitutional commitments and implemented policies. The article's thorough examination of the newly passed Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, as well as some thoughtful ideas that set this piece apart from others.

Keywords: Manual Scavenging, Dalits (Untouchables), Harijans, India

I. Introduction

Every one of us has intrinsic worth and beauty. You owe it to yourself and others to treat them with decency. Because of this, it is widely accepted and serves as the cornerstone of society's moral perspective. A major focus of human rights advocacy after World War-II was safeguarding human dignity. The UDHR was founded on human dignity, which was first articulated in 1948. U.S. Constitution's Preamble states that recognition of the inherent dignity and inalienable rights of all human family members is the cornerstone for freedom, justice, and peace in our world' Article 1 of the world's most significant document, the Universal Declaration of Human Rights, begins concerning human dignity. The Universal Declaration of Human Rights serves as a framework for the protection and development of the right to life with human dignity in numerous nations' constitutions¹. Everyone has the right to a decent and unrestricted existence. Both the State and other people are entitled to treat them with the same level of dignity and respect. Protecting basic human rights and implementing welfare programs to enhance residents' lives is a major responsibility of any State.

On September 07, 2013, the Indian Parliament passed a measure prohibiting the employment of manual scavengers and requiring their rehabilitation, making it harder to ignore this pressing problem. Concisely, the term "manual scavenging" refers to the act of manually removing human waste from toilets that lack a flushing mechanism and are thus unsanitary. Rather, this approach employs regular brooms and tin plates to remove such trash. They are then taken on their heads to sites that are often several kilometers distant from the toilet where they were dumped, according to the National Human Rights Commission in India. Various lethal illnesses, including cholera, diarrhea, dysentery, typhoid, infectious hepatitis, hookworm, and others, have been linked to these wastes. Numerous studies show that infectious illnesses account for the great majority of infections in underdeveloped nations, accounting for about 80% of all infections².

The Prohibition of Employment has eradicated untouchables in India as Manual Scavengers and their Rehabilitation Bill, 2012, which became an Act on September 19, 2013. Untouchability has been an issue in Indian society for at least two thousand years, and it may be traced back

to a tight division of labor. The depressed classes, which include the untouchables and other primitive and backward castes in different forms, are the originators of untouchability. The higher castes were particularly offended by the untouchability of the untouchable since even their shadows were seen as impure. As a result of their vile and depraved occupations, this group of individuals is seen as a class of untouchable people.

Efforts to better the lives of India's untouchables began in the mid-19th century. However, until philanthropists and social reformers took the issue seriously, not much progress was made in the lives of these untouchables. Census Commissioner Sir *Herbert Hope Risley* categorizes the data in 1901 into seven distinct caste groups based on their social hierarchies, allowing him to provide a numerical value to the jatis based on their place in the community hierarchy and their relationship to the various varnas (*Srivastava*, 1997; see also, *Bhattacharyya*, 2009, 2013^[3-4]). "The scavenging castes which were known by different names in different States like Bhangi, Balmiki, Chuhra, Mehtar, Mazhabi, Lal Begi, Halalkhor, *etc.*, in Northern India; Har, Hadi, Hela, Dom and Sanej, *etc.*, in Eastern India; Mukhiyar, Thoti, Chachati, Pakay, Relli, *etc.*, in Southern India; and Mehtar, Bhangias, Halalkhor, Ghasi, Olgana, Zadmalli, Barvashia Metariya, Jamphoda and Mela, *etc.*, in Western and Central India, also made an effort to get united and have a common name. In 1911 census, some of them started returning as Adi Dharmi, Adi Dravida, Adi Karnataka and Adi Andhran." In the words of *Srivastava*². In 1927, Dr. *B.R. Ambedkar*, the creator of the Indian Constitution and a defender of human rights, led a fight against untouchability among the Backward Castes^{[5][2][4]}.

According to the International Labour Organization (ILO), manual scavenging

is the process of cleaning, hauling, and disposing of human excrement from public areas such as public lavatories (dry lavatories), septic tanks, and sewers using hand tools such as a bucket, groom, and shovel. Even though many people across the globe find dealing with human waste disgusting, thousands of individuals in India nevertheless make their career doing so. Many thousands, if not millions, have been killed by asphyxiating in septic tanks and sewage ditches without any or minimum protection. More than 62,000 people in India continue to work cleaning sewers and septic tanks every month, according to official data, because of the lack of proper sanitation systems and scavenging machines, as well as the urban bliss that allows more than 60 percent of the population to choke their dry and wet garbage into sewers without separating it. More than 6 million individuals have been infected by the COVID epidemic, causing global systems to collapse. Although most people are afraid to touch anything, sanitation workers are the first to contact those affected by the virus, and as a result, they are most exposed to the virus's effects. Manual scavengers are among the most vulnerable to a pandemic because they operate in dangerous conditions with no safety precautions and risk their lives daily. Under the Prohibition of employment as a manual scavenger and their Rehabilitation Act of 2013, hundreds of people risk their lives to work as scavengers even though the activity has been forbidden.

II. Intersectionality: Caste, Human Dignity and Manual Scavenging

India's social stratification is based on caste, the oldest and the worst. Since India gained independence 72 years ago, it has made great strides in the building of democratic institutions as well as economic growth, but the social, economic, and political interactions between individuals are still influenced by their caste rank. This

system of caste and manual scavenging in India has its origins buried deep in the thousands of years old Hindu caste and karma system, which categorizes Hindus into four primary caste groups: Brahmins, Kshatriyas, Vaishya and Shudras.² Most of the people labeled 'untouchables' (known as Dalits) are placed in a subordinate position in the system, making them outcasts. As untouchables, those who belonged to the outcastes were compelled to do menial tasks, including cleaning and disposing of human excreta by hand. Practices of untouchability in our country have a dark history that stems from caste-based prejudice stemming from an oppressive system that enslaves an estimated 1.2 million individuals in India. These individuals, who live outside society and have few other options for a living, are compelled to engage in the sometimes fatal activity of manual scavenging. Scavengers who work by hand are mostly members of the Hindu-Valmiki Sub-Caste⁶. This caste is further sub-divided into locally called groupings such as Chuhada and Rakhi. ³ In the caste system, persons from these groups are not included in the social hierarchy since they are only suited to clean and dispose of human excreta, and the vast majority of those engaged are females 90 percent of the time. The task of manual scavenging has gendered impacts and caste effects. Women scavengers experience numerous sorts of prejudice because of their gender, Dalit status, and their work as manual scavengers. They already have a lot on their plates concerning caring for their families and making ends meet. Because of their long history of this work, they refer to it as "the jagir," a family asset that must be passed on to the next generation of women. Many women who work in the jamjar system, a Feudal caste, and gender-based tradition are 'inherited' from their family and have no other option since they come from the poorest and most marginalized groups, where food and financial security are important concerns. As a result of

their caste's stigma, people from these groups have limited alternatives to obtaining employment elsewhere. This report by the RGA in 2014 shows that the States of Uttar Pradesh, MP Bihar, Maharashtra, Gujarat and Rajasthan have the highest number of people cleaning public and private dry latrines, sewers, and gutters. These people face high levels of discrimination because they are only permitted to live in separate enclaves with deplorable living conditions, denied access to water sources and other public places of woe. UP, MP, Bihar ⁵ While Dalit Muslims from the Hela Sub-Caste are also employed as manual scavengers; they face even greater discrimination than the Valmiki Hindus because they do not fall under the SC-ST Prevention of Atrocities Act, 1989 or any of the other Government programs for Scheduled Castes, such as the SRMS (The Self-Employment Scheme for Reconstruction). They are denied fundamental social and economic rights, as well as a decent existence since they are Muslim sanitation employees who also do hard labour⁷.

A. Origin of Untouchability and Manual Scavenging

The history of India has been both unfair and complex for manual scavengers. The present literature on manual scavenging relates this practice to the presence of caste in India, especially 'Untouchables'⁸. Dr. Ambedkar, a catalyst of radical change, in his book *Riddles in Hinduism*, explains that Untouchables are at the other end of the Hindu society, and further division of this society is based upon the four 'Varnas' known as *Chaturvarnas*. The four Varnas in the hierarchical social order are - Brahmins, Kshatriyas, Vaishyas, and Shudras⁹. Then comes the *Ati-Shudras*, who logically were considered outside the *Chaturvarna* System¹⁰. This hierarchal structure has not only laid the foundation for caste discrimination but also deprived

the Untouchable caste of the basic human dignity and rights of living their life. The census data from Risley (Commissioner, 1901 Census)¹¹ further affiliated people into seven categories based on social standing and created a hierarchical structure. This structure created an unprecedented situation. The Untouchables were the lower rung and were *de facto* thus attached to the cleaning jobs. This resulted in the long-driven practice of manual scavenging, and the social stigma of belonging to a community of cleaners or manual scavengers was imposed upon the untouchables.

From *Manusmriti* to Risley, the oppression and denial of basic human rights to the untouchables were prevalent. It will not be an exaggeration if the Untouchables' living condition is compared with a mere animal existence. The first whistle of oppression was blown in 1927 under the leadership of Dr. *Ambedkar*, the untouchables of Mahad agitated for their dignity¹². After Mahad, the Untouchables regained their lost dignity, atleast in their own eyes, and aimed for legal rights as a ladder.

The continuous exploitation was stopped legally with the independence of India. The liberation of India from Colonial rule brought hope and aspiration for the untouchable caste. This was when they [untouchables] started claiming their rights, and the downfall of the hierarchical structure was perhaps demanded. The facts cited above form a reflection from the mirror of history show how caste, the system of untouchability, has resulted in the long stigma of manual scavenging. Before analyzing prevailing laws, the reader must know the meaning and scope of manual scavengers and their legal status. There is a need to understand the legal definition of manual scavenging before drawing an analogy of inter-sectionality between the practice and human dignity.

B. Defining Manual Scavengers

The Act of 2013 defines Manual Scavengers as “any person, employed or engaged in any kind of activity relating to the handling of human excreta”¹³. However, this definition of manual scavenging is a descriptive fallacy. The definition here is not narrow but ignores demographic dividends; it considers them [manual scavengers] as a single amorphous category. Gender, location, and exposure to risk, which are the essential elements of this practice, remain out of the scope of this definition clauses. A study conducted by Dalberg Advisors called Sanitation Workers Project suggests atleast nine kinds of manual scavengers¹⁴. Whereas the definition of the Act of 2013 is only limited to latrine cleaners, railway cleaners, sewer cleaners, and fecal sludge handlers, keeping a wide spectrum into an unrecognized category. The issue with the definition is discussed in detail later in the paper. The meaning and scope of manual scavenging (the legal definition) are now unfolded, and it is now feasible to understand how the concept of human dignity is related to this practice and why it has been considered as a human dignity degrading practice¹⁵.

C. Human Dignity and the Practice of Manual Scavenging

From the earlier discussion, it is now evident that there lies an area of overlap between the practice of manual scavenging and untouchability. Therefore, before proceeding with the discourse on whether or not the practice of manual scavenging affects the human dignity of an individual, a note on what human dignity is for clarity is essential.

Human dignity is a universal phenomenon and is not limited to borders and political divisions. Every human being thus born is worthy of respect and dignity

irrespective of all the factors. Article 1 of the Universal Declaration of Human Rights states that “All humans are born free and equal in dignity and rights”¹⁶.

Even in the Preamble of the International Covenant on Civil and Political Rights, 1966, the notion of dignity is recognized. As the foundation for all other civic and political rights, it recognizes the importance of human dignity¹⁷. This reading from the Preamble gives an idea of how important human dignity is just for not being respected but also for enjoying several other civil rights. Justice *A.K. Sikri*, in an article, argued that the validity of human rights finds the roots in human dignity itself¹⁸. In India, the Supreme Court has on several occasions acknowledged that Article 21 of the Indian Constitution¹⁹ includes the right to live with human dignity. In *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295, the Court observed that “Article 21 does not only connote to a mere animal existence.”²⁰ Further, in *Maneka Gandhi v. Union of India*, AIR 1978 SC 597, it was observed that “Article 21 does include in its wide ambit, right to live with human dignity”²¹.

However, the concept of human dignity is alien to the manual scavengers. The work they are involved in does not ensure proper health, proper remunerations, and safety equipment. Above all, these scavengers have been stigmatized; the practice results from social pressure upon the scavengers and, unlike any other form of labour, is involuntary. The scavengers are coerced to get into the maintenance holes and septic tanks by society, contractors, and authorities²². The exposure of risk and the availability of even bare minimum protection implicit that the concept of dignity has been lacking for manual scavengers.

III. Legislative Efforts: False Promises and Failed Policies

Indian Constitution Articles 14,

17, 21 and 23 outlaws the practice of untouchability. The Civil Rights Act of 1955 established penalties for anyone who teaches or practices untouchability. A fine of Rs.2,000/- and upto one year in jail were introduced as penalties for manual scavenging in 1993 as part of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, which was subject to a daily fee increase of Rs.100/- for any further offenses. 6 State Governments in India are responsible for enacting laws enacted by the federal Parliament. As a result, the law is a sham since the State Governments cannot enforce it or comprehend the gravity of the problem²³.

Founder and National convenor of the Indian human rights group Safai Karamchari Andolan, *Bezwada Wilson*, works to stop manual scavenging. In 2003, many civil society organizations, including Bezwada and SKA, petitioned the Supreme Court to declare manual scavenging illegal and unconstitutional and to push the National and State Governments to take the required steps to cease the practice. A directive issued in 2005 to all States and federal ministries requesting that they provide evidence of the widespread use of manual scavenging within six months led to every affidavit received six months later denying the practice's prevalence and reporting that dry latrines had been converted into sanitary toilets and that rehabilitation of the last remaining manual scavenging workers would be completed within the next few years. Why? Because present laws are not being enforced correctly by the Government. September 06, 2013, saw the passage of a new law that widened the definition of “handicap scavenging” and tightened administrative procedures in India, thanks to the efforts of former handicap laborers and Dalit activists. Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 prohibits the manual cleaning of feces from

sewers, drainpipes, and sewage tanks, hence no dry latrines are permitted under the 2013 law. By providing employees and their families with an alternate source of income, one-time financial aid, scholarships for their children, housing, and other legal assistance, this new act, unlike the 1993 Act, was a step forward in rectifying the injustices endured by manual scavengers. The 2013 Act, on the other hand, allows Local Governments to use existing State and federal programs to carry out restoration work. However, according to *Ashif Shaikh*, the founder and leader of the Rashtriya Garima Abhiyaan, the law allows for widening the definition and gives rehabilitation; the rules under the act are fairly restricted. According to him, the draught rules do not include any mention of rehabilitation.⁸ It also fails to specify “protective gear” as a reason why employees may continue to work with just limited protective gear, for example, gloves. Moreover²⁴.

Approximately 792 million Indians, according to estimates from the World Health Organization and the United Nations Children's Fund (UNICEF), still lacked basic sanitation in 2014. Indian sewage disposal systems have not been transformed or improved by numerous Government plans or policies. Sulabh Shauchalaya, the Integrated Low-Cost Sanitation Plan, the Low-Cost Sanitation Plan for the Liberation of Manual Scavengers, the Integrated Low-Cost Sanitation Plan, and the Integrated Small and Medium Towns Development Plan were all implemented between 1969 and 1974. (Clean India Campaign). Despite Prime Minister *Narendra Modi's* Swachh Bharat Abhiyan, which attempts to clean up towns and the nation, nine Dalit people in India are still dying each year. Forcing the issue of human waste disposal into the public eye has resulted in an annual death toll of hundreds of people in manual scavengers. Only through civil society organizations may people quit scavenging

by hand. The Rashtriya Garima Abhiyaan, a non-Governmental organization working to end manual scavenging on Indian Railways, began “Knock the door” on August 12, 2013.¹⁰ There are more dry latrines and cleaners employed by Indian Railways than any other organization, making it the world's biggest open toilet. This exposes the Government's hypocritical stance on eradicating the practice. The Rashtriya Garima Abhiyan launched a 65-day Maila Mukti Yatra on November 30, 2012, which would take it across 18 States and 200 District Municipalities. During the yatra, more than 5,000 women were freed²⁵.

IV. Review of Literature

Bakshi D. Sinha, and others²⁶

Based on their research, they have assessed the current socio-economic position of Manual Scavengers about Central and State Government's numerous development programs and initiatives. Maharashtra, Andhra Pradesh, Rajasthan, and Orissa were the research locations. The Study's Final Findings Were These :

- a. No attempt had been made to help the Scavenger families as far as we could tell.
- b. As a result of the inefficient coordination of authorities at all levels, the number of manual scavengers grew steadily.

*Rajiv Kumar Singh*²⁷

In his research, *Singh* said manual scavengers are said to live in squalid circumstances. In many cases, they live in dire straits, without access to essentials such as safe and sanitary living quarters, electricity, nutritious food, and clean drinking water.

*Santosh*²⁸

“Manual scavenging” is practiced by Dalit

families that live in poverty and have little or no influence over their financial situation, according to one scholar. Food, drink, and shelter are just a few of the necessities they have difficulty getting their hands on because of this.

As of this writing, Baruah²⁹ is still alive.

Manual scavenging, according to her, is caste-based and hereditary employment for Dalits that is mostly associated with slavery. Discrimination and physical and sexual abuse have plagued the Dalit people for decades.

V. Research Methodology

The researcher's approach to this study is a combination of descriptive, analytical, and diagnostic. This study's researcher has chosen the doctrinal technique because of the data provided. The researcher's work has been based on several books, journals, and essays, as well as electronic books. The analysis is also a part of this study since it examines how this practice has continued despite the limits of current Government policies, programs, and legislation. An investigation into the plight of Indian manual scavengers is the focus of this investigation.

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VI. Conclusion

The practice of manual scavenging has been a matter of national shame. The critical analysis of the present law compared to the previous law and proposed amendment highlights some concerning areas and how some real problems of the scavengers have been ignored constantly. Another important factor is that there has been no proper discourse between the concerned citizens and the Government authorities. Many organizations like Safai Karamchari Andolan, which has worked specifically in this field, must be brought into dialogue with the Government and the other authorities. There is a need for a proper roadmap to eliminate the process in which the scavengers are continuously harassed. Furthermore, the Government must consider the yardsticks as discussed in the paper for consideration.

A parallel approach to prevention and rehabilitation is essential. However, the approach by the Government is full of confusion and hit by bad policymaking. Although the law has given appropriate measures for rehabilitation, the executive has failed to bring the black letter of the law into existence. As a result, the death of manual scavengers in the maintenance hole is a daily news headline.

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