



# Manual Scavenging And Legal Framework In India: Issues And Challenges

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## ABSTRACT

The problem of manual scavenging is one of the harsh realities that still are running in practice as an occupation in India. It is basically a practice of, cleaning, carrying, and removing fecal waste or human excreta manually from dry latrines or insanitary latrines, cleaning of septic tanks and manholes. Despite of numerous Government initiatives and upliftment measures that are brought in action and legislations enacted to curb this socio- legal menace. It is the most dehumanizing practice and devalues the aspect of human dignity and social acceptance. Untouchability and social exclusion are inherently related to manual scavenging. We by ourselves teach and have been taught by our family members not to touch the sanitation worker coming to clean our domestic toilets and to serve them with anything by keeping some distance. Manual scavenging communities face and endure by reason of discrimination, ineffective implementation of laws and rehabilitation including alternate employment. Manual scavengers are often exposed to health hazards and serious diseases like bronchitis, asthma, tuberculosis, and nausea, which may even cause them to death. This paper aims to highlight the socio-legal problem of Manual Scavenging in India. There are a lot of discrepancies around the data on manual scavengers in the country. The numbers provided by independent organizations like the Safai Karmachari Andolan point towards the underestimation of the figures by the government.

## INTRODUCTION

*“For ours, battle is not for wealth or power.*

*It is a battle for freedom.*

*It is the battle of reclamation of human personality”*

Manual Scavenging is a stubborn mark in our society that despite of taking legislative and judicial action has refused to disappear or be eradicated completely.<sup>1</sup> Manual Scavenging is the practice of carrying, cleaning and disposing off the fecal waste or human excreta manually by people engaged in this lethal practice. It is the most inhumane and one of the dreadful work that a person would not engage him/herself in such practice willfully. People who are engaged or employed to clean basically the unsanitary or dry latrines, sewer lines, septic tanks, manholes and railway tracks, they come in direct contact with human fecal wastes and are severely exposed to hazardous health issues. They are diagnosed with serious respiratory problems.<sup>2</sup> The persons who are engaged or employed in this degrading job are called Manual Scavengers and are also popularly called in our local language as Jamadars. Many people in India especially in rural and sub-urban areas follow the open defecation system near to street side or fields.<sup>3</sup>

## CASTE-BASED AND HEREDITARY OCCUPATION

Even after celebrating 75 years of independence, it is a huge catastrophe that a certain section of the population is engaged in Manual Scavenging as a means of livelihood. It seems very hard-hitting to envisage the kind of humiliation the manual scavengers are facing and the most sadistic part is that this despicable practice is deeply rooted and carries various social stigmas with it.<sup>4</sup> It is a caste-based and hereditary occupation that is yet another kind of servitude that predominantly includes people of lower castes and sub-castes.<sup>5</sup> People who work as manual scavengers usually belong to the Hindu Valmiki sub-castes, which regionally be named as Chuhada, Rokhi, Mehatar, Malkana, Halalkhor, and Lalbegi, and in the Muslims Hela sub-caste. The persons under such communities are at the lowest of social as well as caste hierarchy and are taken fit for manually removing of human excrement and other related filthy tasks.<sup>6</sup> The International Labor Organization (ILO) categorizes three kinds of manual scavenging: 1) Removing human fecal wastes from the street side and dry or insanitary latrines, 2) cleaning of septic tanks, and 3) cleaning gutters and sewers that are popularly called manholes. More so, this categorization is further divided based on gender: about 95 percent of private and village toilets are cleaned by women; and the open defecation from roads, gutters be cleaned by both men and women; and cleaning of septic tanks and sewerage lines and closed

<sup>1</sup> Kusum Chauhan and Lalit Dadhwal “Manual Scavenging in India: Issues and Challenges”6 *International Journal of Novel and Development* 2(2021), available at <https://www.ijnrd.org/papers/IJNRD2112001.pdf> .

<sup>2</sup> Supra note 1.

<sup>3</sup> S. Shankar and K. Swaroop. “Manual Scavenging in India: The Banality of an Everyday Crime.”2 *CASTE: A Global Journal on Social Exclusion*, 68 (2021). *JSTOR*, <https://www.jstor.org/stable/48643385>. Accessed 24 Mar. 2023

<sup>4</sup> Aditi Yadav, “The scourge of Manual Scavenging” <https://www.oxfamindia.org/blog/manual-scavenging-in-india>  
<sup>5</sup> <https://idsn.org/key-issues/manual-scavenging/>. Accessed on 25Mar.2023.

<sup>6</sup> Human Rights Watch “Cleaning human waste- Manual Scavenging, Caste, and Discrimination in India” (August, 2014 ) <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>. Accessed on 25Mar.2023.

gutters be done by men only.<sup>7</sup> It is estimated that around 1.3 million lower castes and sub-castes, especially women, in India, earn their livelihood through the practice of manual Scavenging, and for that purpose they have been provided with the basic equipments such as buckets or baskets along with sacks, which they carry on their heads. Due to being engaged in such filthy and dreadful job these men and women are hardly considered for some other alternate occupation for which discrimination on the basis of castes is one of the prime factors, thus they are left with no other choice but to be manual scavenger as earlier.<sup>8</sup> They are seen with pitiful eyes and not as pure just for the reason that they highly exposed to the human fecal waste. During the pandemic era, in the year 2021, nearly about half of the deaths were of the cleaning staffs (safai karmacharis) from the North, South and East Municipal Corporations of Delhi and those were belonging to lower caste community. The data showed that out of 29 deaths 16 were of the sanitation workers in South Municipal Corporations of Delhi, out of 49 deaths 25 were in North Municipal Corporations of Delhi and 8 of 16 deaths in East Municipal Corporations of Delhi.<sup>9</sup>

## INTERNATIONAL ORGANISATIONS AGAINST MANUAL SCAVENGING

Manual scavenging is prohibited by both international instruments, and Indian law. The plight of Manual Scavenging has not left unnoticed by the international organization like International Labor Organization, International agencies like the United Nations International Children's Emergency Fund (as a water and sanitary issue), the World Health Organization (as a health issue), the United Nations Development Programme have made efforts to put an end to this dehumanizing practice. Discouraged physical incapacitation and hopelessness have triggered to low educational accomplishment and social immobility for those working as Manual Scavengers<sup>10</sup>. In addition to another international institution, World Health Organization emphasized on the severe health hazards to which various sanitation service chain including manual scavengers needs to be looked into systematically<sup>11</sup>.

## HUMANITARIAN CRISIS

Manual Scavenging being an age-old dehumanized practice has subjected the Dalit caste or sub-castes in India, it is running in serious violations of human rights to be identified as humans in civilized society, that snatch away the dignity, health both mental and physical and well-being of those working as Manual Scavengers. These workers are not allowed entry in the houses except for scavenging work. They are outcasted, and treated as untouchables amongst the elite group within our society. They are subjected to face humiliation almost at all possible levels, especially female scavengers they are often sexually humiliated.

<sup>7</sup> Ibid.

<sup>8</sup> <https://idsn.org/wp-content/uploads/2022/07/UPR-India-2022.pdf>.

<sup>9</sup> Abhinav Rajput, "Delhi: Half of the Covid dead under Municipal Corporations are Safai Karmacharis.", *The Indian Express*, 28 May, 2021 available at <https://indianexpress.com/article/cities/delhi/delhi-half-of-covid-dead-under-municipal-corporations-are-safai-karmacharis-7333365/?tqid=3eKhYSoiGRQBwsVVMZ.ISAAAAQixaTRw3fMcYDrr>. Accessed on 25 Mar.2023.

<sup>10</sup> Swapnil Tripathi, "The Dignity and Rights of Manual Scavengers in India" (OxHRH Blog, 14 October 2017)

<https://ohrh.law.ox.ac.uk/the-dignity-and-rights-of-manual-scavengers-in-india>. [Accessed on 25Mar. 2023]

<sup>11</sup> Report "Health, Safety and Dignity of Sanitation Worker: An Initial Assessment", World Bank, World Health Organization, International Labor Organization and Water Aid Society, 2019, available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_728054.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_728054.pdf). Accessed on 25Mar.2023.

Their socio-economic vulnerability is mirrored in their status. They are bound to live at the outskirts of the village or the town area, called Malin Basti. This practice of Manual Scavenging is largely exploiting this vulnerable group of people and bound to live an obnoxious life and is highly exposed to serious diseases. Rights are meant to be enjoyed by humans as it serves to no meaning or significance to other creatures like animals. Every individual is entitled to the rights because of being human. The right to live with dignity is a right that emphasizes on living with respect and social entitlement in society as mere animal existence is not sufficient for human beings. Looking up to the lives of Manual scavengers it is not wrong to say that they are deprived of the basic human right of living with dignity which a person inherit since his/her birth by reason of being human. They are not respected nor appreciated for the kind of work they are engaged into. By getting into the septic tanks and deep gutters lines which are filled with deadly and toxic gases like carbon monoxide, methane and other nitrogenic wastes which led to adverse effect to their health and may even end upto causing death. There are also circumstances, where the entire family is dependent upon that one bread earner and in situations of coming into contact with those gases during the course of employment, they are not provided with adequate health measures and medical treatments, which also violates the right to health. By the nature of their work which requires proper safety gears that are also not made available to them while they perform the task of cleaning the poisonous gutter lines and removing the fecal waste. In this way, they are not availed of with the right to work under proper conditions. There are many issues, which one or the other way denies the rights of manual scavengers.

### **GOVERNMENT MEASURES (COMMITTEES AND COMMISSIONS)**

Manual Scavenging can never be called as occupation as there is nothing professional in carrying out filthy night soil or human excreta with bare hands and on the other side, no respect is given to those who works as scavenger. This practice is to be done by certain specific communities falling under Dalit and Sub-Dalit castes in India. The Indian Government had brought into light several committees and established commissions, that made an attempt to curb out the practice of manual scavenging in India, that are as follows:-

- a) **Barve Committee** – The committee under the title “Scavengers Living Conditions Enquiry Committee” was established by the erstwhile Government of Bombay, in the year 1949, under the chairmanship of Dr. V.N. Barve. The purpose of this committee was to study the living and working conditions of manual scavengers engaged in the State of Bombay it also provided for the ways and measures for improving their conditions. Committee submitted its report in the year to the then government of Bombay with recommendations to work upon the better living condition and amenities relating thereto for the scavengers<sup>12</sup>.
- b) **Backward Classes Commission** – The Backward Classes Commission under the Chairmanship of Kaka Kelkar was setup in the year 1953. It determined the criteria to be adopted while classifying

<sup>12</sup> Dr. Bhimrao Ambedkar Research and Training Institute, Pune, “Manual Scavenging in India: Literature Review” available at [https://barti.in/upload/pdf/Manual\\_Scavenging\\_report.pdf](https://barti.in/upload/pdf/Manual_Scavenging_report.pdf) accessed on 2nd April, 2023.



particular sections of the society as socially and educationally backward<sup>13</sup>. Observations and recommendations made by the Commission were brought into the notice of State Governments, in 1956. To bring an end to the practice of Manual Scavenging, the Commission stressed more on the need of more upgraded and enhanced method of cleaning latrines or sewerage cleaning and also the launch of schemes to uplift the community from downgraded standard.

- c) **Central Harijan Welfare Board** – Under the chairmanship of Pandit Govind Ballabh Pant, Central Harijan Welfare Board (CHWB) was setup by the Ministry of Home Affairs in the year 1956. The prime objective of the board was to review the working conditions and the living of manual scavengers in India<sup>14</sup>.
- d) **Malkani Committee** – The Scavenging Enquiry Committee was constituted under the chairmanship of N.R. Malkani in the year 1957 to go through with the detailed study of the practice of Manual Scavenging. The committee submitted its report in the year 1960. It aimed at abolition of the practice and improving the working and living as well as the social standing of the Manual Scavengers in India<sup>15</sup>.
- e) **Committee on Customary Rights** – The Central Department of Social Welfare constituted a committee in the year 1965 led by N.R. Malkani. It took up the question abolishing the customary rights of manual scavengers. Issues were pointed out that the scavengers has hereditary rights as against the other scavengers, latrines were cleaned privately where these tasks were not municipalized<sup>16</sup>.
- f) **Pandya Committee** – This committee was set up as the Sub-committee by the National Labor Commission. It was led under the chairmanship of Bhanu Prasad Pandya in the year 1968 in order to encounter the working condition of the sweepers and manual scavengers. However, the Committee recommended the urge for enactment of a Central Legislation for regulating issues relating to the practice of manual scavengers<sup>17</sup>.

<sup>13</sup> Shubham Singh, Akansha Singh, et.al., “The Practice of Manual Scavenging in India and its Deleterious Effects on Human Rights: An Exploratory Study” 7BiLD Law Journal 60, also available at <https://www.google.com/search?q=key+recommendations+of+scavengers+living+condition+enquiry+committee+1949&oq=key+recommendations+of+scavengers+living+condition+enquiry+committee+1949+&aqs=chrome..69i57.47758j0j15&sourceid=chrome&ie=UTF-8> accessed on 2<sup>nd</sup> April 2023.

<sup>14</sup> Abhishek Gupta, “Manual Scavenging: A Case of Denial Rights”, ILI Law Review, 44 (2016), also available at <https://ili.ac.in/pdf/paper3.pdf> accessed on 2<sup>nd</sup> April 2023.

<sup>15</sup> Supra note 12.

<sup>16</sup> Supra note 13.

<sup>17</sup> Ibid note 14

## GOVERNMENT SCHEMES

1. **Pre - Matric Scholarships for the children of those engaged in Unclean professions** – The Scheme came in the year 1977-78, in order to facilitate the children of those people engaged in cleaning of dry latrines, sweepers. It aimed at providing the educational assistance to their children.
2. **Self – Employment Scheme for Rehabilitation of Manual Scavengers - The** scheme was introduced in the April, 2007. It was made in order to liberate and rehabilitate the manual scavengers by providing them with training along with the stipend and affordable loans for taking up the alternative occupation and one-time cash facilitation.<sup>18</sup>
3. **Assistance to State Scheduled Castes Development Corporations** – It was launched in the year 1978-1979 as centrally sponsored Scheme for States/Union Territories with scheduled castes population. It plays a vital role in mobilizing the finances for the economic growth and upliftment of the Scheduled Castes below poverty line.<sup>19</sup>
4. **National Scheme of Liberation and Rehabilitation of Scavengers and their dependents (NSLRSD)** – The Scheme was brought into light in the year 1989, mainly aiming at the liberation of manual scavengers from this inhumane occupation of removing the night soil. It also emphasized on their rehabilitation by availing them with alternate work for earning their livelihood. But it failed due to lack of correspondence between the liberation and rehabilitation according to the report of Controller General of Audit in the year 2003.
5. **National Scheme of Liberation and Rehabilitation of Scavengers** - It was launched by the then Government of India, in 1992 which facilitated for the alternate employment to lead a dignified lifestyle. Under this scheme, both the person earlier engaged as scavenger and his/her dependent are to be trained according to their learning skills which make them able enough to get better alternate work.
6. **Integrated Low-Cost Sanitation Scheme** – In order to get the cost efficient conversion of dry latrines into water borne sanitary latrines. This scheme was devised by the joint efforts of the Government of India, Ministry of Urban Employment and Poverty Alleviation and Housing and Urban Development Corporation (HUDCO).
7. **Pay And Use Toilet Scheme** – Under this scheme, the assistance was made available to the Urban Local Bodies by the Housing and Urban Development Corporation (HUDCO) for the purpose of the construction of the toilets near roadside or footpaths and to be used by paying nominal charges.
8. **National Safai Karama Charis Finance and Development Corporation (NSKFDC)** – It was incorporated on 24<sup>th</sup> January, 1997 under Section 25 of the Companies Act, 1956 for the upliftment of the Safai Karmacharis and their family members across the country by facilitating them with the financial assistance for opting out for the better income generating sources.

<sup>18</sup> Dr. Bhimrao Ambedkar Research and Training Institute, Pune, “Manual Scavenging in India: Literature Review” 44, available at [https://barti.in/upload/pdf/Manual\\_Scavenging\\_report.pdf](https://barti.in/upload/pdf/Manual_Scavenging_report.pdf) accessed on 9th April, 2023.

<sup>19</sup> Ibid note 18.

9. **Nirmal Bharat Abhiyan (2009-2014) and Swachha Bharat Abhiyan (2014-2019)** – The Total Sanitation Campaign (TSC) undertook in the year 1999, was renamed as Nirmal Bharat Abhiyan in 2012 guaranteed 100% sanitation across the country, which later substituted by Swachha Bharat Abhiyan in the year 2014 with the objectives of preventing open defecation, complete abolition of the practice of Manual Scavenging, introducing the scientific solid waste management mechanism and ensuring the social awareness as to the sanitation practices.

## LEGISLATIVE FRAMEWORKS IN INDIA

Before the making of the mainstream enactment considering the plight of manual scavenging and the remedies therefore, several Acts were coming into existence covering the aspects relating thereto.

1. **The Protection of Civil Rights Act, 1955:** In the beginning, Untouchability (Offences) Act, 1955 was passed to cope and abolish the denigrating practice of untouchability and the social disabilities that took place against the people of lower castes. This Act later amended in 1977 and renamed as Protection of Civil Rights Act, 1955, under which practicing untouchability was made cognizable offence.<sup>20</sup>
2. **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:** The Act came into existence dated 31 January, 1990. This Act specified some offences as atrocities against the persons belonging to the scheduled castes and/or scheduled tribes. It provided for the establishing special courts for speedy trial and imposition of stringent penalties in case of being found guilty.<sup>21</sup>
3. **Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993:** This was the first ever enactment in India, prohibiting the employment of persons engaged or employed as manual scavengers and the construction or continuance of dry latrines. It aimed at regulating and constructing water sealed latrines. The definition for the term ‘Manual Scavenger’ given is also vague. The Act of 1993, has failed to justify that after the prohibition of employment of manual scavengers what will be the next step, as it has no mention of rehabilitation of those were liberated from manual scavenging. One of the major drawbacks of the Act was that it did not focus on the human right violation of dignified and humane life and the rehabilitation. It just had focus on the sanitation requirements; therefore it failed to encounter the actual problem of manual scavengers.<sup>22</sup>
4. **The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013:** The preamble to the Act provides that employment of persons as manual scavengers to be prohibited and also make provisions for the rehabilitation of the manual scavengers and their families. This rehabilitation clause is the focal point which lacked in the earlier Act of 1993. This Act makes compulsion on the municipalities, railway authorities as well as the cantonment boards to construct

<sup>20</sup> “Manual scavenging in India: literature Review”, Dr. Babasaheb Ambedkar Research and Training Institute, BARTI, Pune , p. 38, available at [https://barti.in/upload/pdf/Manual\\_Scavenging\\_report.pdf](https://barti.in/upload/pdf/Manual_Scavenging_report.pdf) .

<sup>21</sup> Ibid.

<sup>22</sup> Supra note 21

as much as community sanitary latrines. It provides for the identification and prohibition of insanitary latrines. The state is also under obligation to provide them with proper training, loans and other forms of financial and other assistance for the better rehabilitation.<sup>23</sup>

- 5. The Prohibition of Employment as Manual Scavengers and Their Rehabilitation (Amendment) bill, 2020:** as brought into existence by the Union Government under the Ministry of Social Justice and Empowerment in order to amend the Act of 2013. The said bill has attempted to fill out the lacunas by focusing into the complete modernization of the sewage system that is the mechanized cleaning<sup>24</sup>. The bill proposed for the more stringent law by enhancing the penalties and imprisonment.<sup>25</sup>

## CONSTITUTIONAL PROTECTIONS<sup>26</sup>

There are numerous constitutional provisions that safeguards, directly or indirectly, the rights and interests of persons engaged in and are practicing the manual scavenging as an occupation.

- Article 14: Right to equality and equal protection before law.
- Article 16(2): It provides for the equal opportunity in public employments.
- Article 17: It provides for the eradication of untouchability.
- Article 19(1) (a): It emphasizes on the right to practice and carry on any profession, occupation, trade or business.
- Article 21: the utmost right to live with dignity coveted under the right to life and personal liberty.
- Article 23: prohibition of trafficking of human beings and the forced labor.
- Article 41: It directs the state to secure the right to work, education and public assistance in cases of old age, sickness, disablement and unemployment.
- Article 42: It provides for ensuring the just and humane working conditions and the maternity relief for female workers.
- Article 46: the state shall be endeavored to promote the educational as well as the economic interests of the Scheduled Castes, Scheduled Tribes and the other weaker section of the society and also protecting them from all sorts of social injustices and exploitations.
- Article 47: Raising the nutrition level and standard of living and enhancing the public health and

<sup>23</sup> Dr. Kusum Chauhan and Dr, Lalit Dadhwal, “Manual Scavenging in India: Issues and Challenges”, 6 IJNRD, 21 (2021), available at <https://www.ijnrd.org/papers/IJNRD2112001.pdf>, accessed on 23<sup>rd</sup> April, 2023.

<sup>24</sup> Krishnakant patil, “Manual Scavenging (Amendment) bill, 2020: Tangible or Still a Mirage for the underprivileged”, (April 28, 2021), available at SSRN: <https://ssrn.com/abstract=3866435> or <http://dx.doi.org/10.2139/ssrn.3866435>.

<sup>25</sup> Dr. Kusum Chauhan and Dr, Lalit Dadhwal, “Manual Scavenging in India: Issues and Challenges”, 6 IJNRD, 21 (2021), available at <https://www.ijnrd.org/papers/IJNRD2112001.pdf>, accessed on 23<sup>rd</sup> April, 2023.

<sup>26</sup> Shiv Prakash Katiyar, “Public Policies on Manual Scavenging: A Case Study of India”, NAGARLOK, vol. LIV, issue 1, available at [159961652179097.pdf \(iipa.org.in\)](https://www.ijnrd.org/papers/IJNRD2112001.pdf).



## ROLE OF JUDICIARY IN INDIA

Judicial precedents have always been a milestone to bring strength in Socio- Economic issues for the upheaval of the living conditions of the weaker sections of the society. Article 21, guaranteeing the right to life has extended its scope as not the mere animal existence but as dignified life in the society thus it demanded for the right to live with dignity.<sup>27</sup> The apex court in its landmark judgment titled as “*safai karmachari andolan versus union of India*”<sup>28</sup> the Hon’ble Supreme Court of India, has laid down the major guidelines to bring an end to the denigrating practice of manual scavenging:

1. No safety and protective gears, no entry to the sewer lines even in emergency situations.
2. Compensation of Rs. 10 Lacs should be provided to the family of the deceased manual scavenger if caused death during the course of employment.
3. Dignified livelihood to be availed to the safai karmacharis including women according their choice of livelihood under schemes.
4. Railways to consider time bound strategies to end the menace of manual scavenging on railway tracks.
5. No hurdles to be made for the manual scavengers released from the practice of manual scavenging to recover their legitimate dues under the law.
6. Rehabilitation should be based on the principal of justice and transformation.

In *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers & others*<sup>29</sup> the Supreme Court of India observed that it is the constitutional obligation of the courts to protect the rights of those who risks their lives by entering into the manholes filled with poisonous and obnoxious gases for the sake of penny and feeding their families atleast a onetime meal.

## NATIONAL HUMAN RIGHTS COMMISSION ADVISORY, 2021

On September 24, 2021 the National Human Rights Commission, had issued the advisory for protecting the rights of persons engaged and employed as manual scavenger. It asked for the responsibility and the answerability of the authorities regarding the deaths of any person working as the manual scavenger, if any, occurred during the course of employment. The guidelines issued by the National Commission are as follows<sup>30</sup>:

- i. To secure that adequate safety gears are made available to the persons engaged in hazardous cleaning as manual scavengers.
- ii. Making them skilled with worker friendly technologies and robotic machines.

<sup>27</sup> Supra note 25.

<sup>28</sup> WP(C) No.583 of 2002.

<sup>29</sup> (2011) 8 SCC 568.

<sup>30</sup> Dr. Kusum Chauhan and Dr. Lalit Dadhwal, “Manual Scavenging in India: Issues and Challenges”, 6 IJNRD, 21 (2021), available at <https://www.ijnrd.org/papers/IJNRD2112001.pdf>, accessed on 23<sup>rd</sup> April, 2023.

- iii. Welfare schemes.
- iv. The assessment and fixation of the responsibility and the answerability of the recruitment agency and the related authorities.
- v. To ensure the rehabilitation of manual scavengers and the sanitation workers.
- vi. Securing them with the access to justice in order to empower the sufferers.
- vii. Imparting Awareness and sensitization regarding the denigrating practice of manual scavengers.
- viii. Introducing the best and healthy working practices to hazardous cleaning.
- ix. Ensuring proper identification of persons engaged in manual scavenging.
- x. To ensure with the effective implementation of the Prohibition of Employment as Manual Scavengers and Rehabilitation Act, 2013.

The commission also advocated for treating the sanitation workers as the front line workers in order to safeguard their right to live a humane and dignified life like every other human being in the society. NHRC-issued advisory advocated the states, UTs and Centre to treat sanitary workers as frontline health workers for all purposes and further made recommendations for providing security cover to them and thereafter ensuring the protection of human rights.

### **GANDHINIAN PERSPECTIVE**

The practice of Manual Scavenging was termed as the national shame by the Mahatma Gandhi. The practice as an occupation was called out as curse on humanity. The approach emphasized on the belief that everyone should be his or her own scavenger. The idea of reusing the night soil and focusing on sustainable living are now considered under the Swachh Bharat Abhiyan Mission initiated in the year 2014, with Gandhi's Slogan "*cleanliness is godliness*".<sup>31</sup>

### **AMBEDKAR'S PERSPECTIVE**

To the contrary of the Gandhian perspective, the Dr. Ambedkar was of the view that a person does not become a manual scavenger due to the reason of his or her work but by reason of his/her birth and being preyed by the plight of the barbaric realities of the brutal caste system in India. He advocated for the legal intervention for ending up the practice of manual scavenging taking up place as the caste-based occupation and to bring out the caste and birth based occupation to the dead end by legislative actions and enactments.<sup>32</sup>

### **ENVIRONMENTAL OUTLOOK**

The environmental viewpoint emphasizes the issues of dumping the excreta from insanitary latrines, septic tanks, gutters etc. in to the rivers causing water borne diseases led by the water contamination. Various health

<sup>31</sup> Harsh Maurya, "A Contemporary Outlook to Manual Scavenging in India", IJCRT, vol. No. 6 dt. 2<sup>nd</sup> April, 2018, available at <http://www.ijcrt.org/papers/IJCRT1807036.pdf>.

<sup>32</sup> Ibid note 31

factors like coming to the contact of diseases such as tuberculosis, campylobacter infections and other respiratory diseases which may often result in deaths of manual scavengers.<sup>33</sup>

## FAILURE OF INSTITUTIONAL AND LEGAL MECHANISM

The institutional and legal mechanism has failed to achieve the desired object of eliminating the practice of manual scavenging from the roots despite of making a separate legal framework in India, the legal and practical issues that still are remained unresolved are:<sup>34</sup>

The Act has nowhere mentioned the term sewage workers, in the definition of manual scavengers, aren't they be treated as manual scavengers falling under the ambit of section 2 (g) of the Act of 2013. However, the National Advisory Council had opined that the definition should also include all those workers who in any manner, deal with human excreta and its disposal.<sup>35</sup>

The Act is also silent about the protective gears, although the word "protective gears" have been used in the definition of the term "Hazardous Cleaning" under section 2(d) of Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, but in the nowhere the term "protective gears" in itself has been defined which in other words, is a silence in the name of discussing the safety equipments and measures while in the course of employment by the persons engaged as manual scavengers.<sup>36</sup> Other related concerns are like lacking in awareness and knowledge about the manual scavenging which later leads to inaccurate data in the name of manual scavengers and inadequacy of providing them with the professional skills and orientation.<sup>37</sup> Inappropriate and outdated technologies like jetting facilities are not much capable to clean blockages. Vagueness in terms of rehabilitation and providing them (manual scavengers) with the alternate job or work opportunities<sup>38</sup>. Social taboos such as caste factor, illiteracy is another issue to cope out with the menace of manual scavenging. Lacuna faced in the planned waste (solid) management in India<sup>39</sup>. Failures in removing or demolishing the dry latrines in rural as well as sub urban areas in India<sup>40</sup>.

## RECENT CHANGES AND TRENDS

The present Union Minister (Minister of Housing and Urban Affairs) Shri Hardeep Singh Puri, initiated with Safaimitra Suraksha Challenge on World Toilet Day, in the year 2020, by calling out for mechanized cleaning of sewer and septic tanks nearly in 243 cities and generating helpline numbers to address the complaint

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<sup>33</sup> Ibid note 31

<sup>34</sup> Dr. Jay Kumar Bhongale and Oishik Bhattacharya, "Exploring the Plight of Manual Scavengers: A Research Study on the Challenges and Suffering Faced by Sanitation Workers in India" (June 22, 2023). Revista PsiPro, PsiPro Journal, P. No.8, Available at SSRN: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4531196](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4531196), accessed on 28<sup>th</sup> September 2023.

<sup>35</sup> Supra note 34

<sup>36</sup> Dr. Jay Kumar Bhongale and Oishik Bhattacharya, "Exploring the Plight of Manual Scavengers: A Research Study on the Challenges and Suffering Faced by Sanitation Workers in India" (June 22, 2023). Revista PsiPro, PsiPro Journal, P. No.9, Available at SSRN: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4531196](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4531196), accessed on 28<sup>th</sup> September 2023.

<sup>37</sup> Ibid note 36.

<sup>38</sup> Ibid note 36

<sup>39</sup> Ibid note 36

<sup>40</sup> Ibid note 36

regarding any manual scavenging if reported<sup>41</sup>. In order to support to the government's initiative for eradicating the denigrating practice of manual scavenging, instead of using the word "man-hole, the word "machine-hole" to be used<sup>42</sup>.

The SRMS Scheme (Self-Employment for Rehabilitation of Manual Scavengers) has now been changed into NAMASTE (National Action for Mechanized Sanitation Ecosystem) for the rehabilitation of manual scavengers. The National Safai Karamcharis Finance and Development Corporation (NSKFDC) has sanctioned the loan of Rs 86.84 Crore to the State Channelizing Agencies (SCAs) for acquisition of mechanized cleaning equipments and vehicles to 2509 beneficiaries covered under the Swachhta Udyami Yojana upto 30<sup>th</sup> June, 2023. The following information has been provided by the Minister of Social Justice and Empowerment, Shri Ramdas Athawale in Rajya Sabha<sup>43</sup>.

The funds were allocated for the rehabilitation of manual scavengers in the following years<sup>44</sup>:

Year	Funds allocated (in crore)
2018-19	85.76
2019-20	99.93
2020-21	30.00
2021-22	43.31
2022-23	70.00

More recently, Finance Minister Smt. Nirmala Sitharaman, by aiming at combating the abhorrent practice of manual scavenging, in its Union Budget- 2023, called out for transforming the practice from "man-hole to machine-hole based cleaning"<sup>45</sup>. The minister also brought about nearly 100 crore fund allocation for new scheme set up NAMASTE (National Action for Mechanized Sanitation Ecosystem) claiming that all cities to be cleaned by 100% mechanized de-sludging of the septic tanks and sewers<sup>46</sup>.

<sup>41</sup> Ankita Mukhopadhyay, "India launches initiative to end manual scavenging by 2021", dt. 20<sup>th</sup> November, 2020, available at <https://www.dw.com/en/india-launches-initiative-to-end-manual-scavenging-by-2021/a-55670516> accessed on 28th September 2023.

<sup>42</sup> Supra note 41.

<sup>43</sup> "Budgetary allocation for elimination of manual scavenging" published by Ministry of Social Justice and Empowerment, posted by, Press Information Bureau, Government of India dt. 2<sup>nd</sup> August, 2023, available at <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1945069> accessed on 29<sup>th</sup> September, 2023.

<sup>44</sup> Ibid note 44.

<sup>45</sup> Dheeraj Mishra, "What Nirmala Sitharaman's Push to End the Manual Scavenging Means", the Indian Express, dated 1<sup>st</sup> February, 2023, available at <https://indianexpress.com/article/cities/delhi/what-nirmala-sitharamans-push-to-end-manual-scavenging-means-8417828/> accessed on 29<sup>th</sup> September, 2023.

<sup>46</sup> The Hindu Bureau, "Budget 2023, Finance Minister Pitches For 100% Switch To Mechanized Sewer Cleaning In All Cities And Towns", The Hindu, dated 1<sup>st</sup> February, 2023, available at <https://www.thehindu.com/business/budget/budget-2023-cities-towns-to-transition-from-manhole-to-machine-hole-mode-fm-sitharaman/article66457528.ece> accessed on 29<sup>th</sup> September, 2023.



## CONCLUSION

In common parlance, manual scavenging as an occupation has also been burdened with the many filthy and helpless situations of manual scavengers as a group. The majority section of the society is comfortable with the practice of manual scavenging by a section of people engaged themselves by mere reason of hereditary occupation<sup>47</sup>. It is to be noted that persons working as manual scavengers and their family are still compelled to live pathetic life for mere survival and livelihood so are they exposed to various health issues which later may cause death due to this inhumane practice. Despite of their work, they barely are treated as human beings and seen with respectful eyes. Although the Constitution of India, has brought right to live with dignity but that too seems to be on paper as mere words and are not in existence for manual scavengers as their own life is not in existence in the eye of the society. Caste is also equally contributing to the social exclusion of the persons engaged in manual cleaning of human excreta. The Hon'ble Supreme Court of India, in its judgment in *Delhi Jal Board versus national campaign for dignity and rights of sewerage and allied workers and ors.* (2011) stated that “no place in the world sends people in gas chambers to die”<sup>48</sup>. Despite of the fact that various measures and guidelines have been issued by the Apex Court, many High Courts as well as the Human Rights Commission for the upheaval and progression in the status of vulnerable section of the society as they are devoid of their fundamental rights as enshrined under article 14 as right to equality, Article 21 as Right to Life and Liberty and Right to Live with Dignity and many other rights<sup>49</sup>. The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 does talk about the identification and demolition of insanitary latrines but it lacked in discussing the places where open defecation is used to be done in practice even today, which is again required to be cleaned manually by someone, also there is a need to give a inclusive definition that must also include the sanitation worker within the meaning of manual scavengers<sup>50</sup>. There is a need to think about what compositions are considered as hazardous waste, whether it is a bio-medical waste which is also supposed to dirt off by the sanitation workers or the manual scavengers in hospitals or mere human excreta<sup>51</sup>.

With the advent of technological advancement, the modern technology like robotically mechanized cleaning of solid wastes should be promoted and if cleaning be done manually those workers should be adequately facilitated with the protective and safety gears and gloves and their life safety be ensured by the authorities during the course of their employment by providing them with immediate rescuing while working beneath septic tanks or man holes. As discussed above, though the initiatives are being announced by the government

<sup>47</sup> Sujith koonan, “Legal Discourses On Manual Scavenging In India: From ‘Right’ To A ‘Crime’” published by Indian Anthropological Association” Vol. 51 No.2, P. No. 53 available at [https://www.jstor.org/stable/pdf/27139731.pdf?refreqid=excelsior%3A01295b5724d696b67f54f97108d01657&ab\\_segments=&origin=&initiator=&acceptTC=1](https://www.jstor.org/stable/pdf/27139731.pdf?refreqid=excelsior%3A01295b5724d696b67f54f97108d01657&ab_segments=&origin=&initiator=&acceptTC=1) accessed on 29<sup>th</sup> September, 2023.

<sup>48</sup> Ashutosh Sharma, “The Continuing Shame Of Manual Scavenging” The Hindu, dated 23<sup>rd</sup> February, 2023, available at <https://frontline.thehindu.com/social-issues/manual-scavenging-appalling-practice-continues-in-india-despite-government-promises-to-end-it/article66511234.ece> accessed on 29<sup>th</sup> September, 2023.

<sup>49</sup> Dr. Jay Kumar Bhongale and Oishik Bhattacharya,, “Exploring the Plight of Manual Scavengers: A Research Study on the Challenges and Suffering Faced by Sanitation Workers in India” (June 22, 2023). Revista PsiPro, PsiPro Journal, P. No.20, Available at SSRN: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4531196](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4531196), accessed on 28<sup>th</sup> September 2023.

<sup>50</sup> Kusum Chauhan and Lalit Dadhwal “Manual Scavenging in India: Issues and Challenges”<sup>6</sup> *International Journal of Novel and Development* 2(2021), P. No. 35 available at <https://www.ijnrd.org/papers/IJNRD2112001.pdf> accessed on 29<sup>th</sup> September, 2023.

<sup>51</sup> Ibid note 50.

via budget 2023, the effective implementation of those initiatives are of utmost importance. Despite of having numerous rights and legal enactments for rescuing the rights and interests of manual scavengers, they are still out casted by the society and are not recognized for their work<sup>52</sup>. The role of Non-Governmental Organizations is equally significant to impart awareness on health concerns, hygiene and proper sanitation system<sup>53</sup>.

Therefore, we can say that there is need for the more tough and effective law for securing the rights and safety of manual scavengers as well as providing them with better livelihood earning opportunities by way effective rehabilitation scheme as a new beginning of life.



<sup>52</sup> Ibid note 50.

<sup>53</sup> Ibid note 50.