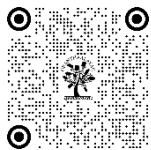


# NAVIGATING REHABILITATION OF MANUAL SCAVENGERS WITH REFERENCE TO MEASURES UNDER THE EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION) ACT, 1993 & THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION ACT, 2013 - A STUDY

R. Dhivya<sup>1</sup>✉, Dr. B. Someswara Rao<sup>2</sup>✉

<sup>1</sup>Research Scholar, VEL TECH School of Law, Vel Tech Rangarajan, Dr. Sagunthala R&D Institute of Science and Technology, Avadi, Chennai

<sup>2</sup>Research Supervisor, Professor & Head of the Department, VEL TECH School of Law, Vel Tech Rangarajan, Dr. Sagunthala R&D Institute of Science and Technology, Avadi, Chennai



## DOI

[10.29121/shodhkosh.v5.i4.2024.4808](https://doi.org/10.29121/shodhkosh.v5.i4.2024.4808)

**Funding:** This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

**Copyright:** © 2024 The Author(s). This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

With the license CC-BY, authors retain the copyright, allowing anyone to download, reuse, re-print, modify, distribute, and/or copy their contribution. The work must be properly attributed to its author.



## ABSTRACT

Manual Scavenging is another form of slavery and forcing the human to lead their life by doing this from generation to generation. Throughout history, Manual scavenging has been connected with caste in India. It is another form of caste discrimination that has existed in India for ages. Manual scavenging is a serious socio-legal issue that violates human dignity and all standards of decent employment. It becomes essential to recognise that manual scavenging is a kind of caste-based violence in and of itself. It is one of the most abhorrent realities that exist in the nation today. In order to lead their life in a dignified manner everyone needs a livelihood, that's where employment steps in. Identifying and rehabilitation of manual scavengers makes a path to the eradication of manual scavenging in India. The Manual Scavengers Act, 1993 & 2013 expresses strong commitment towards rehabilitation of Manual Scavengers and employment measures for Manual Scavengers In India. This paper aims to navigate the rehabilitation, measures and schemes of Manual Scavengers and its impact on the right to employment of Manual Scavengers in India.

**Keywords:** Manual Scavenging, Employment, Schemes, Rehabilitation, Livelihood, Identification

## 1. INTRODUCTION

Manual scavenging involves the Manual lifting and removal of night soil or human excreta. It is regarded as an impure occupation. Despite the passage of the Constitution of India, which guarantees social justice and fundamental human rights, certain segments of the population continue to dream of such rights even after seventy-six years of independence. Manual scavenging is an abhorrent social phenomenon that contravenes all tenets of respectable labour and human dignity. Manual scavenging is considered to be among the most egregious enduring manifestations of dehumanising labour practises and caste discrimination. Human rights, economics, and society are all facets of the right

**How to cite this article (APA):** Dhivya, R., and Rao, B. S. (2024). Navigating Rehabilitation of Manual Scavengers with Reference to Measures Under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 & The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 - A Study. *ShodhKosh: Journal of Visual and Performing Arts*, 5(4), 1640–1644. doi: 10.29121/shodhkosh.v5.i4.2024.4808

to work. It does not ensure that everyone will get the employment of their choice, but discrimination ought to be prohibited.

## 2. MANUAL SCAVENGING

Manual scavenging has evolved into a societal norm or behaviour, which persists despite all available technology and alternatives<sup>1</sup>. Manual scavengers, both men and women, are still cleaning human waste out of septic tanks, open defecation sites, private and public dry toilets, open and closed gutters, and sewers by hand, even after 76 years of independence<sup>2</sup>. Manual scavenging refers to the practice of manually cleaning sewers or extracting garbage from toilets without the use of appropriate safety equipment. In basic terms, the manual extraction of untreated human excreta from pit latrines or bucket toilets is performed using handheld buckets or shovels. Manual scavengers use rudimentary equipment, including a bucket equipped with a bag and a handle. Subsequently, the labourer proceeds to physically transport the rubbish and deliver it to the designated disposal locations<sup>3</sup>.

The right to a clean, safe, and healthy environment is a basic right guaranteed by Article 21 of the Indian Constitution, which includes the right to life. However, Manual Scavengers put their own health and safety at risk to ensure that residents have access to this benefit<sup>4</sup>. A "scavenger" is defined in Section 3(28)<sup>5</sup> as someone who cleans sewers, latrines, or slaughterhouses, gathers or removes dirt, and employs carts to do so. According to section 2(j) "manual scavenger"<sup>6</sup> means a person employed or engaged for manually carrying human excreta. Section 2(1)(j) defines a "manual scavenger"<sup>7</sup> as an individual, agency, local government, or contractor hired or contracted to manually clean, carry, or handle human excreta in a latrine, in an open drain or pit where the waste is disposed of from unsanitary latrines, on railway tracks, or in any other area or premises, etc. The three types of manual scavenging are distinguished by the International Labour Organisation. They are as follows: Eliminating human waste from dry latrines and public spaces, Septic tank cleaning, Sewer and gutter cleaning.

## 3. LAW FOR MANUAL SCAVENGERS

The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 and the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 were enacted to end caste-based discrimination in manual scavenging<sup>8</sup>.

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

Historically, manual scavenging has been associated with the practice of untouchability, which is proscribed by Article 17 of the Indian Constitution. The act was enacted in 1993 with the purpose of granting constitutional recognition to this right, prohibiting manual scavenging and eradicating untouchability. The enactment of this legislation aimed to

---

<sup>1</sup> Dr. Babasaheb Ambedkar Research and Training Institute, BARTI, Pune, Manual Scavenging in India: Literature

Review, [https://docs.google.com/document/d/18Y0AoUrgHv8FhBRu4Gkqghbmr-2Ejn8ExkU7eN\\_00xc/edit](https://docs.google.com/document/d/18Y0AoUrgHv8FhBRu4Gkqghbmr-2Ejn8ExkU7eN_00xc/edit), Visited on 19/11/2023

<sup>2</sup> Ibid

<sup>3</sup> Hency Thacker, Manual Scavenging – A Law Without Enforcement, <https://thecsrjournal.in/manual-scavenging-a-law-without-enforcement/>, Visited on 19/11/2023.

<sup>4</sup> Lavanya Chetwani, The Menace of Manual Scavenging in India: The Case for Stronger Legal Implementation, <https://ohrh.law.ox.ac.uk/the-menace-of-manual-scavenging-in-india-the-case-for-stronger-legal-implementation/>, Visited on 19/11/2023

<sup>5</sup> The Tamil Nadu District Municipalities Act, 1920

<sup>6</sup> The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

<sup>7</sup> Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013

<sup>8</sup> Prohibition of Manual Scavenging, <https://www.rootsresource.in/portfolio/prohibition-of-manual-scavenging/>, Visited on 20/11/2023

eradicate manual scavenging entirely, mandate the installation of water-seal latrines in all structures, and criminalize the construction or maintenance of dry latrines.

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

Twenty years after the first act was passed, the employment or engagement of individuals as manual scavengers, this act was enacted. Aside from that individual, nobody was penalized under the prior act. 2013 saw the passage of this act, which was intended to expand the scope and coverage of specific areas that were not addressed in the previous legislation.

### **4. MANUAL SCAVENGING AND RIGHT TO EMPLOYMENT**

The right to Employment is not granted as a basic right in order to impose a concrete responsibility on the state to provide employment for everybody<sup>9</sup>. Article 21 guarantees the right to life and personal liberty, and the Supreme Court has interpreted this to indicate that the right to life includes the right to a livelihood<sup>10</sup>. Everyone has the right to work, to free choice of employment, to reasonable and suitable working conditions, and to protection against unemployment<sup>11</sup>. The States Parties to the present Covenant recognise the right to work, which includes everyone's right to earn a livelihood via labour that he chooses or accepts freely, and will take necessary efforts to protect this right<sup>12</sup>. The most fundamental need in life is the ability to work and be employed, since this allows one to support themselves via employment<sup>13</sup>. Everyone has the right to a safe and healthy working environment, as well as the freedom to choose their own job. Employees or workers should only work in a clean and safe atmosphere; otherwise, their health may suffer and they may even pass away. The "Right to Employment" declared that the freedom of trade, profession, and other rights are intimately tied to the right to work. According to the right to work, everyone should be able to find employment without facing any forms of prejudice.

### **5. REHABILITATION MEASURES FOR MANUAL SCAVENGERS**

The government has devised numerous schemes and programs to improve the social and economic conditions of manual scavengers, who are presently subjected to an inherited, intolerable, and inhumane condition

### **6. SELF- EMPLOYMENT SCHEME FOR REHABILITATION OF MANUAL SCAVENGERS**

Rehabilitating remaining manual scavengers and their dependents into alternative occupations was the objective of this plan. However, the project did not meet its intended deadline, so the initiative was extended until March 2010. Its purpose is to eliminate manual scavenging and rehabilitate its practitioners through a self-employment initiative. Help will be made available to the manual scavengers and their dependents, regardless of their income level. "The Prohibition of Employment as Manual Scavengers Act, 2013" has amended the central sector self-employment scheme for rehabilitation; the revised program will go into effect in November 2013.

<sup>9</sup> Anurag Singh and Rashi Jeph, Should There Be a Fundamental Right to Work?, The Journal of Indian Law and Society Blog, <https://jils.blog/2022/06/01/should-there-be-a-fundamental-right-to-work/>, Visited on 19/11/2023.

<sup>10</sup> Olga Tellis Vs Bombay Municipal Corporation, AIR 1986 SC 180

<sup>11</sup> Article 23(1), Universal Declaration of Human Rights, 1948.

<sup>12</sup> Article 6 (1), International Covenant on Economic, Social and Cultural Rights, 1996.

<sup>13</sup> Dr. R. D. Dubey, Right to Work and Working Conditions: Its Constitutional Aspects, [https://ir.nbu.ac.in/bitstream/123456789/3237/1/September-2011\\_13.pdf](https://ir.nbu.ac.in/bitstream/123456789/3237/1/September-2011_13.pdf), available on 19/11/2023.

## **7. PRE-MATRIC SCHOLARSHIPS FOR THE CHILDREN OF THOSE ENGAGED IN UNCLEAR OCCUPATION**

The primary objective of the scholarship programme is to provide monetary support for the pre-matric education of children whose parents are employed in vocations that include cleaning tasks and are exposed to potential health risks. This program is intended to provide financial aid to the offspring of manual scavengers, flayers, tanners, and so forth.

## **8. INTEGRATED LOW-COST SANITATION SCHEME**

The centrally sponsored scheme for urban low-cost sanitation was initially instigated by the Ministry of Home Affairs to eradicate the inhuman practice of manual scavenging, which involved the physical transportation of night soil. Subsequently, the Ministry of Social Justice and Empowerment executed this scheme. The aim of this initiative is to convert or build affordable sanitation facilities consisting of two pit-pour flush latrines, as well as to construct additional latrines for economically disadvantaged households lacking such facilities. This is done to prevent the inhuman practice of open defecation in urban areas. This initiative is restricted to households in the economically disadvantaged sections only. The ministry of housing and urban poverty alleviation will ensure the direct implementation of this scheme.

## **9. NATIONAL SCHEME OF LIBERATION AND REHABILITATION OF SCAVENGERS (NSLRS)**

The Government of India initiated this program in an effort to rehabilitate and provide alternative employment for scavengers and their dependents, as well as to liberate scavengers. This initiative provides scavengers and their dependents with training in professions that correspond to their aptitudes, thereby offering them alternative employment opportunities.

## **10. THE SELF EMPLOYMENT SCHEME FOR REHABILITATION OF MANUAL SCAVENGERS (SRMS)**

The Ministry of Social Justice and Empowerment implemented the Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) with the objective of providing rehabilitation assistance to identified manual scavengers and their dependents through the engagement in alternative occupations.

## **11. CONCLUSION**

The rehabilitation of manual scavengers through legislative framework such as the Employment of Manual Scavengers and Construction of Dry Latrines Prohibition Act 1993 and Employment as Manual Scavengers and their Rehabilitation Act 2013 is important one in prohibition of manual scavenging, identification and rehabilitation of identified manual scavengers. While these Acts fight for eradication of manual scavenging, implementation of Rehabilitation measures and social change for the inclusion of rehabilitated manual scavengers. Frequent attention and monitoring shall be vital for the eradication of these practices in India.

## **CONFLICT OF INTERESTS**

None.

## **ACKNOWLEDGMENTS**

None.

## **REFERENCES**

Dr. Kusum Chauhan and Dr. Lalit Dadwal, Manual Scavenging in India: Issues and Challenges, International Journal of Novel Research and Development, Volume 6, Issue 12 December 2021, ISSN: 2456-4184

The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993  
The Prohibition of Employment as Manual Scavengers and their rehabilitation Act, 2013  
Dr. Babasaheb Ambedkar Research and Training Institute, BARTI, Pune, Manual Scavenging in India: Literature Review  
Hency Thacker , Manual Scavenging – A Law Without Enforcement  
Lavanya Chetwani , The Menace of Manual Scavenging in India: The Case for Stronger Legal Implementation  
The Tamil Nadu District Municipalities Act, 1920  
Anurag Singh and Rashi Jeph, Should There Be a Fundamental Right to Work?, The Journal of Indian Law and Society Blog  
Olga Tellis Vs Bombay Municipal Corporation, AIR 1986 SC 180  
International Covenant on Economic, Social and Cultural Rights,199  
Universal Declaration of Human Rights, 1948.  
Dr. R. D. Dubey, Right to Work and Working Conditions: Its Constitutional Aspects  
Human Rights Watch. (2014). Cleaning Human Waste: Manual Scavenging, Caste, and Discrimination in India.  
Chaudhary, P., "Caste and Occupation: The Persistence of Manual Scavenging," Economic and Political Weekly, 2020.  
Bhasha Singh, Unseen: The Truth About India's Manual Scavengers, penguin group publisher, 2014.  
Srivastava, .B.N., Manual Scavenging In India: A Disgrace To The Country, concept publishing company 1997.  
Gita ramaswamy, India Stinking: Manual Scavengers In Andhra Pradesh And Their Work, navayana publishing,2005.  
Philippe cullet and lovleen bhullar, Sanitation Law and Policy In India: An Introduction To Basic Instruments, oxford university press, 2015.  
Bakshi, B.M., The Constitution Of India, Universal Law Publishing co., 2010.  
Vivek, P.S., The Scavengers: Exploited Class of City Professionals, Himalaya publishing house, 1998.