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MANUAL SCAVENGERS STOP HUNTING

Ever wondered, what is the one common thing people collectively dislike? Or the thing makes them turn their face from? It's that thing we keep away from our dinner table even if it's only talked about as a joke? Yes it's 'shit' something that is naturally produced everyday. Ever wonder what happens when you flush it down or who is responsible in cleaning your shit? (Literally)

Introduction

Did you know that there are thousands across the country from who work by entering manholes and unclogging drains by physically removing offensive material which find way into open drains. Being exposed to harmful toxins, fumes, diseases put them more at risk. This kind of work comes with zero appreciation and thousands who work in making sure your nightsoil does not turn into a nightmare are treated like untouchables. Why is that? Is this the nature of mankind or are some external factors like caste to play a role in it?

We have a history that has witnessed struggle, slavery and other forms of exploitation. However, despite of being aware of the concepts of liberty and equality, in current times there is certain section of society that continues to be a victim of slavery and exploitation in the form of manual scavenging. This practice that owes its creation to India's repressive caste system that continues to thrive even in the 21st century. It seems that independence and freedom seems like an illusion for those who are prisoners of their caste. As per the survey done by ministry of social justice and empowerments, there are approximately 15000 manual

scavengers in India¹, however the number could be more due to lack of rehabilitative measures.

The Indian Judiciary Point of View

Nelson Mandela once said "Only free men can negotiate; prisoners cannot enter into contracts" freedom is universally considered as one of the cherished Human Rights and the Indian judiciary has time and again emphasised on the importance of freedom and a dignified form of life as mentioned under Article 21 of the constitution². The constitution prohibits any form of forced labour and employment of children or other hazardous practices³ which causes a threat to a dignified life. The core principle of the constitution is to strike out unfair practices. Yet besides these safeguards the practice of manual scavenging prevails.

Manual scavenging is a process of physical removal of human excreta from dry latrines and sewers⁴. A person employed for manually carrying human excreta is termed as a manual scavenger under Section 2(j) of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 ("the 1993 Act")⁵. The act is vast and works towards eliminating manual scavenging fully the existing laws have proved not adequate in eliminating the evils of manual scavenging.

Parliament enacted prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 ("the 2013 Act") and then The Prohibition of Employment as Manual Scavengers and their Rehabilitation (Amendment) Bill, 2020 to completely mechanise sewer cleaning, introduce ways for onsite protection and give compensation on death of manual scavengers. The Social Justice and Empowerment Ministry's National Action Plan under the Union government not only seeks to make the existing laws tighter, but also eradicate the practice through a better faecal sludge management system. This Bill will be an amendment to The Prohibition of Employment as Manual Scavengers and their

¹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

² The Supreme Court in *Gian Kaur v. State of Punjab* 1996, 2 SCC 648

³ Articles 23 and 24 of the constitution.

⁴ UN rights chief welcomes movement to eradicate manual scavenging in India -UN News – 31.01.2013

⁵ As per Section 1(2) of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, the provisions of this enactment, "in the first instance to the whole of States of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal and to all the Union Territories and it shall also apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of Article 252 of the Constitution"

Rehabilitation Act, 2013. It will also ban employing people as manual scavengers without protective gear as well as construction of insanitary toilets will be called on as an offence.

There are a set of laws that exist against manual scavenging but they do not seem to be implemented. What is the use of such laws where there is no access to criminal justice wholly because they belong to a certain caste and if they have do they have to face discrimination in order to get justice, where that should not be the case. Despite the prominent punishments mentioned under The Prohibition of Employment as Manual Scavenger and their Rehabilitation Act, 2013 yet there is denial of the problems faced by the community. In addition Indian Railways has been employing Manual scavengers in a high number as the Indian Railways are known as the “world’s biggest open toilet” and even though it a government body yet these scavengers are not on the government payroll directly.

To look at the brighter side the Constitution of India comes to rescue as it has been stated that “Human Dignity is an inalienable right which forms a part of the fundamental right to life”.⁶The word ‘Dignity’ has been interpreted as an equal treatment and protection of law. Further Articles 1, 22 and 23 of the Universal Declaration of Human Rights also has been used as a tool for validation for the deprived. Apart from these Articles 46 and 338 of the Indian Constitution work on safeguarding the Manual Scavengers as SC or ST.

Manual Scavenging: The caste connection

Casteism a.k.a the enemy to our citizen’s freedom is till date relevant and been used as a biggest tool for the policy of divide and rule. Till date so many people have to choose their profession based on their caste, that caste which was started off by a person who is now ancient history. Manual Scavenging is one of the professions out of many which are wholly based on caste, the employment is for people from the bottommost hierarchy of the caste system in India. Although our country has stringent laws regarding Manual Scavenging yet this continues unabated.

Manual Scavenging is an addition that makes the lower caste communities invisible and powerless with the low status of women which not only forces them into scavenging but also

⁶ Article 21– *Maneka Gandhi vs. Union of India*

obligates them into facing multiple vulnerabilities and denial of rights and justice in all spheres of life. Resulting the lower caste to face challenges with their liberation and rehabilitation that should be handed over to them without any questions. There have been several approaches in abolishing the practice in context of employment but none of these approaches talk about the challenges that are faced by manual scavengers in the context of Social, Cultural and political exploitation of the citizens⁷. It does not talk about the confinement of the caste pyramid, it does not talk about how 95% of women are scavengers. None of these approaches talk about any of these social problems neither do they liberate scavengers from a mindset that they are confined to these unlawful activities which outlawed by the Indian domestic laws as well as the UN Convention on Torture.⁸

The Law in place has tried in making life easier for these marginalised but nothing substantial has changed. Irony here is that despite being involved in major decisions and social activities their destinies are flushed down the drains without any empathy. A country like ours which boasts of it being a welfare state can no longer see the indifference towards these individuals for the work they do, which is no longer inferior. As a society we need to acknowledge the lifetime's worth of trauma these scavengers go through. Traditionally, the marginalised caste was assigned the job of manual scavenging as it identifies their caste and they were called untouchables. They come lowest in the hierarchy of untouchables. Round 1.2 million of manual scavengers belong to scheduled Caste and the society outright denies to accept them as their own.

It is shameful that the cast syndrome and sanitation have become difficult to entangle. This is resulting in the exploitation of manual scavengers, which has led to the continuation of the abominable practice. It is a pity that despite a plethora of laws banning his dehumanizing practice, it has become entrenched in the system. They are subject to atrocities which plague the structure of our society. Social discrimination of lower caste happens even today in different forms, but not openly. Manual scavengers are known as *safai karamchari* just to give them a secular status to reduce and reinforce the caste system. Integration of sanitary workers in the upper caste residential localities is still rare. Similarly sitting together or touching is still a taboo and it is very rare that a marginal caste would get an invitation for a function from the upper caste. A number of organisations working at the grassroots level have

⁷ Study Report: Implementation status of schemes for rehabilitation of manual scavengers (2011)

⁸ Article 1 of the United Nations Convention Against Torture

reported that the state is responsible for the increase in manual scavenging. Urbanisation has lead to marginal caste get identified with scavenging including women. As around 95% of the women are scavengers just to support their families.

Besides all the injustice the community go through the greater injustice is death that the community faces. A community-centric model is needed to prevent citizens entering into such a practice further that would reduce the number of deaths which has been increasing a considerable amount. Data shows a hike of scavenger deaths in 2019 of 61%, further 2020 reported a total of 48,345 deaths with Uttar Pradesh leading the charts. Relief measures like onetime cash assistance, scholarships etc are provided to scavengers along with an advanced system for cleaning drains. Despite these measures it does not seem enough as the process of human intervention yet prevails.

Covid-19 and Manual Scavengers

The whole pandemic we saw how the importance of sanitation workers increased and how the government focussed on their welfare yet again Manual Scavengers were left unattended. There is prominent list of different categories of sanitation workers and Manual Scavengers are at the bottom again and that does not make them Invincible. Even though hospital sanitation workers have access to limited means, manual scavengers are left to hang dry. With a beginning of eradication of scavengers there is a ground reality that was hidden and Covid-19 happened to show that reality.

The absence of policy in the initial days of the pandemic lead to a lot of death of many sanitation workers, most of these cases were not even recorded under the National Commission of the Safai Karmachari (NCSK). The conduct of the government towards the scavengers was discreditable. They just showed the true value of bonded labour where the infrastructure of the toilet is more important that the toilet cleaner. The Polices made on account of Covid-19 were such that there was no accountability of expenditure, social security, Rehabilitation schemes, no definite provision for healthcare or pension. These policies did not seem to consider that a scavenger is prone to a lot of lifelong diseases and some of them do not even make it till retirement. Even though when the whole nation was on a lockdown these were the people who were stuck inside manholes to make sure everyone on land is safe.

Now the question of vaccination has arrived that whether this lowest denominator will be lucky enough to be vaccinated or will the government go with the herd mentality that they have the so called “immunity” to fight the virus? This matter needs to be urgently prioritised as even though they play with dirt almost every day they still need the required necessities and should be vaccinated.

Stories of Change

Today at this point, everyone is struggling to get what they want and everyone is helping each other in amidst of their struggles. We live in a world where raising a voice against an issue has almost become necessary and Manual Scavengers are doing the same maybe not directly but through social activities, NGO's etc. Some social groups help scavenger raise their voice against various forms challenges they face like poor knowledge of the act, not knowing to contact in case of any problem, lack of proper legal documentation etc. These scavengers are nothing without their challenges and its important show committed efforts to yield results. With a Gandhian ideology to enfranchise scavengers and to remove to completely remove untouchability against scavengers an environment friendly two-pit, pour flush compost toilet an socially approved, affordable, and technologically appropriate an initiative known as *Sulabh Shauchalaya* by Sulabh International Social Service Organisation⁹. With the help of this one would not necessarily clean the pits manually.

The first step towards social change is to lay emphasis on 1) Liberation; 2) Rehabilitation; 3) Vocational Training; 4) Proper education; 5) Social elevation and also work on a methodology that works as a catalyst between the non-profits and the government as it's not possible for the government to work alone for the liberation of scavengers. Besides it's also important in mobilising manual scavengers towards other occupations and giving them the training they need to survive in this social world. Another most important step is need of an effective legal strategy with a multiple approach, it's very important to be backed up by law and have a strong rehabilitation for the deprived. An effective strategy can help reduce social exclusion and can help the government to look beyond economic subsidies and liberation.

⁹ A non-profit voluntary social organisation founded in 1970 by Dr. Bindeshwar Pathak,

The problem of manual scavenger is not just their problem, but the problem of the whole country.

Conclusion

While we build our resumes, expand our network, enhance our productivity, broadcast our achievement, ponder over the future and secure our wealth, there is also the reality of people who struggle for a life dignity and freedom from hunger, disease and death. This is to draw attention on the practice of Manual scavenging which continues to being under the spot light even though the law prohibits it. It sits uneasily alongside the country's presentation of modernisation, economic and geo-political powers. It's easy to be a man and human but it's not every ones cup of tea to inculcate humanity.



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