



## SCAVENGING AS DEPRIVATION AND FRAMEWORKS OF REGULATION AND CONTROL

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**Abstract:** To terminate the inhuman practise which employed humans to “Clear, Carry and Dispose of human excreta” the act of “Prohibition of Employment as Manual Scavengers and Their Rehabilitation” was brought into effect. According to this law, the act of cleaning of sewers by men is a practise of scavenging. Even after so many campaigns that bring this issue in the forefront as a matter of difference in caste and states that this requires the immediate approach of State officials so that it can be eradicated, this issue of inadequate sanitation facility is continued. This paper aims to analyse the problem of manual scavenging critically and the role it plays in deprivation of Human Rights, in the current situation and the prohibited mechanism of this inhuman practise.

**Key words:** Acts, Balmiki, Dalit/s, Deprivation, Human Rights, Scavenging<sup>1</sup>.

### Background:

Among the Dalit communities, manual scavengers<sup>2</sup> are the most exploited ones. They can be found in most parts of the country, where they clean the roads and are engaged to the job of carrying night-soil. Not only do they have to undergo the social discrimination but also the amount which is paid is very low. Apart from all these, they also have to suffer from various health problems if they are continuously engaged to the job of cleaning due to the viral and bacterial effects. This community is known by various names in different parts of India such as Balmiki<sup>3</sup>, Bhangi/s<sup>4</sup>, Mehatar<sup>5</sup>, Lalbegi<sup>6</sup>, Chuhara<sup>7</sup>, Hari<sup>8</sup>, Olganas<sup>9</sup>, etc. Since they belong to the minor group, their population density is counted differently and included under the “Scheduled Castes”<sup>10</sup>.

### Manual Scavenging as Deprivation

One of the most important areas of the Indian fabric has been caste system which is existent since many centuries. It is inhuman and not at all forms the basis of equality and labour is divided on the basis of caste. All the social, economic and political conditions of people are based on their caste status. These manual scavengers are also scheduled caste who belongs to the lowest strata of the caste system-'Untouchables among Untouchables'.<sup>11</sup> The

hierarchy of the society is practised in such a way that, it is based on the habitation of the village, towns or cities. Usually the upper class of the society resides in good places but manual scavengers are always found to be residing near dumping grounds. The contact with the disposed excreta makes them a victim to various diseases and infection.<sup>12</sup> The children of from these communities are not usually treated right by the fellow classmates and teachers. Such an abominable behaviour towards children makes the children lose their dignity and this is the reason why there are many dropout rates. Dalits are made to perform this in human practice of manual scavenging.<sup>13</sup> This may be called a forced labour because dalits cannot even ask for or take up any other occupation since they are discriminated on the basis of their caste and occupation. They aren't paid right. There is even over compared to that on the minimum wage and hence they have to borrow money for the upper caste neighbours to survive. This makes them a victim to the relationship of bondage.

In one study by Ashif Sheikh,<sup>14</sup> *Untouchability in rural India*, Dalit Muslims<sup>15</sup> are also subjected to manual scavenging due to which they also become a victim of discrimination within their own community. A bigger part or large section of Muslim

community believes that Islam doesn't fit caste as soon as there should not be operation on the basis of caste within Islam. However it is different in case of Indian Islam.

### Manual Scavenging as Human Rights Issues

Since 1948, the Universal Declaration of Human Rights has been promoting and codifying a common standard of achieving for all peoples and nations. Over the years human rights has broadened with the input of socialist states and states of the third world, to incorporate a wide range of economic, social and cultural, development and the right of the indigenous people.<sup>16</sup>

The exploitation that these manual scavengers go through is a mockery on the modern Indian Labour Law and international conventions that are usually measured by the right of the workers. No individual voluntarily accepts to handle the human excreta but this is imposed tradition that only exploits the basic rights of the people and shows the inhuman caste system.

There are a number of reasons why manual scavenging is considered to be a forced labour or slavery:<sup>17</sup>

1. **It acts as a compulsion:** It is believed in most places of the world that the occupation of the citizen must not be on the basis of caste but Indian society still accepts the fact that manual scavenging should be done only by a certain community of people. It is a forced compulsion for a certain class of people to pick up this manual scavenging as a job. The members of this community are prisoners of this manual scavenging job and when they try to revolt against said they are made a victim to extreme violence.
2. **It is hereditary:** Dr Babasaheb Ambedkar had said, "Our society is like a multi store pyramid and there are no doors for entering into the storeys. One has to die in the storey in which one is born" this means that a particular community of people would follow the occupation their ancestors leads to follow which is very far away from the idea of decent employment.

3. **It is an indefensible custom:** Manual scavenging is a caste based job as per the belief and arises due to the unequal society. These customs survive the social change and on the moral basis they become insupportable. Even in modern India the practice of manual scavenging is in destroyed and the people are subjected to oppression and injustice. Manual scavenging is a hindrance to social justice.
4. **It is based on caste based division of labour:** As the Brahmins belonging to the higher class in the society and have assigned the cleaning work to the lower classes of the society, is insult to the principles and ideal adopted by the modern society and economies. Due to the watertight nature of this division of labour on the basis of caste many communities are deprived of the right and also will have to live in a miserable state.<sup>18</sup>

### Frameworks of Regulation and Control

Government of India has made several laws and legislations and programs which promotes the rights of the backward and the oppressed class of the society.<sup>19</sup>

**Legislation:** Sanitation is subject to the State, and Delhi became the first state to ban manual scavenging in February 2013. Within 3 years of service the municipalities Railways and containments have been given sufficient sanitary latrine spaces available.<sup>20</sup> According to article 253 of the constitution Parliament can empower two or more States to register adoption legislation, for this several laws has been enacted by the government.<sup>21</sup>

**The employment of manual scavengers and construction of dry latrines prohibition act 1993:** the employment of manual scavengers and construction of dry latrines Provision Act 1993 was drafted by the Ministry of under the Urban Development after 6 States agreed on passing the resolution to frame a law that will insurance ointment to the manual scavengers. It was drafted under Narasimha Rao Government<sup>22</sup> and was passed in 1993. By this time 23 states and all the union territories has adopted the act. While they were some

other states which had enacted their own form of law but within the similar act.<sup>23</sup>

As per this ask anyone who is employing a scavenger or constructing a trilateral will have to face imprisonment for one year or will be fined rupees 2000.<sup>24</sup> The practice has been spread on a white level but there has been no convention on the law for 20 years.<sup>25</sup>

**National Commission for Safaikaramcharis (NCSK):** NCSK is a statutory body formed in August 1994, but this commission was active till February 2004. The commission work towards the upliftment of the Safaikaramcharis ensure that correct measures are taking for the Welfare of them and also makes it suitable recommendations to the central government and investigate matters that are related to implementation of laws and schemes and maybe a matter of grievance related to the purpose.<sup>26</sup>

**The prohibition of employment as manual scavengers and the rehabilitation Act 2013 or MS act 2013:** As per the 1993 law under the state list the question was if the Parliament has the jurisdiction to enact the prohibition of employment as manual scavengers and Rehabilitation Bill 2012. Arguments were put forward regarding the objective of the bill some believe that it aims at protecting the weaker sections of the society such as the scheduled caste and Scheduled tribe from the employing them as manual scavengers. It is also stated that it is the duty of the central and state government to make proper house with adequate sanitation and road infrastructure and quality schools for the children of SC and ST communities for all the ex-manual scavengers. The three full realisations were made in the rehabilitation plan of 2011 draft:

1. Restore the dignity of life of entire community of sanitation workers

2. To secure through educational opportunity of the future generation so that they cannot be recruited as a manual scavengers and get better employment opportunities.
3. Spells of the task must be cleared out by every ministry PSU and private sector organisations so that the order is made enforceable.<sup>27</sup>

The prohibition of employment and Manual scavengers and the rehabilitation Act 2013 acts as a roadmap to a proper strategy so that the sanitation can be improved and the human practice of manual scavenging can be prohibited and there are alternative options for the employment of persons who are related to the job of manual scavenging.<sup>28</sup>

### Final Observations

The Parliament has tried to bring out the new law and is ready to make amends well so that the legislation and the Human Rights schemes are not made a victim to the weak implementation and the ignorant nature of the government. Today India is used as stage where it is necessary to abolish this National shame and its people must come together to see and transform the dream into reality and abolish the practice.

Do a number of people have been freed from the act of manual scavenging but still they lack the source of income and the biggest concern is the rehabilitation which the prohibition of employment as manual scavengers and the rehabilitation bill 2012 seeks address. The employment of manual scavengers and construction of dry latrines prohibition act 1993 betrayed the hope of the people but still people are really hopeful about the new law and think that it would bring out the change in the condition of Living. It is now a time to answer the questions that they have been fighting for since a long time their right must be given to them and they must not be oppressed.

### Notes and References

1. The evidence of the origin of Manual Scavenging is found in the Mughal periods. It started with the introduction of dry latrines in the courts. Jahangir, the Mughal ruler of India built a public toilet at Alwar which is located 120 km away from Delhi. However, there is no much evidence about its maintenance. The Municipal Records of 1870 has shown that the municipalities organized by British in India were required to

- build roads, parks and toilets. These British administrations were the organizers of the system that required removal of night soil. For this purpose, they employed Bhangis.
2. Sweeping and scavenging is often considered to be the inferior job and anyone who was associated with this job had to live under the pressure of social discrimination. In India, the social discrimination is done on the basis of caste which has made these people do certain jobs, which is termed as their “traditional” jobs. These sweepers and scavengers are regarded to be the most polluted community and are highly discriminated because of their religious, social and economic life conditions. <http://safaikarmachariandolan.org/whatismanual.html> Accessed on 10.10.2012 15:31 hrs.
  3. The Balmiki are one of the largest socially stigmatized Dalit groups in Uttar Pradesh alone and Rajasthan, Haryana, West Bengal, Himachal Pradesh. Also see Balmiki, Lekhraj (2011). “The Balmiki Community In Darjeeling: Caste Consciousness.” in Terence Mukhia (Ed.). A Multi-Disciplinary Perusal. Darjeeling: KalpaGriha Publications.
  4. As defined by Shyamlal (1992). In *The Bhangi A Sweeper Caste: Its Socio-Economic Portraits*. Bombay: Popular Prakashan Pvt. Ltd., According to the social hierarchy among both higher and lower castes in India the Bhangis occupy the lowest of the low position as they are night soil removers. They are found in Rajasthan, Haryana, Uttar Pradesh, etc. Also see Ibid.
  5. As per Hindu tradition Mehatar or Mihtar are the sweeper or scavenger caste. They were believed to be very unclean and despicable tribe.
  6. Lalbegi have been sweepers and scavenger, both activities considered as polluting. Many members of the community work as sweepers for the municipal authorities and hospitals in Bihar and Uttar Pradesh. The Muslim branch of the Lal Begi are known as Hasnati and the Hindu branch are known as Balmiki.
  7. In Punjab, sweepers are known as Chuhara, and this name has been derived from their business of collecting and sweeping up scraps (Chura-Jhurna). Also see, Srivastava, B. N. (1997). *Manual Scavenging in India: A Disgrace to the Country*. New Delhi: Concept Publishing Company.
  8. Sweepers in Bengal are known as Hari, the name is supposed to come from haddi, a bone; the Haris are the bone-gatherer, and was familiar to early settlers of Calcutta under the quaint designation, of the ‘harry-wench’. Also see, Srivastava, B. N. (1997). *Manual Scavenging in India: A Disgrace to the Country*. New Delhi: Concept Publishing Company.
  9. Similarly, in Bombay Scavengers are known as Olganas or scrap-eaters.
  10. The term ‘Schedule Castes’ actually came into use during the British Raj, (The Government of India Act, 1935).
  11. Analysis and Recommendations in the context of The Prohibition of Manual Scavengers and their Rehabilitation Bill, 2012, Submitted to Honorable Members of Parliament (Lok Sabha and Rajya Sabha), by RashtriyaGarimaAbhiyan. [http://idsn.org/fileadmin/user\\_folder/pdf/New\\_files/Key\\_Issues/Manual\\_scavenging/2013/Analysis\\_of\\_manual\\_scavenging\\_bill.pdf](http://idsn.org/fileadmin/user_folder/pdf/New_files/Key_Issues/Manual_scavenging/2013/Analysis_of_manual_scavenging_bill.pdf) Accessed on: 19.01.2014 12:44hrs.
  12. Violence against Manual Scavengers: Dalit Women In India. Submitted to: UN Special Rapporteur on violence against women, During her visit to India between 22 April- 1 May 2013, Submitted by RashtriyaGarimaAbhiyan. <http://www.dalits.nl/pdf/violenceagainstmanualscavengers.pdf> Accessed: 18th January 2014 16:02 hrs
  13. Violence against Manual Scavengers: Dalit Women In India. Submitted to: UN Special Rapporteur on violence against women, During her visit to India between 22 April- 1 May 2013, Submitted by RashtriyaGarimaAbhiyan. <http://www.dalits.nl/pdf/violenceagainstmanualscavengers.pdf> Accessed: 18th January 2014 16:02 hrs
  14. Convener of RashtriyaGarimaAbhiyan since his university years, is fighting for the empowerment of Dalit specially Dalit-Muslims through various campaigns of Jan Sahas. Ashif was born in Dewas, Madhya Pradesh,

and face several kinds of discrimination from very early in his life, because of his Dalit Muslim identity. According to Ashif Sheikh, in the year 2000 he joined the movement to eradicate manual scavenging, after conducting a study called Untouchability in Rural India.

15. In Muslims, Haila and Halalkhor communities are involved and often forced in manual scavenging, which faces more difficulties than other Dalits in abandoning manual scavenging.
16. Thorat, Sukhadeo. (2004). Hindu Social System & Human Rights of Dalits. Critical Quest: New Delhi.
17. This section has been developed on the basis of the writings of Swabhimani, Eradication of inhuman practice of manual scavenging and comprehensive Rehabilitation of manual scavenging. February 24, 2013 at 6:26 PM [www.Eradicationofinhumanpracticeof manual scavenging and comprehensiveRehabilitation of manual scavenging. \\_ World Pulse.htm](http://www.EradicationofinhumanpracticeofmanualscavengingandcomprehensiveRehabilitationofmanualscavenging._WorldPulse.htm) Accessed on: 21.01.2014 13:32hrs
18. Ibid and Contradictory to this practice of inhumanity the "Right to Health" is included as the fundamental rights of Indian citizen. Some of them even become a victim to psychological disorder.
19. This challenge requires urgent need so that efficiency inclusiveness and accountability can be improved such as the Mahatma Gandhi National Rural Employment Guarantee programme (MGNREGP) and Aajeevika National Rural livelihoods mission (NRLM). Back in 2011 NRLM was launched with the aim to reduce poverty of 70 million BPL households so that they could access self-employment and gets skilled wages out of the employment opportunities. UNDP has also become a partner of NRLM so that they can easily get a technical support for all the implementation of the programs. Aajeevika National rural livelihood mission NRLM focuses towards the upliftment of the poor and needy families. The NRLM puts special effort so that they could help out the vulnerable group of people who are victim to social exclusion and discrimination.
20. Delhi first state to ban manual scavenging. Hindustan Times. 27 February 2013. <http://www.thehindu.com/news/cities/Delhi/delhi-becomes-first-state-to-ban-manual-scavenging/article4458271.ece> Accessed on 18.05.2014 12:57hrs.
21. Bhasin, Agrima (October 5, 2012). "Washing off this stain will need more. Chennai, India: The Hindu. <http://www.thehindu.com/opinion/lead/washing-off-this-stain-will-need-more/article3958626.ece> Accessed on 18.05.2014 13:00 hrs.
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24. The Employment Of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. Ministry of Housing and Urban Poverty Alleviation, Govt. of India.
25. Get serious". The Hindu (Chennai, India). September 13, 2013 <http://www.thehindu.com/opinion/editorial/get-serious/article5120916.ece> Accessed on 18.05.2014 13:18 hrs.
26. "Extension in the tenure of the National Commission for SafaiKaramcharis (NCSK) up to 31st March 2016" (Press release). Press Information Bureau Government of India. 21 February 2013. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=92367> Accessed on 18.05.2014 13:21hrs.
27. Bhasin, Agrima (3 October 2012). "Washing off this stain will need more". The Hindu (Chennai, India).
28. Manual scavenging was considered as the writ petition number 583 of 2003 on the hearing of 27th March 2014 by the Supreme Court. Orders have also been disposed by the Supreme Court with various directions of the government. <https://www.devex.com/projects/tenders/identification-profiling-and-livelihood-mapping-of-manual-scavengers-among-high-prevalence-states-in-india/140510> Accessed on: 21.01.2014 12:31hrs.