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PLIGHT OF MANUAL SCAVENGERS IN INDIA

-Udaya Bhanu Peddireddi, student, Damodaram Sanjivayya National Law University

As we move ahead to embrace yet another year of independence, it is irony to find that even after decades that followed, the inhuman practice of manual scavenging and deaths surrounding it remain unabated. The recent death of Dalit man while manual scavenging stands as a testimony to this. Data collected by National Commission for Safai Karamcharis in 2017 reveal that one person has died every five days while cleaning sewer and septic tanks.

Manual scavenging involves removal of human excrements from dry toilets with bare hands, brooms or metal scrappers; and carrying them in baskets to dumping sites for disposal, thus making it one of the worst forms of human rights violation.

The origin of this practice dates back to the post Vedic age wherein people belonging particular caste namely Shudras are made to do the scavenging works. Naradiya Samhitha mentions manual scavenging as one of the duties of the lower caste people belonging to that era. This practice of caste system casts its shadow even today on the occupational structure of the country.

Constitutional and Statutory Safeguards:

This practice is denounced by both domestic and international law. In the Indian Context, the Constitution under articles 15, 16 and 17 strives to put an end to the discrimination based on caste and abolishes untouchability. Further as most of the people engaged in this practice belongs to backward sections of the society, they are granted certain other rights under the Constitution such as the Right to Life and Personal Liberty under Article 21, Just and humane conditions of work under article 42, the promotion of educational and economic interests of schedule castes, schedule tribes and other weaker sections under Article 46 and National Commission for Schedule castes under Article 338. .

The Parliament has enacted certain legislations for the upliftment of this community which include the Protection of Civil Rights Act, 1955 which made untouchability a cognizable and non-compoundable offence. Other frameworks in these aspects include Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 and Prohibition of Employment of Manual Scavengers and Rehabilitation Act, 2013 in order to prohibit manual

cleaning of excreta without protective gear. The National Commission for Safai Karamcharis was established in 1993 as an autonomous organization with an objective to implement and monitor various schemes for the manual scavengers and to redress their grievances.

This it finds confirming with the international position where Human dignity is a universally recognized right under the Universal Declaration of Human Rights, 1948; Convention on Elimination of Racial Discrimination (CERD) and the Convention for Elimination of all Forms of Discrimination against Women (CEDAW). The United Nations Special Rapporteur embarks on the elimination of Discrimination Based on Work and Descent. The convention on Discrimination (Employment and Occupation), 1958 focuses on issues of work related discrimination and promotes equality. These conventions also directs the governments at various levels to adopt law that aid in combating discrimination and to formulate national policy on equal opportunity in cooperation with the employer and worker organizations.

Role of Government in the Upliftment of Scavenging Community:

The Indian Government with a view to ensure the welfare of manual scavengers allocated resources for the modernization of human waste management. Self-employment scheme for rehabilitation of manual scavenging; National scheme of liberation and rehabilitation of scavengers and their dependents; Nirmal Bharat Abhiyaan (NBA) (2009-14) and Swach Bharat Abhiyaan (SBA) are some of the schemes adopted in this regard.

Steps taken by the Indian Judiciary:

In order to safeguard human rights and uphold the dignity of manual scavengers the apex court in *Safai Karmachari Andolan v. Union of India*,¹ directed the government to completely abolish this abhorrent practice and provide for the rehabilitation for the people involved therein. Further in *Delhi Jal Board v. National Campaign for Dignity & Rights of Sewerage & Allied Workers*,² the Supreme Court brought into focus the plight of disadvantaged sections of the society, specifically the scavengers who on account of abject poverty are being deprived of cherished Fundamental Right of life and liberty since decades. The court ordered for paying of

¹ (2014) 11 SCC 224.

² (2011) 8 SCC 568.

high compensation to the families of deceased and ordered for the compliance of guidelines concerning the security of manual scavengers.

However, even after the enactment of plethora of legislations such as the ones mentioned above, misery continue to engulf the scavenging communities thus making it a pipe dream to ensure an equitable and casteless society.

Way Forward to Tackle this Problem:

An effective solution to put an end to this problem of manual scavenging would be to involve all the major stakeholders of community from district magistrates to the local level in eradicating the social stigma attached towards the scavengers and ensure their rehabilitation. It is necessary that we shoulder the responsibility to educate the community at large about the health issues, hygienic practices and sanitation.

Alternative employment opportunities are to be provided to those rehabilitated and that technology is to be adopted to clean ditches and septic tanks. Inspiration in this regard can be drawn from Jan Jagriti Aawahani Bahuuddeshiya Samiti (JJAS) which is working to empower manual scavengers by running a school/daycare facility for their children and other marginalised communities in Nagpur. They work with other NGOs and government agencies to increase awareness about the rights of manual scavengers, conduct skill development programmes for them, and organise health camps and clinics.³

The organisation not only educates young children but also holds sessions for their parents. The workshops help people better grasp the problem of untouchability, their community's history, how to deal with discrimination on a daily basis, the legal tools at their disposal, and how to encourage their children to choose various careers as they get older.

The Jan Sahas Organisation has rehabilitated around 31,000 manual scavengers during the past 16 years! The foundation provides financial assistance to the rescued manual scavengers. It has also developed a programme known as the 'barefoot paralegals,' in which 65 percent of former victims of manual scavenging were trained to become advocates who would stand up and fight

³ Hency Thaker, Manual Scavenging-A law without Enforcement, 30 November, 2020 accessed through <https://thecsrjournal.in/manual-scavenging-a-law-without-enforcement/>

for the rights of others thus bringing in magnificent change through their efforts. Similar actions by the stakeholders at every stage are the need of the hour in order to bring in a change.

Millions of Indians are still deprived of the opportunity to wake up in the dawn of freedom. Their days begin with the brutal practise of manual scavenging and end with the same morning dread. It is time that we put in collective efforts to end this inhumane practice, for only then, we could proudly say that we truly realised independence!!