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Sewage, Slavery, and Manual Scavengers

VANSHIKA AGGARWAL¹ & MAANAS TUMULURI²

ABSTRACT

India is a diverse land of many cultures, with bustling cities, modern infrastructure, and is one of the most rapidly developing nations and economies in the world. However, hidden away from the perception of the world, it harbors many deep, dark, and foreboding secrets, some being remnants of a bygone era, and some newer, more destructive patterns from improper adoption of western culture into traditions and patriarchal systems that stretch back to time immemorial.

This paper aims to explore one of these relics of the past that plagues the modern era, and hopefully, bring the plight of so many, to the light of the sun. The practice of manual scavenging, the manual cleaning of human waste from dry latrines, treated with the same rules as it was several hundred years ago, is a shadow, a blight on a country that aims to be “Swachh Bharat”.

I. INTRODUCTION

India is a diverse land of many cultures, with bustling cities, modern infrastructure, and is one of the most rapidly developing nations and economies in the world. However, hidden away from the perception of the world, it harbors many deep, dark, and foreboding secrets, some being remnants of a bygone era, and some newer, more destructive patterns from improper adoption of western culture into traditions and patriarchal systems that stretch back to time immemorial.

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latrines, treated with the same rules as it was several hundred years ago, is a shadow, a blight on a country that aims to be “Swachh Bharat”.

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 defines the term ‘manual scavenging’ as

“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

¹ Author is a Student at OP Jindal Global University, Sonapat, Haryana, India.

² Author is a Contract Management Analyst at Nexdigm, India.

*premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed*³

It is an occupation that has also retained both caste and patriarchal norms of the past, as well as is slavery in all but name. The plight of the manual scavengers is one of the people stuck in a vicious cycle designed to keep them impoverished, and reliant on the “generosity” of people they are kept dependent on, for even their basic survival. Short of being owned, bought, and sold, they meet the criteria of being slaves, or bonded labor, kept trapped not by debt, as is the case for agricultural workers or manual laborers, but trapped by oppressive caste-based social norms.

Manual scavengers are treated as sub-human, where they are considered untouchable, uneducable, and unemployable for any task except the one that they, or their parents, were born into. They are paid pittance, often in the form of leftovers, from afar, and given rags to wear. In the modern era, they are given titles and a sense of importance to placate them and keep them further entrenched. “Jagir” and “Jajman” systems of land ownership were similar to the more familiarly known “Zamindar” system, but are today used to call the manual scavengers “Jagirdars” and “Jajmanis”; titles that once used to carry value and hold a modicum of respect, but

now are used to deceive them into a false sense of dignity in work that they are given neither respect, nor decency in, and to keep them compliant.⁴

Apart from the social ramifications of being pigeonholed, there are several hazards in the job of manual scavenging, ranging from septic exposure to noxious gasses to exposure to lethal pathogens to risks of injury, suffocation, and death from cramped sewers and sewage tanks. Despite the introduction of legislation to protect the health and dignity of such workers, several hundred of them have died while performing their socially mandated occupation and have gotten neither justice nor relief.⁵

II. THE INEFFECTUALITY OF LEGAL PROVISIONS

There are several laws and legal precedents for the prohibition of manual scavenging, and construction of dry latrines. However, despite these preventative measures, there are over 12 lakh manual scavengers and over 26,06,278 households with dry latrines in India, and the issue is nowhere close to being resolved.⁶

The *Employment of Manual Scavengers and Construction of Dry Latrines Prohibition Act 1993* was the first legislation brought in to attempt to curb manual scavenging, and was woefully ineffective, allowing states to choose if or when to implement the law, allowing for sections of people to be exempted from the

³ The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013

⁴ Singh, B. “Unseen: The Truth about India’s Manual Scavengers”. New Delhi: Penguin Books. 2014. pp. 24

⁵ id. pp. 36.

⁶ Bezwada Wilson and Bhasha Singh. “The Long March to Eliminate Manual Scavenging”. pp.313. <http://centreforequitystudies.org/wp-content/uploads/2020/08/9-The-Long-March-to-Eliminate-Manual-Scavenging.pdf>

application of the law, and a convoluted procedure for filing of grievances, which a primarily illiterate population would have no accessibility to.⁷

The law also failed to make any impact on the socio-economic status of the manual scavengers, who are unseen, unheard, and disregarded, as they are considered as useless as the excrement they clean. They continued, and continue, to be treated as untouchables, given meager rations in lieu of work, face hazardous working conditions, and a social system designed to promote their oppression.

The next step was to give them government employment, either directly, or through sub-contractors, given the title of “*Safai Karamchari*”, a title that today carries a wide ambit of possible duties, and isn't limited to manual scavenging, but the treatment of these workers did not improve. Most municipalities do not supply requisite safety equipment, and the equipment that is provided is usually woefully inadequate.⁸ This led to the formation of the “*Safai Karamchari Andolan*” as an attempt to unionize and gain better working conditions.

In 2003, a PIL was filed in the Supreme Court under the name of the Safai Karamchari Andolan seeking the issuance of a writ of mandamus to the State government, the Union of India, and the Union Territories.⁹ The judgment emphasized that most of the people employed in the manual

scavenging are from SC/ST.¹⁰ The judgment also highlighted the flaws of the 1993 Act and the failure of the national scheme of “*Liberation and Rehabilitation of Scavengers and Their Dependents*.”¹¹ While the Supreme Court was sympathetic to the plight of the Safai Karamchari Andolan, its hands were tied as the implementation of the Act was left to the discretion of the states, and thus, the Supreme Court redirected the applicants to file suit in High courts of their respective states.¹²

There was subsequent legislation passed in 2013 repealing the 1993 Act. However, this Act also failed to curb the exploitation and the Supreme Court itself stated, “*The prohibition of employment as manual scavengers and the rehabilitation Act 2013 neither dilutes the constitutional mandate of Article 17 nor does it condone the inaction of the part of the Union and State Government under the 1993 Act.*”¹³

The 2013 legislation has done little in the way of improving the standard of living of the manual scavengers or uplifting their socio-economic status, without which, true progress is impossible. While sanitation is an important aspect of a country's development, it is equally important that the citizens carrying out sanitation work are not negatively impacted for the rest of their lives, marred, and scarred by their work, giving their lives, and their dignities to the cause.

⁷ Singh, B. “Unseen: The Truth about India's Manual Scavengers”. New Delhi: Penguin Books. 2014. pp. 209

⁸ id. pp. 37

⁹ Safai Karamchari Andolan v. Union of India, (2014) 11 SCC 224.

¹⁰ id.

¹¹ id.

¹² id.

¹³ id.

III. STATE AND MANUAL SCAVENGERS

Even after the implementation of the various legislations and directions by the Supreme Court of India, the practice of manual scavenging and the construction of dry latrines has not reduced. The State and enforced legislation have not had the desired result on the practice of manual scavenging, and the thousands of families suffering from the social injustice that goes along with their occupation. According to a government survey, more than 54,130 manual scavengers still exist in India despite the existence of the 2013 Act which prohibits manual scavenging.¹⁴ Since 2019, more than 814 manual scavengers have died while cleaning sewers and septic tanks in 20 States.¹⁵ The data regarding the compensation to the families and the actual number of manual scavengers in India is still incomplete even though section 4 of the 2013 Act mandated for the same. Statistics for counting the number of manual scavengers and dry latrines are skewed due to social perceptions of the occupation, with states declaring zero manual scavengers despite having dry latrines.¹⁶

Before the 2013 Act could bear fruitful results on changing the lives of manual scavengers, the Swachh Bharat Abhiyan on 2nd October 2014 shifted the focus from manual scavengers to the construction of toilets and curbing of open

defecation.¹⁷ However, due to lack of plumbing facilities, many of the newly constructed toilets were dry latrines, and thus raised the number of manual scavengers.¹⁸ In some cases, their children were made to clean their school toilets.¹⁹ Controversially, the Swachh Bharat Abhiyan ended up exacerbating the problem of manual scavenging, as there isn't a viable alternative for dry latrines, so the few paid the price for the good of the many.

The pandemic was hard on all daily wage workers of the nation, but more so on those who were paid in kind, meaning they could not have savings to fall back on. The means of social control to trap them in their occupations would have become a death sentence for many manual scavengers, who could neither escape their fates, nor work and earn enough to sustain themselves, and their families, amidst the growing paranoia of the infected. The government lockdowns were also particularly harsh on them, as they had to move from house to house to collect the excrement, something made much harder by the imposition of movement restrictions and increased their risk of exposure and infection to new levels.

The plight of manual scavengers is a clear example of a system that caters to the many, at the cost of the few, who give their lives to clear the filth that their society generates; a thankless,

¹⁴ Sen Sumant. "Data: Manual scavenging exists in India despite being outlawed in 2013". 2019. <https://www.thehindu.com/data/manual-scavenging-exists-in-india-despite-being-outlawed-in-2013/article29508476.ece>

¹⁵ id.

¹⁶ Bezwada Wilson and Bhasha Singh. "The Long March to Eliminate Manual Scavenging". pp.314. <http://centreforequitystudies.org/wp-content/uploads/2020/08/9-The-Long-March-to-Eliminate-Manual-Scavenging.pdf>

¹⁷ id.

¹⁸ id.

¹⁹ id.

pitiless, and penniless occupation, a slow, agonizing death trap, where survival is a daily, weekly, monthly struggle, and a clear example of a system that has failed them.

IV. WHAT COULD BE DONE TO IMPROVE THEIR SITUATION

In several parts of India, the practice is one that cannot be eradicated without better water and waste management systems, as water scarcity makes plumbing a major hurdle. However, this does not mean the suffering of manual scavengers should in any way be negated, as their lives are put on the line, every day, from the myriad of dangers they face in their occupation.

The widespread discrimination of manual scavengers is a primary concern and can be addressed by making efforts to make sanitation work a non-caste-based matter. This is, admittedly, a tough job in rural India, but awareness and the building of latrines with working plumbing will go a long way toward the eradication of this practice.

For sewer cleaning, steps towards mechanizing the process and the eradication of human involvement from a task that is extremely dangerous, to the health and well-being of the sanitation workers, is the only appropriate measure. The toxic buildup of methane, carbon monoxide, carbon dioxide, and other gasses make venturing into the sewers a game of Russian roulette, for sanitation workers without adequate gear, and an invitation to infections and diseases, even for those equipped with safety gear, as lack of adequate training is an Indian staple.

The State can also incentivize companies to hire former manual scavengers into dignified work and give them rebates and relaxations on compliance issues. A new welfare scheme can be introduced by the State for the manual scavengers in both urban and rural areas, one that offers them more than just employment, and/or subsistence allowances, but proper housing, jobs, and a steady, reliable source of income, or provide support in a manner that allows them to look beyond the next day, by giving them food security, which will embolden them to look for other sources of employment, rather than being tied to the “generosity” of the houses where they are employed.

The obvious loopholes of *The Prohibition (of employment as manual scavengers and their rehabilitation) Act 2013* with regards to the definitions of manual scavengers not being included if they are given gear, and an increase in the penalties of those found to be employing manual scavengers, would go a long way towards the State being able to gain more accurate information as to the number of people impacted by the profession and can implement more targeted approaches to their rehabilitation and care.

There are also stricter rules and regulations that can be imposed regarding the provision of protective equipment provided to the manual scavengers, and the State can make it the duty of the employer to ensure the guidelines are being followed. This will ensure lower mortality amongst sanitation workers.

In addition, the implementation and compliance of the provisions of the 2013 Act will be carried

out by the Vigilance Committee, State and Central Monitoring Committee and National Commission for Safai Karamcharis.²⁰ But the scope of their power is limited to monitoring, inquiring, and advising the authorities which is not enough for effective implementation of the provisions of the Act. There is a need for adequate resources for implementation, and judicial intervention to enforce applicable laws, and watch over those who are purportedly acting for the benefit of manual scavengers.

The Parliament can introduce an amendment in the *Real Estate (Regulation and Development) Act, 2016* proposing the construction of toilets with proper plumbing and sewage connection as a mandatory condition for registration of real estate project with Real Estate Regulatory Authority under S.3 of the RERA 2016.²¹

People employed as manual scavengers are usually from the scheduled castes, as the profession is seen as too "indignified" for the higher castes. As such, coming from constitutionally protected minorities, they require higher degrees of protection, and could be brought under the protections of sections S. 3(vi), S.3(x), S.4 of the *Scheduled Castes and the Scheduled extent and Tribes (Prevention of Atrocities) Act, 1989*.²²

Furthermore, there exists central legislation in the form of the *Hazardous Wastes (Management and Handling) Rules, 1989*. These rules vary slightly by state, and are tailor made for the

specific requirements of their respective states, to deal adequately with the state specific issues.

Human fecal matter can be classified into hazardous waste (through an amendment, or through fresh legislation) with stricter rules set in place, both for collection and disposal of waste from dry latrines. However, adequate care must be taken to not shift the blame onto manual scavengers, the vast majority of whom are illiterate, or barely literate, and thus, vulnerable to exploitation. These rules would go a long way into turning the collection from an informal "job" of the manual scavengers, to one that is registered, and if needed, the names, and status of treatment of the manual scavengers would be markedly easier to keep track of, with adequate resources earmarked for the care and welfare of the scavengers.

These measures, in conjunction with proper rehabilitation methods to teach them vocations to enable them to earn a living, keeping in mind that there are schemes to eradicate the process of manual latrines entirely, while bringing in judicial involvement to ensure that the schemes are implemented properly.

While it seems nearly impossible to phase out manual scavenging in a nation as geographically, and culturally diverse as India, efforts made to make the job less stigmatized, and restrict it to only locations where water scarcity is a genuine concern, mandating the need for dry latrines is a long-term solution to a long term problem, one

²⁰ The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013

²¹ Real Estate(Regulation and Development) Act, 2016

²² Scheduled Castes and the Scheduled extent and Tribes (Prevention of Atrocities) Act, 1989

that mars and scars a nation on the rise as the largest, most populated, and fastest-growing democracies on the planet.
