

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 4**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Manual Scavenging: A Saga of Neglect

---

TANYA GUPTA<sup>1</sup>

## ABSTRACT

*Manual Scavenging was the crucified expression of the credence kindled by the existing caste hierarchy-untouchability, dharma and karma. It was an activity which had been in existence in India since human advancement. These people used a piece of tin to lift the excrement into a woven basket and carried the same on their shoulder to dump the refuse at a faraway place. The Government of India promulgated plethora of legislations, committees, commissions and missions to examine the various aspects of this problem. However, to this day dalit community continued to be employed as manual scavengers since our caste-based mindset continued to stand in the way of abolition of this heinous practice. In a nutshell, this paper discuss manual scavenging and critically traces out the various immediate actions promulgated by the Government of India. It concludes that the continuance of this practice and the stigma attached to manual scavenging proves that there is need for social transformation of people at large and in addition, also suggests few remedial measures to demolish the foundation of manual scavenger's indignity.*

**Keywords:** Manual scavengers, Caste, Dalit, Safai Karamcharis, Sanitation, PEMSR.

## I. INTRODUCTION

“Ours is a battle not for wealth; nor for power, ours is a battle for freedom; for reclamation of human personality.”

**- Dr. Babasaheb Ambedkar**

Centuries-old feudal and caste based custom was a bane for Indian society as caste remained a major credential of occupation and class division. Work was clustered as per the caste which was the fundamental tenet of casteism in India. Lower-castes were typically restricted to tasks and occupations that were contemplated as least desirable, “filthy” or “polluting” by the so-called ‘decent’ folks. Occupations such as sweeping, leather work, sanitisation chores were explicitly expected to be performed by schedule castes or by other specific castes associated with such activities<sup>2</sup>. Sanitisation workers include manual scavengers and people who were

---

<sup>1</sup> Author is a student at The Law School, University of Jammu, India.

<sup>2</sup> Rema Nagarajan, “In 21st century India, caste still decides what you do”, *Times of India*, (December 22, 2018), available at: [http://timesofindia.indiatimes.com/articleshow/67201813.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/67201813.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst), last visited on 14<sup>th</sup> August, 2020.

assigned tasks like sweeping; cleaning streets, open sewage-disposal tanks and public toilets<sup>3</sup>. Manual scavenging was an inhumane practice of manually removing fresh and untreated human excrements from private homes; dry toilets and sewage pits maintained by municipalities and scavengers with head-loads of shit empty the excrement into the dumping sites for disposal without any personal protective equipment<sup>4</sup>. This practice was not only diabolic but the worst surviving symbol of untouchability and conceivably the highest extent of human rights infraction. For some, it was the most obnoxious activity to perform while for others it was the only job to keep their body and soul together.

### **Scavenging activities in independent India- Shame, Shame!**

Manual scavenging had been in existence since the human civilisation, it was strictly compartmentalised into Varna system in India. This job was performed exclusively by dalits as they were relegated to the bottom of the caste hierarchy. A person was not regarded as scavenger just because of the job done by him but because of his descent, ignoring the fact that whether he does that specific job or not.

## **II. DEHUMANISATION OF AN ENTIRE COMMUNITY**

Caste system in India earmarked manual scavenging to certain sub-castes of dalits who face discrimination even from dalit community and were considered wretched or 'untouchable'. They were socially prohibited due to the stigma attached to this occupation and moreover due to the inter-generational transfer of occupation, which not only perpetuated widespread discrimination into their social status but also to their economic terms of livelihood. Indeed, manual scavenging and untouchability – caste discrimination intimately go hand in hand. We cannot say that every single lower-caste person was a sanitisation worker, however; every sanitisation worker was undeniably a dalit- valmiki who were at the bottom of the social hierarchy in India<sup>5</sup>.

Manual scavengers were termed by various names in distinct parts of India *vis-a-vis*, in North India they were called Hindu Valmiki, Bhangi, Chuhra, Mehtar, Mazhabi, Lal Begi; in Eastern India scavenging caste were known as Har, Hadi, Dom etc., in southern India they were termed

---

<sup>3</sup>"Sanitisation Worker", *Wikipedia*, available at: [https://en.wikipedia.org/wiki/Sanitisation\\_worker](https://en.wikipedia.org/wiki/Sanitisation_worker)

<sup>4</sup>"Human rights and manual scavenging" (PDF), *Know Your Rights Series. National Human Rights Commission, 16 September 2013*, available at: <https://nhrc.nic.in/press-release/nhrc-recommendations-manual-scavenging-and-sanitation>, last visited on 15<sup>th</sup> August, 2020.

<sup>5</sup> Srishti Sharma, "A Stinking Legacy of Suffocation and Stigma", *Youth ki Awaaz*, 8<sup>th</sup> January, 2019, available at: <https://www.youthkiawaaz.com/2019/01/my-research-on-manual-scavengers-was-an-eye-opener-to-the-world-we-live-in/>, last visited on 15<sup>th</sup> August, 2020.

as Mukhiyar, Thoti; and Mehtar, Bhangias, Halalkhor, Mela etc., in western and central India<sup>6</sup>.

### III. TOOTHLESS LEGISLATIVE MEASURES ADOPTED

It had been more than 70 years, that the constitution of India had commenced, and with that the Government of India had passed several provisions to combat caste discrimination and also to protect sanitisation workers of Dalit community. Nonetheless, Manual Scavenging remained to be the customary occupation amongst harijans, which show beyond doubt that the spirit of the Articles, Laws and Policies were just adopted formally in writing by the government rather implemented as the practice had been seen on the ground.

The most significant Acts enacted by the Ministry of Social Justice and Empowerment, through the years to protect sanitisation workers of Dalit community were The Protection of Civil Rights Act, 1955, The Employment of Manual Scavenger and Construction of Dry Latrines (Prohibition) Act, 1993 and Prohibition of Employment as Manual Scavengers and their Employment (PEMSR) Act, 2013.

- ***The Protection of Civil Rights Act, 1955***<sup>7</sup>: Under this Act, a police officer had the authority to make an arrest without a warrant of those who preach and practice untouchability. This was the first law to combat the problem of manual scavenging and for that the dry latrines were converted into the pour-flush latrines.
- Manual scavenging was declared unlawful, 27 years ago with the passing of ***The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993***<sup>8</sup>, This Act prohibits the practice of forcing manual scavengers to dispose of human excrements with their hands as well as construction or continuance of dry latrines was liable for criminal punishment along with fine, however, it still continued to find practitioners in this age and the condition of sanitisation workers failed to show satisfactory signs of amelioration.
- The ***Prohibition of Employment as Manual Scavengers and their Rehabilitation Act (PEMSR) Act, 2013***<sup>9</sup> interdicted the practice of employing manual scavengers for cleaning sewage system without any preventive gear as well as provided penal provisions for those who perpetuated the practice and compensation for those who were actually engaged in it. This Act recognised a link between manual scavenging and caste

---

<sup>6</sup> B.N. Srivastava, *Manual Scavenging in India: A Disgrace to the country*, 20 (Concept Publishing Company, New Delhi, 1997).

<sup>7</sup> Act No.22 OF 1955

<sup>8</sup> Act No. 46 of 1993.

<sup>9</sup> Act 25 of 2013

system prevailing in the society and therefore observed this dehumanising practice offensive to their right to safety and dignity.

In an age where, India has reached the moon and progressed by leaps and bounds, it was a standing testimony to the lasting virulence of the caste system that five people died every day in our country as for public facility cleaning and sewage disposal, human intervention in the process still continued. This occupation persisted not due to the lack of budget, nor was it the absence or existence of a legal framework that stood in the way of the abolition of this practice but it was our caste-based mindset built on the grounds of social exclusion and economic exploitation<sup>10</sup>.

#### IV. COMMITTEES AND COMMISSIONS

A plethora of committees and commissions had been appointed from time to time, which put forward proposals to reintegrate the scavenging communities' back in the society.

- **Barve Committee**<sup>11</sup> : This committee was formed to study and enquire into the living conditions of the scavengers in the state of Bombay and to suggest ways and means to improve their condition of work and to fix their minimum wages. However, it did not ask for the abolition of dry toilets, but rather for the amelioration of the working conditions of scavengers<sup>12</sup>.
- **Kaka Kalekar Commission**<sup>13</sup>: It described the condition of manual scavengers as sub-humans and accentuated the outdated techniques of night soil removal and sanitisation which included manual removal of human waste by scavenging communities. foregrounded the need to introduce mechanical and up-to-date methods of cleansing latrines so that this dehumanising practice was obviated as far as possible.
- **Central Advisory Board of Harijan Welfare**<sup>14</sup>: This board scrutinized the working and living condition of the sweepers and scavengers in the country and proposed to the Government to enact centrally sponsored schemes for manual scavengers.
- **Malkani Committee**: recommended ameliorative measures and blamed the existence of dry latrines as a major impediment to the abolition of manual scavenging in India.

---

<sup>10</sup> *Supra* note V, at p.vii

<sup>11</sup> Abhishek Gupta, "Manual Scavenging: A case of denied rights", *ILI Law Review*, p.44, (2016), available at: <http://ili.ac.in/pdf/paper3.pdf>, last visited on 17<sup>th</sup> August, 2020.

<sup>12</sup> *Supra* note V, p.22

<sup>13</sup> *Supra* note XIV at p.44

<sup>14</sup> "Manual scavengers: welfare and rehabilitation", p.5, (August, 2013), available at: [http://164.100.47.19/3/Refinput/New\\_Reference\\_Notes/English/Manual%20Scavengers%20welfare%20and%20Rehabilitation.pdf](http://164.100.47.19/3/Refinput/New_Reference_Notes/English/Manual%20Scavengers%20welfare%20and%20Rehabilitation.pdf), last visited on 17<sup>th</sup> August, 2020.

- **Committee on Customary Rights**<sup>15</sup>: to examine the question of the abolition of customary rights of the scavengers. The committee found that where scavenging was not municipalized the latrines were cleaned privately and one particular scavenger acquired hereditary right to clean such latrines.<sup>16</sup>
- **Pandya Committee**<sup>17</sup>: to examine the working and service conditions of sweepers and scavengers. it recommended that Central Government should regulate the working, service and living conditions of the sweeper and scavenging communities and also recommended provisions for adequate inspectorate and enforcement machinery.

All these committees and commissions, while highlighting the deplorable conditions of the scavenging community, commended the ameliorative measures, not the abolition of this practice.

## V. GOVERNMENT/ADMINISTRATIVE SCHEMES FOR WELFARE AND REHABILITATION

In view of the existing hereditary obnoxious and diabolical condition of manual scavengers, the Indian Government had allocated resources to modernise sanitation and formulated various schemes/programmes for their social and economic upliftment. Some schemes for the welfare of scavenging communities were:

- **Self-employment scheme for rehabilitation of manual scavenging (SRMS)**<sup>18</sup>: In January 2007, the government initiated this scheme with the objective to rehabilitate the remaining manual scavengers and their dependents in alternative occupations by March, 2009. Central Government had revised the SRMS for rehabilitation of the manual scavengers in synchronisation with the provisions of the Manual Scavengers Act, 2013. The main features of this scheme were like one-time cash assistance, training with stipend and concessional loans with subsidy for taking up alternative occupation.
- **National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents (NSLRSD)**: This scheme was initiated in 1989 with the objective to liberate manual scavengers from their existing hereditary inhuman occupation and to provide for and engage them in alternative and dignified occupations. In 2003, a CAG report concluded that

<sup>15</sup> *Supra* note v, at p.22]

<sup>16</sup> [“Has India Really Tried to Ban Manual Scavenging?”, available at: [https://sabrangindia.in/sites/default/files/heading\\_background\\_note\\_on\\_manual\\_scavenging.pdf?133](https://sabrangindia.in/sites/default/files/heading_background_note_on_manual_scavenging.pdf?133), last visited on 18<sup>th</sup> August, 2020.

<sup>17</sup> *Supra* note xvii, at p.6.

<sup>18</sup> [http://socialjustice.nic.in/SchemeList/Send/37?mid=24541#:~:text=Self%2DEmployment%20Scheme%20for%20Rehabilitation%20of%20Manual%20Scavengers%20\(SRMS\)&text=3%2C25%2C000%20and%20concessional%20loan,per%20month%20is%20also%20provided.](http://socialjustice.nic.in/SchemeList/Send/37?mid=24541#:~:text=Self%2DEmployment%20Scheme%20for%20Rehabilitation%20of%20Manual%20Scavengers%20(SRMS)&text=3%2C25%2C000%20and%20concessional%20loan,per%20month%20is%20also%20provided.), last visited on 19<sup>th</sup> August, 2020

the scheme failed to achieve its objective and also pointed that there was “lack of correspondence between ‘liberation’ and ‘rehabilitation’ and there was no evidence to suggest if those liberated were in fact rehabilitated.”<sup>19</sup>

- **Integrated Low Cost Sanitisation Scheme (ILCS)**<sup>20</sup>: The Government of India, Ministry of Urban Employment and Poverty Alleviation along with HUDCO have joined hands in order to eliminate the dehumanising practice of physically carrying the night soil and initiated a major programme for Integrated Low Cost Sanitisation for conversion of dry latrine system into low cost twin pit sanitary latrines and at the same time for liberating the manual scavengers. The twin-pit pour-flush toilet was cost effective, consumed less water and had indigenous material. In addition, HUDCO had financed loans to local bodies and had also been extending assistance to basic sanitisation schemes.<sup>21</sup>

- **National Safai Karamcharis Finance and Development Corporation (NSKFDC)**<sup>22</sup> was incorporated in 1997, under Section 25 of the Companies Act, 1956, as an apex institution for the all-round socio-economic upliftment of safai karamcharis. Moreover it extended financial assistance to the Safai Karamcharis beneficiaries for income generation and viable projects. This corporation targeted on specific groups like “Scavengers” and their dependents and Safai Karamcharis.

- **Nirmal Bharat Abhiyaan (NBA) (2009-2014) and Swach Bharat Abhiyaan (SBA) (2014-19)**: The Nirmal Bharat Abhiyaan or Total Sanitisation Camp was initiated in the year 1999 by the then government. The prime focus of the scheme was to ensure 100% sanitisation in the rural regions of the country. The Nirmal Bharat Abhiyaan was replaced by the Swach Bharat Abhiyaan in 2014 by the NDA government led by PM Modi. Swach Bharat Abhiyaan had been conceived with the objective to clean up the streets, roads and infrastructure of India’s cities and towns; furthermore, it eliminated open defecation and eradicates manual scavenging<sup>23</sup>. The rehabilitation schemes for the welfare of manual scavengers had progressed at snail’s pace and failed to achieve much result. It is ironical to see that despite the concerted efforts made in the past to eliminate the practice of dehumanisation of an entire community, manual scavenging continues unabated in India and the plight of manual scavengers had been

---

<sup>19</sup> *Safai Karamchari Andolan v. Union of India (2014)11SCC 224*

<sup>20</sup> *Supra* note xiv, at p.46

<sup>21</sup> *Under ‘Pay and Use Toilet Scheme’, Central assistance through Housing and Urban Development Corporation (HUDCO) was available to Urban Local Bodies (ULBs) for construction of toilets for footpath and slum dwellers who were unable to construct their own toilets.*

<sup>22</sup> *Supra* note v, at p.24

<sup>23</sup> “Nirmal Bharat Abhiyan: Everything You Need To Know About Nirmal Bharat Abhiyan”, *Indian National Congress*, (29<sup>th</sup> October, 2018), available at: <https://www.inc.in/en/in-focus/nirmal-bharat-abhiyan-everything-you-need-to-know-about-nirmal-bharat-abhiyan>, last visited on 20<sup>th</sup> August, 2020.

deplorable. Existing laws, constitutional, statutory and administrative safeguards and frameworks were not stringent enough in eliminating the twin evils of insanitary latrines and manual scavenging from the country.

## **VI. JUDICIAL INTERVENTION**

Judiciary had always played an active role in reinforcing the cause of socio-economic welfare for the upliftment of poor and weaker section of the society by translating several directive principles into enforceable rights. With regard to manual scavenging, courts had recently endorsed stern attitude towards the heinous practice and admonished the State authorities for failing to eliminate manual scavenging.

### **Let the future not inherit this**

Manual scavenging as practise would continue to exist as long as we, the Indian civil society, were not liberated from our caste bases mindset. Caste notions still define this activity and it was crucial to dismantle the link between caste and occupation – but cleaning a country's streets was much easier than cleaning its morality. Scavenging appeared to be the burden of the dalits, not of the upper echelons who profit by it and appointing only dalits to do this job, created an institutional form of untouchability that needed to be tackled.

Policy makers had initiated several social welfare reforms, various committees and organisations had called for 'rehabilitation of scavengers' and 'amelioration' of their conditions, but these had considerably failed to ensure their success in reality. A fatalistic attitude pervaded due to the lack of education and the absence of other employment opportunities. Experts said that community-centric model should be adopted, to pull the plug on the vicious cycle of marginalisation and exclusion, where the entire community was given more opportunities to help them come out of this practice and for that we needed to rehabilitate manual scavengers in non-sanitisation related occupations. To improve the living and working condition of manual scavengers all over India, some of the constructive recommendations in this regard could be adopted which are suggested as under:

- **Linking MNREGA with the Scavenging Act of 2013:** An amendment must be brought to the Scavengers Act of 2013 and the rehabilitation programmes must be linked with Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) 2005<sup>24</sup> and other social security laws like Unorganised Sector workers' Social Security Act, 2008<sup>25</sup>. Moreover

---

<sup>24</sup> *Mahatma Gandhi National Rural Employment Guarantee Act (no. 42 of 2005)*

<sup>25</sup> *Act no. 33 of 2008*



Central Government should ensure that manual scavenging communities could access employment under MNREGA.

- **Role of local officials:** Central Government required local authorities to take immediate, proactive steps to identify people engaged in the practice of manual scavenging and those who left the practice since 1993, so the latter were entitled to the benefits under the 2013 Act. They should have the provisions for not allowing the construction of any new houses with dry latrine or without a pour-flush latrine system and an excreta-disposal system was considered adequate.

- **Sanitisation programmes and awareness:** Sanitisation and inadequate sewage disposal adversely affected the health of largely poor people in rural and urban areas and were the most fundamental cause and impediment to the abolition of manual scavenging. Thus, speeding up sanitisation programmes and awareness regarding proper toilets was necessary. Additionally, there was an absolute need for a vigorous organisation to boycott manual scavenging and demolish dry toilets.

- **Responsibility of railways:** Though railways denied the presence of manual scavengers, the Indian railway was the largest institution in the country that used dry latrines. Providing workers with a tag of ‘Safai Karamchari’ would not change their reality of being a manual scavenger, when the kind of work they did fell under the ambit of manual scavenging. The Railway Ministry must immediately prohibit this practice by speeding up the construction of bio-toilets in railway stations and trains.

- **Technology induced intervention:** For the purpose of abolishing the heinous act of manual scavenging, the supreme alternate was to implement technology for cleaning sewer, septic tanks, railway tracks, or other spaces. Machines should be used to clean manholes rather than human beings. An example of such machine was of The Bandicoot Robot, first manual cleaning robot instigated by GenRobotics.<sup>26</sup> to provide solution in places in which human life is put at risk.

Apart from the responsibilities of the legislature and executive, every individual should also understand their responsibility and need to wake up and look at all these inhuman practices going on around our society. This was not an issue that concerned manual scavengers alone, but it concerned each person in the society. Thus, in order to eliminate this heinous practice, it

---

<sup>26</sup> “Justice Denied: Death of workers engaged in manual scavenging while cleaning the Septic tank or Sewer”, *Rashtriya Grime Abhiyan*, p.58, available at: <https://idsn.org/wp-content/uploads/2018/12/Report-Justice-Denied-Death-of-workers-engaged-in-manual-scavenging-while-cleaning-the-Septic-tank-or-Sewer2.pdf>, last visited on 24<sup>th</sup> August, 2020.

was important for each one of us to change our mindsets. The battle was huge and now was the time when we need to fight back against these social issues and challenges and for that to happen society should understand that these people also had their right to live with dignity. Safai karamcharis do this job because they were entrapped in such circumstances which compelled them to do the same. Thus, it was not a matter of choice for them. But accepting this practise and encouraging the same definitely renders us lesser humans.

\*\*\*\*\*