

Manual Scavenging: The Poignant Situation of Obscured Heroes

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We shall dig our own grave if we do not purge ourselves of this curse of untouchability.

Mahatma Gandhi

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ABSTRACT: Manual scavenging is a profession done by a particular community ever since the Vedic age, and they are tagged as 'The Untouchables.' They manually remove the night soil which contains animal waste and also the excrements of humans. Government has taken several steps to lower the risk of particular class of people being pushed to do the disgusting work. This paper deals with the social and economic pressure over the scavengers and the inhuman act done to them where their human rights and dignity are affected to a larger extent. In addition it also deals with the legislative framework, government measures done to curb the difficulties of downtrodden community with a deep analysis on whether these measures are really effective and remedial measures to stop this evil attack on the Untouchables who are also a fellow human being.

Keywords: Manual Scavenging, Human rights, Untouchables, Caste discrimination, Society.

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I. INTRODUCTION

India is a democratic country where the rights of each and every citizen are valued and respected. It is a country where the dignity of the people is much more important than the life of the people. Even after the decades of independence some people are treated as 'untouchables' by the society. These untouchables are pushed by the upper class community into a most embarrassing and a disgusting profession. Manual scavenging is a profession in which the humans are made to clean the animal waste and fellow human's excrements in bare hands for their daily meal. But the society has a very lame answer that they consider them as untouchables only because those community people indulge in such a filthy profession. The true fact is that those people do not voluntarily indulge themselves in such an occupation. The caste based discriminated society force them to do so. There is a gross violation of their human rights and fundamental rights Article 14, Article 17, Article 23 and Article 21 of The Constitution of India. Article-1 of the Universal Declaration of Human rights (UDHR) says that, "All human beings are born free and equal in dignity and rights."¹ India having ratified the UDHR possesses most of the fundamental rights similar to the declarations of UDHR. Not only human rights violation, they are also exposed to lot of health hazards as they work daily in a much polluted area without any precautions. Even though government and our judiciary have taken lot of steps to eradicate this inhuman act, lack of effective machinery, corruption and most importantly caste discrimination and economic pressure that over shadows the laws.

Objective:

- To analyse the effectiveness of government measures and judicial decisions made to curb the Manual Scavenging.
- To find out the modern ways of caste discrimination and to analyse the difficulties faced by the Untouchables.
- To study both the direct and the indirect ways in which the rights of the Scavengers are violated.
- To suggest remedies to eradicate Manual Scavenging and replace it by technological methods.

Scope of this study:

This paper focuses on the link between the Manual Scavenging and the discrimination based on caste. This paper also focuses on the risk of Manual Scavengers as they are prone to various health hazards. This paper is an insight into the practical difficulties faced by the Untouchables and also the failure of implementation of governmental measures due to corruption, caste based society's pressure and lack of effective machinery.

¹ UNIVERSAL DECLARATION OF HUMAN RIGHTS, ART 1, DEC 10, 1948.

Sources of study:

The researcher has used the secondary resources like books, journals, newspapers, e-sources.

History of manual scavenging:

The link between India and caste is inseparable. According to Rig Veda, the people of our country are classified into different classes. Thus, there are four types of Varnas. The foremost is the brahmical society which consists of priests and intellectual society class followed by the Kshatriyas which includes warriors. The third Varna is the Vysias which includes merchants and the last Varna is the Shruddas. The brahmical society was considered to be born from the mouth of Brahma and the Kshatriyas from the arms, Vysias from the thighs and atlast shruddas from the legs of brahma. The shruddas are the downtrodden people, "they are called as Bhangis which means broken or trash."² This "Caste-based social organization is governed by custom and is enforced socially and economically."³ In ancient times, since there were no modern toilets, Shruddas were forced to clean all those dry toilets and collect the waste. Thus, the necessity for manual scavenging gradually arose in the society. "Referring to contents of sacred scriptures and other literature, scavenging by some specific caste of India exist since the beginning of civilization."⁴ "One of the 15 duties of slaves enumerated in Naradiya Samhita was of manual scavenging. This continued during the Buddhist and Mauraya period also."⁵ Unearthing from Lothal, which is considered as the unmistakable urban communities of the old Indus valley civilisation additionally, demonstrated that as in Harappa, individuals had waterborne toilets in each house, cordiality to a very much arranged waste framework made of consumed dirt blocks. To encourage operations and upkeep of the seepage frameworks and sewer vents and chambers were additionally made. History says that with the decrease of Indus Valley Civilisation exploration of clean building held up. Amid the finish of Vedic period, Rig Veda says about the Varna framework which started to adjust into position framework. Thus it can be seen that manual searching advanced with the development of position framework and now it is proceeding in this nation from Kashmir to Kanyakumari. Indeed, even in the Mauryan period Pataliputra was one of the five old urban areas where the city major named as "Nagarak", was the leader of the association endowed with the errand of taking care of the common issues of the town. The foragers and sweepers cleaned the city and arranged the night soil. Some contend that the Mughals are the ones who initiated manual searching in the northern regions of India. Detainees of war were compelled to take part in manual scavenging as a style of torment and their drops were called as Bhangi. The confirmation of Research on the medieval sewage framework uncovers that the washing rooms of the Mughal posts had little outlets utilized as toilets. The waste was conveyed by gravity to the bulwarks with water. This instrument can be found in the Red Fort in Delhi, in the royal residences of Rajasthan, in Hampi, Karnataka and in Thiruvananthapuram, Kerala. The act of manual scavenging proceeded even under the British who went to the "Orient" on the affection of an edifying mission. The British legitimized and systemised this corrupting work while setting up armed force cantonments and districts. Official posts for manual scavengers were made. Each British organization - the armed force, railroads, courts, businesses and significant towns were furnished with dry toilets rather than waterborne toilets/sewerage. Also, it has been decades after our nation got autonomy and still this hating work is proceeding. As per my conclusion standing framework is the most obsolete routine with regards to our nation and a large number of individuals the nation over are enduring because of them. English India attempted to build up govern of law and authorization of equity of with no sorts of segregation on the premise of rank and religion and in this regard a few enactments like Charter Act of 1833 were likewise organized. Still they were hesitant to alter the chain of command in the overarching social request, as they were keen on these social divisions. This powerful standing framework manures the intensions of British in India. It is an instance of hopeless, intrinsic spread which can't be cleansed. "B.R Ambedkar defined, Untouchability as the notion of defilement, pollution, contamination and the ways and means of getting rid of that defilement".⁶

²<http://blog.longreads.com/2014/01/28/a-brief-history-ofclass-and-waste-in-indiavisited>, visited on June 16, 2017

³ SUKHADEO THORAT, CASTE, SOCIAL EXCLUSION, & POVERTY (NEW DELHI: GAUTAM PRINTERS, 2013), PP. 6-7.

⁴ BINDESHWAR PATHAK, ROAD TO FREEDOM: A SOCIOLOGICAL STUDY ON THE ABOLITION OF SCAVENGING IN INDIA, 37 (MOTILAL BANARSIDASS PUBLISHER, 1999).

⁵ Abhishek Gupta, *MANUAL SCAVENGING: A CASE OF DENIED RIGHTS*, ILI LAW REVIEW, <http://ili.ac.in/pdf/paper3.pdf>, (last visited on June 15, 2017).

⁶ Swetha Maria John & Akhil Sasidharan, *Microbes of our society: Story of Manual Scavengers*, <http://yir.co.in/wp-content/uploads/2016/01/Swetha-Maria-John.compressed.pdf>, (last visited on 16th June 2017)

Thus, "All over India one thing is common: beneath the castes are the outcastes, the polluted and the untouchables."⁷ Many of them were prone to a lot of diseases due to their unhygienic practices and occupation. The ones who wished to pursue other jobs were threatened by the other class of people in the society.

Manual scavenging community:

The people of scavenging community were called by various names in various states like Bhangi, Balmiki, Chuhra, Mehtar, Mazhabi, Lal Begi, Halalkhor and so forth in northern India; Har, Hadi, Hela, Dom and Sanei and so on., in eastern India; Mukhiyar, Thoti, Chachati, Pakay, Relli and so on., in Southern India; and Mehtar, Bhangias, Halalkhor, Ghasi, Olgana, Zadmali, Barvashia, Metariya, Jamphoda and Mela and so on., in western and focal India, additionally tried to get joined together and have a typical name. In 1911 registration some of them began returning as Adi Dharmi, Adi Dravida, Adi Karnataka and Adi Andhra.⁸ These people group are held at the base of the social chain of importance and, in like manner, confront separation even from inside the Dalit people group. The International Labour Organization (ILO) recognizes three types of manual scavenging; they are "expulsion of human waste from open avenues and dry lavatories, cleaning septic tanks, and cleaning canals and sewers."⁹ These undertakings are subdivided by sex as 95 percent of private and town toilets are cleaned by ladies, both ladies and men clean open crap from streets, open territories, and open drains and men ordinarily clean septic tanks.

International covenants and instruments regarding manual scavenging:

The issues relating to manual scavengers have also been raised and reflected on globally, particularly by the United Nations (UN). In 2009, the committee was constituted by the sub-commission, they analysed promotion and protection of human rights noted the discrimination based on work done by the people and descent at a international level. The report of the committee, consisting of draft principles and guidelines for the Effective Elimination of Discrimination Based on Work and Descent, is a successful step regarding eradication of discrimination based on work and descent or caste. Discrimination (Employment and Occupation) Convention, 1958 that enumerates the issue of work-related discrimination, encourages the society to treat everyone equally irrespective of employment and occupation. In addition it also states that government should indulge in conducting educational programs, other committees, etc. "This convention also states government to establish a national agency on equal opportunity along with repeal of inconsistent laws and practices."¹⁰ In 2007, the annual report of the Committee on the Elimination of Racial Discrimination of the UN stated that with concern that huge number of untouchable community are forced to work as manual scavengers.

Violation of Human Rights:

India ratified the universal declaration of human right and it is evident that most of the fundamental rights and other rights enshrined in the Constitution of India are similar to the declaration of UDHR. The thrust by the society upon the untouchables to do the filthy profession, violated the following fundamental rights,

- **Article 14:**

Right to equality enshrined under Article 14 is violated as these illiterates are deprived of equality in this caste dominated society. Though the preamble of the constitution itself begins with the word, "We, the people..." which clearly states that each and every citizen irrespective of their caste, culture, religion, yet the rights of these people are deprived.

- **Article 21:**

India is a nation where dignity of an individual is considered as paramount important than the life of the individual. In such a democratic nation, these community people are forced to live a life of a slave, where they are pushed by the society to the Manual Scavenging profession. The society is the one which push them into this profession but they give a lame reason that only because of this profession the Untouchable's dignity is affected.

⁷ <https://www.hrw.org/report/2014/08/25/cleaning-humanwaste/manual-scavenging-caste-and-discriminationindia> visited on 21st November 2015

⁸ B.N. SRIVASTAVA, *MANUAL SCAVENGING IN INDIA: A DISGRACE TO THE COUNTRY*, 20 (CONCEPT PUBLISHING COMPANY, NEW DELHI, 1997).

⁹ *Cleaning Human Waste "Manual Scavenging," Caste, and Discrimination in India*, https://www.hrw.org/sites/default/files/reports/india0814_ForUpload.pdf, HUMAN RIGHTS WATCH.

¹⁰ Abhishek Gupta, *MANUAL SCAVENGING: A CASE OF DENIED RIGHTS*, IJI LAW REVIEW, <http://ili.ac.in/pdf/paper3.pdf>, (last visited on June 15, 2017).

- **Article 17:**

This Article talks about abolition of Untouchability. Causing any disability as a matter of untouchability is prohibited and it is punishable offence. But from the above mentioned facts it is amply clear that Untouchability still prevails in this society.

- **Article 19(1):**

Untouchables are pushed to this profession by the discriminating society. They are often deprived of their will and opinion to undergo another their profession is also prohibited as every citizen of India is vested with a fundamental right to pursue any profession as they wish.

- **Article 21(A):**

A filed survey was taken at various places of Tamil Nadu and documentary evidence which describes about the situation at other states, revealed the children of the Untouchables are not given a proper education. This is mainly because of the society's pressure and their economy. Those people say that the children who are sent to government school are discriminated by the teachers and the other fellow students because of their community. Parents feel that sending to school does not change anything as they are discriminated and mentally tortured even in the side the school and in future the children will also be forced by the society to the same profession of their parents.

It also violates the directive principle of state policy. According to Article 46 of the Constitution of India, "the state shall promote with special care, the educational and economic interest of the weaker sections of the people and in particular of the scheduled castes and scheduled tribe and shall protect them from social injustice and all forms of exploitations."

Manual Scavengers And Their Health:

Many acts and legislations have been passed to eradicate the difficulties of manual scavengers but they mostly fail to serve its purpose by the lack of proper implementation. Despite of various hurdles faced by them, they also become victims to number of diseases. They get exposed to harmful gases like hydrogen sulphide and methane which leads to the diseases like "cardiovascular degeneration, musculoskeletal disorders like Osteoarthritic changes and inter vertebral disc herniation."¹¹ They are also affected with hepatitis, leptospirosis, and helicobacter. Various skin and respiratory diseases and altered pulmonary function parameters became very common among the manual scavengers.

"A report was submitted to the UN in 2013, by Rashtriya Garima Abhiyan states that the handling of human excreta directly, involved in manual scavenging, can have severe health consequences, including constant nausea and headaches, respiratory and skin diseases, anaemia, diarrhoea, vomiting, jaundice, trachoma, and carbon monoxide poisoning."¹² This condition became worsened by widespread malnutrition and inability to access health services. They also develop boils all over the body due to heat consequences.

The worst part is the women are the one who are affected to a larger extent than men. Generally, women are not allowed to carry heavy weights regularly because it will affect their reproductive system and may cause miscarriage and pregnancy risks. Carrying the loads of excrements weakens their reproductive system. Hair loss and scalp diseases also occur as they carry the basket of excrements in heads sometimes.

Constitutional Provisions:

Since manual scavengers belong to the scheduled sections of society, they are entitled to some rights under the Indian Constitution. Some of the important constitutional provisions are as follows:

Article 14: Equality before law (Right to Equality);

Article 16(2): Equality of opportunity in matters of public employment;

Article 17: Abolition of Untouchability;

Article 19(1)(a): Right to practice any profession, or to carry on any occupation, trade or business;

Article 21: Protection of life and personal liberty;

Article 23: Prohibition of traffic in human beings and forced labour etc;

Article 41: Right to work, to education and public assistance in certain circumstances;

Article 42: Just and humane conditions of work;

¹¹Swetha Maria John & Akhil Sasidharan, *Microbes of our society: Story of Manual Scavengers*, <http://yir.co.in/wp-content/uploads/2016/01/Swetha-Maria-John.compressed.pdf>, (last visited on 16th June 2017)

¹² Rashtriya Garima Abhiyan, "Violence Against Manual Scavengers: Dalit Women in India," Report Submitted to UN Special Rapporteur on Violence Against Women during her visit to India between April 22-May 1 2013, <http://www.dalits.nl/pdf/violenceagainstmanualscavengers.pdf> (accessed June 13, 2017), p. 3.

Article 46: Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections;

Article 47: 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 Schedule Caste.

II. LEGISLATIVE FRAMEWORK:

- **The Protection of Civil Rights Act, 1955**

At first the Untouchability (Offences) Act, 1955, was enacted to abolish the practice of untouchability and social disabilities arising out of it against members of the scheduled castes. Later, it was revised in 1977 and is now known as the Protection of Civil Rights Act, 1955. Under the amended Act, the practice of untouchability was made as cognizable and non-compoundable offence and stricter punishment which was provided for the offenders.

- **The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989**

The Act, inter alia, specifies certain kinds of offences as atrocities, provides for imposition of stricter penalties for the offender and setting up of special courts for such cases. The main objective of the Act is “to prevent the commission of offences of atrocities against the members of the scheduled castes and the scheduled tribes, to provide for special courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.”¹³ “The Act was further strengthened by the recent amendments.”¹⁴ “The Act that was notified by the Central Government on January 1, 2016 makes employing, permitting or making any person belonging to SC/ST community, to do manual scavenging as a punishable offence.”¹⁵ The contravention of the above said provision attracts an imprisonment for a term not less than six months and may exceed to five years and fine.

- **Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (It was replaced by the PEMSAR Act, 2013); National Commission for Safai Karamcharis Act, 1993; National commission for schedule caste (NCSC)** are also some of the efforts done by the legislatures to eradicate Manual Scavenging.

Though the above said legislations aim at eradicating the evils done to the manual scavenging community, it does not serve its purpose. This is mainly due to the lack of effective machinery.

III. SUGGESTION

- **Effective coordination among public and private authorities:**

Lack of coordination among the authorities leads to the lack of effective implementation of the laws. As it is evident from the above mentioned chapter that the legislation is perfect but the administration is not effective.

- **Community initiatives:**

Since community initiative is very important for abolishing manual scavenging in the Indian soil. Therefore, communities should discourage and stop discriminating the service like sewer cleaning within the scavenging community. Moreover, individuals as a citizen of India should also pledge to adopt sanitary practices and vow to not encourage or employ manual scavengers for such menial tasks as the Untouchables are also fellow human beings like everyone else.

- **Responsibility of railways:**

The Indian railway is the largest institution in the country to use dry latrines. The railway ministry must prohibit this practice. There has to a committee to review it, so that the Government of India can ensure total eradication of scavenging in Indian railway in stipulated time. This can be achieved by the construction of bio-toilets in railway stations and trains, as soon as possible.

- **Sanitation programmes and awareness:**

Since poor sanitation or lack of sanitation i.e., toilets, in rural and urban areas is the fundamental cause and a hurdle to the abolition of manual scavenging. Thus, speeding up sanitation programmes and awareness regarding proper toilets is very essential to achieve total eradication of Manual Scavenging. In 2009, UPA government created a new dedicated Ministry of Sanitation and Drinking Water for administering laws and schemes directed towards sanitation programmes. It involved construction of modern toilets, discouraging the practice of open defecation and creating awareness in rural and urban areas about the risk of Manual

¹³ Act no. 33 of 1989,

¹⁴ The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (Act no. 1 of 2016).

¹⁵ Id. s. 4(j) and s.3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Scavenging and a healthy environment. In 2014, Swacch Bharat Abhiyaan was launched on similar lines to resolve the issue.

- **National level monitoring system and social audit:**

The Government of India should form a national level monitoring committee that regularly monitors the Manual Scavenging profession. This committee may constitute of representatives from ministries, public representatives, state representatives, community representatives and representatives from civil society organisations.

IV. CONCLUSION

Even during this advanced era wherever individuals square measure busy propagating importance on human rights and different socially relevant problems, it's embarrassing to grasp a number of our fellow beings square measure still treated as untouchables and square measure forced to scrub the excretion of others to earn their daily bread. This reflects a clear-cut image that Asian country continues to be dyspnoeic with the evils of class structure. Within the recent years this issue has generated widespread recognition in each national and international platform. Even though there came varied legislations and judicial proceedings to curb this act, all of them went futile because of the shortage of factual implementation of governmental policies. Before raising organic process info, its time government ought to implement agency actions to fully wipe off these stains that have affected the backward categories of our society. Government ought to additionally make sure that, there shouldn't be completely any management for individual's happiness to any alleged "apex" categories over them. A forceful alteration particularly within the Indian Railway is important. Dry toilet facilities ought to be substituted by bio latrine technology. One amongst the foremost remedy lies among us, individuals ought to erase their barbaric angle towards the individual's happiness to those socially backward categories. a personal ought to pledge to make a socially committed angle to motivate pragmatic changes in our society. Young minds ought to enlighten the void and dark minds of individuals with correct awareness. In order that with fraternity individuals of various categories hands and walk along to carve an improved and brighter Republic of India.

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