

REVIEW OF ARTICLE 17 AND PRACTICE OF MANUAL SCAVENGING IN INDIA

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DOI: 10.5958/2249-7137.2021.02633.1

ABSTRACT

In Part III of the Indian Constitution, commonly regarded as the highest law of the country, there is a provision guaranteeing "the right to eradication of untouchability". "Untouchability" is abolished, and its practice in whatever form is prohibited, according to Article 17. The imposition of any handicap resulting from "Untouchability" will be a criminal offense punishable by law, implying that the Indian constitution prohibits the practice of untouchability as a fundamental right of human life. Even while the Constitution prohibits such abuses, we may nevertheless find remnants of them in behaviours such as manual scavenging. The topic of whether manual scavenging is a breach of Article 17 and how to deal with the problem of manual scavenging is addressed in this study paper.

KEYWORDS: Article, Constitution, Labour, Manual, Scavenging.

1. INTRODUCTION

Manual scavenging is a practice common in the states of Uttar Pradesh, Madhya Pradesh, and Maharashtra, among others that entails cleaning human excrement from public streets and dry latrines. People from the lowest castes, particularly the 'Dalits,' often engage in this activity in rural regions. Even though India passed the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, this issue still appears to be prevalent in many parts of the country, necessitating a thorough investigation and resolution because a large number of people are exposed to danger and discrimination as a result of this practice[1]. Manual scavenging is one of the causes of untouchability in India, despite the fact that it was proclaimed illegal under Article 17 of the Indian Constitution. As a result, there is a need to work in this area and to find any possible solutions to this problem, which will be addressed in this research article.

Manual scavenging is defined by the International Labour Organization as the removal of human excreta from public streets or dry latrines, as well as the cleaning of septic tanks, gutters, and sewers. It's the word for the procedure of manually or with shovels removing untreated human feces from pit latrines. It has been illegal in India since 1993 due to its inhumane caste-based nature. It has also proven to be very hazardous, since the "scavengers" are often given little to no safety gear. It is primarily a caste-based profession, with women accounting for the majority of the "scavengers." Maharashtra is renowned for having the highest instances of manual scavenging, with almost 64,000 cases on its own; Uttar Pradesh, Madhya Pradesh, Tripura, and

Karnataka follow. According to the 2011 census, 794,000 instances of manual scavenging were found throughout India[2].

2. LITERATURE REVIEW

Manual Scavenging- A case of Denied Rights

The author of this essay has detailed the horrors that individuals who work in such circumstances endure. The author has attempted to illustrate the prejudice that such individuals face in society. The author also attempted to highlight the numerous changes enacted by the Indian government via different legislation, as well as the reasons for their inability to be implemented.

Right to Dignity, not for Manual Scavengers: The neglected state of rights of scavengers in India

Swapnil Tripathi's article focuses on the violations of rights that occur as a result of such heinous work. This article not only discusses the right to the elimination of untouchability, but it also attempts to link the right to life and other basic rights to the issue of manual scavenging. It also considers the different changes that may be implemented in order to eliminate such behaviors from society as a whole.

India's female scavengers enslaved by caste, gender discrimination

This article discusses the gender disparities that are prevalent in this dangerous industry. The author, Rina Chandran, attempts to illustrate how women make up the majority of manual scavengers and how they confront more challenging conditions while dealing with them. She attempts to provide an in-depth examination of the horrors perpetrated against such women, as well as the society's lack of compassion for them. The oppression of the downtrodden has been emphasized as a major element of this atrocity in this essay. While being a member of a community that is exposed to this terrible situation, the ladies suffer a bleaker destiny. This article emphasizes that in order for the upliftment of this oppressed class to be successful, effort must be done to uplift others who are even more oppressed.

3. DISCUSSION

Under the leadership of G.S. LaxmanIyer, the Gobichettypalyam municipality was the first to prohibit manual scavenging in the 1950s. In 2013, Delhi became the first state to prohibit manual scavenging under topic 6 of the state subject, sanitation, and district judges are now responsible for ensuring that the ban is implemented. Even though many governments have attempted to enact legislation to end discrimination as a result of such practices, they continue to exist, breaching not only state and national laws, but also international agreements[3].

Convention of the International Labour Organization

In 1958, the International Labour Organization (ILO) issued a convention in which they attempted to emphasize the problem of job discrimination. This conference was founded on the Philadelphia Declaration, which said that "all human beings, regardless of race, religion, or sex, have the right to seek both their material and spiritual well-being in circumstances of freedom and dignity, economic stability, and equal opportunity." India was a signatory to the agreement, and numerous Acts and decrees relating to the prohibition of manual scavenging have been enacted by the Indian parliament with this treaty in mind. The Employment of Manual

Scavengers and the Construction of Dry Latrines (Prohibition) Act of 1993 prohibits the use of manual scavengers and the construction of dry latrines.

After six states asked that the center create laws to impose a stringent prohibition on manual scavenging, this Act was enacted. Only after such a request did the Narsimha Rao government's ministry of urban affairs incorporate this act into the country's law in 1993. The use of manual scavengers or the construction of dry latrines were both punishable under this law. The penalty may include up to a year in jail and/or a fine of up to Rs. 2000.

The Prohibition of Employment as Manual Scavengers and Rehabilitation Act of 2013 (M.S. Act 2013) prohibits employers from employing manual scavengers. The prohibition of work as manual scavengers and their rehabilitation Act, 2013, is the most recent addition to the collection of laws prohibiting manual scavenging. The Ministry of Social Justice and Empowerment issued this act. The major goal of this law was to eradicate unclean latrines, ban the use of manual scavengers and dangerous manual sewer and septic tank cleaning, and keep track of manual scavengers and their rehabilitation. This Act was drafted as a significant step in enacting the prohibition on manual scavenging[4].

Manual scavengers are discriminated against.

Discrimination against this segment of the population has existed in the country for a long time. Often referred to as the “dirtier” side of society, this group has had to deal with events and circumstances that the broader public would find unfathomable. The Supreme Court, High Courts, and other subordinate courts of India have emphasized prejudice against this segment of the population in a number of instances, some of which are summarized below:

Union of India v. Safai Karamchari Andolan

The Supreme Court of India ruled in this case that manual scavenging is an inhumane, demeaning, and humiliating occupation in India. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 acknowledges Article 17 of the constitution as a right given to the Manual Scavengers by the constitution as their basic fundamental right, according to the Supreme Court. “The official figures of the Ministry of Social Justice and Empowerment for the year 2002-2003 placed the number of recognized manual scavengers at 6, 76,009,” stated P. Sathasivam, CJ[5].

Over 95 percent of them are Dalits who have been forced to do this dehumanizing job. The Supreme Court also referred to several international covenants and instruments, including the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of Racial Discrimination (CERD), and the Convention on the Elimination of All Forms of Discrimination Against Women, to which India is a signatory, that seek to guarantee a dignified human life in respect of his profession and other walks of life, such as the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of Racial Dis (CEDAW)[6].

In this decision, the Supreme Court emphasized the need of all state governments implementing the Act in their individual states for the preservation of the right under Article 17 of the constitution to protect Manual Scavengers from discrimination.

National Campaign for Dignity and Rights of Sewerage and Allied Workers v. Delhi Jal Board

The Supreme Court recognized and emphasized the suffering of the oppressed elements of society, particularly manual scavengers, who risk their lives cleaning sewers without appropriate safety equipment and have been denied the right to be free from discrimination for decades. "Workers are suffering from excessive mortality and morbidity as a result of occupational exposure," the Supreme Court said. In the past two years, 33 employees have died as a result of accidents while working on clogged sewage systems. 59 percent of employees go into sewage manholes more than ten times each month, and half of them work more than eight hours every day. Syncope was recorded by 41 employees, and transient loss of consciousness was reported by another 24[7].

A bit more than a third of the employees had had tetanus vaccinations, but none had received hepatitis B vaccinations. According to the Body Mass Index (BMI) assessment, about 46 percent of employees of all ages are underweight. Regardless of employment duration, all day workers received a monthly salary of about 2950 rupees with no additional benefits." While hearing this case, the Supreme Court chastised the federal and state governments for failing to pay more attention to these employees, who are forced to work in such deplorable conditions due to their poverty and subsequently face prejudice and the threat of death under any circumstances. The government was also ordered by the Supreme Court to take guidance and action in this regard.

Obstacles to Overcoming During Implementation

The inability of the governmental system to identify the unlawful hiring of manual scavengers in rural areas is one of the main difficulties encountered during the execution of legislation related to manual scavenging and manual scavengers. According to the National Advisory Council, "almost no one has been punished under this legislation." This was said in the context of penalties meted out in the context of acts enacted by the legislature[8]. Another reason for the lack of implementation is that individuals who attempt to break free from the vicious cycle of manual scavenging encounter hostility from the society in which they live. Manual scavenging has become so ingrained in society that it is difficult to escape it without suffering the repercussions. Even the government fails to offer sufficient assistance to those who voluntarily want to leave such jobs.

Because of the prevalence of caste dominance in India, many criminal cases involving crimes perpetrated against the allegedly lower caste of the society, the Dalits, go unreported. It has been observed that police do not record such complaints, particularly when the offender belongs to the dominant caste. As a consequence, there is no effective check on the elimination of such activities[9]. People that engage in such work are those who are from the poorest sections of society and therefore do not have any other other forms of employment; thus, it is difficult for them to give up the only source of income that allows them to meet their basic needs. These individuals are also restricted from crossing specific geographical borders, and as a result, they lack access to other broad kinds of work that others with similar economic stakes have.

Analyze the Situation

When all of the aforementioned data is examined, it becomes clear that there is a pattern behind the non-implementation of this major prohibition, which turns out to be the insufficiency of the measures taken to put the Acts into effect. Owing to the government's failure to execute the established legislation, the whole system of discrimination has persisted due to a lack of

detection. As a result, the remedy to the breach of Article 17 of the constitution in relation to the abhorrent practice of manual scavenging is to take sufficient steps to ensure that the action plan is carried out properly. According to the author, if this problem is to be dealt with effectively, the government must strive to raise knowledge about the illegality and danger of the practice, as well as provide specific methods for victims to be successfully removed from this vicious cycle. It is also critical to provide victims with alternative job options in order to better their economic situation and maintain their social standing[10].

4. CONCLUSION

Finally, it can be said that manual scavenging is one of the most heinous kinds of prejudice that exists in society, and that it must be eliminated. Even though India passed the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, this issue still appears to be prevalent in many parts of the country, necessitating a thorough investigation and resolution because a large number of people are exposed to danger and discrimination as a result of this practice. Manual scavenging is one of the causes of untouchability in India, despite the fact that it was proclaimed illegal under Article 17 of the Indian Constitution.

The legislature should take a number of measures not only in formulating programs to safeguard the basic fundamental rights of individuals who are denied such rights while working under such conditions, but also in ensuring that they are properly implemented to achieve the best possible outcomes. Work should be done to find alternative work for these Manual Scavengers in order to improve their social and economic situation, and information should be disseminated to the general public so that people are aware of their predicament. Manual scavenging should be abolished completely in the name of the fundamental right against eradication of untouchability guaranteed by Article 17 of the Indian constitution. Only then can the nation and judicial system realize its core values of justice, equality, and morality.

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