

THE SPECTRE OF MANUAL SCAVENGING IN INDIA: ANALYZING THE PROBLEM AND THE LEGAL RESPONSE

Dr. Arti Puri

Professor, University Institute of Laws, Panjab University, Ludhiana, Punjab, India

Sunil Kumar

Assistant Professor, School of Law, Lovely Professional University, Phagwara, Punjab, India

ABSTRACT

Manual Scavenging affects a large section of population in India. Inherently, the practice is discriminatory in character. Castes like Halalkhor, Bhangi, Mehtar and Chamar typically figure in colonial and post-colonial records as the ones who were assigned to the most menial of tasks. These tasks included sweeping, tanning, cleaning and scavenging. Scavenging was and perhaps, still is considered the lowliest and the most unclean occupation in the social milieu of India. Several international reports like the Human Rights Watch Report and research reports have investigated the problem of manual scavenging. This paper shall analyse an expansive interpretation of Articles 17, 21 and 23 of the Constitution of India while dealing with the livid topic of manual scavenging.

1. INTRODUCTION

“Our is a Battle; Not for Wealth, Nor for Power, Ours is Battle; for Freedom; For Reclamation of Human Personality.”

—Dr. B.R. Ambedkar¹

The practice of Manual Scavenging is the dehumanizing practice of removal of human excreta by bare hands or minimum equipment. This practice goes against the constitutional and

¹ Dr. Babasaheb Ambedkar, Writings and Speeches, Vol.17, Part II, Dr. Ambedkar Foundation, Ministry of Social Justice and Empowerment, Government of India, p.276

democratic values of India but has been closely associated with the evil of untouchability.² In 2016 in a Special Rapporteur of the United Nations observed that in India that the practice of manual scavenging clearly falls on caste lines, particularly amongst the Dalit caste. Dalit women form 95 percent of this community who are employed by local bodies notwithstanding the enactment of central laws prohibiting the practice.³

The Parliament of India has enacted the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013(hereinafter, PEMSR 2013) to effectively ban the abominable practice and rehabilitate persons engaged in the task of manually cleaning human excreta from private privies, urban and rural human settlements and from railway tracks and other public places. In the past, legislative interventions were undertaken in the shape of the National Commission for Safai Karamcharis Act, 1993 and also The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 to address the social scourge of manual scavenging. These legislations could not bring out necessary and desired change in society. The 1993 Act was poorly implemented.⁴

Inherently, the practice of manual scavenging is discriminatory in character. Castes like *Halalkhor*, *Bhangi*, *Mehtar* and *Chamar* typically figure in colonial and post-colonial records as the ones who were assigned to the most menial of tasks in the social milieu. These tasks included sweeping, tanning, cleaning and scavenging. Scavenging was and perhaps, still is considered the lowliest and the most unclean occupation in the social milieu of India.⁵ Several international reports like the Human Rights Watch Report have investigated the problem of manual scavenging.

The lived experiences of manual scavengers documented in the report highlighted the gravity of the situation where the scavengers had to clean multiple toilets every day with little equipment other than tin plates, brooms and baskets to dispose off the human excreta.⁶ A manual scavenger thus collects, carries and disposes of human excreta at a faraway place from human habitations.

² A.M. Rajasekhariah, & Hemalata Jayaraj (1991):*Political Philosophy of Dr. B. R. Ambedkar*, The Indian Journal of Political Science, Vol. 52, No. 3, July – September (1991) pp.357-375

³ United Nations, A/HRC/31/56, Report of the Special Rapporteur on Minority Issues, Available at <https://www.ohchr.org/en/issues/minorities/srminorities/pages/srminorityissuesindex.aspx>, p.14-15, (Last visited on 31st of October, 2025)

⁴ Tanya Arora, Manual Scavenging Continues Unabated, Indian government turns a deaf ear to acknowledge this systemic, extreme violence, April 14, 2023, available at <https://sabrangindia.in/manual-scavenging-continues-unabated-indian-govts-turns-deaf-ear-acknowledge-systemic/>, (Last visited 3rd February 2026)

⁵ Srivastava, B.N. (1997) *Manual Scavenging in India: A Disgrace to the Country*, Concept Publishing Company, New Delhi p.21.

⁶ *Cleaning Human Waste (Manual Scavenging, Caste and Discrimination in India)*, UN Rights Watch, August 25, 2014, p.5

While executing this task, she faces extreme forms of discrimination and bias. Shorn of human dignity and living on the mercy of the benefactors for food and measly remuneration, the life of a manual scavenger is a veritable hell. In the past decade, the spectre of sewer deaths has gained traction in media, thanks to the vigorous grassroots social emancipatory movement led by the likes of Bezwada Wilson, who have tirelessly campaigned for the eradication of the problem at the national level. The Magsaysay Award Citation of the intrepid social reformer acknowledges the practice as hereditary in character.⁷

2.THE LEGISLATIVE EFFORT ANALYZED

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (PEMSR Act 2013) is a salutary legislation which aims to abolish the practice of manual scavenging from the face of India. Importantly, it punishes a person who is occupying or maintaining an insanitary latrine. It also seeks to create a mechanism where manual scavengers are identified through a survey and they are to be then rehabilitated as per the welfare provisions the law. The right to life with dignity is a fundamental right under Article 21 of the Constitution of India and the Preamble recognizes the dignity of an individual. Therefore manual scavenging by its very nature violates Article 21 of the Constitution. Article 47 articulates the Directive Principles of State Policy to improve living standards and Article 42 which obligates just and humane work conditions.

A comparison of the 1993 and 2013 Acts which prohibit the practice of manual scavenging reveals several differences. The definition of a manual scavenger under the 2013 Act is broader than the corresponding definition under the 1993 Act. While 1993 Act mandated the respective State Government to notify the prohibition of the practice under section 3 therein, the 2013 Act explicitly prohibits the practice without the notification requirement. While this creates the impression that the 2013 Act is a necessary improvement over the 1993 Act, the former legislation has several lacunae. The exact manner of the social and economic rehabilitation of manual scavengers to be undertaken has not been specifically established in the 2013 Act though it highlights the need for identification of manual scavengers and the demolition of insanitary latrines. The Vigilance Committee under section 25 primarily consists of only the district civil administration and there is no provision for an Ombudsman to effectively ensure

⁷ Extract from Magsaysay Award Citation, Official Website of Ramon Magsaysay Award Foundation (2016): “... *A hereditary occupation, manual scavenging involves 180,000 Dalit households cleaning the 790,000 public and private dry latrines across India; 98 percent of scavengers are meagrely paid women and girls. While the Constitution and other laws prohibit dry latrines and the employment of manual scavengers, these have not been strictly enforced since government itself is the biggest violator...*”, available at <https://rmaward.asia/rmawardees/wilson-bezwada/> , (Last visited 2nd February 2026)

that the law has been implemented in the earnest. Similarly, the 2013 Act does not focus on the health conditions of manual scavengers.

Swachh Bharat Abhiyaan scheme was launched by the Central Government in 2014 and was lauded as a landmark scheme to remove dry latrines in India and make India open defecation free within 5 years and eliminate manual scavenging.⁸ Though it carried welfare oriented rationale, it ignored structural and endemic societal bias and challenges at the grassroots and these stalled its progress. In a detailed examination of the flagship programme of the Government of India, scholars Dean Spears and Diane argue that the implementation process of the programme didn't take into account the various social and administrative obstacles like caste discrimination, ignorance among beneficiaries of government funding process for construction of toilets, red-tapism, endemic corruption, regressive social mores and customs among other reasons.⁹

In order to seek a permanent solution to the problem of manual scavenging, mechanization of the sewer cleaning was also proposed through the Prohibition of Employment and Manual Scavengers and their Rehabilitation (Amendment) Bill 2020. However, since the idea was already being pursued by the Government through NAMASTE scheme (National Action for Mechanized Sanitation Eco-system), the Bill could not see the light of the day.¹⁰ It is submitted that mechanization may be mandated through legislative enactment as the NAMASTE scheme keeps the focus on providing of PPE kits and training cleaners on safe practices. Human involvement is not completely ruled out.

3. EMERGING JUDICIAL NARRATIVES

In *Safai Karamchari Andolan v. State*¹¹, the Supreme Court had passed detailed guidelines to ensure that the children of manual scavengers are given adequate assistance in terms of education through scholarships and cash incentives and subsidies to be given to the manual scavengers to start an alternative occupation. Further, it was directed that financial assistance should be given to them to set up their homes. Quite significantly, as a step towards compensating for the loss of human life in an instance of sewer death, an amount of rupees ten

⁸ PM India Website Major Initiatives, *Swachh Bharat Abhiyan*, Available at https://www.pmindia.gov.in/en/major_initiatives/swachh-bharat-abhiyan/, (Last visited 2nd February, 2026)

⁹ Diane Coffey and Dean Spears, *Where India Goes: Abandoned Toilets, Stunted Development and the Costs of Caste*, Harper Collins India, 2017, 1st Edition, (New Delhi), pp. 210-238

¹⁰ Press Release, Press Information Bureau Headquarters, NAMASTE Scheme (National Action for Mechanized Sanitation Eco-system), 10 September 2025, PIB Delhi, Government of India

¹¹ MANU/TN/2299/2024

lakh should be awarded. The case at hand has enhanced the compensation amount to rupees thirty lakhs.

In *Dr. Balram Singh v. Union of India*¹², a social activist challenged the approach of the State before the Supreme Court arguing that the State has not implemented essential provisions of the 1993 and 2013 Acts. The petitioner put forward a prayer to impose a blanket ban on manual scavenging and demanded that the 1993 and 2013 legislations should be implemented in letter and spirit. The petitioner also prayed for making adequate provision for rehabilitating the manual scavengers by weaning them out of the abominable occupation. It was argued that there is a legislative vacuum on the matter of rehabilitation of manual scavengers.

The Supreme Court issues several directions for the effective implementation of the two Acts. Elimination of the practice is to be ensured through a phased manner and government departments which frequently engage manual scavengers such as the Railways have been directed to not engage sewer cleaners for manually cleaning. Proper rehabilitation through employment opportunities for the next of kin, skills training and educational facilities are to be ensured for the family members of deceased workers. Adequate compensation in the event of death or permanent disability is also to be granted. Contracts for the engagement of manual scavengers are illegal and the agency which hired or outsourced the work of manual scavenging is liable in the event of death of a manual scavenger. A Model Contract for the engagement of cleaning agencies is also to be prepared by the Government.

The National Commission for Safai Karamcharis (NCSK), the National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST), along with the Secretary, Union Ministry of Social Justice and Empowerment have been instructed to conduct a national survey within a period of 1 year to determine the number of manual scavengers in India. Data through the creation of a Dynamic Portal and Dashboard for information on deaths, compensation status and rehabilitation measures with respect to manual scavengers is also to be prepared. The directions also mandated NALSA (National Legal Services Authority) to be included in the consultation process to plan rehabilitation of manual scavengers.

4.SIGNIFICANCE OF THE *DR. BALRAM* JUDGMENT

¹² MANU/SC/1183/2023

The judgment has further expanded the ambit of compensation for sewer death cases. The Apex Court not only acknowledged the deep seated prejudices in the society and the deplorable condition of manual scavengers but also gave far reaching directives to the Government to ensure the implementation of the statute in its true spirit. The Union government in its Affidavit submitted that all necessary steps were being taken to eradicate the problem but mentioned that there is significant lack of mechanization to clean sewer lines and septic tanks. A point of consideration is whether the judgment is similar to the United States Supreme Court decision in *Brown v. Board of Education*?¹³ The case granted the coloured children in United States access to education and held that segregating children in public schools on the basis of race is unconstitutional.¹⁴ It is definitely there in terms of its intent and the ramification of the judgment can be gauged from the fact that the Apex Court gave a comprehensive ruling observing that “*manual scavenging should be completely eradicated.*”¹⁵

It is to the credit of the court that in the past decade on numerous occasions while adjudicating on the matter, the Apex Court came down heavily upon the governmental agencies on the point of non-implementation of the mandate of these transformative statutes. In the year 2019, the Bench of Justice MR Shah, Justice BR Gavai, and Justice Arun Mishra while referring to the condition of manual scavengers had scathingly observed, “*Why are you not providing them masks and oxygen cylinders? In no country in the world, people are sent to gas chambers to die. Four to five people are dying due to this every month.*”¹⁶

5. CONCLUSION

Mere statutory provisions are not sufficient for the removal of the bane of manual scavenging from India especially in rural parts where dry latrines and open defecation are prevalent due to existing social and personal perspectives on hygiene and sanitation.¹⁷ Endeavours made through the compliance of directions of the Supreme Court will help in doing away with the practice of employing manual scavengers and restoring dignity to millions of people who for decades faced discrimination and exploitation. The efforts for the eradication of this practice should be intensified. The machines to clean sewers and septic tanks which are already

¹³ 347 U.S. 483

¹⁴ *Brown v. Board of Education of Topeka*, Opinion; May 17, 1954; Records of the Supreme Court of the United States; Record Group 267; National Archives.

¹⁵ *Supra* note 11

¹⁶ PTI, Nowhere in the World People sent to gas Chambers to Die, India Today, September 18 2019, available at <https://www.indiatoday.in/india/story/nowhere-in-the-world-people-sent-to-gas-chambers-to-die-says-sc-on-manual-scavenging-1600455-2019-09-18>, (Last visited 2nd February 2026)

¹⁷ 1,18,474 too many, The Hindu, May 01, 2012, p. 08

available globally, as per Indian conditions, can be adopted, as suggested by Mr. Bezwada Wilson.¹⁸ Technological innovations are emerging and a slew of interventions are needed to end manual scavenging.¹⁹ It must be emphasized that a sewer death is not just an unnatural death as a crime statistic under an offence of the PEMSAR Act 2013 but is a gross violation of basic human rights. In the near future, the solution will lie with advances in technology which will remove the need for humans to perform manual scavenging.²⁰

¹⁸ Government Seeks to End Manual Scavenging, The Hindu, July 12, 2018, p.11

¹⁹ Manhole and Machine, The Hindu, Sunday Magazine, September 02, 2018, p. 03

²⁰ Slow on Sanitation, The Hindu, March 28, 2019, p. 08