

Public Policies on Manual Scavenging: A Case Study of India

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'Has the government kept in mind the point that the wages of the scavengers be (so) fixed that caste feeling may end and that the people belonging to high castes may come forward to do this work'.

– Dr. Ram Manohar Lohia during a debate in Lok Sabha on July 5, 1967

INTRODUCTION

The study analyses the impact of various policy measures promulgated for the removal of practice of manual scavenging in our country. The news about the deplorable death of manual scavengers during cleaning of gutters is common across India. It is worth noting that the practice of manual scavenging persists even after being outlawed in 1993 and 2013. District Magistrates had been submitting false affidavits before the Hon'ble Supreme Court claiming absence of manual scavenging in their district. Although the Government of India claims the country to be free of open defecation and manual scavenging, even then, deaths of manual scavengers are occurring in the gutters. In contravention to it, the Ministry of Social Justice and Empowerment reports the existence of 62334 manual scavengers in the country as on December 31, 2019. These factors prove the existence of a significant number of manual scavengers and manual scavenging which is a pertinent issue.

Scavenging has continuously been an occupation that has been imposed upon certain citizens by the society. This occupation is traditional in nature and ordains Scheduled Castes to clean the night-soil, carry and dispose it manually. This class of citizens are known as manual scavengers. Taking a sympathetic and emotional consideration, this practice is shameful, degrading, dehumanising, disgusting, obnoxious, abhorrent and a blot on humanity. They are

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known by different names in different states but commonly they are known as sweepers and officially as *safai karamcharis*. Manual scavenging is the most inhumane occupation. The practice of manual scavenging exists primarily due to absence of water-borne latrines. Tracing the reasons of continuation of this practice, it is found that it is closely associated with the caste and *jajmani* system, leading to social discrimination in the society. In this occupation, people are forced to carry night-soil in buckets on their heads and remove human excreta manually.

Looking at the composition of *Dalit* communities, it is found that the most disadvantaged castes even among *Dalits* are manual scavengers. They perform socially assigned occupations which are considered ritually 'unclean' and socially degrading. Most of these 'unclean' occupations are associated in one way or another with death, human waste or mensuration. These three universal physiological processes have been culturally shrouded by the densest cultural beliefs of ritual pollution. It is important to stress that many of these occupations are in reality grossly unhygienic for the workers. Amongst the number of unclean occupations, one is related to the death of animals. In most states, villagers still expect the *Dalit* people to dispose carcasses of animals that die in their homes or in the village. They skin the bodies of dead animals, flay and tan and develop cured leather, sometimes even craft them into footwear and drums. The pollution associated with leather is so pervasive that in states such as Andhra Pradesh, Rajasthan, Karnataka, Uttar Pradesh and Maharashtra, even the beating of drums at weddings, funerals and religious festivals is considered polluting and imposed as a social obligation or caste vocation only on *Dalits*. The logic is carried further in rural locations where public announcements are still made in villages by the beating of drums to communicate the news of any death to the relatives of the deceased person, whatever may be the distance. Even this occupation is considered unclean and is the monopoly of *Dalits*, because of the 'polluting' touch of dried and treated animal skin that is stretched on the drums.

Another category of 'unclean' occupations is based on the culturally polluting character of human waste. In the most parts of India, the manual removal of human excreta, often with bare hands, endures as a deeply humiliating vocation despite having been outlawed. This pollution extends in many cases to cleaning of sewage tanks, drainage canals and the sweeping of streets. The beliefs related to the pollution by menstrual blood results in midwifery and the washing of clothes deemed as unclean occupations in states such as Uttar Pradesh, Karnataka, Bihar and Maharashtra.

According to International Labour Organization (ILO), manual scavenging is the removal of human excrement from public streets and dry latrines, cleaning septic tanks, gutters and sewers. This has been considered as a customary and caste-based practice that has been manifested in the form of discrimination and social exclusion in society and public places. One of the significant reasons for the continuation of these practices is because they are unable to find an alternative employment or source of formal income to maintain the livelihood of their family. Looking at the social status, it is found that they are entirely insulated from the mainstream society. They are not even allowed in the houses except for scavenging work. The manual scavengers are ostracised, forbidden from touching anything that belongs to the upper castes and denied access to water facilities or places of worship. Food is not given to them but flung at them maintaining distance. Economically, they are poorest of the poor primarily due to their job being extremely low paid. Due to acute poverty, their children are unable to get proper education. Some of them are enrolled in schools but drop out due to severe discrimination that they face. They are not allowed to sit at the same level as other persons sit. Despite untouchability, female scavengers are often subject to sexual exploitation. Social, economic and cultural marginality is reflected in their status. They are untouchables even among untouchables placing them at the lowest in the caste hierarchy so they are bound to live on the outskirts of the villages which are popularly known as *Bastis*.

There are several constitutional provisions for equal rights and opportunities for everybody including manual scavengers in India. The government has taken numerous policy measures and programmes to support these groups to get rid of this inhumane practice and also to rehabilitate them in other professions. Despite a number of welfare measures as well as the legal provisions, the practice of manual scavenging is still prevalent in various parts of the country. This case study critically analyses the impact of government policy measures, legal provisions as well as efforts made by non-governmental organisations (NGO's) on the people, engaged in this occupation and also offers recommendations for solution of this acute problem.

Objectives

1. To review the policy documents for eradication of manual scavenging India.
2. To study the impact of manual scavenging and suggest solution to this problem.

Methodology

The study uses secondary literature collected from various newspapers, research papers, reports, magazines, journals and websites. The methodology used is content analysis.

Nature of Work of Manual Scavengers

The manual scavenging job is primarily done by women and young girls while men are less involved in this job. These workers face three-fold discrimination on grounds of caste, lowest in the untouchability hierarchy and gender. Due to this three-fold discrimination, they do not command respect or dignity in the society. They spend their whole life in misery and vulnerability.

There are three categories of sanitation workers, i.e., manual scavengers, sewerage workers/septic tank cleaners and sweepers. Despite manual scavenging, these people perform other important duties such as disposing animal carcasses, assisting in child birth, acting as masseurs, informing villagers about death rites, beating drums in funeral processions and other occasions, taking the clothes of the dead persons from the cremation places, assisting in post-mortem as well as cremating unclaimed corpses, castrating animals, cleaning drains, sweeping, disposing animal feces, cleaning safety tanks, rearing pigs, cleaning work prior to weddings and other functions as well as cleaning the leftovers and leaf plates after the wedding/function is over, drum beating and singing songs on the occasions of festivals and fasts, lunar and solar eclipses, pilgrimages, births and marriages and deaths. Despite performing multiple duties, they merely get breads/ rotis and food as wages during festive occasions for the work performed by them.

They work as scavengers, sweepers, rag pickers, coolies. They do other kinds of odd jobs which are not only considered to be unimportant but a sense of wretchedness and filth based on the notion of purity-pollution is attached to them. In this regard, one of the Mumbai-based Safai Kamgar Union leaders said, in the context of the Kargil conflict: Our job is never treated as important. It is always treated as despicable. But our job is as important as the soldiers fighting on the borders. In both the cases it is a question of protection. In the first case, it is the protection of the country and in the second case; it is the protection of the civil society. We fight to maintain the health of the society by maintaining hygiene in the society (Guru, 2000).

Review of Literature

In India, sweepers and scavengers are known by various names. Among

them, *Mehtar* is the most common one which ironically means prince or leader. The head of the ruling family of Chitral State (now in Pakistan) was called '*Mehtar* of Chitral'. Another popular name for this caste is *Bhangi*, which is a derogatory term. Looking at the origin of term, the term *Bhangi* is derived from the Sanskrit word *bhang*, which means hemp; it seems to be an allusion to their drinking habits. Another meaning of *Bhangi* is "broken". This is in the context of description that the scavengers who split bamboos and make mats and baskets in order to earn their livelihood (Singh, 2005).

In India, the *Bhangis* are prevalent in significant numbers so constitute a well-known caste group. Regarding their distribution, it is found that they are not limited to some specific places but they are widely distributed throughout the country. On examination of their social hierarchy among both higher and lower castes in India, they occupy the lowest position in the social hierarchy. Tracing the reasons of their lowest social hierarchy, it is found that it is due to reasons as they are night-soil removers (Shyamalal, 1992).

There are fifteen duties mentioned in the *Naradiyasamhita* including one being to dispose of human excreta for slaves. This fact further reveals that manual scavenging is a historic practice prevalent for a long time. Not only this, there is also mention of this practice in the *Vajasaneyi Samhita* where the *Chandals* and *Paulkasa* had been referred to as slaves responsible for disposal of night-soil or human faeces. Mention of this practice in religious documents is a matter of significance (Srivastava, 1997).

The discrimination faced by manual scavengers is not only limited to them but affects the whole family significantly. Manual scavengers' children face discrimination while interacting with the teachers as well as among their peer group. This is affecting the goal of equity in education. There are other challenges in the achievement of equity in education. The inadequacy of public resources for schooling, greater privatisation of 'quality' education for the elite and the search for non-formal alternatives for the educationally backward are prevalent factors which result in a greater neglect of the socially and economically disadvantaged groups (Nambissan, 1996).

Baruah (2014) finds that laws, though strongly worded and framed with a good intention, cannot bring about a change in the attitude of the people towards the less-fortunate brethren. Instead, it is education which can play a significant role towards the change in the attitude. The need of the hour is to educate the common people about the use of sanitary latrines and to inculcate the habit of hygiene after the use

of such latrines. Thus, there is a need of collective efforts through the promulgation of laws as well as educating the common people about the adverse effects of manual scavenging. With these collective efforts, the dream of the complete eradication of manual scavenging may be realised.

Siddaramu (2013) states that scavengers remain marginalised in the Indian society even today despite the fact that constitutional provisions direct the state to promote their educational and economic interests. They remain marginalised due to the fact that these communities are still engaged in their traditional job. Tracing the reasons for not taking benefits of the government schemes, it has been found that these communities lack the necessary literacy skills in order to take advantage of government reservations in education, employment and also in the job mobility. Due to lack of literacy in this community, they are discriminated even by the Scheduled Castes resulting in the loss of their self-respect. To address the issue of social discrimination among them, the sense of self-respect is to be created among manual scavengers in order to bring them in the mainstream society.

Chanana (1993), in an order to address the issue of equity in education, raises some of the important questions like the educational policy which has incorporated three-fold divisions in the aims and objectives of education at the ideological and implemental level. She reiterates that policies need to be implemented in the true spirit. She further highlights that Scheduled Castes and Scheduled Tribes require not only equity but also need mainstreaming and minorities are not only equal but also require social justice.

Regarding attending schools by the children of manual scavengers, their participation level is very low. About 62 per cent children of manual scavengers did not go to schools due to low socio-economic status in the society (Jan Sahas Social Development Society, 2014). Approximately, 70-80 per cent of their children drop out from school before they reach the 7th standard. There are several reasons including the recent urbanisation. There is a huge migration of manual scavengers from rural to urban areas in search of the work (National Round Table Report, 2012).

Kumar & Ziyauddin (2009) reveal that the life of scavengers, especially of women and children is catastrophic which may be improved by providing good quality teachers and schools. In addition, such schools should not only implement mid-day meal scheme, but should also provide the evening food to these children. By introducing the same, their parents will not face any additional burden of nurturing their children. For the adult members of the scavenger community, education

is essential to train them for alternative ways of living, like women can have training in sewing, packing or to work as anganwadi workers.

Suzuki (2003) states that there is low participation of scavengers in education. So, it is the prime duty of the government to provide suitable infrastructure in order to educate the scavenging community. This will emancipate them from their present heinous occupation of manual scavenging. Education may awaken in them a sense of social consciousness. Thus, the scavengers need to aspire for a better quality of life through better educational opportunities to secure social and economic justice.

Mahatma Gandhi and Ambedkar on Manual Scavenging

The nature of manual scavenging being inhuman had long been recognised by Mahatma Gandhi as early as in 1917. He insisted that the inmates of Sabarmati Ashram, which he had set up and run like a commune, should clean their toilets themselves. He too was of the view that each and every person should do his work himself. Gandhi as President of a Conference of the Untouchables said: I do not want to attain *moksha*. I do not want to be reborn. But if I have to be reborn, I should be born an untouchable, so that I may share their sorrows, sufferings and the affronts levelled at them, in order that I may endeavour to free myself and them from that miserable condition. I therefore prayed that if I should be born again, I should do so not as a *Brahmin, Kshatriya, Vaishya* or *Shudra*, but as an *Atishudra*. Although Gandhi was very sympathetic to the sufferings of manual scavengers but he never supported protest and advocated change of heart and morality. According to Gandhi, 'The *Bhangi* constitutes the foundation of all services. A *Bhangi* does for society what a mother does for her baby. A mother washes her baby of the dirt and ensures his health. Even so the *Bhangi* protects and safeguards the health of the entire community by maintaining good sanitation practices.'

Gandhi and Ambedkar followed different approaches for the abolition of untouchability and the eradication of the practice of manual scavenging. The former advocated change of heart and morality on the part of the opposed castes while Ambedkar on the other hand was highly critical of the Gandhian approach and he advocated political praxis, agitation and also legal intervention especially by the victims of the caste system. He observed that manual scavenging is hereditary so he demanded the political salvation of the downtrodden section of society by carving out a provision for reservation through political representation in the legislative bodies and also the prevention of discrimination on the basis of abolition of the untouchability Act. He

had said, 'Our society is like a multi-storied pyramid and there are no stairs or doors for entering into these storeys. One has to die in the storey in which one is born.' According to Dr. Ambedkar, in India a man is not scavenger because of his work, he is a scavenger because of his birth, irrespective of the question whether he scavenges or not. According to Ambedkar, birth is the prime reason for a scavenger to continue his/her work.

Ram Manohar Lohia was also sincerely dedicated towards addressing the problems of scavengers and therefore he discussed this matter in the Parliament of India. He was of the view that this work of manual scavenging should also be conducted by the upper caste persons. During a debate in the Lok Sabha on 5th July 1967, Dr. Ram Manohar Lohia asked, 'Has the government kept in mind the point that the wages of the scavengers be (so) fixed that caste feeling may end and that the people belonging to high castes may come forward to do this work?'

PART I: STORY OF MANUAL SCAVENGERS

1. Efforts Made for Removal of Manual Scavenging

International Organisations:

International Labour Organisations (ILO) had adopted Forced Labour Convention regarding forced labour in 1930, in order to suppress the use of forced labour in all its forms. ILO observed the issue of forced labour several times. It is worth mentioning that in 2007, the Annual Report of the Committee on the Elimination of Racial Discrimination of the UN expressed serious concern about the deplorable conditions of manual scavengers in India. It stated, 'The Committee notes with concern that very large numbers of *Dalits* are forced to work as manual scavengers.' This note by ILO is a serious concern for the country.

2. Constitutional Provisions: Significant constitutional provisions are:

- (i) Article 14: Equality before law (Right to Equality);
- (ii) Article 16(2): Equality of opportunity in matters of public employment;
- (iii) Article 17: Abolition of untouchability;
- (iv) Article 19(1)(a): Right to practice any profession or to carry on any occupation, trade or business;
- (v) Article 21: Protection of life and personal liberty;
- (vi) Article 23: Prohibition of traffic in human beings and forced labour etc.;

- (vii) Article 41: Right to work, to education and public assistance in certain circumstances;
- (viii) Article 42: Just and humane conditions of work;
- (ix) Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections;
- (x) Article 47: Duty of the state to raise the level of nutrition and the standard of living and to improve public health; and
- (xi) Article 338: Constitution of a National Commission for Scheduled Caste.

3. Legislative Measures:

- **Protection of Civil Rights (PCR) Act (1955):** The Government of India passed legislation which became the base for different schemes introduced by the Central and state governments for Scheduled Castes, Scheduled Tribes and especially vulnerable groups of Indian society such as scavengers, sweepers, bonded labourers', nomadic and denotified communities for their social and economic development. The Act stresses on drawing effective schemes for the upliftment and development in terms of education, housing, etc. after studying specific and composite problems of these communities to solve them effectively (Ali, 1995).
- **The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989:** This Act came into force on January 31, 1990 in order to prevent the Scheduled Castes and Scheduled Tribes from atrocities. With respect to the manual scavenging, the Act was further strengthened by making amendment in order to address the issues of this community. The Act notified by the Central Government on January 1, 2016 made it a punishable offence to employ, permit or make any person belonging to SC/ST community for the purpose of manual scavenging. The contravention of the said provision attracts an imprisonment for a term not less than six months and may exceed to five years imprisonment and fine.
- **The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition Act, 1993):** The preamble of the Act states 'Whereas fraternity assuring the dignity of the individual has been enshrined in the Preamble to the Constitution,..... and whereas the dehumanising practice of manual scavenging of human excreta still continues in many parts of the country.....

and where it is necessary to enact a uniform legislation for the whole of India for abolishing manual scavenging by declaring employment of manual scavengers for removal of human excreta an offence and hereby ban further proliferation of dry latrines in the country.' The Act punishes the employment of scavengers or the construction of dry (non-flush) latrines with imprisonment for up to one year and/or a fine of Rs.2000/- . This Act is the first Act outlawing the practice of manual scavenging in the country.

- **National Commission for *Safai Karmacharis* (1994):** Under the provision of the National Commission for *Safai Karmacharis* Act, 1993, the National Commission for *Safai Karmacharis* was constituted on 12th August, 1994 for a period of three years in order to promote and safeguard the interests and rights of *Safai Karmacharis*. The primary objective of the Commission is to study, monitor and evaluate the implementation of the programmes and schemes related to the social and economic rehabilitation of *Safai Karmacharis* and also make recommendations to the Central Government for better coordination and implementation of schemes/ programmes.
- **National *Safai Karmacharis* Finance and Development Corporation (NSKFDC) (1997):** The Corporation, formulated on 24 January 1997 under Section 25 of the Companies Act 1956, was set up by the government to act as an apex institution for all round socio-economic upliftment of *Safai Karmacharis* and their dependents and to extend concessional financial assistance for the establishment of income generating and viable projects. The major objective of the corporation is the promotion of economic development, self-employment and rehabilitation of *Safai Karmacharis*, besides providing training in technical and entrepreneurial skills and extending loans to students from the community to pursue higher education. The target groups of the corporation are scavengers (persons wholly or partially employed in the manual handling of human excreta) and their dependents and *Safai Karmacharis* (persons engaged in or employed for any sanitation work) and their dependents (Thorat, 2009).
- **The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013:** The Act makes it mandatory for municipalities, cantonment boards and railway authorities to construct adequate number of sanitary community latrines within three years of this Act coming into force. If anyone

employs a manual scavenger or constructs an insanitary latrine, he shall be penalised with imprisonment of up to one year or a fine of up to Rs.50, 000/- or both. The penalty for subsequent offences is higher. Every local authority or agency is prohibited from employing a person for hazardous cleaning (manual cleaning without protective gear and other safety precautions) of a sewer or a septic tank. This provision is applicable within a year of the Act coming into force. The penalty for violation is imprisonment for up to two years or a fine of up to Rs. two lakh or both.

- **National Human Rights Commission (NHRC) on Manual Scavenging and Sanitation:** The NHRC protects human rights at the national level and works as a watchdog in the field of human rights. It performs multiple tasks in order to protect human rights of the people. The Commission has been periodically reviewing the steps taken by the state and Central Government for speedy implementation of the provisions of the Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. On 23 October 1996, NHRC had sent letters to various authorities to make the case for elimination of manual scavenging. On 24 January 1997, the NHRC had written to chief ministers to underline the need to adopt and seriously enforce the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 in their jurisdictions. On February 2006, the NHRC had intimated the representatives of the state governments to stop manual scavenging within six months. Furthermore, it organised workshops on the issues to deliberate a sincere discussion to address this issue.
- **A landmark judgement in fight to eradicate manual scavenging (Writ Petition (civil) No.583 of 2003, Safai Karamchari Andolan & Ors versus Union of India &Ors):** The Supreme Court announced the judgement of a Public Interest Litigation on 27.3.2014 on eradication of the inhuman practice of manual scavenging. This historic judgement was welcomed by *Safai Karmachari Andolan*. In its judgement, the Supreme Court has deprecated the continuance of manual scavenging in the country in blatant violation of Article 17 of the Constitution of India by which, 'untouchability is abolished and its practice in any form is forbidden'. The Court was emphatic about the duty cast on all states and union territories 'to fully implement (the Law) and to take action against the violators'. In a significant endorsement of concerns raised by *Safai Karmachari Andolan*,

the Supreme Court directed the government to, '*Identify the families of all persons who have died in sewerage work (manholes, septic tanks) since 1993 and award compensation of Rs.10 lakhs for each such death to the family members depending on them*'. The judgement has been given by Supreme Court Bench headed by Chief Justice P Sathasivam.

The Court has been categorical that, if the practice of manual scavenging has to be brought to a close and also to prevent future generations from indulging in such practice, rehabilitation of manual scavengers will need to consider the following:

- (a) Sewer deaths – entering sewer lines without safety gears should be made a crime even in emergency situations. For each such death, compensation of Rs. 10 lakhs should be given to the family of the deceased.
- (b) Railways – should work on a time-bound strategy to end manual scavenging on the tracks.
- (c) Persons released from manual scavenging should not have to cross hurdles to receive what is their legitimate due under the law.
- (d) Provide support for dignified livelihood to *Safai Karamchari* women in accordance with their choice of livelihood schemes.

The Court also stated that rehabilitation must be based on the principles of justice and transformation. The Court also directed the Indian Railways, which is the largest employer of manual scavengers in the country, to take a time-bound strategy to end manual scavenging on the tracks.

National convener of *Safai Karamchari Andolan*, Bezwada Wilson said that, *this is a victory of manual scavengers who have been fighting across the country for their liberation against the denial of central and various state governments repeatedly*. The Court acknowledged the significance of the data provided by the petitioner *Safai Karamchari Andolan* in its 12 years legal battle demonstrating, '*that the practice of manual scavenging continues unabated. Dry latrines continue to exist notwithstanding the fact that the 1993 Act was in force for nearly two decades. States have acted in denial of the 1993 Act and the constitutional mandate to abolish untouchability.*'

4. Commissions/Committees on Manual Scavenging

- **Barve Committee Report (1949):** This is one of the earliest official interventions to look into the working conditions of scavengers ironically mentioned: *Bhangis* were not traditionally

scavengers. However, some of these people look at the dirty work of cleansing the latrines for earning profit. Slowly this developed into a monopoly. Later on, it reached a stage where the *Bhangis* wanted to exploit this monopoly and a sort of customary right was thus developed. By force of habit, the *Bhangi* lost his self-respect to such an extent that he did not consider the dirty work of cleansing latrines as a curse from which he should endeavour to extricate himself.

- **Backward Classes Commission (1953):** Ministry of Home Affairs, Government of India, had constituted this Commission to recommend suitable measures for the welfare of the backward communities including manual scavengers. The Commission suggested several measures and also included that the hand collection and carriage of night-soil should be replaced by mechanical cleaning of latrines with the provisions of sewers, drains, etc. by the local authorities (Ali, 1995).
- **Central Advisory Board for Harijan Welfare (1956):** This board had also reviewed the working and living conditions of scavengers in the country and importantly recommended introducing a Centrally Sponsored Scheme for liberation and rehabilitation of scavengers. The scheme was introduced in the third Five-Year Plan. However, this scheme failed and was discontinued during the fifth Five-Year Plan following the realisation that the practice of scavenging was inextricably linked to the evils of a stratified social structure.
- **The Scavenging Conditions Enquiry Committee (Prof. N. R. Malkani Committee) (1957):** This committee was the first of its kind and was set up on October 12, 1957. It was established in pursuance of the Central Advisory Board for Harijan Welfare with a view to formulate 'a scheme for putting an end to the practice of carrying night-soil in baskets and buckets as head-loads'. The committee had made a comprehensive study of the problems and submitted its report in 1960. It also recognised that 'the best system for disposal of night-soil through mechanised means is the flush out latrines, but unfortunately introduction of this throughout the country requires lot of funds and seems outside the scope of practicability in the foreseeable future'. The committee made a number of recommendations including one of the major recommendations towards the improvement of working and service conditions of scavengers by introduction of mechanical tools such as wheel barrows, scrappers' rubber gloves, boots etc. as well as construction of houses and

infrastructure facilities like water supply, electricity in their localities. One more important suggestion was that scavengers should be paid wages according to Minimum Wages Act and other allowances, benefits and condition of work should be given to them also by the local authorities (Ali, 1995).

- **The Committee on Customary Rights to Scavenging (Prof. N.R. Malkani Committee) (Report) (1965):** This committee was set up to find out the bottlenecks of the *Jagirdari* or *Jajmani* System (customary rights for scavenging) which had been prevalent in various cities and towns. Customary rights are a system in which the private scavengers traditionally served a number of households from generation to generation. The committee had studied the problems associated with this system and suggested measures to introduce organisational and financial resources of the urban local bodies by adopting action programmes for liberation and rehabilitation of private scavengers. The committee observed that scavenging has been a way of life for the family. A fatalistic attitude pervades the whole outlook due to the lack of education and the absence of other openings for employment (Ali, 1995).
- **National Commission on Labour (1968):** This committee had also studied the working and service conditions of sweepers and scavengers for the enforcement of Minimum Wages Act and recommended to the state governments for their implementation. It pointed out that 'in the past the main effort seems to have been to improve the working and living conditions of scavengers and not to address the core problem of converting dry latrines into pour flush latrines in any systematic manner' (Ali, 1995).
- **The Report of Task Force for Tackling the problems of Scavengers (Planning Commission, Government of India) 1990-91:** The task force made several recommendations including a time-bound programme may be launched to convert all dry latrines in the country by the end of eighth plan, elimination of scavenging to be achieved during the eighth plan with an annual outlay of Rs.110 crore by the Government of India, the practice of carrying of night-soil as head-load and its manual handling to be banned by law and legislation so enacted as to prevent construction of new dry latrines in the existing or future buildings (Ali, 1995).
- **Recommendations of the National Advisory Council (NAC):** The NAC, constituted in March, 2010, in its resolution dated

23.10.2010 urged the Central Government to ensure that the practice of manual scavenging is fully abolished latest by the end of the 11th Plan period in coordination with all the Central Government Departments, including Railways and concerned States/Local Governments. The resolution states, inter alia, that this would require:

- (a) New survey in every State and UT, with wide public involvement, of remaining dry latrines and manual scavengers;
- (b) Demolition of dry latrines;
- (c) Psycho-social and livelihood rehabilitation in modern marketable skills of all manual scavengers and their families and formulation of a Centrally Sponsored Scheme by the Ministry of Social Justice & Empowerment to support the rehabilitation initiative;
- (d) Special programme for education, including higher education and computer education of all children of manual scavengers; and
- (e) To amend the law to ensure sharper definition of manual scavenging and accountability of public officials who employ or fail to prevent, manual scavenging.

5. Welfare Schemes for Manual Scavengers

- **Pre-matric Scholarships (PMS) for the children of those engaged in unclean professions (1977-78):** With an objective of assisting the children of scavengers of dry latrines and sweepers irrespective of their religion, the scheme was introduced in 1977-78. Students with disabilities among the target groups were also assisted. The scheme is implemented by state governments and UT administrations. Central assistance is provided to the state governments on a 50:50 per cent matching basis and on a 100 per cent basis to the UT administrations over and above their committed liability. The scheme was last modified with no income ceiling on 25 February 1994. Up to two children of the same parents can get benefits from the scheme if they are pursuing education in classes IX and X. Although no such restriction has been placed on children who are pursuing education up to class VIII. However, an additional/third/subsequent child born after 1 April 1993 will not benefit from the scheme (Thorat, 2009).

- **Integrated Low-Cost Sanitation Scheme (ILCS) (1981):** The Ministry of Home Affairs in 1981 introduced Centrally Sponsored Scheme for Urban Low Cost Sanitation in order to eliminate the dehumanising practice of physically carrying night-soil. This scheme was later implemented by the Ministry of Social Justice and Empowerment. From 1989-90, it came to be operated through Ministry of Urban Development which later on was renamed as Ministry of Housing & Urban Poverty Alleviation since 2003. The scheme envisages conversion of dry latrines into low cost twin pit sanitary latrines in order to liberate scavengers. The scheme has been taken up on a 'whole town basis' and is being operated through the Housing and Urban Development Corporation (HUDCO) by providing a mix of subsidy from the Central Government and loan from the HUDCO.
- **National Scheme of Liberation and Rehabilitation of Scavengers (NSLRS) (1992):** The National Scheme of Liberation and Rehabilitation of Scavengers was launched by the Ministry of Welfare in March 1992 to provide alternate, dignified and viable occupation to the scavengers and their dependents. Under this scheme, the scavengers and their dependents are trained in trades of their aptitude which can provide them alternate employment. During training, the trainees get stipend of up to Rs.500/- per month and tool kit allowance of up to Rs.2000/-. For rehabilitation, there is a prescribed financial package for different trades by which financial assistance up to Rs.50000/- can be provided.
- **Self-Employment Scheme for Rehabilitation of Manual Scavengers (2007)** The scheme was launched in January 2007 for the purpose of initialising self-employment. In this scheme, financial assistance is provided through the state channelising agencies to the manual scavengers and their dependents for undertaking alternative occupations. For the achievement of the target of self-employment, skill training is also provided to the manual scavengers. Thus, the major components of the scheme are skill training and financial assistance (loan and subsidy) for self-employment.

6. Efforts Made by Non-Government Organisations

- ***Harijan Sewak Sangh (1932):*** *Harijan Sewak Sangh*, which is a historic organisation, was founded by Mahatma Gandhi in 1932. Major activities of the Sangh are conducted in the field of education, child development, health care, women's

SCHEME-WISE BENEFICIARIES

Sl. No.	Name of the scheme	Year of launch	Beneficiaries in numbers
1.	Pre-matric scholarships for the children of those engaged in unclean occupations	1977-78	663185 Till 2010-11
2.	Integrated Low-Cost Sanitation Scheme	1981	2.68 lakh Till 1997 (end of eighth plan)
3.	National Scheme of Liberation and Rehabilitation of Scavengers	1992	770338 Till 2004-05
4.	Self-Employment Scheme for Rehabilitation of Manual Scavengers	2007	78941 Till 31.12.2010

Source: Annual Report, Ministry of Social Justice & Empowerment, Government of India 2010-11, p 254-56.

counselling, income generating activities and various other socio-economic activities to secure a status of equality and dignity for those being employed in unclean occupation. The Sangh has established a Vidyalaya in 1963 at Ahmedabad, primarily to impart training under the *Bhangi Mukti* (eradication of night-soil scavenger) programme. The Vidyalaya has also constructed 17500 water seal latrines, 66100 soak pits and has converted 186000 dry latrines to water seal latrines. Similarly, a total of 15530 toilets have been connected with biogas plants. The Institute has constructed 124841 latrines in 3011 villages through 145 NGO's from the year 1989 to March 1997.

- **Sulabh International Social Service Organisation (1970):** Sulabh International Social Service Organisation, formerly known as *Sulabh Shauchalaya Sansthan*, a non-profit voluntary social organisation founded in 1970 by Dr. Bindeshwar Pathak. This organisation is dedicated to the Gandhian ideology of emancipation of scavengers. Sulabh has been working for the removal of untouchability and social discrimination against human scavengers, a section of Indian society condemned to clean and carry human excreta manually. Sulabh is working in the field of cost-effective sanitation, liberation of scavengers, social transformation of society, prevention of environmental pollution and development of non-conventional sources of energy. Furthermore, Sulabh has also established Sulabh International Museum of Toilets in Delhi in 1992 which was inaugurated on March 19, 1994. The museum has a rare

collection of artefacts, pictures and objects detailing the historic evolution of toilets since 2500 BC.

- ***Safai Karamchari Andolan (1986)***: *Safai Karamchari Andolan* was initiated in 1986 when young people from the *Safai Karamchari* communities in Kolar Gold Fields under the leadership of Mr. Bejwada Wilson pledged to end the scourge of manual scavenging by initiating a campaign which gradually spread to the neighbouring state of Andhra Pradesh and later became a full-fledged national movement. It is serving as a watchdog, pushing legal action to demolish dry toilets across India and preparing manual scavengers to achieve new sources of income. Regarding the nature of the activities, *Safai Karamchari Andolan* is a national movement committed to the total eradication of manual scavenging and the rehabilitation of all scavengers for dignified occupations. The main reason for the continuation of the manual scavenging is due to the presence of dry latrines.
- ***Navsarjan Trust, Ahmedabad, Gujarat (1988)***: *Navsarjan*, established in 1988 is a grassroots *Dalit* organisation dedicated to ensuring human rights for all. Its mission is to eliminate discrimination based on untouchability practices, ensure equality of status and opportunities for all, regardless of caste, class or gender and to ensure the rule of law. Campaigning for eradication of manual scavenging is one of the major activities of the trust and its impact is in the form of a landmark court victory in 1996, in which the Gujarat government was forced to admit that it employed thousands of Valmikis to do manual scavenging.

PART II: (PERCEPTIONS OF THE CASE WRITER)

Major Factors Responsible for Continuance of Manual Scavenging

Manual scavenging is a hereditary occupation based on the *jajmani* system. It is a caste based custom prevalent in an unequal society. Customs are social construct that are handed down from one generation to its succeeding generation. Due to caste discrimination, these manual scavengers are not accepted in any other occupation by the society. They are economically weak and their income is so low that they cannot think of adopting any other occupation. In these situations, they are bound to take loans from local resources. These manual scavengers are sometimes compelled to become bonded labourers. In some places, they are offered only breads/ *rotis* for performing their work.

One of the most important factors of non-liberation of manual

scavengers from this occupation is their low literacy skills/education. The society attaches a stigma if the children of manual scavengers are educated in the same school along with other children of the society. These children are ill-treated within the school premises in almost every sphere. Due to this, there is a high dropout rate (from schools) of these children. Thus, due to lack of education, these manual scavengers do not dare to leave their occupation in order to be liberated. It is a well-accepted fact that education is a liberating force.

The other important factors for the continuance of this practice are the lack of political will, accountability, gross apathy and wilful negligence in the implementation of acts as well as welfare schemes and also corruption at different levels. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 could not find any victim in a relatively long span of 25 years in spite of the continuance of this practice. Parliament did not create an individual right to file a complaint under the Act. Karnataka was the first state to ban the practice as early as the 1970s. Most of the organisations like the railways, municipalities and cantonment boards as well as state governments blatantly deny the practice of manual scavenging in their jurisdiction. These bodies file false affidavits with no hesitation, claiming that no such practices are prevalent in their jurisdiction.

The earlier welfare programmes could not focus on the relevant issues due to which such practices are still prevalent. Earlier, the focus of such programmes was on sanitation ignoring dignity issues. Further, it is mostly women and children who are the victims of this occupation, but such factors were never taken into consideration. The state governments have refused to acknowledge the existing practice of manual scavenging or the existence of dry latrines or the lack of basic civic amenities and many times in public toilets, there is no water supply and many times, the tanks are over flowing when the toilets are not in use at that particular time. This is also the wastage of water, which is also a serious issue.

The Comptroller and Auditor General of India, in its 2003 audit report on the Ministry of Social Justice and Empowerment programme of eradication of manual scavenging observed certain failures and the same were extracted as: The National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents, implemented by the Ministry of Social Justice and Empowerment since 1992 has failed to achieve its objectives even after ten years of implementation involving investments of more than Rs. 600 crore.

Despite all these efforts, the practice is still continued (supporting

document is given annexed data). It is also evidenced by the significant deaths which occurred during cleaning of the septic tanks and gutters. Socio Economic and Caste Census 2011 (SECC 2011) data on manual scavengers released by the Ministry of Rural Development on July 3, 2015, there were 182505 manual scavengers in the rural areas of the country. With regard to the numbers of manual scavengers, the states and Union Territories have uploaded the data of 14812 identified manual scavengers up to December 31, 2019. In addition, the Ministry of Social Justice and Empowerment has conducted a National Survey of Manual Scavengers through NSKFDC in 194 districts in the year 2018-19, identified 47775 manual scavengers up to December 31, 2019. Thus, a total of 62334 manual scavengers have been identified in the National Survey up to December 31, 2019.

Relationship between Swachh Bharat Abhiyan (SBA) and Manual Scavenging

Swachh Bharat Abhiyan is a country wide cleanliness drive launched in 2014 to clean public spaces like streets, roads and others. Mere construction of toilets does not assure the usage of these sanitation facilities. Villagers still prefer to go out into the fields for defecation and some have also dumped the toilets as storage rooms. A report by the World Health Organization (WHO) shows India with distinction of 173 people defecating in the open for every square kilometre, the highest density among the countries.

Building toilets is not the solution, but is rather creating more problems as there is a lack of infrastructure for drainage and disposal of waste. There is no ready mechanism to empty the pit. The new public toilets built under the SBA have generated a large number of more septic tanks and sewers, thus in turn increasing the need for more manual scavengers and septic tank cleaners. There are 816 municipal Sewage Treatment Plants (STPs) across India out of which only 522 work. If there is no sewage system in place, building toilets is only going to encourage this caste-based vocation.

Indian Railways are one of the largest employers of manual scavengers as they do not have a proper system of disposing excreta. Barring a few trains, the Indian Railways do not employ any technology to keep its 80000 toilets and 115000 kilometres of tracks clean. While performing these tasks, manual scavengers are very rarely provided safety equipment. The Tata Institute of Social Sciences in Mumbai conducted a study in Gujarat and discovered that ninety percent of all manual scavengers have not been provided proper equipment to protect them from faecal-borne illnesses. They did not wear gloves,

masks or boots while cleaning human excreta. Manual scavengers are exposed to dangerous infections, including dysentery, malaria, typhoid and tuberculosis, respiratory and skin diseases, anaemia, diarrhoea, vomiting, jaundice and parasitic diseases.

Exhibit 1 makes a comparison of two Acts which were passed by the Parliament of India during a span of two decades. The comparison has been made on the following points: perspective of Act, coverage of dry latrines, sewage, railway track and insanitary latrines, enacted under state or concurrent list, focal points of both the Acts, classification of offence as well as penal provisions.

Exhibit 2 presents the status of latrines as per House-listing and Housing Census 2011 from which night soil is removed by humans. The table presents distribution of 586067 latrines in rural areas and 208323 latrines in urban areas comprising a total of 794390 latrines. This data further reveals that there are 26.22 per cent latrines in urban areas and 73.78 per cent latrines in rural areas from which night-soil is removed by humans. Thus, it is revealed that the presence of latrines from which night-soil is removed by humans is more intensive in rural areas in comparison to urban areas.

Exhibit 3 presents the number of manual scavengers in rural areas as per Humans and House-listing and Housing Census 2011. There are a total of 182505 manual scavengers in rural areas in the country.

CONCLUSION

The study presents the occupation of manual scavengers, its historical context, the tasks performed by them, reasons for the existence of this practice, evaluation of different policies and programmes with the solution of this problem. It is significant to note that the manual scavengers spend their whole life in dire conditions and they face different diseases in their lives due to this occupation. Moreover, their average life is very low. A significant number of manual scavengers die in the gutters during cleaning. They have no place of leisure, recreation and entertainment in their lives. To address this issue, mechanical way of cleaning by way of robotic method may be strictly implemented by the state governments. There is lack of awareness about the use of mask, gloves and boots among the manual scavengers so they may be sensitised about it. The persons employing manual scavengers to clean gutters may also be penalised strictly. In addition, the concerned officials of the Nagar Nigam and Municipality may also be considered responsible if such incidents of deaths take place in their jurisdiction.

It is a fact that over the years, the successive governments have

EXHIBIT 1
EMSCDL¹ ACT OF 1993 AND PEMSR² ACT OF 2013- A COMPARISON

	<i>EMSCDL Act,1993</i>	<i>PEMSR Act,2013</i>
Perspective of Act	Sanitation perspective	Right to dignity perspective
Coverage	Only covers dry latrines	Dry latrines, the sewage, railway track and insanitary latrines
Enacted under	State list	Concurrent list
Focal points	Prohibition of dry latrines	Labour welfare and rehabilitation
Classification of offence	Cognisable	Cognisable and non-bailable
Penal provisions	Up to 1 year of imprisonment and fine up to Rs.2000/-	For insanitary latrines 1 st contravention-up to 1 year imprisonment and fine up to Rs. 50000/- or both Double in case of 2 nd and subsequent offences For septic tanks and sewers 1 st contravention-up to 2 years imprisonment and fine up to Rs. 2 lakh 2 nd / subsequent contravention-5 years and fine up to Rs. 5 lakh, or both.

EXHIBIT 2
LATRINES FROM WHICH NIGHT-SOIL IS REMOVED BY HUMANS AS PER HUMANS AND HOUSE-LISTING AND HOUSING CENSUS 2011

India	<i>No. of latrines serviced manually</i>		
	Rural	Urban	Total
	586067	208323	794390

Source: Government of India (2011), Humans and House-listing and Housing Census 2011, Page 1-2.

EXHIBIT 3
NUMBER OF MANUAL SCAVENGERS IN RURAL AREAS AS PER HUMANS AND HOUSE-LISTING AND HOUSING CENSUS 2011

India	<i>Number of manual scavengers (Rural)</i>
	Number of manual scavengers
	182505

Source: Government of India (2015), Press Information Bureau, Ministry of Social Justice & Empowerment, Date: 15.12.2015, Page 1-2.

taken major steps to address the issue of manual scavengers. A number of policies have been framed to ensure discontinuation of manual scavenging by a particular community. However, it has been found that there are failures of the public policies due to not addressing the relevant issues uniformly. Further, the existing social stratification in the society, caste system, untouchability, *jajmani* system, gender issues and lack of awareness in the society is another challenge to address the issue effectively. Many of these barriers persist even in modern times. The Indian caste system survives in large tracts of rural India despite the sweeping winds of modernity. This issue may be addressed by way of behaviour change in the society. Manual scavengers may be provided preference in skill training and subsequent adoption in any other profession.

In most cases it is also found that lack of sewage network in the country creates the need for manual scavenging so this fact may also be taken into consideration. Introduction of water based flush toilets and bio toilets is a good option but it may not be feasible because this technology is very costly. Manual Scavenging may be introduced in the curriculum in the studies of students in order to bring awareness in the society. The judgement of the Hon'ble Supreme Court may be implemented in its true spirit. This failure is also a lesson for the Government of India to introduce more policy research centres across country to make the better policies in future. Keeping all these factors in view, it is essential to extend them social justice which will be a giant leap towards humanity.

Recommendations

- Construction, maintenance and operation of water-based flush toilets/bio toilets, improvement of sewage systems and Sewage Treatment Plants (STPs);
- Introduction of mechanisation process for cleaning of septic tanks;
- Introduction of efforts to change behaviour of other children towards children of manual scavengers;
- Providing skill training to manual scavengers and their induction in other professions on the basis of skills learnt;
- Better coordination between Centre and states and proper implementation of the schemes; and
- Future programmes and policies should be made after proper studies and research.

Epilogue

The nature of approach adopted by the Government of India to address this issue is Gandhian. This approach desires change of heart and mind of the upper caste persons towards the occupation which could not be realised due to degrading moral values and increasing effect of globalisation, modernisation and liberalisation in the society. Human behaviour plays an important role in addressing such issues. To address this issue, Knowledge, Attitude and Practice (KAP) Theory; a social behaviour change theory is a suitable theory. This theory was developed by Western scholars in the late 1960s. This theory propounds that change of human behaviour is divided into three successive processes: acquisition of knowledge, generation of attitude and formation of behaviour. The theory explains that there is a strong and cohesive relationship among knowledge, attitude and practice. In it, knowledge is the foundation of behaviour change while attitude is the driving force behind behaviour change.

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Endnotes

1. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) or EMSCDL Act.
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