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Manual Scavenging in India: Ground Realities

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Manual scavenging refers to the manual cleaning, transportation, and disposal of human waste like excreta or urine from dry toilets and sewers. Often, the simplest tools, such as buckets, brooms, and baskets, are used. The practice of manual cleaning is somewhat related to the caste system where so-called lower castes were expected to do this job. In 1993 a law was passed in India that banned the hiring of humans as manual scavengers. In 2013, a ground-breaking new law was passed in the form of a manual scavenger act. It is intended to ban all forms of manual scavengers and to strengthen this ban by ensuring that manual scavengers are identified through compulsory investigation and then rehabilitated. The government of India adopted a two-way strategy to overcome this problem of unsanitary conditions. Demolition and rehabilitation “According to the India Census 2011, there are more than 2.6 million dry latrines in the country. There are 13,14,652 toilets where human excreta is flushed in open drains, 7,94,390 dry latrines where the human excreta is cleaned manually. Seventy three percent of these are in rural areas and 27 percent are in urban areas.”¹ Manual scavenging was also thought of as a chore that could employ people; this has ended now but on paper. We cannot forget that discrimination still sticks and makes it difficult for the liberated scavengers to find alternative opportunities, so they may fall into the pit of manual scavenging again. Correctly identifying manual scavengers remains a key challenge. Though a rehabilitation package had been started, the effects were not so evident.

Keywords: scavengers, manual scavengers, reality.

¹ Ashif Shaikh, '2.6 Million Dry Toilets and 13,384 Manual Scavengers. Do the Math' (*The Indian Express*, 15 February 2018) <<https://indianexpress.com/article/gender/2-6-million-dry-toilets-and-13384-manual-scavengers-do-the-maths-5064728/>> accessed 16 April 2022

INTRODUCTION

Background

The so-called techno-world has failed to reach this sphere. While attempts have been made to modernize sewage cleanings like the "Hyderabad Metropolitan Water Supply and Sewerage Board used 70 mini jetting machines that can access narrow lanes and smaller colonies to clear the choked sewer pipes, and In Thiruvananthapuram, a group of engineers has designed a spider-shaped robot that cleans manholes and sewers with precision; the ground reality has not been hidden from any of us."

Gender bias and the caste pyramid have been prevalent when it comes to manual scavenging.

Quoted "Sub-castes of Dalits – Valmiki or Hela – who are at the bottom of the social hierarchy, take up this lowly job with lack of knowledge that human feces and urine harbour a variety of diseases. They may carry Hepatitis A, E. coli, Rotavirus, Norovirus, and pinworms. The community risks infection by coming in contact with these wastes. That also explains why sewer workers die as young as 40, falling prey to multiple health issues: cholera, hepatitis, meningitis, typhoid, and cardio-vascular problems."²

Gender bias and caste pyramid have been prevalent when it comes to manual scavenging.

The problem of manual cleaning has existed in India for quite some time. During British rule, scavengers were used to collect garbage when the first community was incorporated. Since then, humans are still registered as manual scavengers. They are used in Indian railways, defense services, and other peripheral industries.

² Subhojit Goswami, 'Manual Scavenging: A Stinking Legacy of Suffocation and Stigma' (*Down To Earth*, 11 September 2018) <<https://www.downtoearth.org.in/news/waste/manual-scavenging-a-stinking-legacy-of-suffocation-and-stigma-61586>> accessed 16 April 2022

STATEMENT OF PROBLEM

This research project highlights questions such as

- Why has India not risen above the caste system, especially in works like manual scavenging?
- How can alternate employment opportunities be created for these liberalized workers?
- Why has this problem not been eradicated even though laws have been enacted?

THE OBJECTIVE

- To answer the above-mentioned questions and understand manual scavenging from the Indian perspective.
- To dwell into the possibility of whether people from the upper caste use such practices to show lower casts their position.
- To justify why workers, even after being freed, turn to this disaster of a job are some of the objectives of this Project.

Note: A few case laws and legislations based on manual scavenging will also be discussed.

LITERATURE REVIEW

The term social exclusion can be broadly defined as 'relative deprivation of any individual or group of individuals on some predetermined criterion; caste-based occupational groups in India, such as manual scavengers, are a perfect example of this definition wherein manual scavenging despite being banned twice (in 1952 and 1993) still thrives in our country though under different nomenclatures.³ The term social exclusion can be broadly defined as 'relative deprivation of any individual or group of individuals on some predetermined criterion; caste-based occupational groups in India, such as manual scavengers, are a perfect example of this definition wherein manual scavenging despite being banned twice(in 1952 and 1993) still

³ Rajeev Kumar Singh & Ziyauddin, 'Manual Scavenging as Social Exclusion: A Case Study (2009) 44 (26) Economics Political Weekly <<http://environmentportal.in/files/Manual%20Scavenging.pdf>> accessed 16 April 2022

thrives in our country though under different nomenclatures. Social exclusion particularly revolves around some sections of the society, in particular Dalits, women, Adivasis, and minorities- discriminated against and deprived of their rightful share in the socio-economic opportunities. Moreover, improper sanitation facilities practices of dry latrine usage, manual removal of human excreta, and open defecation lead to various water-borne diseases like dysentery and diarrhea, to which women and children are particularly vulnerable. Although the system of building dry latrines and employing people to remove excreta was introduced during British rule in India when municipal public toilets were built after the invention of flush type toilets, all the other varieties of toilets disappeared from the Western world, yet manual scavenging continued in many developing countries including India, helped in no small measure by the poverty and caste matrices prevalent in different parts of our country. A 2002 report published by the International Dalit Solidarity Network estimates the number of the Lalit manual scavengers as 1 million.

One of the reasons attributed for such large numbers despite having acted like "The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993, which punishes the employment of scavengers or construction of dry non- flushed latrines with imprisonment for up to one year and /or the fine of rupees 2,000"; Prosecution under the Scheduled Castes and Scheduled Tribes(Prevention of atrocities)Act,1989 was that scavenging does not require any particular skill set and provided additional income without much competition and investment. Quoted "The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 defines a manual scavenger as a person engaged in or employed for manually carrying human excreta. The employment of manual scavengers is prohibited as a criminal offense. The recently enacted Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013."

On the basis of the field study done in Ghazipur district(UP), based on the pilot survey from July to September 2007 in which 72 scavengers participated as respondents, the authors concluded that such caste-based exclusion led to the deprivation of economic, civil, cultural and political rights of that individual and /or the community. They also suggested that the life

of scavengers can be improved by providing their children with good quality education, including mid-day and evening meals by open-minded teachers. For the adult members, for example, women, vocational training in sewing, packing, etc., can be given for alternative gainful employment. Regular awareness campaigns for other sections of society at large will definitely help them. The history of manual scavenging can be traced to the ancient caste-based customs wherein Shudras, also called Bhangis, meaning (broken or trash), were forced to clean all those dry toilets and collect the waste. Evidence of the practice being prevalent during the Buddhist and Maurya period and also in the Indus Valley Civilization, and more recently in the Mughal period and also during the British Raj. The International Labour Organisation (ILO) recognizes a total of 3 forms in which manual scavenging could be practiced: "they are the expulsion of human waste from open avenues and dry lavatories, cleaning septic tanks, and cleaning canals and sewers. These tasks are further subdivided by sex like 95% of private and town toilets are cleaned by ladies, men ordinarily clean septic tanks, and both ladies and men clean open drains." In 2007 the annual report of the Committee on the Elimination of Racial Discrimination of the UN opined with concern QUOTED "that a wide number of the untouchable community are forced to work as manual scavengers. Since manual scavengers belong to the scheduled sections of the society, they are entitled to some important constitutional provisions under Article 14⁴: Equality before law (Right to Equality), Article 16 (2)⁵: Equality of opportunity in matters of public employment, Article 17⁶: Abolition of Untouchability, Article 19 (1)(a)⁷: Right to practice any profession or to carry on any occupation, trade, or business. Article 21⁸: Protection of life and personal liberty, Article 23⁹: Prohibition of traffic in human beings and forced labour, Article 41¹⁰: Right to work to education and public assistance in certain circumstances Article 42¹¹: Just and humane

⁴ Constitution of India, 1950, art. 14

⁵ Constitution of India, 1950, art. 16(2)

⁶ Constitution of India, 1950, art. 17

⁷ Constitution of India, 1950, art. 19(1) (a)

⁸ Constitution of India, 1950, art. 21

⁹ Constitution of India, 1950, art. 23

¹⁰ Constitution of India, 1950, art. 41

¹¹ Constitution of India, 1950, art. 42

conditions of work Article 46¹²: Promotion of educational and economic interests of Scheduled castes, Scheduled Tribes and other weaker sections Article 47¹³: Duty of the state to raise the level of nutrition and the standard of living and to improve public health, Article 338: Constitution of a National Commission for Scheduled Castes.”¹⁴ However, since 2013 manual scavenging has been non-existent, at least on paper in government data. The companies under the Corporate Social Responsibility (CSR) should come forward to create welfare programs, training opportunities, and beneficiary initiatives for these workers so that they are able to receive what is long overdue for them. Till today many women in India continue to work as manual scavengers: cleaning dry latrines with their hands and carrying the human feces-filled buckets on their heads to dispose of it. Acutely unaware of their entitlements and rights. Estimates show a whopping 75% of Dalit women being scavengers.

Acts like Prohibition of Employment as Manual Scavengers and their Rehabilitation (PEMSR) Act 2013 and programs like the Self-Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) have not been very helpful in indicating implementation gaps.¹⁵ Other national-level policy initiatives like the Safai Mitra Suraksha challenge under the aegis of the Ministry of Urban and Housing Affairs though have tried to improve the safety of sewer and septic tank cleaners, yet there is a lack of focus on women workers. Moreover, many local administrators do not accept that manual scavenging exists in their jurisdiction resulting in these women not getting enrolled in the government programs. The authors suggest an urgent need for the guidelines for the SRMS to be revised to include focussed plans, schemes, and financial provisions for the women engaged in manual scavenging so that their way out of this in-human activity is fast-tracked and on priority. Secondly, all previous declarations, affidavits, etc., claiming areas to be free of scavengers should be disposed of. Thirdly ensuring

¹² Constitution of India, 1950, art. 46

¹³ Constitution of India, 1950, art. 47

¹⁴ Kalpeshkumar L Gupta, 'Manual Scavenging in India : Issues & Challenges (Paper)' (*Pro Bono India*, 31 May 2015) <<https://www.probono-india.in/research-paper-detail.php?id=7>> accessed 16 April 2022

¹⁵ VR Raman & Kanika Singh, 'Invisible and Unheard: India's Women Manual Scavengers' (*The Indian Express*, 30 July 2021) <<https://indianexpress.com/article/opinion/invisible-and-unheard-indias-women-manual-scavengers-7221194/>> accessed 16 April 2022

good educational institutions, meals, scholarships, and other incentives for their children will help these women break the intergenerational cycle of this inhuman work.

WORK OF BEZWADA WILSON

Born in a community of manual scavengers, Mr. Wilson is a tall, standing, and respectable person who incessantly worked towards eradicating manual scavenging. Bezwada, Diwakar, and Sankaran created the Safai Karamchari Andolan (SKA) in 1994 with identical aims. They were interested in giving training to teams to help them achieve their objectives. SKA began as a state-based organization before Bezwada, and his crew relocated to Delhi in 2003 to transform it into a national movement. In the same year, they filed a Public Interest Litigation in India's Supreme Court. All states and government departments of Education, Judiciary, Defence, and Railways were identified as violators of the Manual Scavenging (Prohibition) Act in the affidavit sworn by SKA and 18 other civil society organizations, individuals, and manual scavengers as claimants.

RESEARCH METHODOLOGY

The doctrinal method was used to understand the implications of manual scavenging with special emphasis on India, and non-doctrinal methods were used as a secondary form of literature.

RESULT OF NON-DOCTRINAL

“To identify the number of manual scavengers in the country, two surveys had been conducted by the Ministry of Social Justice & Empowerment during the years 2013 and 2018 in which 14,812 and 48,251 manual scavengers were identified respectively giving a total of more than 63,000 manual scavengers in the country.”¹⁶ In response to a question at Rajya Sabha in December 2021, the Ministry of Social Justice and Empowerment said it had reported zero deaths from manual cleaning in the last five years. However, between 2017 and 2021, a total of

¹⁶ Pavithra K.M, ‘The Curious Case of Data on Manual Scavengers’ (*FACTLY*, 3 January 2022) <<https://factly.in/the-curious-case-of-data-on-manual-scavengers/>> accessed 16 April 2022

321 people died while cleaning sewers and septic tanks. Data available at NCSK show that there were 954 sewer deaths between 1993 and July 2021. Information from the state / UT, printed and electronic media reports, complaints received by the Commission, etc. According to SKA (Safari Karmachari Andolan), there are manual scavengers of Rs 77,000 in the country. SKA is a non-profit organization working to eradicate this inhumane practice; the actual number of manual scavengers in the country is far higher than currently officially reported. There may be many unmeasured areas. According to the SKA website, there are an estimated 7.7 million sewer cleaners, with 1,760 reported deaths of sewer cleaners since 2000. It is also reported that there are 36,176 railroad sewer cleaners. "Two cases under the law were reported from Karnataka in the National Crime Records Bureau report of 2015, where only one went for trial. Karnataka has maintained its lead in its compliance with the law by filing 55 FIRs. This clearly reveals a lack of empathy on the part of the state, bureaucracy, and even society. As per the National Commission for Safai Karamcharis (NCSK) database, 608 manual scavengers died between 2013 and 2017 while cleaning septic tanks. However, many advocacy groups have raised concern over the authenticity of this data, claiming that the actual number would be much more. NCSK reported 123 deaths during January-August 2017, whereas the SKA reported 429 deaths in the same duration in the National Capital Region alone."¹⁷

LEGISLATION PASSED ON MANUAL SCAVENGING

The 1993 acts had clauses like Prohibition of employment of manual scavengers, Appointment of Executive Authorities and their powers and functions. Powers of state government authorities, duties of HUDCO (Housing and Urban Development Corporation Limited) ^[1] and so on The 2013 act followed the same path as its predecessor but included surveys, contract management, penalties, and rehabilitation ^[2]. But failed to take hold of the actual problems.

The amendment in this act made in 2020 was never enacted. The main idea reads about the hollowness and lack of intent that can be clearly seen as some experts have pointed out that

¹⁷ Subhomay Saha & Vikas Upadhayay, 'The Missing Manual Scavengers of India' (*Down To Earth*, 18 January 2021) <<https://www.downtoearth.org.in/blog/water/the-missing-manual-scavengers-of-india-75104>> accessed 16 April 2022

“Septic tanks are designed badly. They have engineering defects which means that after a point, a machine cannot clean it,” said A Narayanan, director of Chennai-based Change India. So, the heart of the crime of manual scavenging is a violent denial of human rights, as Ambedkar long ago declared.

CASES RELATED TO MANUAL SCAVENGING AND DISCUSSION

1) Lalit Kishore And M.P. Gupta vs State of Bihar And Ors. on 14 August 2003¹⁸

In this case, the scope of the subject of Untouchability was dwelled upon. It is necessary for the state officials to know that preventing Untouchability is abolished by the constitution itself, which was lacking by some government officials in this case. Quoted, "All Untouchability is not about open latrine cleaning and scavenging the carcasses of dead animals. It is much more, though these "unclean" occupations have sometimes been mentioned as some sort of logic for the isolation of certain groups of people from society." "Also, slavery could be attributed to having its origins in exploitation for economic reasons. Origins of Untouchability cannot be traced so easily. It has created a new jurisprudence within the Republic of India for balancing the unequal. Special laws have been passed for the eradication of Untouchability and the factors that contribute to it."

2) Smt Pinki Devi And Ors vs State (Local Self Dept) Ors on 28 March 2017¹⁹

In this case, "the present petitions, the petitioners who claim themselves to be Manual Scavengers have made a grievance that in pursuance of the Rajasthan Nagar Palika Safai Karmachari Service Rules, 2012, without following a transparent and fair criteria Safai Karmachari have been recruited in the various Nagar Parishads in the District Sikar." It was held that selection by respondent no.3 for appointment/selection of Safai Karmachari in the various Nagar Parishad, Sikar was followed after taking all necessary measures, and the writ petition was disposed of, and some guidelines were issued.

¹⁸ *Lalit Kishore and M.P. Gupta v State of Bihar And Ors.* (2003) 3 BLJR 1751

¹⁹ *Smt Pinki Devi and Ors v State (Local Self Dept) Ors* (2017) Civil Writ Petition No. 17011/2016

3) *Safai Karamchari Andolan And Ors vs Union of India And Ors* on 27 March 1947²⁰

In this case, there was a call to "strictly enforce the implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (in short 'the Act'), inter alia, seeking for enforcement of fundamental rights guaranteed under Articles 14, 17, 21 and 47 of the Constitution of India." It was held by the court that it was true that this practice was inhuman and stricter provisions were implemented in this course, and methods of employment, punishment, supervision, etc. were deliberated upon

OTHER DETAILS WHICH HELP US IN UNDERSTANDING THE PROJECT BETTER

With the help of proper research tools, the proposed research aims to understand manual scavenging in a clearer way and also deals with the different aspects of caste division. The organization's proper selection will help to complete the research without any discrepancies. Also, this research project attempts to understand the psychology of those who undertake this work. If conducted correctly, this research project can be wholesome value addition.

THE WAY AHEAD

Even though efforts have been made to end this 'worst violation of human rights, the level of awareness is dangerously low. Upper caste people who do not have to suffer any of this very conveniently do not make efforts to separate dry and wet waste, which is a humongous obstacle to the eradication of this issue. There have been scavengers identified by various independent organizations, but there is no national database for the number of scavengers present throughout the country. There must be the creation of one so that the process of identification becomes uniform. More recently, "the Bombay High Court, in response to a PIL filed in 2019, sought a response from the Maharashtra government regarding the number of convictions in cases related to the employment of manual scavengers as well as the disbursement of compensations upon their death, doubting the tendency of underreporting by the government. The state and society need to take an active interest in the issue and look into all possible options to accurately assess and subsequently eradicate this practice. It also

²⁰ *Safai Karamchari Andolan and Ors v Union of India and Ors* (1947) Writ Petition (Civil) No. 583/2003

warrants an engagement of all stakeholders for the proper introduction of mechanization and ensuring that it is made available to all those who are forced to engage in this undignified practice."