

Manual Scavenging: Societal Morality, Caste and Law

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Abstract: Manual Scavenging is highly undignified work in this world. In India and its sub-continent, it is based on birth-based social hierarchy system known as caste system. The sanitation workers who are employed as Manual Scavengers are from Dalit community. Though Indian Constitution eradicated all kinds of discriminations, inequality and injustice in 1950, but this inhuman practice is persisting. Besides Constitution, judicial discourse and legislation, the State has introduced various policies to address the issues. However, things are not satisfactory on the ground level. Every day, there is a death happen in India due to Manual Scavenging. The core argument of this paper is that Manual Scavenging is undignified work, and it is anti-thesis to the idea of equality and constitutional morality. Furthermore, neither the State nor the society is ready to abolish this inhuman practice. Therefore, it is a collective effort of the State and society to eradicate this practice through implementation of Constitutional values, relevant legislations, and policies. This paper will address a few questions; first, what is the root cause of Manual Scavenging? Why did the Indian State fail to abolish Manual Scavenging in India? What are the rehabilitations and economic empowerment policies of India concerning Manual Scavenging? Why is societal morality based on birth-based hierarchy more powerful than constitutional morality concerning abolition of Manual Scavenging? Why is there non-seriousness in the implementation of the Manual Scavenging Act, 2013, and other policies by the concerned state holders? Whether Manual Scavenging is a national phenomenon or global phenomena? To understand global impact of Manual Scavenging, this paper will deal with South Asian experiences. The paper used socio-legal doctoral research methods based on legal framework and secondary data. The main finding of the paper is that though State is trying to curb Manual Scavenging, however, due to societal morality and caste orientation, this undignified practice is persisting in India which need to end immediately. This paper will help social worker normatively and practically to understand the root cause of Manual Scavenging and its persisting reasons and how to annihilate the same.

Keywords: manual scavenging; caste; Dalits; societal morality; constitutional morality; rehabilitation; law; policies

Introduction

Manual Scavenging has a direct connection with the Hindu Social Order based on the Varna system, later converted into castes. The Hindu Varna System divide society into four groups: Brahmins, Kshatriyas, Vaishyas, and Shudras. The fundamental human values, such as rights, power, liberty, freedom and duties, are divided in a way that only Shudras were subject to perform their responsibilities towards the upper three Varnas. Shudras were not entitled to acquire education, wealth and other socio-cultural values. Due to caste and the varna system, Shudras are the victims of this unequal socio-economic hierarchy and feudal system. It is Shudras (socially and politically Dalits, constitutionally and legally Schedule Castes) who have been doing Manual Shaving jobs since time immemorial, not by choice but by societal (Hindu

Social Order) force. The Indian Constitution of 1950 erased all kinds of discrimination based on caste and other human-made identities. However, the Indian society has its laws based on the caste system, which is deeply embedded in the society, state laws and policies. Just like the Indian Constitution has its morality, the Indian society is also governed by societal morality, which has more impact than constitutional morality. This barbaric practice was legal until 1993 in India. Therefore, after the commencement of the Indian Constitution, the Indian State took 43 years to acknowledge that Manual Scavenging is a social evil and inhuman and enact the first legislation to curb Manual Scavenging. However, because of societal morality, this legislation was unable to cater for the needs of the issue. In 2013, after the intervention of the social movements, the State was forced to enact a comprehensive legislation to eradicate Manual Scavenging.

Indian founding fathers and mothers have rejected the caste system, untouchability and any form of historical injustices and discrimination based on birth and social location. B.R. Ambedkar argues that “in India, a man is not a scavenger because of his work. Ambedkar is a scavenger because of his birth, irrespective of the question whether he does scavenging or not” (Ambedkar, 1991). B.R. Ambedkar articulated that “the scavenger’s work is beneath the dignity of the Hindus” (Ambedkar, 2014). Mohandas Gandhi has openly opposed manual scavenging and said this practice is “the shame of the nation” (Permutt, 2011, p. 278).

The preamble of the Constitution laid out the vision of the new Republic. In this vision, social, economic, and political justice occupied a central position. The framers of the Indian Constitution (IC) chose social justice first, before economic and political, which resulted in India’s democratic governance taking the form of a social democracy rather than any other form of democracy. It was the result of the acknowledgement of the long-drawn-out historical injustice or immoralities committed against certain sections of society. The Constitution guarantees that there shall be no discrimination on the basis of caste, class, religion, place of birth, etc. The IC in Part III creates a negative duty on the State not to abrogate the fundamental rights of the citizen as well as non-citizens. In Part IV, the Constitution imposes a positive obligation on the State to make laws and policies which eradicate the socio-economic and political inequality in the country.

Besides the State’s positive and negative duties, the IC makes collective responsibility of both the State as well as the individuals to make India an egalitarian society where everyone is treated equally with dignity. To create an environment for the equality and dignity, citizens have to develop the idea of fraternity and constitutional morality. The concept of fraternity and equality is against the spirit of societal/popular morality. The constitutional morality must be achieved by every citizen of India so that societal/political morality based on inequality and injustice should be rejected. India has been a free nation since 1947, which is a long journey in the making of an egalitarian society. Nevertheless, despite egalitarian constitutional ideals, Indian society continues to appear as regressing rather than progressing due to its continued adherence to normalized regressive societal norms, and deeply entrenched caste prejudices. It will not be suitable for the future of Indians if we do not awaken immediately and follow the spirit of equality and fraternity.

The preamble of the Indian Constitution has categorically guaranteed freedom, liberty and dignity to all persons irrespective of their social location. The IC, through its preamble, starts with the first words “We, the people of India”, which devotes all human beings; however, manual scavengers have been denied their human rights since time immemorial to date. Who comes under the umbrella of “We, the people of India”? Is the word “we” inclusive? The answer

is affirmative, yes, it is inclusive. If so, then why is a specific section of society still denied fundamental human rights and dignity? The Indian State, after taking power from Articles 15 (2), 17 and 23 enacted various legislation to eradicate this inhuman practice of caste discrimination and manual scavenging. However, just like the Indian society, the State is also not willing to abolish this extremely barbaric, cruel and derogatory practice.

Article 17 states “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law prohibits “untouchability”. Article 23 prohibit forced labour, “[t]raffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law”. The constitutional makers especially B.R. Ambedkar made these two activities (untouchability and forced labor) “offences” which is the unique feature of the IC. These two activities are declared offences under the IC, which signifies how deeply these activities are rooted in India society, which forced the constitutional drafter to declare them offences.

Besides Part III (fundamental rights), the Part IV of the IC, i.e., Directives Principles of the State Policies (DPSP) put positive obligations on the State to recognize and enhance human dignity and rejected any kind of inhuman, discriminatory, and derogatory practices. It says that the State through law and policy, has to minimize socio-economic inequalities, injustice and discrimination. This part also makes a positive obligation on the State to provide dignified work, health and life to everyone, especially the historically marginalized communities (Dalits, Tribals and women), children and ageing people.

Methodologically, the paper will critically examine the Indian legal framework (Constitution, legislations, policies and judicial discourse) on Manual Scavenging. Additionally, this paper is based on doctrinal study consisting of social-legal study and will be based on existing constitutional and legal framework along with secondary literature on Manual Scavenging.

Dignity and Manual Scavenging

The IC recognizes human dignity and undo the historical injustices, and it puts a positive obligation on the State to create an environment where people can live their life as they please. The jurisprudence of the Indian State and specifically the Indian Judiciary-Supreme Court of India (SCI) has recognized and established ‘dignity’ jurisprudence through various judgements. Post emergency, the SCI in *Maneka Gandhi* (1976) and *Francis Coralie Mullin* (1981) verdicts, has changed its positivist approach to a natural law approach and extended the horizon of ‘liberty’, ‘dignity’ and ‘life’. The SCI established that liberty does not mean only physical liberty it has various aspects of human personality. It was also held that the three fundamental rights (Article 14, 19 and 21) under Part III of the IC constitute a ‘golden triangle’ which comprises equality, freedom and the right to life and liberty, which is available to all persons irrespective of anything.

The SCI has recognized dignity of third gender community (NALSA, 2014), recognized women and LGBITQAI+ communities’ dignity which was compromised by Christen morality and decriminalized such as adultery (Joseph Shine, 2018) and criminalization of homosexuality (Navtej Singh Johar, 2018), dignity of a prostitute to say no (Chandrima Das, 2011), even dignity in form of passive Euthanasia to a person who is on vegetative stage and no chance of his/her survival (Aruna Shanbaug, 2011), dignity of women by declaring Khap Panchayats illegal and unconstitutional concerning women choice marriage (Shakti Vahini, 2018),

recognized women dignity at workplace (Vishaka, 1997), and allowing women into a Hindu Temple which prohibited women entry from the age of 10-50 (AYLA (Sabarimala), 2018), recognized Muslim women's dignity by declaring triple talaq unconstitutional (Shayara Bano, 2017). However, the SCI has not considered the plight of manual scavengers until the *Safai Karamchhari Andolan v Union of India*, 2024 (SKA, 2014) verdict. The SCI did not develop the jurisprudence of dignity in this case, but instead discussed the caste and social aspects of manual scavenging and its non-implementation. Moreover, as per the existing judicial approach on manual scavenging, it seems that Dalits employed in this inhuman work do not come under the 'dignity jurisprudence' established by the apex court.

Constitutional Morality and Manual Scavenging

Dr. B.R. Ambedkar traced the concept of constitutional morality first time in India on 4 November 1948, when Dr. Ambedkar delivered his famous speech on the Draft of the Constitution before the constituent Assembly and quoted Grote, the historian of Greece, who stated about the significance of constitutional morality that:

The diffusion of Constitutional morality, not merely among the majority of any community but throughout the whole, is the indispensable condition of government at once free and peaceable; since even any powerful and obstinate minority may render the working of a free institution impracticable, without being strong enough to conquer ascendancy for themselves. (Ambedkar 1994, p. 60)

Thereafter, Dr. Ambedkar asked a question to the Assembly- "can we presume such diffusion of Constitutional Morality? Constitutional Morality is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it. Democracy in India is only a top-dressing on an India soil, which is essentially undemocratic" (Ambedkar, 1994, p. 60). In India, from ancient till the implementation of the IC, there was a Hindu social order's morality that was based on inequality and discrimination. Dr. B.R. Ambedkar called it "popular morality".

There are reasons behind Dr. Ambedkar's speech on the constitutional morality because Indian society is based on inequality, discrimination and hierarchy due to the caste system imposed by the Hindu religion. Historically, the Indian society was based on the Hindu religion, which has faith in the Varna system that originated the caste system that divides Indians on the basis of birth. In the Varna system, i.e., Brahmins, Kshatriya, Vaishyas and Shudra, the practice of caste and untouchability exists. In India, an individual becomes superior or inferior just because of their caste. The superiority and inferiority of social status are practised vertically as well as horizontally. In a group, Indians practise caste and untouchability horizontally, and with other groups, it changes its forms and exists vertically.

Normatively, when the Indian Constitution came into force on 26th January 1950, it was the first time that all citizens began to possess equal rights and duties. Moreover, it was for the first time in India that citizens had equal social, political and economic rights. Untouchability and forced labour became an offence. The Constitution made guarantees of entitlements for the socially and educationally disadvantaged groups of society, i.e., Scheduled Castes /Scheduled Tribes/women and children, etc. However, the Indian society is following its morality, which undermines the constitutional values. Consequently, societal morality is responsible for the existence of Manual Scavenging in India.

The Legal Framework (Acts and Policies)

After the enforcement of the IC, first time in 1993, India took 43 years to realize the need and enacted the “Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act”, 1993 (Act, 1993) to stop manual scavenging; however, it was not a comprehensive Act. After 20 years, in 2013, the Indian State, after much social pressure, enacted a comprehensive legislation, i.e., the “Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act”, 2013 (Act, 2013). However, it also does not address the problem seriously. Section 2 (g) of the Act 2013 defines Manual Scavenging:

“manual scavenger” means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly. (Act, 2013)

Meena Gopal has identified the relationship between caste, gender and labour in the manual scavenging and midwifery labour, “which continue to be part of social reproduction within the domestic sphere and the informal labour market” (Gopal, 2013, p. 93). The intense research conducted by Human Rights Watch in 2014 of Uttar Pradesh, Gujarat, Rajasthan, Maharashtra, and Madhya Pradesh, which has the highest number of manual scavenging, interviewed 135 people who were working at that time and previously as manual scavengers. The report states:

The government’s recognition in the 2013 Act of the historically rooted and ongoing injustice faced by communities engaged in manual scavenging is important, but also points to failures in implementing previous laws and policies to address the problem. Recent examples from communities engaged in manual scavenging in the states of Gujarat, Madhya Pradesh, Maharashtra, Rajasthan, and Uttar Pradesh highlight the failures of previous government attempts to end manual scavenging and eliminate the entrenched attitudes and discriminatory practices that still bind members of affected communities to this degrading and unnecessary occupation. (Human Rights Watch, 2014)

A manual scavenger since his/her birth, attached to the caste system, “is bound forever, born into a state from which he cannot escape and where he is excluded from social intercourse and the consolations of his religion” (Permutt, 2011, p. 280). The narrow understanding and limitation of the Act 2013 are:

First, according to the definition of manual scavenger in Section 2(1)(g), a person fails to qualify as a manual scavenger after being provided with protective equipment. Therefore, a person continues to be engaged in dehumanising work but is altogether excluded from corresponding rehabilitation benefits. Second, this “conditional prohibition” revitalises an approach of a 1976 legislation—of prohibitions with conditions, which was abandoned in 1993, and therefore constitutes regression. Third, this conditional prohibition perpetuates social exclusion, entrenches historical discrimination based on caste hierarchy and excludes manual scavengers through a change in their legal status. (Wankhede & Khale, 2023, p. 112)

The Indian government programme, Swachh Bharat Mission, 2014 (SBM, 2014) for cleanliness is celebrated in the nation; however, it neither considers the plight of manual scavengers, nor provides any solution to that:

The flagship program to clean India, SBM, focuses on toilet construction and sanitation coverage and then doubles down these aspects through financial commitments and institutional arrangements specific to the program. In its larger vision to clean India, the program fails to see or purposely ignores the reality of caste that pervades the sanitation and waste collection operations across India. This strategic blindness of the state and of its interventions in sanitation is not a recent phenomenon, conversely, from colonial times all endeavours to sanitise public spaces in India have been framed with the assumption that labour from a certain community (the most backward castes among Dalits) would be easily and widely available to deal with the filth of the society. Administrators, whether imperialists or nationalists, do not have to regulate what they do not see. (Shekhar, 2023, p. 141)

Manual scavenging started from Hindu religious birth-based social segregation for Dalits in ancient times; nevertheless, it became institutionalised in modern times. Akhtar argues that “There are many examples of institutional discrimination against Dalit communities. The most vivid case is in the scavenging occupations where communities restrict their employment to latrines and septic tanks” (Akhtar, 2020, p. 81). The informal waste economy is also treating people who are working as part of sanitation workers as ‘waste people’:

The informal waste economy comprises socially, occupationally and economically differentiated categories of ‘waste people’ – waste pickers/ collectors, ragpickers, manual scavengers and sanitation workers among other categories. This line of work is characterised by the symbolic and practical manifestations of caste, religion and gender. Most waste pickers/ collectors are poor Scheduled Castes (Dalits) and Muslims who have been systematically forced into this profession because of their status as lower caste and low status. Exiting from this occupation remains difficult...Despite the social, economic, public health and ecological importance of their work, waste pickers are not given due recognition for their role, and they continue to struggle under the pressures of poverty, stigma and compromised citizenship. (Garimella et. al., 2021, pp. 204-5)

A 2018 report says that despite the implementation of the 2013 Act, “The majority of the personnel involved in emptying business, belong to a particular caste and there is a notion that people from that caste, who were initially involved in manual scavenging, would only do this job” (Centre for Science and Environment, 2018, p. 8). The number of manual scavengers in India in 2011, as per the government data, was 676,00, and others estimate that the number may actually be closer to one million, or even 1.3 million. Among them, nearly all are women, who do “the filthiest aspects of cleaning human excreta, while their husbands and other men supervise” (Permutt, 2011, p. 287).

The government is not showing the exact number of manual scavengers; however, the official data suggests that “There are around 1.2 million people today who have been forced into this occupation. This number does not, however, include all the people who come into contact with raw excreta, for in India, excreta is not confined to private latrines, but also explodes into public spaces” (Shankar & Swaroop, 2021, pp. 67-68). The status of human rights of Manual Scavengers highlighted in the ‘India Human Rights Report, 2014’:

According to 2011 census data, there were more than 11,000 persons in 11 states practicing manual scavenging, the majority from Uttar Pradesh. NGO activists claimed the number was much higher and that manual scavenging is upheld by the caste system, since a majority of manual scavengers are employed by elected village councils and belong to Other Backward Classes and Dalit populations. Human Rights Watch reported that children of manual scavengers faced discrimination, humiliation, and segregation at village schools. Manual scavengers were exposed to infections that affected their skin, eyes, respiratory, and gastrointestinal systems. Health practitioners suggested that children exposed to such bacteria were often unable to maintain a healthy body weight and suffered from stunted growth. (Human Rights, 2014, p. 55)

In 2014, one human rights report states that at least “700 deaths in manholes occurred across the country every year” (Human Rights, 2014, p. 67). In 2017, another human rights report suggested that around “1,500 individuals died cleaning septic tanks across the country between 2014 and 2016” (Human Rights, 2017, p. 47). In March 2017, the government of India acknowledged that “there were 12,737 manual scavengers in 13 states and union territories. NGOs maintained the actual numbers were higher” (Human Rights, 2017, p. 47). The social location of the manual scavengers by the Indian government official data is “Overall, according to a 2021 survey of 43,797 manual scavengers by the Union Social Justice and Empowerment Ministry, 97.25 per cent were Dalits, compared to their share of population of 16 per cent” (Wankhede & Khale, 2023, p. 115). Due to not being considered Dalits as human beings, “22,000 sanitation workers reportedly die every year servicing India’s sewers, sewage treatment plants, and septic tanks” (Shekhar, 2023, pp. 140-141).

In *SKA* (2014), the apex court held that manual scavenging violated Articles 17, 21 and 23 of the IC. The court also suggested for proper implementation of the 2013 Act to eradicate these inhumane practices. The various national sanitation and rehabilitation policies were implemented to decrease the injustices towards the manual scavengers. The recent mechanism includes the ‘Safaimitra Suraksha Challenge’, 2020 which aims to ensure full safety gear measures for sewer and septic tanks, to ensure the unavoidable of human entry (Human Rights Watch, 2014).

The Tata Institute of Social Sciences, Mumbai conducted a study of Manual Scavengers in Gujarat and discovered various health and psychological issues:

“ninety percent of all manual scavengers have not been provided proper equipment to protect them from [feces] borne illnesses.” In other words, they did not wear gloves, masks, or boots while cleaning human excreta. Not surprisingly, manual scavengers often experience various health problems. Manhole workers, whose job is described above, may suffer from “skin rashes and eye soreness, respiratory and liver problems. Women face heavy menstruation, miscarriage, severe anemia, and irregular heartbeats. Indeed, a recent national study of manual scavengers determined that the majority of scavengers suffer from anemia, diarrhea, and vomiting. Additionally, diseases such as dysentery, malaria, typhoid and tuberculosis are common among manual scavengers. In addition, death caused by manual scavenging is not an uncommon occurrence. (Permutt, 2011, pp. 289-90)

Manual Scavengers are subject to severe health and psychological challenges daily, which they cannot avoid due to lack of resources and society and the State’s empathetic treatment. Permutt has argued that:

Every day, for a handful of rupees, more than one million Indian women and girls clean human excreta off the dry walls of waterless latrines,' in choked-up gutters, and down dark manholes. They do so with nothing more than a broom, or a small tinplate, or a basket carried on their heads. Often, they use their bare hands and feet. As a result, they are exposed to dangerous infections, including dysentery, malaria, typhoid and tuberculosis. And, if they refuse such work, they might fall victim to physical abuse and social alienation; by virtue of being born into the lowest stratum of the caste hierarchy, they are condemned to a life of what is euphemistically called “manual scavenging”. (Permutt, 2011, pp. 277-78)

Despite robust legislation, policies, schemes and efforts, manual scavenging remains persistent under the umbrella of IC. Presently, there is persistent number of manual scavengers exists, deaths inside sewer tanks are happening every day, and no safety measures or equipment are provided for them by the State in an effective manner.

Manual Scavenging is Bonded Labour and Crime against Humanity

Manual scavenging is forced labour under Article 23 of the Indian Constitution. The recent study states that “Women are paid 25 or 30 rupees (about 35 U.S cents) a month by a household for cleaning their pit latrines. Sometimes, wages are pieces of leftover bread, a little grain once a year, and discarded clothes. Men earn around Rs. 500 for manually cleaning a septic tank in an apartment complex. Municipalities in towns and cities hire labour on a contract basis to clean” (Shankar & Swaroop, 2021, p. 69). The extremely inhuman treatments faced by manual scavengers must be considered a crime against humanity by the international community, institutions and organisations. The horror of trauma can be trace as:

Sanitation workers suffer from trauma, and debilitating diseases such as asthma, rotavirus, hepatitis, and terrible skin disorders caused by daily contact with excreta, yet they are not provided elementary health insurance. Their life expectancy is less than 50 years in a country where it is over 69 for the rest of the population. Men who clean septic tanks and sewage drains die on average by 32 (Swaroop, 2019). The cause of death is predominantly occupational: asphyxiation in a septic tank, drowning in sewage, tuberculosis, cholera, meningitis, and various cancers. Yet there is no life insurance for the sanitation worker, and the elementary compensation guaranteed by the Acts of 1993 and 2013 is rarely ever provided to the worker’s family. (Shankar & Swaroop, 2021, pp. 69-70)

Shankar and Swaroop advocate that “We argue that the existence of manual scavenging is in fact a crime of genocidal proportions, akin to slavery which especially targets Dalit women” (Shankar & Swaroop, 2021, p. 71). Shankar and Swaroop further averred that to solve the manual scavenging problem:

The first step towards solving a problem is to acknowledge that it exists. The United Nations Human Rights Council and other human rights organizations must include manual scavenging in their list of crimes against humanity and campaign against it, for as we have argued, its prohibition is a jus cogens norm. It is when good people all over the world join the war against this unparalleled social abuse of manual scavenging that it will be finally won. (Shankar & Swaroop, 2021, p. 73)

Causes of Manau Scavenging

Since time immemorial, manual scavenging has been practised in society based on religious and social sanctions across the globe. Over the period of times, majority of nations have

abolished this inhuman practice in society and public sector, and a few nations are persisting this practice due to highly hierarchical birth based occupational social system. The core root of the Manual Scavenging in India is the Hindu Social Order (HSO), which sanctioned lower castes to do this inhuman work:

The central horror of manual scavenging is the fact that it is an inherited occupation, decided at the very birth, by caste. The overwhelming majority of people forced into scavenging are Dalits (people from castes once designated the 'untouchable'). Indeed, specific Dalit castes are designated as 'scavenging castes,' whose caste occupation is to clean. Their degraded status rests on toxic notions of purity and pollution that have haunted the Indic civilization for millennia. (Shankar & Swaroop, 2021, p. 68)

Due to the HSO, it is considered that "The destiny of labouring classes in India has historically been linked to social institutions of caste, gender and ethnicity" (Shekhar, 2023, p. 131). The HSO is having a highly unequal, hierarchical and discriminatory structure which based on unequal distribution of rights and duties sanctioned by religion. Due HSO and religion as basic law of the society, Dalits are engaged in this profession of Manual Scavenging just because they are historically, socially and educationally denied access to basic resources such as education and employment in India for thousand years.

However, like Indian society having manual scavenging as a valid occupational system, Indian State is using this orientation in the public sector. The reason behind this ideology applied in the public sector is that since the time immemorial the ruling class of India (upper castes) is still controlling the national resources in every spheres. Nevertheless, these castes are enjoying full liberty, freedom, and immunity with almost zero sensitivity and empathy towards the lower castes, especially manual scavengers. The largest public sector of India, i.e., "Indian Railways, the country's largest public sector employer, violated the laws without consequences. The state-owned company acknowledged that approximately 30,000 passenger coaches were fitted with open-discharge toilets, "forcing" the railways to employ manual scavengers to clean the tracks" (Human Rights, 2014, p. 56).

Reason why the manual scavenging is happening in India, Permutt identify two fundamental reasons:

"The first is due to practical necessity. Since much of the country lacks adequate sewage lines and disposal systems, manual removal of human excreta is required." Indeed, 600 million people (or 55% of the country's population) do not have water-based flush toilets. Without toilets, or a proper sanitation infrastructure, someone must, eventually, clean the excrement from wherever it has been deposited. The need for removal is inextricably linked to the second reason for manual scavenging: a tradition of discrimination deeply rooted in India's caste system. The caste system-which divides people into a hierarchy of power, status, and identity in society has left the task of cleaning human excreta to its lowest stratum. ((Permutt, 2011, pp. 279-80)

There are various reasons being this practice happening in India, however, based on above discussion, majorly, Dalits are stuck with Manual Scavenging for four reasons:

1. **Religion:** The Hindu rights organizations misled them that it is because of God's will that you are born to do these things. Even the writer of Ramayana, Valmiki, is attached with a Dalit identity to provide them with fake religious sentiments and power to Dalit

communities, who are mainly working as sanitation workers, such as the Valmiki community in North India.

2. **Social:** The Indian social structure is based on the invisible but highly rigid Varna System (presently the caste system), which was never destroyed by various foreign invaders who came and ruled India. The attribute of the caste system is designed in a way that every other religion, which essentially rejected birth-based hierarchy and status as a part of their fundamental philosophy, is lately following the caste system. For instance, in India, Jains, Sikhs, and Buddhists rejected the authority of the Vedas, but Sikhism and Jainism have adopted the practice of caste. Islam and Christianity have become the great followers of the caste system. In some cases, they become more brutal than Hindus towards Dalits.
3. **Lack of resources:** Historically, all resources were subject to the upper three varnas. It is just because of education and the Affirmative Action policy (popularly known as reservation in India) that are the only solutions in the hands of Dalits to come out of the trap of Manual Scavenging. However, now the State has made education a commodity and those who have resources can only purchase quality education, which creates constraints for the majority of Dalits to get quality and affordable education. Consequently, Dalits are forced to do Manual Scavenging in the absence of fundamental resources in their hand. Additionally, due to liberalization of the Indian economy, the state has limited the scope of the public employment sector; therefore, Dalits are losing hope for services in the public sector. Therefore, without quality education, Dalits cannot afford jobs in the private sector, and there is no primary scope left for the public sector. Consequently, neither the state nor the society is ready to help Dalits to provide them a dignified life through education and employment. Therefore, lack of resources is the fundamental hurdle to uplift Dalits from the Manual Scavenging.
4. **Psychological:** Century-old generational deprivation generally makes a group psychologically weak to acknowledge discrimination and injustice caused by the dominate group. Since old religious teaching and customs have become unquestionable and preach that people are born into Dalits communities and doing manual scavenging is a result of their past lives' sins. Some people are born as Dalits because it is God's will, and it is their fate to do so. Religious stories and teachings have more psychological impact than modern human values such as equality, liberty, justice, and fraternity. Over the period, suffering becomes a part of the lives of the victims. Therefore, instead of acknowledging it as an injustice, discriminatory practice and undignified work, Dalits are psychologically not in a position to leave their job and assert their fundamental rights.

Therefore, the state as well as the society, and the Dalits should acknowledge these four factors and work on them to abolish Manual Scavenging in India. The problem of Manual Scavenging is still prevalent because the upper castes want Dalits to remain in their old social location based on birth based social structure. Otherwise, in the Twenty-first century, when the Indian State sent its satellite to Mars, then why are they not providing equipment and machines to sanitation workers?

Rehabilitation

The Union government, in the light of the Act, 2013, revised the “the Central Sector Self Employment Scheme for Rehabilitation of Manual Scavengers” (SRMS, 2021) for the welfare and rehabilitation of the Manual Scavengers. Additionally, to provide an alternative occupational environment for them. Through this scheme, the Union government has conducted two surveys 2013 and 2018 by local urban and rural bodies in 194 districts. In 2021, the government has identified total 58,098 Manual Scavengers in India and provide them one-time cash assistance for their rehabilitation (SRMS, 2021). Another significance scheme is running for the welfare of Manual Scavengers is “National Action for Mechanized Sanitation Ecosystem, 2023”. Through this scheme, the State is providing Manual Scavengers occupational training and its aim is to “equipping sanitation workers with the skills needed for safer and dignified employment” (Rehabilitation of Manual Scavengers, 2023).

The State is initiated certain schemes and policies to curb the hazardous works relating to sewers and septic tanks. For instance, ‘Swachhta Udyami Yojana’ to provide loan to Manual Scavengers. The workshops are organised by local bodies to sensitize Manual Scavengers. In the financial year 2022-23, around 203 workshops have conducted throughout India. Additionally, a short-term training program is also organised for the safety, health and welfare of the Manual Scavengers. In the financial year 2021-22 and 2022-23, around 26946 short time trainings have been conducted across India (Rehabilitation of Manual Scavengers, 2023). For the rehabilitation and welfare of the Manual Scavengers, the Wateraid organisation has suggested a few changes such as identify the various aspects of sanitation works and workers, incentivise official who work for Manual Scavengers, take benefits of the technology to address sanitation work, provide social security, enhance awareness in the public (Wateraid, 2020a).

A recent study states that the low-cost technology was invented in India that can address the manual scavenging issue more effectively: “The technology is a simple low-cost method for emptying septic tanks in very narrow streets. It is easier to transport and requires less manpower” (Centre for Science and Environment, 2024). It needs simply the willpower to acknowledge the problem of Manual Scavenging by the Indian society and the state and fix it now and immediately.

Comparative Analysis

Across South Asia, due to caste system, the Manual Scavengers are naturally coming from Dalit communities, and they are not getting dignified life and the States are compromising their jobs and social security, insurance, and other basic facilities for their work. During the COVID-19, in South Asia (India, Pakistan, Nepal and Bangladesh) the Manual Scavengers came to exposed extreme situation without due compensations. Vanita Suneja stated that “Sanitation workers are the hidden workforce keeping towns and cities in South Asia functioning throughout the pandemic, but they work in very poor and too often life-threatening conditions and are subject to stigma and discrimination based on caste and religion” (IDSN, 2020c). David Griffiths articulated “Many of the sanitation workers are Dalits, the so-called lowest caste in South Asia. Because of their descent, they are historically subjected to extreme forms of indignity, oppression, exclusion, and discrimination. Their already marginalised position is even further compounded by the COVID-19 pandemic” (IDSN, 2020c).

On global perspective of caste system and sanitation work “The intergenerational nature of caste-based discrimination condemns women to a life of exclusion, marginalization and

disadvantage in every sphere of life. Many of those women are denied an education and economic opportunities, and perform dangerous and unprotected work, including bonded labour (debt bondage) and manual scavenging, which are both widely regarded as forms of forced labour and modern forms of slavery” (HRC, 2014, p.5).

Navi Pillay, former United Nations High Commissioner for Human Rights articulated that “Manual scavenging is not a career chosen voluntarily by workers but instead a deeply unhealthy unsavoury and undignified job forced upon these people because of the stigma attached to their caste” (IDSN 2015a). Recent research has acknowledged that “Manual scavenging, predominantly carried out by Dalit women, is widely regarded as forced labour and a contemporary form of slavery, entailing harsh working conditions that have a negative impact on mental and physical health” (IDSN, 2022e, p. 8).

Manual Scavengers generally doing hazardous and dangerous work every day, however, during the COVID-19, they have been named as ‘frontline warriors’ and exposed to life-threatening “virus-affected without being provided with any safety equipment” (IDSN, 2020b). A Manual Scavengers worker from Khulna, Bangladesh has shared her experience “Sanitation workers like me are the reason people can live at home during the lockdown [...] We are continuing our job under great risk only to give the public some level of comfort. But it is very unfortunate that people do not value our sacrifice” (Shahrukh Mirza and Andrés Hueso, 2020).

Recent research shows that only 35% Manual Scavengers or sanitation worker are getting insurance in India. In Nepal, this number is slightly higher than India, there Manual Scavengers are getting 42% insurance. However, there is zero percentage of insurance coverage available in Pakistan and Bangladesh. Additionally in South Asia, no informal Manual Scavengers and sanitation worker are getting any insurance coverage (Shahrukh Mirza and Andrés Hueso, 2020). During COVID-19, an extensive study stated that in few cases, sanitation worker received recognition from public and employers. However, in other cases “workers reported concern and pressure from neighbours not to return to home after work (Bangladesh) and even demands from landlords for them to vacate their homes (Nepal)” (Wateraid, 2020b, p. 9).

Mary James Gill, on Pakistan “the phenomenon of sanitation work is not as clearly caste-based in Pakistan but is still underpinned by caste” (IDSN, 2021d). In Pakistan, the “Sanitation work is stigmatized because of its symbolic association with caste-designated occupations within the traditional caste system in South Asia. Caste-based occupations such as scavenging and sweeping are associated with religious minorities in Pakistan, including “lower-caste” Christians and Hindus” (Amnesty, 2025 p.9). In Pakistan, there is practice of discriminatory advertisements for the employment. Recently, the Pakistan Supreme Court has struck down this practice (Mubarik Ali Babar, 2023). However, research shows that this practice is has not come to an end. In 2023, 16 discriminatory advertisements were published for the public sector jobs. Additionally, in Pakistan, women sanitation workers are facing four kinds of discrimination such as caste, class, gender and religion (Amnesty, 2025, p. 10).

Conclusion

This paper provides four suggestions to address the plight of the Manual Scavengers in India. First, the State should utilise the technological intervention and enhance the sanitation infrastructure across nation. Second, besides the Constitution, Indian had effective legislation and policies, however, these solutions are existing on paper and on ground level these facilities do not exist. Therefore, the state should focus on the implementation part of the constitutional

provisions, laws, and policies at every level from city to village. Third, the State is trying to do something for the rehabilitation and welfare of the Manual Scavengers, nevertheless, things are not satisfactory on ground. Thus, the State should take rehabilitation and economic empowerment of Manual Scavengers seriously. Lastly, the State must increase the awareness in the public through advertisements, plays and other mediums of public entertainment.

The Indian Constitution makes everyone equal irrespective of anything. The object of the constitution of India is to achieve the spirit of ‘constitutional morality’ over ‘societal morality’. The only solution to all social and other problems is that the citizens, as well as the State, should follow the constitutional morality to develop harmony, equality and fraternity in society. As Dr. B. R. Ambedkar rightly said that we got political democracy on 26 January 1950, but social and economic democracy has to be achieved. However, India is still waiting to achieve the social and economic democracy which Dr. Ambedkar had dreamed of on 25th November 1949 in the Constituent Assembly:

On the 26th of January 1950 we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which is Assembly has to laboriously built up. (Ambekar 2023, p. 1216)

Ambedkar had asked a legitimate question, and Indians are struggling to achieve socio-economic equality, especially for the historically marginalised section, i.e., Dalits, who are doing Manual Scavenging. Therefore, this is high time that the Indian society and the State should eradicate this inhuman practice and acknowledge human dignity in the letter and spirit.

References:

Akhtar, Z. (2020). Scheduled Castes, Dalits and criminalisation by ‘descent’. *State Crime Journal*, 9(1), 71–99. <https://www.jstor.org/stable/10.13169/statecrime.9.1.0071>.

Ambedkar, B. R. (1991). What Congress and Gandhi have done to the untouchables? In V. Moon (Ed.), *Dr. Babasaheb Ambedkar: Writings and speeches* (Vol. 9). Government of Maharashtra Press.

Ambedkar, B. R. (2014). *Dr. Babasaheb Ambedkar: Writings and speeches* (Vol. 5, V. Moon, Comp.). Dr. Ambedkar Foundation. (Original work published 1989).

Ambedkar, B. R. (2023). *Dr. Babasaheb Ambedkar: Writings and speeches* (V. Moon, Ed., Vol. 13). Dr. Ambedkar Foundation, Ministry of Social Justice & Empowerment, Government of India.

Amnesty International. (2025, July 29). “Cut us open and see that we bleed like them”: Discrimination and stigmatization of sanitation workers in Pakistan (Index No. ASA 33/0120/2025). <https://www.amnesty.org/en/documents/asa33/0120/2025/en/>.

Aruna Ramchandra Shanbaug v. Union of India, AIR 2011 SC 1290 (India).

Centre for Science and Environment. (2018). *Managing septage in cities of Uttar Pradesh: An analysis of the sanitation chain in 30 cities, through SFDs*. <https://www.jstor.org/stable/resrep37858>.

Centre for Science and Environment. (2024). Case studies of desludging in narrow lanes. In *Inclusive urban sanitation: Addressing the desludging challenges of narrow lanes in Uttar Pradesh*. <https://www.jstor.org/stable/resrep57689.9>.

Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers, (2011) 8 SCC 568 (India).

Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (India).

Francis Coralie Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746 (India).

Garimella, S., Murthy, S., Whittaker, L., & Tolhurst, R. (2021). Pandemic policy responses and embodied realities among ‘waste-pickers’ in India. In L. Manderson, N. J. Burke, & A. Wahlberg (Eds.), *Viral loads: Anthropologies of urgency in the time of COVID-19* (pp. 201–221). UCL Press. <https://www.jstor.org/stable/j.ctv1j13zb3.17>.

Gopal, M. (2013). Ruptures and reproduction in caste/gender/labour. *Economic and Political Weekly*, 48(18), 91–97.

Human Rights Watch. (2014, August 25). *Cleaning human waste: “Manual scavenging,” caste, and discrimination in India*. <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>.

Indian Young Lawyers Association v. State of Kerala, AIR 2018 SC 243 (India).

International Dalit Solidarity Network. (2015a). *Examples of forced & bonded labour of Dalit women (Case examples of caste-forced and bonded labour 2015)*. <https://idsn.org/wp-content/uploads/2015/08/Case-examples-of-caste-forced-and-bonded-labour-2015.pdf>.

International Dalit Solidarity Network. (2020b). *IDSN recommendations – Human Rights Council 45th Session*. <https://idsn.org/idsn-recommendations-human-rights-council-45th-session/>.

International Dalit Solidarity Network. (2020c). *South Asia: Authorities must urgently protect sanitation workers risking their lives on the COVID-19 frontlines*. <https://idsn.org/south-asia-authorities-must-urgently-protect-sanitation-workers-risking-their-lives-on-the-covid-19-frontlines/>.

International Dalit Solidarity Network. (2021d). *Global forum addresses the caste and sanitation work nexus*. <https://idsn.org/global-forum-addresses-the-caste-and-sanitation-work-nexus/>.

International Dalit Solidarity Network. (2022e). *Contemporary forms of slavery affecting persons belonging to ethnic, religious and linguistic minority communities*. <https://idsn.org/wp-content/uploads/2022/08/Contemporary-forms-of-slavery-HRC51-report.pdf>.

Joseph Shine v. Union of India, (2019) 3 SCC 39 (India).

Maneka Gandhi v. Union of India, AIR 1978 SC 597 (India).

Manjoo, R. (2014). *Report of the Special Rapporteur on violence against women, its causes and consequences (Addendum: Mission to India, 22 April–1 May 2013)* (UN Doc. A/HRC/26/38/Add.1). Human Rights Council. <https://docs.un.org/en/A/HRC/26/38/Add.1>.

Mirza, S., & Hueso, A. (2020, September 1). Sanitation workers in South Asia: On the margins of society, on the frontline of COVID-19. *WaterAid*. <https://washmatters.wateraid.org/blog/sanitation-workers-in-south-asia-on-the-margins-of-society-on-the-frontline-of-covid-19>.

Mubarik Ali Babar v. Punjab Public Service Commission, Civil Petition No. 2045 of 2019, 2023 SCMR 518 (Supreme Court of Pakistan).

National Legal Services Authority v. Union of India, (2014) INSC 275 (India).

National Safai Karamcharis Finance & Development Corporation. (2021). *The Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS)*. Government of India. <https://nskfcd.nic.in/en/content/revised-srms/self-employment-scheme-rehabilitation-manual-scavengers-srms>.

Navtej Singh Johar v. Union of India, AIR 2018 SC 4321 (India).

Obokata, T. (2022). *Contemporary forms of slavery affecting persons belonging to ethnic, religious and linguistic minority communities* (UN Doc. A/HRC/51/26). Human Rights Council. <https://idsn.org/wp-content/uploads/2022/08/Contemporary-forms-of-slavery-HRC51-report.pdf>.

Permutt, S. D. (2011). The manual scavenging problem: Case for the Supreme Court of India. *Cardozo Journal of International and Comparative Law*, 20(1), 277–312.

Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (India).

Rehabilitation of manual scavengers. (2023). Press release. Press Information Bureau, Government of India. <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=1942478®=3&lang=2>.

Safai Karamchari Andolan v. Union of India, (2014) 11 SCC 224 (India).

Shakti Vahini v. Union of India, AIR 2018 SC 1601 (India).

Shankar, S., & Swaroop, K. (2021). Manual scavenging in India. *CASTE: A Global Journal on Social Exclusion*, 2(1), 67–76. <https://www.jstor.org/stable/10.2307/48643385>.

Shayara Bano v. Union of India, AIR 2017 SC 4609 (India).

Shekhar, S. (2023). Sanitising India or cementing injustice? Scrutinising the Swachh Bharat Mission in India. *CASTE: A Global Journal on Social Exclusion*, 4(1), 130–143. <https://www.jstor.org/stable/10.2307/48728109>.

The Chairman, Railway Board v. Chandrima Das, AIR 2000 SC 988 (India).

Vishaka v. State of Rajasthan, AIR 1997 SC 3011 (India).

Wankhede, A., & Kahle, A. (2023). The human dignity argument against manual scavenging in India. *CASTE: A Global Journal on Social Exclusion*, 4(1), 109–129. <https://www.jstor.org/stable/10.2307/48728108>.

WaterAid. (2020b). *Safety and wellbeing of sanitation workers during COVID-19 in South Asia* (Synthesis report). <https://washmatters.wateraid.org/sites/g/files/jkxooof256/files/safety-and-wellbeing-of-sanitation-workers-during-covid-19-in-south-asia-synthesis-report.pdf>.

WaterAid India. (2020a). *Status of manual scavengers in India: Sustainable development goals perspective*. <https://www.wateraid.org/in/sites/g/files/jkxooof336/files/status-of-manual-scavengers-in-india-sustainable-development-goals-perspective.pdf>.

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