

MANUAL SCAVENGING: ORIGINS AND CONTEMPORARY ISSUES

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ABSTRACT

The following articles deal with the concept of manual scavenging as a menace born out of the caste system; and the efforts carried out to curb it. A look at the Indian Constitution and its egalitarian principles followed by a study of the Indian society will shed light on the serious loopholes in the implementation of the provisions laid down in the system. Caste system, that has tight grips over the functioning of the present society is not a contemporary phenomenon but one that has existed for ages. According to B.R. Ambedkar “Religion, social status, and property are all sources of power and authority which one man has, to control the liberty of another”

Thus, the caste system brings with itself a host of disadvantages for the people who occupy the lowest position in the society addressed by the term “Dalits”. Manual scavenging, defined as “the removal of human excrement from public streets and dry latrines, cleaning septic tanks, gutters and sewers” is one such menace that still has its roots in the society. Despite constant efforts by the Indian government in the form of numerous statues, executive directives etc. the efforts fall short in bringing any palpable change on the ground. Despite the presence of a host of national and international imperatives, the exercise of manual scavenging continues to threaten the dignity of the victims and violate the human rights obligations.

Keywords: *Manual Scavenging; Caste; Constitution; Human Rights.*

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Introduction

Diversity, as we call it is a feature unique to India. However, it has more to do with exclusion than inclusion. The social, man-made divisions unlike region, language and culture are completely artificial, made for the purpose of creating a hierarchy meant to ostracize the ones at the bottom. The caste system which testifies to the above idea has been prevalent in India for more than 2500 years and shows no signs of relenting anytime in near future. In the period during its origin, caste divisions essentially restricted people into strictly doing the jobs that were 'meant' for them. This meant that your caste and the associated occupation was determined right at the time of your birth. The four 'varnas' from the ancient period have disintegrated into various divisions and subdivisions which makes it a complex system in the present times.

With the passage of time the caste system transformed into what it is today and a fifth category - the Untouchables - was added, increasing the list of varna to five. In the contemporary times many people have been able to undertake occupations different from what had been prescribed for them based on their caste, but this set of people who, apart from being excluded from even the caste system were treated as not to be fully human. They were believed to pollute others by their mere touch. They did not have a caste and were thus, called 'Untouchables.' There are elite groups that adhere to a certain extent closely to the conservative Brahminic ideology; there are low-status status groups that were, until recently, considered completely untouchable; and there are approximately three thousand 'castes' in between. The Buddhist texts list down 'untouchables' as a separate group and not a part of Sudras.

The untouchable class grew steadily, and the initial untouchable factions appear to be the food-gatherers and hunters who lived on the margins of an agrarian society.

History

The caste system, a hierarchical social system that differentiates stratified groups characterized by lineage and limited to particular occupations, has time immemorial influenced community, cultural, and economic life in India. Caste-based social order is governed by custom, which is socially and economically enforced. In India, caste is passed down from generation to generation,

regardless of religion. Caste has historically had a strong influence on members of a society's ability to manage land and other economic resources, resulting in a broad connection between caste and class.

In the Vedic Period (1500- 500 BC) the society saw the emergence of social stratification in the form of castes and the establishment of Brahminical orthodoxy. The 'Varna System' as it was called emerged during the Later Vedic Period (1000-600 BCE) which reflected the division of labour among various social classes. The Brahmin priests occupied the topmost position in the hierarchy, the warrior nobility came next followed by peasants and traders, who occupied the third spot and finally at the bottom of the hierarchy came the slaves, labourers and artisans. In the said period the caste system was as it is in the contemporary times but less complicated.

The four castes are mentioned only once in the Rigveda, ancient India's oldest literary source, in a hymn that belongs to the Veda's most recent chronological stratum and may be only slightly older compared to the other Vedas. The Brahmana, Rajanya, Vaisya, and Sudra are defined in that hymn as being created from the primeval male's head, arms, thighs, and feet, respectively. The Vaisyas or peasantry seem so as the foundation of the state in the later Vedas and Brahmanas, on which the priesthood and military castes rest; these two are superior to the Vaisya, while all three are superior to the Sudras.¹

In the later Vedic literature, a developed caste system with characteristics as heredity and common occupation have been found to be mentioned. Although there were already many other castes, the four namely Brahmin, Kshatriya, Vaishya and Sudra seem as central and governing the societal group. Although the castes were distinctly recognized, there was no instance of impurity being transmitted by the trace of the associates of the lower castes.

According to Hindu notions of impurity, the most polluting task is cleaning of human excrement, latrines, and so on, a task imposed on the lowest of the untouchables known by various names in different regions as Bhangi, Balmiki, Chuhra, Paki, Hadi, etc.². According to Dumont "*the Hindu belief in the desecrating nature of organic activities makes the Hindu of good caste temporarily*

¹ Macdonell, A. A. (1914). The Early History of Caste. The American Historical Review, 19(2), 230–244.

² Jaiswal, S. (2007). GENERAL PRESIDENT'S ADDRESS: CASTE, GENDER AND IDEOLOGY IN THE MAKING OF INDIA. Proceedings of the Indian History Congress, 68, 1–35.

impure and leads to attribution of massive and permanent impurity to those categories of people who have specialization in impure tasks, in practice or in theory.” To be classified as being “impure” one need not be actually engaged in ‘polluting’ occupations, mere theoretical association with such task would make one impure.

The development of a caste of manual scavengers is associated with the growth of municipalities and closed residences without open areas; and the process appears to have been accelerated in the nineteenth century, potentially assisted to a certain degree by the Government of India Act V of 1843 abolishing slavery, despite opposition from the landed aristocracy on the basis that it was an ancient practice for slaves to do all manual labour for respectable people..³

It is rightly remarked that *“the British did not invent the caste of manual scavengers, but they intervened to institutionalize it; and the technology of sanitation was structured to deepen social prejudice in India.”*

Effects

The human rights abuses faced by individuals who participate in manual scavenging are mutually reinforcing. Carrying human excreta without safety can be hazardous to one's health. The people who perform the work, on the other hand, are frequently subjected to untouchability practises. Discrimination in all aspects of their lives, including access to education for their children, increases the likelihood that they will be forced to continue working as manual scavengers.

Manual scavengers are vulnerable to asphyxiation from hazardous gases and are constantly exposed to ailments such as cholera, hepatitis, meningitis, jaundice, skin problems, and even cardiovascular disease. They quite often lack adequate safety equipment and supplies.

The majority of the deaths have been attributed to septic tank and sewer-related incidents. Accidents are caused by a lack of safeguards, such as not putting lamps down in sewers with a high concentration of methane gas.

³ Jaiswal, S. (2007). GENERAL PRESIDENT’S ADDRESS: CASTE, GENDER AND IDEOLOGY IN THE MAKING OF INDIA. Proceedings of the Indian History Congress, 68, 1–35.

Due to the daily cleaning of toilets in India, women who engage in manual scavenging face social pressure from their communities if they miss a day. As a result, many women are forced to clean toilets, preventing them from pursuing other activities such as agriculture. Even if they are able to find the resources and assistance needed to stop manual scavenging, women still face significant social pressure.

Legal Provisions

The Government of India, time and again has espoused such statutory and policy actions as to end the menace of manual scavenging. Some of the efforts of the government include attempts to modernize sanitization to cancel the need of manual cleaning as well legislations aimed at prohibiting manual scavenging and rehabilitating persons engaged in the work. However, due to lack of proper implementation and the stigma attached with the people carrying out the work makes such provisions ineffective in bringing about any change at the grass root level. Not only this, the manual scavengers attempting to opt out of the work are threatened by the upper caste and warned of stern action and expulsion by the community.

India's Constitution bans the practice of untouchability. Article 15 of the Constitution prohibits "*discrimination on grounds of religion, race, caste, sex or place of birth*"

Further as per clause 2 of the article

"No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and palaces of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public"

Article 17 of the Constitution expressly bans the age-old practice of untouchability which targets the people belonging to the Dalit community.

The Indian Constitution's Article 21 guarantees the Right to Life and Personal Liberty to both citizens and non-citizens, reflecting India's human rights obligations as a welfare state. This article goes beyond mere animal existence and includes the right to live with dignity, as interpreted by the courts. Manual scavenging is a practice that undermines an individual's dignity and perpetuates

prejudice and discrimination for future generations, thus violating Article 21 of the Constitution. The right to a life with dignity is a universally recognized right and even finds mention in the Universal Declaration of Human Rights by way of articles 1, 22 and 23⁴.

In the case of *Maneka Gandhi v Union of India*, the Supreme Court emphasized that the right to life includes the right to live with human dignity. The concept of dignity is not only mentioned in the Directive Principles of State Policy but also in the Preamble of the Constitution.

To prevent the practice of manual scavenging, the legislature passed the Protection of Civil Rights Act, 1955, which prohibits compelling anyone to engage in manual scavenging. The Prevention of Atrocities Act, 1989 was another significant measure to protect the rights of manual scavengers, particularly those belonging to the Scheduled Caste.

Additionally, The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 declares that employing manual scavengers and constructing dry toilets is punishable by fines and imprisonment.

The Self Employment Scheme for Rehabilitation of Manual Scavenging 2007 (SRMS) was passed to help the people engaged in manual scavenging to indulge in other kinds of employment and avail the benefits of rehabilitation schemes.

The Prohibition of Employment as Manual Scavengers Act was passed by Parliament in 2013. This extends beyond prohibitions on dry latrines to include any manual excrement cleaning of insanitary latrines, open drains, or pits. Furthermore, it acknowledges a legal mandate to rectify the historical injustice and humiliation endured by manual scavenging groups by offering alternative livelihoods and other guidance..⁵

As an amendment to the Act of 2013 the Parliament passed The Prohibition of Employment as Manual Scavengers and their Rehabilitation (Amendment) Bill, 2020, which proposes to mechanize sewer cleaning and provide compensation to manual scavengers. India's Supreme Court has ruled that the practice of manual scavenging violates international human rights law, including protections found in the Universal Declaration of Human Rights (UDHR), the

⁴ United Nations, Universal Declaration Of Human Rights, 1948.

⁵ Human Rights Watch. (2014) Cleaning human waste, Available at: <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india> (Last accessed – 2 November, 2021).

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). India is also a party to other international conventions that reinforce obligations to end manual scavenging⁶

The Supreme Court in *Safai Karamchari Andolan v. Union of India*⁷ had directed the government to totally eliminate the practice of manual scavenging and work for the rehabilitation of those engaged in the practice but as numbers suggest the no concrete measures have been undertaken to alleviate their condition. This shows that no amount of progressive judgements or wide interpretations of constitutional provisions alone can curb the menace unless coupled with active executive willingness and administrative measures.

The National Human Rights Commission has called “manual scavenging” as the worst violation of human rights. Depending on the Act of 1993 it had urged the government to speed up the destruction of dry toilets and replace them with wet toilets. However, measures by the government have fallen short of the suggestions of the commission.

Even International Institutions like the World Health Organisation, the United Nations Development Program and the International Labour Organisation have condemned the inhuman practice and have called for an end to it.

Other Measures

Other legislative efforts to end manual scavenging have indeed been preceded by governmental measures, widely recognized as schemes, and policies designed to overhaul India's sanitation system and assist manual scavengers in their pursuit of other employment alternatives. The execution of these programmes and policies is the duty of several government ministries, which frequently fail to coordinate their efforts. assistance

India has set up funds to improve sanitation. The Integrated Development of Small and Medium Towns Scheme (1969), Sulabh Shauchalaya (simple latrines) Scheme (1974), the Integrated Low Cost Sanitation Scheme (1981), the Low Cost Sanitation for the Liberation of Manual Scavengers

⁶ Human Rights Watch. (2014) Cleaning human waste, Available at: <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india> (Last accessed – 2 November, 2021).

⁷ 2005 (5) SCALE 267 (India).

Scheme (1989), and the Total Sanitation Campaign (1999), renamed Nirmal Bharat Abhiyan, are all national sanitation schemes aimed at modernising human waste management (Clean India Campaign).

In the 1970s, Bindeshwar Pathak developed his "Sulabh" concept for building and managing public toilets in India, which resulted in the introduction of sanitary and well-managed public toilet systems. Bezwada Wilson, an activist, founded the Safai Karmachari Andolan in 1994 to advocate for the abolition of manual scavenging and the demolition of then-illegal 'dry latrines' (pit latrines). Despite the efforts of Wilson and other activists, the practise persists two decades later. As part of its International Year of Sanitation, the United Nations sponsored a fashion exhibition called "Mission Sanitation" in July 2008. 36 former employees, known as scavengers, and top models walked the runway to raise awareness about the issue of manual scavenging.

Conclusion

Since sanitation fall in the State list, the implementation of rules and policies to curb manual scavenging lie completely within the domain of the states. A collective, nationwide actin or policy by the central government will be successful only if it is modified as per the needs of different states and implemented with utmost prudence. However, the prohibition of manual scavenging lies low in the state governments' agendas as a result of which there is no materialization of the laws and rules aimed at prohibiting the practice.

While the central government sets the standards, state representatives in panchayats, elected village councils, and municipal corporations all too often fail not only to implement but also retain prohibitions on private household manual scavenging. Panchayats in Maharashtra, for example, have appointed people based on their caste to physically clean toilets and open defecation areas while refusing them other jobs within the panchayat for which they are qualified.

For these legal provisions to be able to drive a change it is important that the government works in close collaboration with the manual scavenging communities, rights activists etc. and provides adequate resources and training to the enforcing mechanisms. Proper identification of victims and their rehabilitation should be the priority of the government. It is necessary to to keep a close watch on the people once rehabilitated and ensure that they are not forced to get back to the practice either due to social pressure or lack of means of employment.

Despite various measures the biggest hindrance in the way of a progressive change is the psyche of the people that has adapted to this way of life. Although, people engaged in the task are willing to leave it, they are compelled to stay because of the social constraints and threats of expulsion and violent repercussions. These people depend upon the daily food donations they receive for their existence. The absence of any alternate employment, access to authority, social acceptance and monetary means the people are not in a position to leave manual scavenging and access the benefits of the legislation if, in the first place, they are aware of them. The authorities employed to enforce the legislation is in fact enforcing discrimination and refuse to change the social structure. In many places the municipalities are employing people to carry out manual scavenging, thereby reinforcing the act. Thus, it is imperative for the government to first put the right mechanism and machinery in place so that the legislation passed by them is able to percolate to the intended beneficiaries. Additionally, the government should carry out awareness campaigns to let the people be aware of their rights and for the society at large to develop a progressive outlook in the 21st century. Only complete eradication of this practice can restore the dignity of the community that has been historically wronged in the name of religion and now at the hands of an inefficient system.