

WOMEN AT WORK IN MANUAL SCAVENGING: A STUDY FROM LEGAL PERSPECTIVE

Article Particulars:

Received: 12.12.2017

Accepted: 03.01.2018

Published: 20.01.2018

J.MARIA JOSEPH LOUIS

*Ph.D. Research Scholar, Department of Applied Research
The Gandhigram Rural Institute-Deemed University
Gadhigram, Tamil Nadu, India*

Dr.M.HILARIA SOUNDARI

*Assistant Professor, Department of Applied Research
The Gandhigram Rural Institute-Deemed University
Gadhigram, Tamil Nadu, India*

Abstract

Manual scavenging, a despised vocation of manually sweeping household dry latrines and carrying human excreta-still exists in many parts of India. This inhuman practice has traditionally been enforced on a specific group of people labelled as 'manual scavengers'. Both men and women clean tanks, where as the dry latrines in the houses and public places are generally cleansed by women. Women are engaged in manual scavenging in poor households on credit and these women are treated with contempt. These women and their families are forced to live their entire lives in misery and condemned to remain on the lowest rung of the caste system. Labours are very important assets of an economy. Therefore, welfare of labour is the prime responsibility of government and Ministry of Labour welfare was started in 1837. But still India is facing the problem of inhuman practice of manual scavenging in the era of globalization and technological advancement. This paper attempts to provide some facts behind the enactment of new Act, "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013", in the evaluation of the past act and schemes of the government and reasons for its failure to abolish and rehabilitate the manual scavengers to solve their problems to achieve the objective of labour welfare in real sense. The article proposes the need of a social transformation through generation of awareness and strict implementation of law and policy in order to meet the constraints of the legal and moral regime in which human dignity and respect may be restored for scavenging women.

Keywords: *Manual scavenging, Abolition, Women, Government efforts, Legal measure.*

Introduction

Manual Scavenging is a caste-based and hereditary occupation for dalits which involves removal of human excrement from dry toilets and sewers. Manual scavenging is done with basic tools like thin boards and either buckets or baskets lined with sacking and carried on the head. This occupation is predominantly linked with forced labour and slavery. This inhuman practice continues in India even after 70 years of its independence as a reflection of a caste system which derogates the very existence of dignity of the people. Women were forced to do this work. This article is a tool for self-mobilization of manual scavengers, helping to amplify their voice and broaden their space to clearly articulate their legal needs and rights.

Meaning of Manual Scavenging

Actually, manual scavengers are the people, who take away the human waste (night soil) from insanitary, "dry" toilets. NHRC (2011) defined manual scavenging as the practice to remove human excreta manually with the help of brooms and tin plates from dry latrines. NHRC explained that, the excreta are loaded into baskets which scavengers carry on their heads to locations sometimes several kilo meters from the latrines. Pathak (1995) mentioned that this inhuman practice is said to have started in the year 1214 in Europe when the first public toilets appeared. Suzuki (2009) has explained this task to be one of the most disgraced works.

Prevalence of Manual Scavenging

This inhuman practice of manual scavenging is caste-based as declared by Brahmins in the past and hereditary occupation for Dalits predominantly linked with forced labour. It is blot on

Indian economy. Masoodi mentioned that there are 7,50,000 families still working as manual scavengers. But he emphasized that actually there are around 1.3 million manual scavengers as above data not included the railway employees who have to clean the human waste from the railway tracks Masoodi (2013). According to recent census there are still 7,94,390 dry latrines where human excreta are cleaned by human hands. It is estimated around ten lakh dalit people in India mainly women, take their livelihood through manual scavenging (Census, 2011).

The Objectives of the Study

The objectives of the study are to identify the problem faced by manual scavengers, to study the legal measure on abolition of manual scavenging and to identify the huddles in successful implementation of legal measures.

Purpose of the Study

The researcher has adapted descriptive research design, terms available for the manual scavengers. The various steps involved in drawing up a research design for the studies are stating of objectives clearly, portraying the statement of the problem and identifying the viable solution through qualitative methods. Secondary sources of data such as books, journal, and websites were used for the study. The present study is a sincere attempt to investigate on the new act, "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013", in the evaluation of the past act and schemes of the government. There are a few studies about this Act but these studies have failed to analyse the reasons for its failure to abolish and rehabilitate the manual scavengers to solve their problems in real sense. Therefore the present study is a pioneering effort attempting to probe the Act, 2013.

Failure of Former Enactment

Law is considered as a tool of social change: whether law made by legislature or judge made law? Generally law made by the legislature could be considered as an instrument of social change. But the law namely "The Employment of Manual Scavengers and Construction of Dry Latrines Prohibition Act, 1993" has failed to bring a social change by abolishing the manual scavenging practice due to several loopholes in it. The first failure of the Act is that it has defined the term 'Manual Scavenger' and 'Manual Scavenging' very narrowly. According to the 1993 Act, 'Manual Scavenger' means 'a person engaged in or employed for manually carrying human excreta.' If the employer provided gloves and protective clothing which is notified by the Central Government as sufficient it would not be covered by the Act and this would be more than sufficient to allow the inhuman practice to persist. Despite the 1993 Act practice of manual scavenging continued. The existence of dry latrines as per Census report 2011 there are 7, 94,390 dry latrines still existing in the country where human excreta is cleaned up by human beings in India. Thus, the 1993 law even after two decades of its enactment has failed to prohibit the construction of dry latrines in our country or stop the practice of manual scavenging. Clearly, the 1993 Act has failed to serve its purpose.

Forced Women Scavengers

The Poorest Areas Civil Society (PACS) one of the biggest civil society programme, says every day nearly 2 Million people in India (of which 87% are dalit women and children) are forced to scavenge manually and as per Jan Sahas which organized a 10000 kilo meters nationwide march to create awareness among the people who are engaged in such inhuman practice and worked in 60 districts liberated 11000+ women from the practice of manual scavenging. So these are all the evidences that still the practice continues in our country.

Dehumanizing Practice

This inhuman practice has made the life of scavengers miserable. These people perform this task every day for a handful of money. The percentage of female (95%) engaged in this task is more than male Medina (2000). Sometimes there children also support them. These scavengers hesitate to cook food and even they don't take meal due to recall of dirty work, explained the condition of country to be backward, dirty, uncleanliness and foulness. The scavengers face

various problems like, suffering from lot of ailments, high infant mortality rate, low life expectancy and holds lowest position in the society. In society these people are known as untouchables. Even, their children's face discrimination in school, college, work place and other social places. Wilson (2012) shared experience and informed that people relate their identity to that of 'Bhangi' whether they have not performed that task. Therefore it is required to boost their status, through abolition of inhuman practice and rehabilitation of manual scavengers. According to Velkova (2003) stated that scavengers must not be overlooked otherwise their miserable condition further exaggerated. He suggested the government to improve the living standard of the scavengers by setting up of co-operatives. Hence it is clear that despite scientific and technological advancement on various fronts that saves the manual labour, the practice of manual scavenging continues to exist in India. There are very simple and low cost alternatives available in this era which can solve both the problem of manual scavenging and safe disposal of human excreta. Velkova (2003) highlighted on the separation of all household waste including biodegradable waste which have combined effect for both the municipalities and the households.

Welfare of Scavenging Women

Labour welfare comprises all those measures which promote the psychological, social, physical and general well-being of the workers. It boosts up the morale of the worker and encourages them to work hard and honestly. With respect to labour welfare, "Are all labour working in healthy and safety environment? Are they realizing the sense of belongingness with other employees and society? Are they willingly doing their work? Are they getting their basic rights?". From this point of view, the investigator wanted to focus on the deprived class of society, still facing the problem of manual scavenging are forced to continue this task. In order to abolish this inhuman practice, recently, our government has introduced new act, "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013". When bill Pacific Business Review International regarding this act was placed in the parliament, then the investigator was shocked to know that the earlier act fails to punish even a single accused. This encouraged evaluating the anti-manual scavenging efforts of the government to abolish the practice of manual scavenging and rehabilitating the manual scavengers, reasons for continuance of this practice and failures of government efforts and the problem faced by scavengers in the socio-economic environment. By keeping above objectives in view, this study begins with the introduction of labour welfare, meaning and problem of manual scavenging, evaluation of anti-manual efforts of the government and reasons for failures of the government measures and continuance of this practice in the era of globalization and technological advancement. To achieve these objectives various literatures has been reviewed. This study ends with limitations of the study and scope for further research.

National Scheme of Liberation and Rehabilitation of Scavengers

Narula (2008-09) revealed that the caste problem (the problem of untouchables), still exists despite of enactment of various laws. Mona Mishra (Executive Officer, UNDP, 2012) pointed out about failure of Act 1993 as well as the other initiatives by government and civil society organizations to address the problems of manual scavengers. Mr. Bezwada Wilson (National Convener, Safai Karamchari Andolan) highlighted on the failure of Act 1993 to punish even the single person in 19 years of its implementation. He also pointed out the ineffective performance of National Scheme of Liberation and Rehabilitation of Scavengers (NSLRS) with regard to utilization of funds. Mr. Coen Kompier (Senior Specialist, International Labour Organization (ILO) emphasized inadequate implementations of the laws at ground level. Suzuki (2009) observed that the main reason behind socio-economic backwardness of these classes is lack of awareness and inefficiency of the government efforts. He also stated that very little success have been achieved with various measures. He pointed out three fronts for poor achievement i.e. ineffective implementation of the law, unsatisfactory results of replacement of dry latrines and no optimistic change with respect to rehabilitation. Joshi, Morgan, & Fawcett (2010) found unsuccessfulness of integrated low cost sanitation technology in handling of human waste and/or other wastes and achieved little triumph in conversion of dry latrines and rehabilitation of scavengers as of 797,112

reckoned scavengers, only 23.6% rehabilitated and 9.3% retrained. Also benefits do not reach to the actual beneficiaries because those who were rehabilitated were not poor but are in better socio-economic conditions.

Anti-Manual Scavenging Efforts

Continuation of practice of manual scavenging through many years and discrimination on the basis of caste has deprived people from their social, political and economic rights. The ongoing grip of caste based prejudices and practices challenges self-esteem and dignity. This practice is not only a violation of human rights but also a shame to human dignity and humanity at large. To overcome the problem of this group of labour and for their social inclusion various efforts were initiated by the government. But, the introduction of new Act of 2013 put a question mark on the prevailing Act. Hence in the light of the introduction of new Act 2013, above mentioned are the objectives and evaluation of the prevailing Act and schemes of the government: Various literatures have been reviewed to highlight the ineffectiveness and carelessness of the government efforts. Due to increasing urbanization, demand for manual scavengers goes on increasing. Suzuki (2009) emphasized on four times steady increase in the cleaning jobs in Delhi for public sanitation. Rahtriya Garima Abhiyan, (2013) pointed out Indian Railway to be the largest employer of manual scavenger. These people are employed at a very low wage rate. Therefore, railways were not finding alternative to this inhuman practice. Paul (2013) emphasized on the indifferent attitude of the state governments in the implementation of the law by denying the fact of existence of the manual scavengers. He also highlighted that ignorant of Muslim community and female scavengers are the main reason for the failure of rehabilitation schemes. He also focused that some of the programmes were contradictory like pre-metric scholarship scheme which states that if they are in employment for at least 100 days per year than only their child will get scholarship. Hence there is wide gap between proposed and actual performance and also deserving and actual beneficiaries. In reality, efforts of the government are alive in the files of the government but in actual they are almost dead. Therefore, new Act 2013 has Pacific Business Review International been introduced to deal with the problem more strictly.

Government Failures and Reasons for Continuance of Practice

After 70 years of independent India, lot of scientific and technological advancement and world integration, our country fails to liberate and rehabilitate around 1.3 million of people caught in the grip of inhuman practice. Rahtriya Garima Abhiyan (2013) focused on the failure of government programmes due to scanty financial support and deficiency of consistent number of manual scavengers. Paul (2013) explained caste prejudices as major cause of manual scavenging. There are various reasons for persistence of inhuman practice of manual scavenging and government failures: To overcome the above failures government has enacted the new act namely, "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013". In this act, various people were included indulged in such type of practice. The provisions under this act are more rigorous as compared to other.

Suggestions and Remedies

- Awareness of all the legal provisions related to manual scavengers must be promoted.
- The exact number of manual scavengers must be identified through proper survey.
- Deadline to overcome manual scavenging must be fixed and that deadline must not be crossed.
- Use of machineries must be promoted for better sanitation instead of people.
- Provide the manual scavengers dignity and the respectful status in the society.

Conclusion

Although various anti-manual scavenging efforts were taken by the government after independence but existence of 1.3 million manual scavengers reveals that those efforts were neither in right direction nor very stringent. Government was very liberal in implementing laws, schemes and programmes. Indian railway under the monopoly control of the government, itself is

the largest violator of the law, this itself is sufficient to prove the ineffectiveness and liberal approach of the government to deal with the problem. Even after two decades, there has not been a single conviction under the existing law. Non-implementation of the law by some States reveals that the laws have lost their scope. Still several State Governments have not yet appointed the law implementing Authorities. The Supreme Court and the High Courts in various States have been pro-active by allowing public interest litigations to eliminate this inhuman practice. This also shows that the existing law has failed in eradicating this social evil. The contents of the Act shows that the emphasis has been placed more on sanitation rather than on the human dignity of the manual scavengers. In fact the law ignores the issue of human dignity mentioned in its own preamble.

References

Journals

1. Madina, M. (2000). Scavenging Cooperatives in Asia and Latin America. *Resources Conservation and Recycling* , 31, 51-69.
2. Masoodi, A. (September 30, 2013). Manual Scavenging: the worst job in India, PS:Its Illegal too. *Live Mint The Wall Street Journal* .
3. Narula, S. (2008-09). Equal by law, Unqual by caste: The 'Untouchable' condition in critical race perspective. *26 Wisconsin International Law Journal* , 255.
4. Suzuki, M. (2009). Indian Government Strategy against caste inequality: Liberating untouchables in the context of welfare schemes. *Journal of political science and sociology* , 12, 65-83.

Conference Proceeding

1. Pathak, D. (1995). History of Toilets, International Symposium on Public Toilets. Hongkong.
2. Singh, D. (2014). *Manual Scavengers and their health*. Delhi: Ratriya Garima Abhiyan.

Report

1. Census of India. (2011). *Government of India*. New Delhi.
2. Commission, N. (2011). *Human rights and Manual Scavenging*. New Delhi, India: National Human Rights Commission .
3. Report, A. (2011-12 & 2012-2013). *Ministry of Housing and Urban Poverty Alleviation*. Delhi: Government of India.
4. UNDP. (2009). *Social Inclusion of Manual Scavengers, National Round Table Discussion*. Delhi: United Nations Development Programme and UN Social Exchange.

Website

1. Annual Report, 2.-1. (2013, September 16). *National Safai Karamcharis Finance & Development Corporation*. Retrieved February 22, 2017, from <http://WWW.nskfdc.nic.in/AREport12-13.pdf>: http://nskfdc.nic.in/writereaddata/files/uploaded_documents/AREport12-13.pdf
2. Paul, S. (2013, May 31). *India and Its Unwashed Reality, Manual Scavenging* . Retrieved March 1, 2017, from SSRN: <https://ssrn.com/abstract=2272551>: <http://dx.doi.org/10.2139/ssrn.2272551>
3. Shukla, R. S. (2009, November 6). *Manual Scavenging: The Story of Untouchables Among Untouchables*. Retrieved February 27, 2017, from Available at SSRN: <https://ssrn.com/abstract=150126>: <http://dx.doi.org/10.2139/ssrn.150126>;
4. *The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993*. (1993). Retrieved from <http://int.search.tb.ask.com/search/GGmain.jhtml?searchfor=The+Employment+of+Manual+Scavengers+and+Construction+of+Dry>: <https://www.hrw.org/reports/1999/india/India994-19.htm>

Miscellaneous

1. Joshi, D. M. (2010). Sanitation for the urban poor:Whose choice, theirs or ours? *PhD Thesis* . Department for International Development: University of Southampton.
2. Velkova, M. (2003, 9 5). Is the proposed Bulgarian government strategy on municipal waste separation cost-efficient? *M.Sc Thesis* . University of Oxford.