

THE STUDY OF CASTE AND MANUAL SCAVENGING IN INDIA AND MANUAL SCAVENGERS ACT, 2013

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ABSTRACT

Human waste collectors who operated without proper physical safety protection or direct human contact to physically remove human fecal matter were included in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 when revised in 2013. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, was supposed to be a game-changer in terms of the law. The term was broadened to include any sewage and septage personnel who may come into direct physical contact with human feces if they are not properly protected and outfitted. Rather than focusing just on the discrimination based on caste that manual scavengers encounter, this research review seeks to comprehend manual scavenging as a whole typology of sanitation-related actions and choices.

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

I. Introduction

In many regions of South Asia, people still clean, dry toilets, and open drains by hand using rags and buckets. “Manual scavengers” (women who gather human garbage, load it into cane baskets, or carry metal trays on their heads) are still common in many parts of India, where centuries-old feudal and caste-based custom dictates that they continue to do so.

India’s Federal Government has taken legislative and regulatory measures since 1947 to eliminate manual scavenging. Recent years have seen several initiatives to upgrade sanitation such that excrement no longer needs to be removed manually and to restrict the use of anybody else for this function. Those who refuse to play this role may be subjected to strong social pressure, including threats of violence and deportation from their community, frequently with the collaboration of Local Government Officials, since these regulations are not well executed.

Manual scavengers tend to come from lower-caste families that have long been subjected to menial jobs despised by their more affluent neighbours. In addition to

perpetuating widespread prejudice, their caste-designated work promotes the societal stigma that they are dirty or “untouchable.” Dry toilets are normally cleaned by women, whereas men and women remove feces from open defecation sites and gutters, and males are relied upon to clean sewers and septic tanks that need greater physical exertion¹.

There are several ways in which this practice is discriminatory: *Ashif Shaikh*, the founder, and leader of Rashtriya Garim Abhiyan, an anti-manual scavenging grassroots movement based in India, explained :

Manually transporting human excrement is not a job; it is a kind of oppression comparable to slavery. When it comes to human rights violations against Dalits, this is the most common discrimination.

Hamlet officials in Uttar Pradesh State’s Etah District are aware that 12 women from the village of Kasela physically clean toilets. In exchange for their time spent cleaning toilets by hand, the ladies go back to the homes they cleaned later in the day to retrieve food they have leftover. At harvest, they get grain contributions, and during festivals, they receive old garments, but they are not paid in

cash. That is why *Munnidevi* returned to work when her employers threatened her with a ban on entering the communal property to gather firewood or graze her animals; she tells Human Rights Watch. My schedule demands that I go now. “I feel threatened if I miss a single day,” she stated².

The Indian Parliament enacted the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (the 2013 Act) on September 6, 2013, reaffirming its commitment to abolishing manual scavenging once and for all. It took the Indian Supreme Court until March 27, 2014, seven months later, to rule that manual scavenging must be halted so the Government might “rehabilitate” those involved. As a result, manual scavenging was abolished, and the injustices encountered by groups involved in the activity were eliminated.

Even while this year’s Act acknowledged that manual scavenging communities confront a long history of injustice, it also shows that prior laws and policies have failed to solve the issue. “Examples from manual scavenging communities in the States of Gujarat, Madhya Pradesh, Maharashtra, Rajasthan and Uttar Pradesh highlight the failure of previous Government efforts to end manual scavenging and eliminate the entrenched attitudes and discriminatory practices that still bind members of affected communities to this degrading and unnecessary occupation.”

A. Caste in India

The caste system, a system of social stratification based on heredity and restricted to certain vocations, has historically governed India’s civic, social, and economic life. Social stratification is founded on caste, and caste-based social structures are imposed by tradition and economics. [6] Caste in India is inherited, regardless of one’s religious affiliation. As a result, members of a community’s caste classification have long

dominated the land and other economic resources, creating a wide congruence between caste and class. [8] Dalits are placed at the bottom of the caste system. Many lower castes have historically worked in scavenging and leatherwork, among other low-skilled jobs seen as undesirable or excessively menial by the upper castes. As a result of their caste, they are seen as socially “polluted” or “untouchable,” legitimizing discriminatory acts. The upshot is that Dalit groups in certain regions of India are still refused access to communal water sources, are denied service by barbers, given tea in separate cups, and they are not allowed to shop or join temples.

Untouchability practices are outlawed in India, yet other types of prejudice remain.

Muslim and Christian Dalits are not recognized as Scheduled Castes under the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989, even under current legislation. There have been several prominent Indian politicians who have decried the practice of caste discrimination, including former Prime Minister *Manmohan Singh*.³

Millions of Indians are still subjected to harsh and inhuman treatment because caste dictates inflexible duties and privileges. Discriminatory, inhumane treatment is justified in part by the fact that political and civil rights movements have dismantled some of the caste’s obstacles.

Indian officials have taken steps to eliminate caste prejudice, but the Government has done little to address widespread implementation problems and local Government personnel’s role in supporting discriminatory practices.⁴

B. Manual Scavenging

A sub-caste of the Hindu Valmiki Caste known as Chuhada or Rokhi, or the Muslim Hela Caste known as Halalkhor or Lalbegi, is

where most Dalits work as manual scavengers come from. As a result of their socioeconomic position at the bottom of society, Dalit people endure prejudice daily. Unsanitary jobs, like disposing of human waste, are assigned to these “polluting” workers.⁵

Manual scavenging is classified by the ILO into three categories: Septic tank and drain field cleaning, and gutter and sewer cleaning are all necessary steps in the disposal of human waste from public spaces. Women clean 95% of private and village toilets; males clean septic tanks, closed gutters, and sewers; and both genders clean open defecation from highways, open spaces, and open gutters. Government estimates are much lower than civil society organizations regarding the number of persons who continue to engage in manual scavenging. The Supreme Court of India launched an initiative to remedy this issue in March, 2014, which estimated that 9.6 million dry latrines in India were still being cleaned by hand by persons from the Scheduled Castes.⁶ *Gehlot*, India’s Minister of Social Justice and Empowerment, made the remarks in August of this year before the country’s Parliament. As a result of the continued prevalence of insanitary latrines, manual scavenging is still practiced in certain nation areas.⁷ Roadside defecation and feces discharged into exposed sewers by rural or semi-urban or undeveloped urban families are not included in the Supreme Court’s estimate or *Gehlot*’s statement, as are the cleaning of private and public septic tanks.

C. Efforts to End Manual Scavenging

When then-Prime Minister *Manmohan Singh* said in May, 2011 that his administration was “committed to entirely abolish this abhorrent practice in a very short time,” he was not kidding. “Unless we have a sense of humiliation, outrage, and view it as an insult to our, not just the engaged person’s, dignity, there can be no change in the present practice,” *Jairam Ramesh*, the Rural

Development Minister at the time, said in a letter to the Indian Government.⁸

The next Indian Prime Minister, *Narendra Modi*, declared before entering office in May, 2014, “My identification is of a *Hindutvawadi* [one who Advocates the Hindu nationalism], but I say construct toilets before you build temples.”

As stated in the declaration, the Government should show a readiness to help communities who want out of the manual scavenging business, particularly by acting when such groups encounter prejudice and violence.

However, Government support for those who use manual scavenging as a means of sanitation will not only help them overcome their historical social and economic marginalization, but it will also give families and local officials the impetus they need to adopt more advanced sanitation methods that are already in place.

Government, civic society, and international donors have all attempted to stop manual scavenging. Despite these obstacles, it is possible to achieve long-term transformation, as shown in the following sections. The Government must make a significant effort to guarantee that proper programs are in place and that officials at all levels are held responsible for enforcing laws and regulations to prevent manual scavenging.

D. Legislative Efforts

India has eradicated “untouchability.” Discrimination in the workplace based on a person’s caste is also forbidden. Under the 1955 Civil Rights Act and the Scheduled Castes and Scheduled Tribes Act, “untouchability” is officially forbidden (Prevention of Atrocities Act).⁹ India’s Government started organizing committees to address manual scavenging in 1949, only a few years after independence. After the Civil Rights Act of 1955, scavenging

became illegal in the United States (PCRA).¹⁰ This law was established in 1993, making the cleaning of dry latrines unlawful by prohibiting manual scavengers.¹¹ The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, was enacted by Parliament on September 6, 2013 (Act of 2013). Scavenging is likewise prohibited, as is scavenging in the form of dry latrines. It also protects people who participate in scavenging and compels India to correct the historical injustice endured by these communities by offering alternative jobs and other support. Legislators in India have not yet voted on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance 2014. The Act prohibits the formation, employment, or authorization of manual scavenging to safeguard Dalits and tribal people¹².

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

“Scavengers” and dry toilet building were made criminal by imprisonment for upto a year and a fine of Rs.2,000/- [US\$33] per day for ongoing offenses under this legislation.¹³

Laws prohibiting manual scavenging did not stop people from doing it. With India’s federal system, this is partly to blame. State Governments are generally in charge of putting legislation into effect once passed by Parliament. State officials have been heavily criticized for failing to implement the 1993 Act or even investigate the scope of the issue over those two decades after it was approved.

In 2003, Safai Karmachari Andolan and six other groups filed a writ suit in the Supreme Court of India in response to widespread failure by State Governments to execute the 1993 Act.

Requesting that the court instruct the national and State Governments to adopt time-bound actions to eradicate manual scavenging, petitioners argued unlawful and

unconstitutional. “This action was brought in the public’s interest to hold federal and State Governments responsible for the continuous practice of manual scavenging,” stated Safai Karmachari Andolan’s founder, *Bezwada Wilson*. There has been a six-months deadline set by the Supreme Court Bench in April, 2005 for all State Governments and all Ministries and Corporations of the Central Government to submit affidavits detailing how much money has been spent on ending manual scavenging, how many people have been rehabilitated, and how much progress has been made¹⁴.

There was no evidence of manual scavenging in the affidavits that the Court received six months after the incident.

Even though the Ministry of Social Justice and Empowerment had previously reported that Uttar Pradesh had the highest number of manual scavengers in India¹⁵, the Madhya Pradesh Government claimed in 2006 that all remaining powdered toilets in the country had been converted to sanitary latrines and rehabilitation of all remaining manual scavengers would be completed by 2007.

It was reported that all dry latrines in Maharashtra¹⁶ and Gujarat¹⁷ were either flush latrines or abandoned. At the district level in Rajasthan, no one acknowledged that manual scavenging existed.¹⁸

Ten years after the case was first filed, an Indian Supreme Court judgment on *Safai Karmachari Andolan v. Union of India* determined that manual scavenging was still common and ordered that all persons who worked as manual scavengers be rehabilitated.

II. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013

With the help of former manual scavengers and Dalit rights activists, India’s Parliament passed legislation on September 6, 2013, strengthening accountability mechanisms, broadening the definition of

manual scavenging, and centering efforts to end manual scavenging on preserving the Dignity of the communities that engage in manual scavenging rather than just sanitation. The 2013 Act restricts the use of dry latrines and the manual cleaning of feces, and the cleaning of drainpipes, sewage pipes, and septic tanks without proper safety gear.¹⁹

It is not enough to ban manual labour and the installation of dry latrines; rather, the 2013 Act recognizes responsibilities to address the past injustices endured by manual scavengers and their families.

One-time financial aid and scholarships for their children, housing, alternative livelihood support, and other legal and programmatic help are provided under the 2013 Act to those who have worked as manual scavengers in the last year.²⁰

The 2014 Supreme Court judgment in *Safai Karmachari Andolan v. Union of India* mandates that all manual scavengers on the final list be rehabilitated “in conformity with these requirements.”

Unlike the 1993 Act, the 2013 Act leaves rehabilitation upto local Governments to execute under current Central and State Government schemes – the same programs and authorities that have yet to stop manual scavenging.

There are no provisions to execute important components of the new law in the 2013 Act implementing rules approved on December 12, 2013.

Ashif Shaikh, the founder and convener of the Rashtriya Garima Abhiyan, explains this :

Manual scavenging has been defined more broadly in the 2013 Act, which offers rehabilitation, although the laws are quite restrictive and will not completely eradicate the practice. There is not a single mention of rehabilitation in the regulations. Rehabilitative language does not even appear in the proposed regulations. Since manual scavenging was forbidden in 1993, those who no longer engage in it are not covered by the rules, and there are

*no provisions in the rules for implementing the regulations in Government institutions.*²¹

III. Review of Literature

Scholars contend that environmental discourses sustain the caste structure. It is claimed by an anthropologist, *Kailash Malhotra*, that the caste system was based on an ancient concept of sustainability that disciplined this same society by partitioning the use of natural resources according to particular jobs (or castes) and created the right social *milieu* in which viable patterns of resource use were encouraged to emerge (cited in CSE, 1985)²². However, according to *Mukul Sharma*²³, environmental concepts and politics in India are often conceived and portrayed in terms of India’s glorious past, rendering caste and Dalit issues invisible to the public eye. While *Rajesh Singla*²⁴ acknowledged that SDGs’ goals such as eliminating open defecation in every location, eliminating manual scavenging, encouraging recycling, and reusing Municipal solid waste induce behavioral changes in the community regarding cleanliness and health, several experts disagreed. He sees the Swachha Bharat Abhiyan (launched in 2014) as a better choice for eliminating social issues because of its focus on “Clean India.” *Malcolm Blincom*²⁵ demonstrates, however, that scavengers play a significant role in recycling waste items by SDGs. “Even though the public and the Government in India expressed their gratitude for the Corona warriors, which included doctors, paramedics, sanitation workers, and health department professionals, who worked around the clock to contain the COVID-19 pandemic and selflessly treat patients affected by it (New18 India)”.

Even though sweepers and scavengers play an important role in Indian society, their caste nevertheless causes them to be marginalized and depressed. Caste-based labels like “Dalits” and the “Scheduled Caste” have been ingrained in their collective psyche. As *D. Ajit, Han Donker* and *Ravi Saxena*²⁶ stated, how caste-based institutions

promote social discrimination and economic inequality is a major concern (as selective perception). As *Anil Teltumbade*²⁷ has pointed out, India would never be clean till the caste system is abolished to its core. Even their shadow is deemed dirty (a stereotype) since they constantly live in dirt. This is related to lower castes' poor job profile and is seen as 'polluted, unclean by birth, untouchable'²⁸. The lower caste population is seen unfavorably by society in terms of social, political, and economic aspects. In addition to using other methods, including protest, collective mobilization, and religious conversion, lower caste groups attempted to eradicate all types of prejudice and exclusion²⁹. However, dealing with excrement and sanitation is seen as the exclusive job of lower caste societies since advanced caste members thought they would become lower caste or untouchables if they dealt with sanitary matters³⁰. As a result, reservation did not have a good influence on society regarding eliminating castes or caste prejudice³¹. Dalit identity building has been historically and culturally rooted, according to *Sonia Sikka*³² (as first impression error). On the otherhand, *Vijay Prashad*³³ argues that they have been carrying this form of identification and prejudice since colonial time, particularly in Delhi. It is for this reason that the study of how society views caste and the role of the lower castes in development is considered seriously.

IV. Research Methodology

The study approach used by the researcher is descriptive, analytical, and diagnostic. Based on the current study's data, the researcher has decided to use the doctrinal technique. In order to complete this project, the researcher consulted a wide range of sources, including print and electronic media. Analytical in nature, this study aims to examine the role of the Government, as well as the constraints of current policies, programs, and regulations that have allowed this practice to continue to this day. This is a diagnostic study where the researcher identifies and analyses the

numerous issues facing Indian manual scavengers.

V. Conclusion

This issue is closely tied to those of sewer and other sanitation employees, who are fighting against the lack of official responsibility for unsafe working conditions. There are echoes of feudal connections in the persistent disrespect and exploitation of Dalit sanitation workers, whose occupation is determined by caste, and ties between employers and employees are based on patronage and oppression. Even while employees are paid on a contract, they are still subject to caste status and State impunity, which is the irony of the neoliberal period of centralization. Social justice is an aim of the Indian Constitution, which outlaws caste-based discrimination in Article 15. Still, the sanitation workers' upper-caste exploitation and humiliation are a constant threat to their well-being. Physical and emotional health issues arise from the lack of access to fundamental services, such as education and healthcare, that persons who engage in the manual scavenging face. It is not only a repugnant and dishonorable way of life, but its continued presence is a scourge on India's social framework, where everyone has the right to live with Dignity. Since manual scavenging has become a national issue, I feel its core causes must be addressed. Smart cities should seek to end manual scavenging to ensure that those who do this dangerous activity are not subjected to prejudice and have a safe place to call home. In order to lessen the prevalence of manual scavenging, it is possible to use measures such as raising public awareness, using new technologies, and improving workers' abilities. This horrible practice persists in our nation despite the presence of strict legislation. To abolish manual scavenging in India is difficult since it provides a significant source of employment for the poor. Dispelling it involves more than just technical or legal fixes since it works at the crossroads of caste and economic inequality.

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IMPACT ON LABOUR LAWS IN INDIA IN THE GLOBALISATION ERA

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In the Universe for the wellbeing of Humanity, everybody has to work or do something for their livelihood. The advent of Industrialization that is in the mid of 19th century played vital role in India. In fact, there was significant growth all over the world. As a matter of fact, for any country, it is the economy of the country that decides the growth. Besides social development, Economic development and Industrial development are the important factors. Again this is dependent on educational and technical development. Before independence, India was considered to be an agricultural country, may be due to poor economic conditions or lack of Technical Development. This may be the major reason for the country remained as Agricultural country. Almost post-independence period went on

so. Another noteworthy thing is that British rulers concentrated only on Presidency Towns of Bombay, Madras (Chennai) and Calcutta for their ruling and also business development. During their regime there was some Industrial development, mostly for their own purpose. In the wake of establishment of Industries, for their personal development. There was harassment of workmen, on the pretext of low wages retrenchments, punishments and exploitation of labour. The circumstances prevailing during that time given room for labor Unions, pen down, strike *etc.*, on the part of workmen and lockouts closure of companies on the entrepreneur side thereby there was unrest. In the middle of 19th century, we have got Independence, and we started the country developing by our own plans through Five-