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**“RIGHT TO DIGNITY OF MANUAL SCAVENGERS”**

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**ABSTRACT**

Manual Scavenging is an age-old practice in India, since the time of British rule. It is carried out by the socially oppressed class of the society, i.e. Dalits. Manual scavengers are denied the right to lead a life of human dignity, which is a fundamental aspect of Article 21 guaranteed to one and all. Although the Indian Constitution forbids any sort of discrimination on the basis of caste, yet manual scavengers become the victims of the same. India has also made legislation prohibiting the act of manual scavenging, yet it is so deep-rooted into the Indian society that it would not be eradicated unless the legislation is implemented effectively.

**MANUAL SCAVENGING: A LONG-STANDING PRACTICE ROOTED  
IN THE CASTE SYSTEM**

Manual scavenging is when people are employed to manually remove the excreta from "dry toilets." It is the system that was introduced by Britishers during their rule in India. During the British rule, containers used in the toilets, need to be emptied daily. But after the flush type toilets came into the picture all other types of toilets disappeared from the western world. But, this inhumane practice of manual scavenging was retained even in many developing countries including India. Although manual scavenging is illegal, yet caste apartheid and poverty still perpetuate this practice. In India, it is carried out by Dalits due to the social stigma attached to

their caste. Manual scavengers are known by different names in various parts of the country; In Gujarat, they are called Bhangis; in Southern India, they are called Phakis and Sikkaliars. If in any case, they refuse to perform this task they are subjected to physical abuse and social boycott. Manual scavengers are exposed to various forms of viral and bacterial infections, which can even turn out to be fatal.

### **MANUAL SCAVENGING: AN ILLEGAL PRACTICE**

Manual scavenging is the worst representation of untouchability in India. The International Labour Organisation defines it as the removal of human excreta from public streets and dry latrines and cleaning septic tanks, sewers and gutters. Deaths arising from manual scavenging are commonplace in India, according to Social Justice and Empowerment Ministry<sup>1</sup>, the number of manual scavengers who died in the country have increased by almost 62% from 68 in 2018 to 110 in 2019.<sup>2</sup>

International agencies such as the United Nations International Children's Emergency Fund (as a water and sanitary issue), the World Health Organisation (as a health issue), the United Nations Development Programme and the International Labour Organisation, even Indian laws have called to end such heinous practice.

### **INDIAN LAW AND LEGAL JURISPRUDENCE**

India came up with a new legislation in the form of "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013", which is the present law against manual scavenging in the Country. It prohibits dry latrines and all kinds of manual cleaning of excrement as well as cleaning gutters, sewers, and septic tanks without protective gear.<sup>3</sup> Ergo, act of manual scavenging is not just a federal statutory violation, but also human rights violation.

<sup>1</sup> The Hindu, 110 deaths by cleaning sewers, septic tanks in 2019, Feb 12, 2020, <https://www.thehindu.com/news/national/110-deaths-by-cleaning-sewers-septic-tanks-in-2019/article30795201.ece>

<sup>2</sup> Swapnil Tripathi, "The Dignity and Rights of Manual Scavengers in India" (2017) < <https://ohrh.law.ox.ac.uk/the-dignity-and-rights-of-manual-scavengers-in-india/> > accessed on 8 May 2020

<sup>3</sup> The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, §7&9.

In consonance with the international standards, India under Article 17 of the Constitution of India, abolishes untouchability<sup>4</sup> and prohibits caste-based discrimination<sup>5</sup> under Art. 15. Furthermore, human dignity under the Constitution has been considered as an inalienable part of the fundamental right to life. The word ‘Dignity’ has been interpreted widely by the Courts to include within its ambit equal treatment and respect, and equal protection of the law. It is a universally recognized right, endorsed by instruments such as the Universal Declaration of Human Rights by way of Articles 1, 22 and 23.

Even the Hon’ble Supreme Court in the case of *Safai Karamchhari Andolan vs. Union of India*,<sup>6</sup> directed the government to abolish the practice of manual scavenging and the state was further directed to provide for the rehabilitation of such people so that they are not left unemployed. But, no development with that regard was made. It is evident that the judiciary has been taking active steps to ensure respect for the human rights of manual scavengers, yet such steps would remain mere guidelines without proper implementation of the same by various organs of the government.

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### **POSITIVE STEPS TAKEN BY THE GOVERNMENT: ARE THEY OF ANY BENEFIT?**

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Ministry of Rural Development introduced, “The Rajiv Gandhi Mission for Sanitation and Water Supply Scheme” which aimed at converting dry latrines into wet water-borne sanitary latrines and rehabilitating the liberated scavengers in alternative occupations.<sup>7</sup> However, it is surprising to note that, even though scavengers are assisted and provided training by the Government to take up any job other than scavenging, yet they would again come back to manual scavenging. This happens because scavenging does not require expertise of any kind and also provides them with additional stipend with no competition, investment and risk. Ergo scavengers, particularly women, continue to be a part of this occupation. It has also been noticed that even if the scavengers try to take up any alternative job other than scavenging, it doesn’t prove to be fruitful for them due to the prevailing social prejudices attached to their caste.<sup>8</sup>

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<sup>4</sup> The Constitution of India, 1950, Art. 17.

<sup>5</sup> The Constitution of India, 1950, Art.15.

<sup>6</sup> *Safai Karamchhari Andolan vs. Union of India* (2014) 11 SCC 224

<sup>7</sup> India, Publication Division, Ministry of Information and Broadcasting, New Delhi, 1999.

<sup>8</sup> Naomi Barton, “No Dignity, No Rights, But Filth Forever: Manual Scavengers in Photographs” (2019) <https://thewire.in/caste/manual-scavenging-sudharak-olwe-photographs> accessed on 10 May 2020

Nevertheless, despite such constitutional safeguards, manual scavengers are still victimized and discriminated. There are numerous causes for the same. Foremost amongst them is that, India being a federal democracy has three lists under Schedule VII, and sanitation is a subject of the State list<sup>9</sup>, therefore, the implementation of the prohibition on manual scavenging falls totally within the ambit of the state.<sup>10</sup> Hence, no collective/nation-wide action can be taken by the federal government. Another reason for the same is the current legislation which requires that the rehabilitation of scavengers should be carried out as per the existing schemes, even though these very schemes have not been successful in eradicating the practice in the past. Thirdly, the attitude of general masses and public authorities towards the manual scavengers must be transformed to eradicate this menace, because the law alone would not be effective, unless people change their mindset.<sup>11</sup>

The governing law pertaining to manual scavenging in India is not ensuring life of dignity to the manual scavengers. If India has a vision to end manual scavenging, then we must ensure that the former scavengers do not go back to this profession as a result of their poverty or unemployment. They must be adequately rehabilitated so that they never turn to this profession again. Amendments to the current law, strict enforcement, and a change in mind-set are needed.<sup>12</sup>

The Ministry of Social Justice and Empowerment has recently drafted a proposal for a better implementation of the Act. The proposal provides for revised safety standards, stricter punishments for contractors and better rehabilitation machinery for the scavengers. It is to be hoped that the proposal will be implemented speedily, which would not only ensure the rights of the scavengers are protected by punishing the wrongdoers, but also rehabilitate the scavengers both monetarily and mentally, thereby making the basic right to dignity a reality for the manual scavengers.

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<sup>9</sup> The Constitution of India, 1950, Schedule VII, List II, State List, Item 6(Sanitation).

<sup>10</sup> Nikieta Aggarwal, "Rights of Manual Scavengers, Sweepers & Latrine Cleaners in India" (2017) <https://blog.ipleaders.in/manual-scavengers-sweepers-rights/>

<sup>11</sup> Rajeev Kumar, "Manual Scavenging as Social Exclusion: A Case Study" < <https://www.jstor.org/stable/40279798>> accessed on 7 May 2020

<sup>12</sup> Priyanka Preet, Shubhang Chaturvedi, "Manual scavenging: outlawed, yet persisting" (2019) <https://voelkerrechtsblog.org/manual-scavenging-outlawed-yet-persisting/>

## CONCLUSION

The practice of caste-based exclusion and discrimination meted out to the manual scavengers necessarily involves deprivation of not only their economic rights, but also civil, cultural and political rights. It involves what has been described as "living mode exclusion"; exclusion from political participation and exclusion and disadvantage from social and economic opportunities.<sup>13</sup> They are victims of caste-untouchability-based exclusion due to which they are unable to interact freely and productively with others. They are also denied to take part in full economic, social and political life of the community. India must adopt a plan to improve the living and working condition of manual scavengers pan India. This can be done by making provisions for providing them with alternative occupations, abolishment of dry toilets and imparting free education to children. There are various livelihoods which former manual scavengers can adopt and earn a living out of them. They can either be farmers or by learning basic mathematics, they can run a vegetable stall. Government can provide some of them with cattle so that they can run a dairy. The state can even help them by providing them with small loans so that they can start their small scale business of producing and selling spices, clothes and handicrafts.

Another possible job opportunity would be in the houses of open-minded families as domestic help or housekeeper. There is an urgent need to abolish dry latrines. Once it is done, the basis of the inhumane and existing system of manual scavenging will be extinguished. Government must promote the construction of alternative toilet systems like water-seal latrines or even eco-friendly toilets. The Government must make a provision for the education of the scavengers especially women and children. They must also be provided with mid-day meals and evening food so that their parents don't force them to turn to scavenging for feeding them. At schools, apart from academic subjects they can also be taught basic skills like sewing, packing or to work as anganwadi workers which can help them find alternative job opportunities. Furthermore, the general population must be made aware through various campaigns and skits that they must not endorse the practice of untouchability rather they should be sensitive towards the oppressed class.<sup>14</sup> These small and positive steps towards eradicating this menace would help India achieve right to dignity for the manual scavengers too.

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<sup>13</sup> S Venkatesan, Social Exclusion and Poverty: Some Key Interlinkages.

<sup>14</sup> <https://nhrc.nic.in/press-release/nhrc-recommendations-manual-scavenging-and-sanitation>