

DIGNITY DENIED: EXPLORING THE LEGAL AND PSYCHO-LEGAL ISSUES OF MANUAL SCAVENGING COMMUNITIES

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ABSTRACT

The Indian constitution prohibits the discrimination on the ground of religion, race caste, sex, place of birth, and on any like ground, with an aim to protect the rights of every citizen. however, there is contrast between constitutional values and the social realities. One such example of this, the practice of manual scavenging. This paper has critically examined that how the practice of manual scavengers which is solely based on the structured caste hierarchy, contravenes the Articles 14, 17, 21, and 23 which guarantee equality and dignity, abolition of untouchability and of forced labour. Alongside, the parliament has passed the legislations which explicitly prohibits and penalizes this inhumane practice of manual scavenging.

In addition to a legal perspective, this paper also projects a socio-psychological perspective to reveal the mechanism within the system that perpetuates manual scavenging. This paper reinforces the otherness and inter-generational stigma, based on caste hierarchies emphasized within social identity theory. In the cases of systemic exclusion and the failures of multiple policies, learned helplessness influences and promotes resignation in communities affected.

This study, by placing manual scavenging at the crossroads of constitutional, social justice, and social psychology, recommends the approach to their systematic de-humanization as both the crucial and immediate challenge of the fight against the structural and psychological foundations of discrimination especially against the plight of the Manual Scavengers and against the downtrodden Dalit Community in general.

Keywords: Manual scavenging, Dignity of life, Caste stigma, Social Psychology, social identity theory

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INTRODUCTION

Can you imagine that a person is being employed for removal of your excreta or night soil in 21st century, which seems and is to be inappropriate and inhumane practice against the dignified life.³ whereas, every individual was born free, and having the same rights and choices as the others have, being a human, every person inherit certain basic human rights which are fundamental for their survival.⁴ it is pertinent that these rights are subsequently recognised by the legislation process of the nation, in order to get enforceability as well as create penal liability, in case of non-compliance. the right to dignified life is one such invaluable and elementary right of human species, from the pandora of rights.⁵ though, even after the 79 years of Independence, this right has not been absolutely exercised by a large section of society including Manual scavengers, Dalit, Adivasis, and so on. From the historic time, the deep-rooted caste system in Hindu social order mandate the removal of excreta by the lowest strata i.e., Dalit or untouchables. As 95 % of the Dalits are engaged in manual scavenging & within them, 90% are women,⁶ this seems to be that the practice of manual scavenging is highly linked with caste system in India.⁷

Manual scavenging persists due to entrenched social identities, inherited stigma, and an internalized belief in caste-based inferiority. Social identity theory elucidates how caste hierarchies fragment communities into rigid classifications, fostering stigma and exclusion. This process of 'otherness' not only socially isolates manual scavengers but also strips them of full citizenship. Furthermore, the concept of learned helplessness, arising from continuous neglect, exploitation, and unfulfilled promises from the state illustrate how communities internalize oppression and frequently perceive resistance as futile. This psychological entrapment perpetuates practices that the law has already prohibited.

The influence of dominant social groups and institutions is equally significant. Implicit bias and dehumanization render caste-based labour socially acceptable. Society frequently exhibits apathy towards the challenges faced by manual scavengers. This indifference can be understood through the lens of diffusion of responsibility, where awareness of injustice fails to incite collective moral

³ Human Rights Watch, *Cleaning Human Waste: "Manual Scavenging," Caste, and Discrimination in India* (2014).

⁴ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, art. 1 (Dec. 10, 1948).

⁵ India Const. art. 21.

⁶ Nat'l Comm'n for Safai Karamcharis, *Report on the Condition of Manual Scavengers in India* (2018).

⁷ Gopal Guru, *Caste and Politics of the Dalit Struggle in India*, *Econ. & Pol. Wkly.*, Nov. 1990.

action. Thus, the issue of manual scavenging transcends the marginalized; it mirrors a wider societal complicity, where silence and inaction perpetuate structural inequality.

Consequently, this research advocates for a dual strategy: a legal analysis to reveal systemic violations, alongside a social-psychological investigation to examine the cultural and cognitive factors that facilitate their persistence. Only by addressing both the shortcomings in legislation and the psychological dimensions can India progress towards eradicating manual scavenging and fulfilling the ideals of dignity, equality, and social justice enshrined in its Constitution.

VIOLATION OF FUNDAMENTAL RIGHTS BY THE INHUMANE PRACTICE OF MANUAL SCAVENGING IN INDIA

Manual scavenging, defined as the manually removal of human excreta from insanitary latrines, sewers, and open drains, remains one of the most degrading and dehumanizing forms of labour in India.⁸ Despite constitutional guarantees of equality, dignity, and liberty, this practice continues, deeply rooted in caste hierarchies and structural poverty. Its persistence symbolizes a direct violation of fundamental rights enshrined in the Constitution of India.

Right to Equality: Article 14 guarantees equality before the law and equal protection of laws to all, including the non-citizens also.⁹ It is evident that most of the manual scavengers are belongs to the Dalit community, and within them 95 % are women.¹⁰ their indulgence in this inhumane practice is an imposition of caste-based hierarchical system rather than then the choice of livelihood, which resulted into the exclusion from the mainstream society.¹¹ Their social exclusion and confinement to degrading work violates the constitutional promise of equal status and opportunity.¹²

Article 15 of the Indian Constitution, which expressly prohibits discrimination on the ground of caste, religion, sex, race, or place of birth.¹³ This practice is exclusively imposed upon Dalits, including Valmiki's, Madigas, and Mehtars, etc; who have historically been relegated to degrading occupations within the caste hierarchy.¹⁴ This hereditary exclusion of labour on caste lines denies the equal access to education, employment, and social mobility to the members of

⁸*The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act*, No. 25 of 2013, § 2(g), India Code.

⁹ *India Const.* art. 14.

¹⁰ Nat'l Comm'n for Safai Karamcharis, *supra* note 6.

¹¹ Guru, *supra* note 7.

¹² *Safai Karamchari Andolan v. Union of India*, (2014) 11 SCC 224 (India).

¹³ *India Const.* art. 15.

¹⁴ Nat'l Comm'n for Safai Karamcharis, *supra* note 6.

that community, which perpetuates the systemic exclusion from mainstream society.¹⁵ By forcing Dalit sub-castes to do that degrading work, manual scavenging creates social and psychological barriers that keep them trapped in inequality. This makes the constitutional promises of equality meaningless.¹⁶ Therefore the practice of manual scavengers is manifestly the caste based discrimination which expressly violated the fundamental principle of article 15 which prohibits the discrimination in any forms, to any person.¹⁷

The practice of manual scavenging directly violates Article 17 of the Indian Constitution, which out rightly abolishes untouchability and forbids its practice in any form.¹⁸ Manual scavenging is deep-rooted in caste-based exclusion, The person who are involved in this practice belongs to the historically marginalized section, solely on the caste based identity.¹⁹ This association of certain groups with “*impure*” and “*polluting*” work reproduces the very notions of social hierarchy and segregation.²⁰ Moreover, the continuation of such practices highlights structural failures in law enforcement and societal responses, which normalize discrimination despite constitution prohibits.²¹

Thus, manual scavenging not only undermines the spirit of Article 17 but also continues untouchability in a modernized form, resulted into the violation of the Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, extensively interpreted to include the right to live with dignity, health, and security.²² the forceful engagement of individuals in cleaning and handling human excreta without protective measures, subject them to severe health hazards, frequent diseases, and psychological trauma, which underminees the essence of a dignified life.²³

moreover, the hereditary and caste-based classification of this occupation entrenches social exclusion, depriving affected communities of equal participation in society and perpetuating cycles of poverty and indignity. Judicial pronouncements have consistently affirmed that Article 21 extends beyond mere survival to encompass conditions that enable human flourishing with

¹⁵ Human Rights Watch, *supra* note 3.

¹⁶ Guru, *supra* note 7.

¹⁷ *Safai Karamchari Andolan*, *supra* note 12.

¹⁸ *India Const.* art. 17.

¹⁹ Human Rights Watch, *supra* note 3.

²⁰ Christophe Jaffrelot, *India's Silent Revolution: The Rise of the Lower Castes in North India* (Permanent Black 2003).

²¹ Nat'l Comm'n for Safai Karamcharis, *supra* note 6.

²² *India Const.* art. 21.

²³ Nat'l Comm'n for Safai Karamcharis, *Annual Report* (2018–19).

self-respect.²⁴ Justice Field in case of *Munn V. Illinois*, held that the right to life does *not mean mere animal existence, but embraces the right to live with dignity and all that makes life worth living.*²⁵ Despite constitutional and legislative safeguards, The continuation of manual scavenging, expressly contradicts this pious vision, reducing the constitutional promise of dignity and liberty to a hollow assurance for marginalized communities.²⁶

Article 23 of the Indian Constitution, prohibits trafficking, beggar, and all other forms of forced labour, though not always enforced through overt coercion, manual scavenging is sustained through caste-based compulsions, economic vulnerability, and social stigma, leaving individuals, particularly Dalit sub-castes, with no viable alternative.²⁷ This structural coercion strips the element of free choice and compels generations into degrading labour, thereby qualifying as a form of forced labour under Article 23.²⁸ The practice also reflects systemic exploitation, as scavengers are denied fair wages, humane working conditions, and opportunities for rehabilitation.²⁹ Judicial interpretations of Article 23 have clarified that even subtle or indirect forms of compulsion—arising from poverty, caste, or social exclusion—fall within its ambit.³⁰ Thus, the persistence of manual scavenging demonstrates not only a violation of statutory protections but also a constitutional failure to eradicate exploitative labour practices prohibited under Article 23.³¹

THE EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION) ACT, 1993

After the 43 years of commencement of Constitution, the Indian parliament has passed, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, With the intention of outlawing the use of manual scavengers, building or maintaining dry latrines, and regulating the construction and upkeep of water-seal latrines and safeguarding and enhancing the human environment by requiring the conversion of dry latrines into water-seal

²⁴ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608 (India).

²⁵ *Munn v. Illinois*, 94 U.S. 113 (1877).

²⁶ *Safai Karamchari Andolan*, *supra* note 12.

²⁷ *India Const. art. 23.*

²⁸ Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publ'g 1982).

²⁹ Human Rights Watch, *supra* note 3.

³⁰ *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235 (India).

³¹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

latrines or the construction of water-seal latrines in new construction.³² The definition of "Manual scavengers" under section 2(j), means a person who is engaged in or employed for the purpose of manually carrying human excreta; and section 3 of the act prohibits that, no person shall engage or employ or permit for the same, for any other person for carrying manually human excreta, and the construction and maintenance of dry latrines as well.³³

The term "manual scavengers" appears to be an exhaustive definition that only refers to those who are employed or involved in the manual removal of human waste; it excludes any other individuals or situations that may be involved in the same activity but for which the Act has not provided for, meaning thereby if a person who is engaged in a manually cleaning, carrying, disposing of human excreta in an insanitary latrine or in an open drain or pit or on a railway track.³⁴ Section 3 of the Act, is a restrictive clause which expressly bars that, no person shall be allowed to engage or employ any other person for carrying human excreta manually; and the construction as well as maintenance of dry latrine also.

In order to eradicate the cruel practice of manual scavenger section 14 of the Act, creates the penal liability against the person who contravenes or fails to comply to any provision, rules, order, and it is punishable with the imprisonment which may extend to one year or fine which may extendable to Rs. 2000 or both; if the subsequent contravention taken place then in such a case, along with the punishment, the additional fine which may extend to one hundred rupees for every day during which such failure or contravention continues are to be awarded.³⁵ Moreover, by virtue of section 16, every offence under this act is cognisable, that is, a police officer is empowered to arrest the person against whom the complaint is being filed, without the magistrate order.³⁶ however, the punishment does not seem to be sufficient for banishing the inhumane practice of manual scavenging, meaning thereby the judge has the discretionary power, either to award the Punishment or to impose the fine which shall not be beyond the Rs.2,000, or both.

³² *The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act*, No. 46 of 1993, Preamble, India Code.

³³ Id. §§ 2(j), 3.

³⁴ Bezwada Wilson, The Struggle Against Manual Scavenging, *Econ. & Pol. Wkly.*, Oct. 2013.

³⁵ *Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act*, No. 46 of 1993, § 14, India Code.

³⁶ Ibid. § 16.

There are number of reasons which complements the failure of this legislature like the narrow definition of manual scavenger, minuscule penalty, Act enacted as a state list subject, and so on.³⁷ Now, the new law that is, The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, (Hereinafter, 2013 Act) was enacted, the aims and objective remain the same as the earlier act has, but the substantive lacking and procedural defects are to be wiped out, makes it comprehensive legislation.³⁸

THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION ACT, 2013.

Firstly, under section 2 (g) of 2013 Act, definition of manual scavenger has been expanded and of elaborative nature, includes that, a person is being engaged or employed for the purpose of manually cleaning, carrying, disposing of human excreta in an insanitary latrine or in an open drain or pit or railways as well.³⁹ The explanation to this section provides that, if the central government notifies that, any manual scavenger is cleaning the excreta by using the such protective gear and devices, then he shall not be considered as manual scavenger.⁴⁰ This explanation is vague and ambiguous, because “what is protective gears and devices” has not been defined anywhere in the Act. Section 3 of Act, provides the Overriding Effect to 2013 Act over the 1993 Act, or any other law, where there is inconsistency.⁴¹

Secondly, 2013 act has created the offence for a number of instances, in which section 5 mentioned that no person (including local authority or any agency) shall, construct an insanitary latrine, and engage or employ a manual scavenger.⁴² Herein, the word insanitary latrine refers to latrine which requires human excreta to be cleaned or handled manually.⁴³ But this definition did not encompasses that a water flush latrine in a railway passenger coach, which is to be cleaned by the protective gears and devices, shall not be deemed as manual scavenger.⁴⁴

Section 6 gives the retrospective effect to those contract which are made for engaging or employed for manual scavenger shall be terminated and such a contract shall be declared to be

³⁷ Dr. Kusum Chauhan & Dr. Lalit Dadwal, Manual Scavenging in India: Issues and Challenges, *Int'l J. Novel Rsch. & Dev.* (2021).

³⁸ *The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act*, No. 25 of 2013, Statement of Objects and Reasons, India Code.

³⁹ Id. § 2(g).

⁴⁰ Ibid. Explanation to § 2(g).

⁴¹ Ibid. § 3.

⁴² Ibid. § 5.

⁴³ Ibid. § 2(e).

⁴⁴ Wilson, supra note 34.

void and inoperative, and no compensation has been paid off.⁴⁵ Section 8 of the act, creates the penal liability, in contravention of section 5 & 6, for first contravenes, the offender would be punishable with imprisonment, which may extend to one year or with fine which may extend to Rs. 50000 or with both, upon subsequent contravention, imprisonment which may extend to two years or with fine which may extend to 100000, or with both.⁴⁶

Section 7 prohibits that, no person engages or employ any person for hazardous cleaning of a sewer or a septic tank, and in case of any contravention to section 7, section 9 (upon first contravention) provides the punishment which may extend to two years or with fine extendable to two lakh rupees or with both, & upon subsequent contravention, imprisonment extendable to five years or with fine which may extend to five lakh rupees, or with both.⁴⁷

Safai Karamchari Andolan v. Union of India (2014)

This case arose from a petition filed by the Safai Karamchari Andolan, seeking enforcement of the 1993 Act, and 2013 Act. The Court held that manual scavenging is a violation of fundamental rights—specifically Articles 14, 17, and 21. The court has mandated ₹10 lakh compensation for families of sanitation workers who died while performing such tasks since 1993 and directed both Union and State governments to enact effective laws to eradicate the practice. Moreover, it emphasized upon the urgent need for mechanization, protection, rehabilitation, and legislative action to end this inhumane occupation.

Balram Singh Case v. Union of India, 2023

The Supreme Court reiterated the unconstitutionality of manual scavenging and strongly condemned the State's failure to eradicate this inhumane practice despite multiple legislative measures. The Court emphasized that the continued deaths of individuals in sewers and septic tanks highlight gross negligence and systemic apathy from the state machinery. A prime focus of the judgment is that the compensation framework for victims. the Court raised the compensation to ₹30 lakh for families of those who died, ₹20 lakh for permanent disabilities, and ₹10 lakh for other forms of disablement. The Court emphasized that these victims and their families had endured bondage and social exclusion. Further the court ordered that the rehabilitation, alternative employment, and education support for dependents, underscoring that compensation

⁴⁵*Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, No. 25 of 2013, § 6, India Code.*

⁴⁶ Ibid. § 8.

⁴⁷ Ibid. §§ 7, 9.

cannot be treated as charity but as a constitutional right flowing from Articles 21 and 23. The Court also stressed fixing accountability on officials for delay or denial of compensation.⁴⁸

SOCIAL IDENTITY AND THE PERPETUATION OF STIGMA

The practice of manual scavenging can neither be properly understood in isolation nor does its identification as manual scavenging. Aronson, Wilson, and Sommer (2018) put it as follows: Group-based identities influence not only individual self-concept, but also societal perceptions of worth and competence. Within this context, sanitation workers from oppressed castes are always defined by their ascribed identity rather than their individual capacity. This stigmatized identity prompts processes of stereotype threat, something where one anticipates being socially devalued in a public environment and hence constrains both aspiration and performance. Subsequent internalization of such stigma is consistent with other social psychological understandings of the long-term consequences of acquired negative group labels, once internalized, for self-esteem and intergroup relations (Aronson, Wilson, & Sommers, 2018).⁴⁹

LEARNED HELPLESSNESS AND ENTRAPMENT ACROSS GENERATIONS

The phenomenon of manual scavenging additionally provides other classic examples of learned helplessness in the field of social psychology. Myers and Twenge (2020) in Exploring Social Psychology, explain how the repeated experience of uncontrollable and degrading situations leads to a state of resignation and passivity. The intergenerational nature of this poop scavenging occupation for many manual scavengers creates a psychological climate where the individual sees little possibility to break free from caste-based labour. This is consistent with findings on attributional style, which suggest that failure or humiliation, if attributed to global, stable, and internal factors ("I am born into this caste, and hence unworthy") will increase feelings of hopelessness. The structural system of exploitation persists despite legal outlawing due to psychological entrapment (Myers & Twenge, 2020).⁵⁰

PREJUDICE, DISCRIMINATION, AND SOCIAL EXCLUSION

Social exclusion at community level is evidenced by manual scavenging. In the Oxford Handbook of Personality and Social Psychology, Deaux and Snyder (2018) highlight that intergroup biases and exclusionary practices exist in everyday interactions; In this context caste-

⁴⁸ 2023 INSC 950 (India).

⁴⁹ Elliot Aronson, Timothy D. Wilson & Samuel R. Sommers, *Social Psychology* (10th ed. Pearson 2018).

⁵⁰ David G. Myers & Jean M. Twenge, *Exploring Social Psychology* (9th ed. McGraw-Hill Educ. 2020).

based prejudice goes beyond explicit discriminatory acts and takes form in subtle but pervasive forms of microaggression and avoidance behaviour - for example the refusal of dominant caste groups to share public spaces with sanitation workers. This exclusion is not only a matter of material exclusion, but of profound psychological exclusion which produces feelings of humiliation, invisibility and alienation. Social psychological evidence reinforces the fact that such exclusion can affect one's cognitive ability, weaken their motivation, and harm long-term psychological health (Deaux & Snyder, 2018).⁵¹

SOCIAL JUSTICE, STRUCTURAL INEQUALITY AND PSYCHOLOGICAL DAMAGE

The psychological impact of manual scavenging also needs to be considered from the wider context of social justice in psychology. Hammack (2018) from The Oxford Handbook of Social Psychology and Social Justice claims that the compounded psychological harms of persistent inequality and institutionalized oppression. For manual scavengers, caste hierarchy and inculcation of inferiority, social exclusion from education and mobility are sources of chronic stress, and trauma. Furthermore, the nexus of legal invisibility and psychological marginalization offers an explanation for why many manual scavengers don't avail themselves of state rehabilitation programs: psychological alienation makes help-seeking socially unacceptable, while structural injustice makes it socially acceptable. Thus, psychology is a crucial way in which the injustice of the macro level is internalised as the suffering of the micro level (Hammack, 2018).⁵²

INFLUENCE OF NORMS AND RESISTANCE FOR CHANGE

Finally, the existence of manual scavenging indicates that social influence plays a role in perpetuating oppressive social norms. Sammut (2020), in his work *The Psychology of Social Influence*, illustrates how collective "common sense" becomes stabilized through norms pressures, making certain practices seem like a necessity. In caste societies, normative influence is present for both the dominant and the marginalized: the former resist giving up their privileges, and the latter are pressured to conform to hereditary obligations of work. Majority influence pushing back on structural change and minority influence emerging from activist groups and rights movements is insufficient to reverse common sense about dignity and equality.

⁵¹ Id.

⁵² Kay Deaux & Mark Snyder, eds., *The Oxford Handbook of Personality and Social Psychology* (2d ed. Oxford Univ. Press 2018).

These processes explain why constitutionally guaranteed rights are not realized (Sammut, 2020).⁵³

One such considerable effort is being made by a social rights organization named Bundelkhand Dalit Adhikar Manch, from Jalaun Uttar Pradesh. Under the leadership of Kuldeep Kumar Baudh to shed light on the experiences and everyday struggles of the members of the Dalits community who are a dominant part of the Manual Scavengers group working under horrendous conditions to make ends meet and especially for women the mattes are more pitiful as they try to make a balance between livelihood and dignity while being more prone to be infected with diseases and a variety of health problems at the same time.⁵⁴

INTEGRATED PSYCHOLOGICAL VIEWPOINT

In other words, manual scavenging is not just a legal or sociological issue but a deep psychological one, marked by stigma, threat to identity, learned helplessness, prejudice, exclusion, structural injustice, and massive normative power. The collusion of these processes establishes how individual suffering is rooted to individual psychology as collective that therefore makes a call for interventions to include legal prohibition concomitant to psychological rehabilitation. Mainstream social psychology provides theoretical clarity both for explanatory purposes and potential evidence-based intervention strategies that might be employed to interrupt cycles of exclusion and restore human dignity.

⁵³ Phillip L. Hammack, ed., *The Oxford Handbook of Social Psychology and Social Justice* (Oxford Univ. Press 2018).

⁵⁴ George Sammut, ed., *The Psychology of Social Influence: Modes and Modalities of Shifting Common Sense* (Cambridge Univ. Press 2020).