

MANUAL SCAVENGING-THE OPPRESSION CONTINUES

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The year 2017 will mark the 70th independence anniversary of India. But even after seven decades of independence, our country is striving to put a stop to the most inhumane and humiliating human activity- manual scavenging. Across much of India following the centuries old caste-based and feudal practice, people from communities who by tradition worked as manual scavengers still collect human waste and cart it away for disposal at the outskirts of the settlement. The state of affairs persists despite there being a prohibition placed on construction and continuance of dry latrines and employment of manual scavengers through The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. Most of the manual scavengers remain oblivious to the fact that they have a right to refuse this role. This does not happen due to poor implementation of policies. Those who do resist face intense social pressure which includes even threats of violence.

This paper seeks to illustrate the issues faced by manual scavengers, the reasons for the persistence of manual scavenging in the country, the efforts that are made to stop the cruel practice and also the obstacles that are being faced to end manual scavenging. The authors, through the paper also talk about a way forward for the effective and proper implementation of laws so that such degrading activity ends once and for all.

Introduction

The utmost bane of untouchability is often felt by people who work as manual scavengers whose daily living is based on one of the most undignified activity-cleaning feces from private and public toilets and latrines. This filthy occupation is performed exclusively by the Dalit community and that too by a sub-caste of Dalits. They are considered untouchables even by the other sub-castes of Dalits. Manual scavenging is not only a disgrace to human dignity but also a blatant violation of basic human rights. Despite being hazardous and unacceptable as a method of disposal of human waste, its existence can't be denied. The ugly work passes from one generation to

the other due to the culture of acceptance prevailing among the community which deprives them of even their basic rights. Since 1947, the Government of India had formulated many policies to put an end to this practice. Rehabilitation schemes like National Scheme for Liberation and Rehabilitation for Scavengers[1] and Self Employment Scheme for Rehabilitation for Scavengers[2] have been implemented to eradicate the practice. Despite all the efforts of the government, lakhs of people are still forced to work as manual scavengers. Even today, this practice continues from north to south. People engaged in manual scavenging not only go through the inhuman agony of scavenging human feces but also face work related perils, the stigma of untouchability and live their lives as social outcasts. As a result of vast urbanization and also the increasing population of the country, the demand for waste management services continues to be high. Due to the indifference of concerned authority and unsafe work practices, the vulnerability of the manual scavengers keeps on increasing. Only sporadic cases of illness and deaths among them are reported.

I-Manual Scavenging in India

In India economic, social and civil life is often regulated by the caste system. People are confined to a particular occupation on the basis of their caste. The caste system in India is hereditary in nature, irrespective of the religion an individual follows. Caste designation of a community has a noteworthy impact on the ability of the members of that community to control productive resources, control land, establishing a resemblance between class and caste. At the bottom of the caste hierarchy are the Dalits.[3] Their means of livelihood have traditionally being limited to works such as- leather workers, cobblers, manual scavengers and sanitary workers among others. They are rendered as untouchable or socially polluted due to the designation of their caste which is used as a justification for the discriminatory practices.[4] Due to this, in many parts of India, people belonging to Dalit communities are still denied access to basic human needs like access community water sources. People bar them from entering their shops, and they are also prevented from taking part in ceremonies or religious functions.

Equal status for all citizens has been guaranteed under the Constitution of India. The law of the land also outlaws untouchability. Discrimination in various forms

persists.[5] Under the existing law also, Christians and Muslim Dalits are not included as scheduled castes, and thus are not eligible for the same protection as Hindu Dalits under the law.[6]

Many laws have been passed, and policies have been adopted by the government to end discrimination on the basis of caste. But very little has been done to address the failure in implementing these measures. Within the framework of caste structure, Dalit who work as manual scavengers usually belong to the Hindu Valmiki sub-caste. This sub-caste is further divided into regionally named groups such as Malkana, Lalbegi, Mehatar, Rokhi and, Chuhada. Among the Muslims, they fall under the Hela sub-caste.

They are discriminated even from within the Dalit sub-community as the above mention groups lies at the bottom rung of the caste hierarchy. These groups are considered fit only to perform unsanitary tasks and to manually dispose of human excrement.[7]

Three forms[8] of manual scavenging have been distinguished by the International Labor Organization (ILO):

- Cleaning sewers and gutters
- Cleaning septic tanks
- Removal of human excrement from dry latrines and public street.

There is still a dispute over the exact number of people who are involved with the work of manual scavenging. The estimates provided by the government are significantly lower than those given by the civil society groups.[9] In an effort to resolve this issue, in March 2014, the Honorable Supreme Court of India projected that there are still 9.6 million dry latrines that are being cleaned manually by people who were members of the Schedule Castes. In August 2014, Thaawar Chand Gehlot, The Social Justice and Empowerment Minister admitted in the Parliament that the practice of manual scavenging still exists in many parts of the country.[10] One of the vital points that should be noted here is neither Gehlot's statement, nor the Supreme Court's estimate take into account the manual cleaning of roads and other areas where open defecation takes place. Also, they have not taken into account of people who are involved in the manual cleaning of government and private septic tanks, or people who are involved in

cleaning of excrement flushed into uncovered drains in underdeveloped urban areas, semi-urban and rural areas. The worst victims are women who constitute almost 80 percent of the workforce of manual scavengers.[11] Women engaged in the work of manual scavenging often inherit the practice when they get married. They join their mother-in-law in collecting human feces and disposing it outside the settlement.[12]

The women engaged in cleaning of toilets in rural areas receive no or little cash wages. They instead receive leftover food, old clothes during festive occasions, and grains at the time of yield and access to upper caste area of land for gathering firewood and grazing cattle. All these things are also given only at the discretion of the family or household they are serving.[13] After carrying out their work, they return to the households to collect their compensation in the form of leftover food. In many areas, where the practice of untouchability is deep-rooted, food is thrown in front of them or is dropped into their hands.

These women face tremendous pressure from their family and the community as a whole to continue working as manual scavengers. One of the primary reasons is that the survival of the household is governed by the work these women are engaged in, as their households have few other possibilities of earning a livelihood. Even food security is a serious challenge for these people as they belong to one of the most deprived and poor communities in the country.[14]The problem is even harder to face because even men belonging to the community do not have any reliable source of income. They often work as day laborers, but their pay is erratic.

Persistent Discrimination

Obstructing or denying access to water sources on the basis of untouchability is prohibited under the Protection of Civil Rights Act, 1955. Yet, people engaged in the activity of manual scavenging are barred from using community water sources.[15] Not only this, people from these communities are prevented from purchasing goods, excluded from cultural events and festivities, and also denied access to temples and places of worship. They are also subjected to discrimination by the members of the upper caste community. This point can be illustrated by citing the example of a temple in Bharatpur District in Rajasthan. The temple is situated in the town of Rudwal and is a popular pilgrimage

destination. The people belonging to the Valmiki community are not allowed to enter the temple. But the ironic point is that they are the one who clean open defecation and garbage from around the temple premises.[16] The children belonging to the community also suffer. They meet severe discrimination within their schools also. Their peers and tutors discriminate them in equal measures. This does not only affects them psychologically but also academically. Due to such discrimination, the dropout rate among them runs high.[17] According to a report by Navsarjan, a Dalit organization (founded by Martin Macwan), based in Gujarat, the dropout rate from school among children of manual scavengers (in Gujarat) is around 70-80 percent, even before they reach the seventh grade.

The manual scavengers face discriminated not only by the society, but they are discriminated on the professional front as well. The 2013 act discharges anyone from the obligation of doing manual scavenging, but the caste based discrimination runs so deep within the community that even the state replicate such hiring practices. In most cases, only people belonging to the Valmiki community are hired for the work of manual scavenging by the municipal corporations. It seems as there is an obligation upon them to do sanitary work. The non- Valmikis are given other works.[18]

These people are discriminated even in terms of payment of wages. The Equal Remuneration Act, 1976[19] requires that the employer should pay men and women likewise for identical work of work of similar nature. But this kind of protection under the statute is not granted for protecting the manual scavengers from wage discrimination. Their caste determines their wages.

Health Issues

By the virtue of their occupation and the social atrocities these workers face, they are exposed to many health problems. These health hazards include exposure to harmful gases (such as hydrogen sulfide and methane), respiratory problems and infections like Leptospirosis, Hepatitis, and Helicobacter. A report submitted to the UN by the Rashtriya Gramin Abhiyan in the year 2013 notes that direct handling of excreta by the manual scavengers lead to grave health issues such as vomiting, constant headache, skin and respiratory diseases, trachoma, anemia, carbon monoxide poisoning, and diarrhea.[20] These conditions are further aggravated by

an inability to access proper health care facilities and widespread malnutrition.[21]

II-Legal Framework

It is extremely vital for the government to intervene on the behalf of manual scavengers' community to deal with the longstanding economic and social problem they face. Government intervention will also provide motivation to local officials and household who rely upon manual scavenging to improve sanitation condition in the country and implement existing government policies and programmes. Various efforts have been made by the government and the society as a whole to end manual scavenging. However, there is a still a lot of work to be done.

Overcoming the issue requires a serious commitment from government. The government should ensure that adequate policies and programmes are in place, and officials at all level are dedicated, and are answerable for implementing them.

The government of India has the following legal and legislative provisions in place (current and past) to tackle the problem:

1. The Protection of Civil Rights Act, 1955

In 1955, the Untouchability (Offences) Act, 1955 was instituted to abolish the practice of untouchability which was faced by the members of the Scheduled Castes. The Act was amended in the year 1977[22] and now the act is known as Protection of Civil Rights Act, 1955. The amended act makes the practice of untouchability a cognizable offence and the offender is also given stricter punishment. This act also made it an offence to force a person to practice scavenging on the ground of untouchability

2. The Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989[23]

This act came into force on 31st January 1990. The main objective of the Act was to prevent the atrocities committed against the members of Schedule Caste and Schedule Tribes. Under the Act, some specific offences are termed as "atrocities". The Act provides for setting up of Special Courts for trials of such offences and for the relief and rehabilitation of the victims.

3. **The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993[24]**

This law was introduced to curb the employment of people as manual scavengers and also to discourage the continuance and construction of dry toilets. Under this Act construction of dry toilets, as well as hiring scavengers was made a punishable offence with a term of imprisonment up to 1 year and a fine of Rs. 2000.[25] The fine was also subject to an increase of Rs. 100 per day if the violation continued. Despite the stringent penalties imposed under the Act, there was not much success in ending manual scavenging. It has been widely accepted that even after two decades since the law was passed, the states did not commit themselves fully to the cause, which resulted in the improper implementation of the 1993 Act.

4. **The Prohibition of Employment as Manual Scavenger and Their Rehabilitation Act, 2013**

Due to noteworthy effort by Dalit activists and former manual scavengers, a new law was enacted to improve the mechanisms, toughen accountability and to widen the definition of scavenging, there was also an overall shift in the focus to not only end scavenging but also to ensure the protection of the communities who are engaged in the work of manual scavenging. The new act prohibits not only cleaning of dry latrines but also outlaws all type of manual cleanings such as cleaning of sewers, gutters and septic tanks without protective gear.[26]

The Act of 2013 seeks to correct the injustice which has been meted out to the manual scavengers previously. This act looks to provide the manual scavengers with alternative ways of earning a livelihood or any other assistance which they require. This is an improvement as the Act of 1993 focused only on prohibition to employ people as manual scavengers and construct dry latrines.

Under the new Act, one-time cash assistance is given to individuals who have been engaged as manual scavengers at any point of time, housing for them and their family, a scholarship to their children and other legal assistance.[27] But the Act of 1993 and 2013 are similar to one count- that rehabilitation of the manual scavengers is to be done by the policies and schemes adopted local authorities.[28] The point to be noted here is that the same set of policies and authorities has not

been successful in ending manual scavenging even after so long. Also, the executing rules[29] of the 2013 Act do not contain any provision to implement the important provisions of the new legislation.

Schemes

- **Valmiki Malin Basti Awas Yojna[30] (VAMBAY)**

The Government of India launched this scheme during 2001. The aim of the scheme was to make available shelter (and upgrade existing shelters) for people who were living below the poverty line in urban slums. This was done with the aim of making cities slum free.

- **Total Sanitation Campaign[31] (TSC)**

The Total Sanitation Scheme is an inclusive programme with broader goals to eliminate the practice of open defecation. TSC was initiated in 1999 and follows the principle of "low to no subsidy." Poor rural households were given nominal subsidy for construction of toilets. TSC gives much importance to Capacity Building Hygiene Education, Information, and Communication for effective behavior change.

- **Nirmal Gram Puraskar Yojna[32]**

To add strength to the TSC, the government introduced the Nirmal Gram Puraskar Yojna in June 2003. This scheme seeks for fully sanitized (and open defecation free) panchayats and districts.

- **National Scheme for Liberation and Rehabilitation of Scavengers[33] (NSLRS)**

In March 1992, the government launched this scheme to provide alternative ways to livelihood to people engaged in the work of scavenging. Under NSLRS, the scavengers, and their dependents are trained with marketable skills which can provide them with alternate ways of livelihood. The trainees are paid up to Rs.500 per month during the course of their training. Under NSLRS, financial assistance up to Rs. 50,000[34] is also provided for rehabilitation to the trainees, depending on the trade they choose.

- **Integrated Low Cost Scheme[35](ILCS)**

In order to eradicate the practice of manual scavenging, the Ministry of Home Affairs launched this scheme for urban low-cost sanitation. The scheme envisages conversion of dry latrines into low-cost twin pit latrines. The scheme is being operated through Housing & Urban Development Corporation (HUDCO).

- **Self Employment Scheme for Rehabilitation of Manual Scavengers[36]**

This is a very vital scheme of Ministry of Social Justice & Empowerment for rehabilitation of manual scavengers. The main aim of the scheme is to assist scavengers who are yet to be assisted, for rehabilitation. Individuals who are identified as manual scavengers are provided with subsidies, loans and training. Credits are also provided by banks to the identified individuals at very low-interest rates. Beneficiaries are also allowed to avail a subsequent loan from banks for assistance.

International Human Rights Efforts

Dalit rights activists, in order to raise awareness of the effects of caste-based discrimination have sought to generate global pressure on the Indian government.[37] Starting in the early 1980s Dalit activists expressed their opinion that violence and caste based discrimination against manual scavengers is a human rights issue.[38]

In 1996, the UN Committee on Elimination of Racial Discrimination (CERD) recognized discrimination on the basis of caste as racial discrimination. This stand was taken by CERD despite vociferous and determined opposition from the government of India.[39]

The Supreme Court, in March 2014 stated[40] that the practice of manual scavenging was banned in India under various instruments. These instruments included the International Convention on Elimination of Racial Discrimination (ICERD),[41] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[42] and the Universal Declaration of Human Rights (UDHR)[43]

India also follows other international conventions like International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR). These conventions also strengthen the idea of eradication of

manual scavenging. Various other international human rights organizations and United Nations agencies have also expressed their concerns over the practice of manual scavenging. The World Health Organization (WHO) approached manual scavenging as a health issue whereas UNICEF has taken up the problem of manual scavenging as a sanitation issue.

III-Obstacles to Ending Manual Scavenging

1. Failure to identify people still engaged in manual scavenging

Going by the rules provided by the Act of 2013, an individual should be listed under the list prepared by the government for manual scavengers to be qualified for rehabilitation.[44] Two ways of identifying manual scavengers are provided under the act-individual self-identification and survey by local authorities.[45] But the act does not require any survey. It is the discretion of the authorities whether to do a survey or not. But the Supreme Court has stated that majority of government surveys have been unproductive.

The Supreme Court has also noted that the progress has been very little, and the surveys have identified and acknowledged only a minute section of people who are engaged in the work of manual scavenging.[46]

The Supreme Court also illustrated the shortcomings of the surveys by comparing report made by the State of Rajasthan and the data collected by the petitioner in the case of Safai Karmachari Andolan. The Rajasthan State Report identified only 46 people engaged in the work of manual scavenging. Firstly, the report did not extend to the whole of the State. Secondly, the report even excluded rural areas where manual scavenging is prevalent. The petitioner identified 816 people in the same area who are engaged in the work of manual scavengers. The court also stated that the many surveys only address dry toilets. These surveys do not include people employed as manual scavengers who provide sanitation services in nursing homes and hospitals, people who clear drains, septic tanks, and railway tracks.

2. Obstacles in Implementation of Local Schemes

Under the 2013 Act, the local authorities are responsible for the rehabilitation of the manual scavengers by

implementing the schemes set out by the government.[47] Gram panchayats are responsible for the implementation of the Act in rural areas.[48]

But there are significance challenges in implementing the act in the rural areas. Accessing support through gram panchayats proves to be a difficult task, whether it is about some essential documents, identification cards, or proper involvement in the gram panchayat meetings. Due to the low literacy level among the community members, individuals engaged in the activity are not well informed about the social welfare schemes. Accessing information and claiming benefits also become difficult for these communities as they are not involved in the decision-making process and local governance.[49]

3. Lack of accountability for failing to end manual scavenging

Under the new act, the local authorities are responsible for making sure that no one within their jurisdiction is engaged in the work of manual scavenging, no insanitary latrines are being constructed, and rehabilitation of the scavengers takes place. Under the act, the State Government has to appoint inspectors to keep a check on persons employed as manual scavengers and also examine premises for insanitary latrines. The act also calls for vigilance committee and monitoring committees in each district. The state government is authorized to make special trials. If any offence is committed under the Act, a complaint has to be made before the court within three months. In such cases, often a conflict of interest arises, as the same authority is responsible for implementing the law as well as adjudication of offences under the act. It is vital that adequate resources and proper training is provided to activate the monitoring mechanism and for effective implementation of the provisions.

4. Irregular implementation of the Mahatma Gandhi National Rural Employment Guarantee Act.

The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 was introduced to provide livelihood security in the rural areas. Under the act, 100 days of employment is guaranteed to every household.[50] MGNREGA includes various work projects like flood protection, water conservation, and road construction and land development.

MGNREGA gives a way out to daily wage laborers from the traditional structures of the society, where they not only face class and caste-based discrimination but are also offered piecemeal wages. But people belonging to the manual scavenger community face many challenges in getting employment under the MGNREGA also due to discriminatory exclusion by the panchayat, powerlessness to access formal process, and dearth of information.

People belonging to the community have to rely on the panchayat for access to jobs, instead of getting employment which has been guaranteed under the law. In many cases, the formal MGNREGA process is sidestepped and by-passed. In such cases, such communities are vulnerable to exclusions.

5. Corrupt Enforcement of Government Employment Quotas

Even though there are quotas reserved for Scheduled Castes in jobs offered by the government, people belonging to the manual scavenging community are left out as they are unable to pay bribes. For communities belonging to the manual scavenging community and living below the poverty line, giving bribes to secure jobs is an overwhelming barrier.

6. Inadequate training Programs for alternative employment

In order provide an alternate method of livelihood, the 2013 Act permits one adult member of the family to undergo training and learn skills to develop proficiency in other methods of livelihood. A monthly stipend is also paid to the enrolled individuals during the period of training.[51] This can be helpful to the community since the lack of skills causes them substantial problems in entering the labor market. Also, the act does not designate any particular body that is responsible for the training of these people. No specific training scheme is presently in place to support the individuals who have been identified as manual scavengers.

The National Scheme for Liberation and Rehabilitation of Manual Scavengers (NSLRMS) was being run by the government, between 1992 and 2005. This scheme included training of manual scavengers.[52]

During this period around 7, 70,000 people were identified, 1, 78,000 were given training and 4, 00,000 were helped to shift their work from manual scavenging to an alternate occupation.[53]

However, the assessment of the scheme by the Comptroller and Auditor General brought to light a completely different picture. It was observed that there was no reliable database with the implementing agencies and even after a decade after the scheme was implemented, over 40 percent of the targeted beneficiaries were not rehabilitated.

IV-Suggestions- The Way Ahead

To the Central Government

The government should take the steps for the effective implementation of The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 which may include the following steps-

- Identify the individuals who are currently engaged in the work of manual scavenging. Also identify the people who have engaged in the practice since it has been made illegal under the 1993 Act so that these people can also avail the benefits under the new act.
- Require officials to take proactive steps towards the identification of people engaged in the activity. This should include individuals not only belonging to the Schedule Castes but also members of the Christian and the Muslim communities who are engaged in the activity.
- Make sure that rehabilitation rights and privileges under the act of 2013 including financial, programmatic and legal assistance are provided to the individuals engaged in the activity.
- Creation of rehabilitation schemes after consulting the communities engaged in the work of manual scavenging. The schemes which would be chalked out should offer both short term and long term access to maintainable and sustainable livelihood.
- Make certain that the training courses are not outdated. They should be up-to-date so that the training imparts sought after skills and, as a result, provide a sustainable livelihood.

- Severely impose the law against local government administrators and officers who themselves employ manual scavengers.

To the State Governments-

Conform to the initiatives taken by the Central Government and with Supreme Court Directives, and take instantaneous steps for effective implementation of The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, and in particular:

- Ascertain the identity of all the individuals who are engaged in the work of manual scavenging by setting up a committee to oversee the work of identifying such individuals.
- Probe into grievances regarding corruption in the distribution of rehabilitative entitlements, and impose penalties if such charges are proved. Also, take appropriate administrative action against officials in case there are inordinate delays in providing rehabilitative entitlements to the manual scavengers.
- Inspect all reports of failure to convert insanitary latrines. Inflict penalties in cases of delays of converting the insanitary latrines and constructing new sanitary latrines.
- Initiate public health awareness campaigns on sanitation. Such campaign should spread awareness about human rights and health consequences of open defecation and manual scavenging.
- Include the youth of the area in healthy and clean locality campaigns and give awards and incentives for exemplary performance in altering and improving sanitation habits and amenities.

To District and Village Authorities

Steps should be taken for the proper implementation of The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013. It can be done by:

- Taking steps to identify the people engaged in the work of manual scavenging by setting up block level committees to monitor the process of surveying.
- Setting up a district level committee under which the progress of the block level committee will be reviewed.

- Taking disciplinary action against the local officials who are delaying the process of converting insanitary latrines, such as within a month of receiving the notice.
- File cases under The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, against individuals who continue to employ people as manual scavengers.
- By proper investigation in case there is a complaint connected to the failure to identify and rehabilitate people engaged in the work of manual scavenging.

Conclusion

Even though multiple government schemes have been implemented and, various anti-scavenging legislations exist, the practice continues. Intervention by the legislative and judiciary have not seen much success in eliminating the problem. The manual scavenging communities still suffer due to persistent discrimination, lack of information, improper implementation of laws and lack of alternative way of livelihood.

Their work is a cruel one. But the point to consider here is that there is a subtext of brutal oppression on the basis of caste also. What these people have been made to do and are still being made to do is a matter of national shame.

Manual scavenging is nothing short of a moral tragedy. The daily routine of people engaged in manual scavenging should serve as a reminder to all of us about the harsh realities of the society we have created and are living in.

Our words are futile and hollow unless we, in reality, liberate the people engaged in the work of manual scavenging, from the trap that our caste system has led them into. The need of the hour is not just a law that prohibits manual scavenging but also a tangible and solid action plan to help those who are trapped.

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