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SWACCHA BHARAT MISSION: MANUAL SCAVENGING, A QUESTION OF HUMAN DIGNITY

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DOI: <https://doi.org/10.29121/granthaalayah.v4.i9.2016.2538>

ABSTRACT

Shree Bezwada Wilson, the activist of safai Karmachari Andolan & recipient of the Magsaysay award for the year 2016 aptly says” I realized we are not doing scavenging because we are illiterate and poor. We are doing it because of the way society is organized” His fight is “When technology has advanced so much, why the work cannot be done mechanically?” When India has committed to a massive Swaccha Bharat Abhiyan making country swaccha by 2nd October 2019, immediate inevitable need is to address the miserable plight of country’s manual scavengers and pay focused attention acknowledging the fact that manual scavenging is a question of human dignity rather than sanitation issues. Even after seven decades since Independence, it is a matter of national shame that thousands of scavenger families still live a socially degrading and inhuman life in the twenty-first century. Mahatma Gandhi, the Father of the Nation, struggled throughout his life to ameliorate the working and living conditions of this section of society and to restore to them their lost human dignity. This article briefly highlights the curse of manual scavenging, weaknesses of the 1993 Law and rehabilitation program, proposed new Bill and suggests Action Plan to liberate and rehabilitate manual scavengers by the end of 2019 by drawing appropriate Road Map.

Keywords:

Swaccha Bharat, Manual Scavenging, Human Dignity.

Cite This Article: Dr. Amrit Patel, “SWACCHA BHARAT MISSION: MANUAL SCAVENGING, A QUESTION OF HUMAN DIGNITY” International Journal of Research - Granthaalayah, Vol. 4, No. 9 (2016): 77-83.

1. INTRODUCTION

India, the largest democracy in the world, has achieved a remarkable economic growth during the first decade of this century and for millions of people India has become a land of opportunities and destination for foreign investments. However, many are still left behind due to deep rooted caste-based discrimination in all walks of life. These are the people who have been discriminated and subjugated for centuries into manual scavenging-- *heinous/undignified work--*

and the society treats them as “*dirty and only meant for dirty work such as manual scavenging*”. Manual scavenging has its roots in the social ills emanating from the centuries-old caste system and because of the tag “*Manual Scavengers*” other people do not hire them for any other jobs except the one that their ancestors were doing for thousands of years and they are denied their rightful promising opportunities of dignified work. This perpetual severe discrimination along with the indifferent attitude of law enforcing authorities accompanied by the inadequacies in the existing law to wipe out the practice has been the reason for their continuing as manual scavengers. Manual scavenging anywhere in the world is a dehumanizing practice and the most degrading surviving practice of untouchability. In India it is looked as an issue of *sanitation rather than human dignity* which constitution guarantees all citizens. Besides social atrocities that scavengers face, they are exposed to several health problems by virtue of their occupation. According to Shree Narayanan’s Public Interest Litigation filed in the Supreme Court, the hazards, *inter alia*, include exposure to harmful gases such as methane and hydrogen sulphide leading to instant death and/or cardiovascular degeneration, musculoskeletal disorder like osteoarthritis changes and intervertebral disc herniation, infections like hepatitis, leptospirosis and helicobacter, skin problems, respiratory system problems and altered pulmonary function parameters.

2. LAW OF 1993

The manual scavenging has long been acknowledged as an offensive and inhuman practice in civilized society. In 1917, Mahatma Gandhi had insisted that the inmates of Sabarmati Ashram, which he had set up and was run like a commune, clean their toilets themselves. The Maharashtra Harijan Sevak Sangh, in 1948 protested against the practice of manual scavenging and called for its abolition. The Barve Committee [1949] made pointed recommendations to improve the working conditions of the sanitary workers. In 1957, the Scavenging Conditions Enquiry Committee recommended the abolition of the practice of carrying human excreta in head-loads. In 1968, the National Commission on Labour appointed a committee to study the working conditions of "sweepers and scavengers". All these Committees recommended the abolition of manual scavenging and rehabilitation of sanitary workers, or *safai karmacharis*. With partial acceptance of recommendations of these committees the country legislated the “Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993” which [i] prohibits the employment of manual scavengers or construction of dry latrines not connected to proper drainage channels and [ii] violations of provisions of this Act can lead to imprisonment for up to one year and/or a fine of up to Rs.2000. However, according to the report of the Comptroller and Auditor General of India [2003] as on 2003, only 16 States have adopted the law and none of the States had enforced it. Only six States have implemented the Employees Compensation Act of the Ministry of Labor. The Tenth Five Year Plan [2002-07] had reiterated to eradicate manual scavenging by 2007 as a goal. Despite this, according to a petition filed in the Supreme Court, the Indian Railways, which actually employs manual scavengers, in its Integrated Railways Modernization Plan of Rs.2,40,000 crore did not even provide for the elimination of manual scavenging. The National Human Rights Commission, which had also called upon states to adopt and implement the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 noted dismal political response. Non-violent battles against untouchability voicing concern and anger was flashed country-wide by media showing women and young people burning baskets in which scavengers carried human

waste on their heads, and demolishing dry latrines. In Courts, they insisted public officials including the Prime Minister to account for failing to enforce the law to end forever this humiliating tradition. In January 2005, the Supreme Court, hearing a petition filed in 2003 by the Safai Karmachari Andolan and 13 other organizations and individuals, observed that the number of manual scavengers in India has increased and directed every Department/Ministry of the Union government and the State governments to file an affidavit through a senior officer, who would take personal responsibility for verifying the facts stated in the affidavit, within six months. If manual scavenging is admitted to exist in a given department, a time bound program for the liberation and rehabilitation of manual scavengers should be indicated.

3. UNENFORCED LAW

The Employment of Manual Scavengers and Construction of Dry Latrines [Prohibition] Act, 1993, aimed at addressing the issue of manual scavenging in larger perspectives, but Government failed to enforce the law for over 18 years as a result of which tens of thousands of people still continue to be engaged in manual scavenging. Most of the manual scavengers belong to SCs or STs, and in 2011 the Union Ministry of Home Affairs directed all States that engaging or employing a member of SCs or STs in manual scavenging may fall within the ambit of the SCs and STs [Prevention of Atrocities] Act. However, the fact is that there has been yet “*not a single person convicted under the 1993 law for engaging a person in manual scavenging*” although many States confirmed the prevalence of manual scavenging. In 2012 a report on “*stigmatization of Dalits in accessing water and sanitation in India*” was presented to the UN Special Rapporteur on the human rights to safe drinking water and sanitation. The report includes observations on the human rights situation of manual scavengers working in India. An abstract of the report was also presented at a Public Consultation in the UN.

4. NEW LAW

On June 17, 2011, former Prime Minister Manmohan Singh referred to manual scavenging as “*one of the darkest blots on [India's] development process*” and asked all state Ministers in the country to pledge to eliminate this scourge from every corner of India in *the next six months, by the end of 2011*. Government was duty bound to enact a new comprehensive law for total emancipation of sanitary workers involved in all forms of manual scavenging, sewerage cleaning and septic tank cleaning within a time frame. Tamil Nadu Assembly on September 10, 2011, acknowledging the fact that old law is too weak and needs to be replaced with a new central law binding all State legislatures, was prompt to pass a unanimous resolution urging the Union of India to enact suitable amendments to the 1993 Act by modifying certain clauses to make it comprehensive and unambiguous, *inter alia*, widen the definition of manual scavenging, appointment of implementing authorities, power of executing authority to prevent environment pollution. The law must strengthen public accountability mechanisms and shift the *focus to human dignity from mere sanitation* and automatically binding on all State Governments. On March 12, 2012 Ms Pratibha Patil, then President of India, while addressing the Parliament promised for social justice and said, “*her Government will introduce a new Bill in the Parliament for eliminating manual scavenging and insanitary latrines. This will also provide for proper rehabilitation of manual scavengers in alternative occupations so that they are able to lead a life of dignity*”. A similar commitment was made to the Supreme Court four days later. The bill was

proposed to be introduced in the monsoon session of the Parliament, which also came only after the matter was brought before the Supreme Court following an order of the Madras High Court that the personal appearance of high dignitaries, including those in the Prime Minister's Office, might be required if the Center failed to amend the law. The 1993 Act defined a manual scavenger as "a person engaged in or employed for manually carrying human excreta" whereas the definition of scavenger in the 2012 new bill is elaborate, inclusive and includes "a person engaged or employed for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an unsanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrine is disposed of, or on a railway track". However, the scope of definition saying that "excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be a manual scavenger" is just sufficient to continue the demeaning practice. Besides, cleaning railway tracks should be included.

5. REHABILITATION SCHEME

In 1993, the National Commission for Safai Karmacharis was set up under the National Commission for Safai Karmacharis Act. The National Scheme was launched in March 1993 for Liberation and Rehabilitation of Scavengers and their dependents and the Ministry of Social Justice and Empowerment was directed to implement it. However, according to the CAG report, the scheme failed to achieve its objectives despite an investment of more than Rs.600 crore. The preamble of the report itself said "*The Scheme was undoubtedly well-intentioned but ill-conceived as it failed to harness its operational parameters to the complex structure of a highly stratified society resisting occupational reform. Nobility of purpose was not enough, as the scheme failed to deliver its social vision after ten years of continuous but regrettably half-hearted efforts. It failed in working out a coherent strategy for policy initiatives as it could not take advantage of an existing Law that prohibited employment of Scavengers. Divorcing liberation from rehabilitation was an error of judgment that weakened the foundation of the Scheme and led to uncoordinated efforts without focus. It failed in enhancing or re-orienting the skill-levels of the beneficiaries necessary for change of occupation. For the same reason, it failed in its mission of replacing the hereditary practice by skill-based choice... It is the lack of purpose in aligning the parameters of the Scheme and lack of will in implementing it that led to the Scheme floundering on its own assumptions.*" The National Commission for Safai Karmacharis attributes lack of commitment by the State Governments and concerned agencies accompanied by the state's complicity in the whole process for unsatisfactory performance of the Scheme. Even State governments routinely deny the existence of manual scavengers. Many government offices and buildings still have dry latrines and municipalities employ manual scavengers to clean these latrines. The CAG report faulted the Ministry of Social Justice and Empowerment for delays in disbursing funds to the Scheduled Caste Development Financial Corporations [responsible for implementing income-generating rehabilitation schemes] and for having "*hardly any workable monitoring machinery at the Ministry, State and District levels*". The Corporations and the banks failed to deliver as there was no clear definition of occupational change. The CAG reported 47% loan rejection in Maharashtra and 74% in Tamil Nadu. As the report perceptively pointed out, "*to expect an illiterate and poor scavenger to comply with the rigours of project-financing by commercial banks, was to say the least, unimaginative*". The CAG concluded that most serious flaw in the scheme was "*its failure to employ the law that prohibited the*

occupation.” The CAG said” The State and Central schemes were expected to draw their strength from the law. However, the law was rarely used”.

Earlier programs for rehabilitation of released manual scavengers failed because an estimated 95% manual scavengers are women, whereas the majority of schemes are meant for man and beneficiaries too are men. Besides, it is observed that many scavengers are older women, with little or no education, skills and experience. For them schemes involving a bank loan and subsidy cannot serve the purpose of rehabilitation, leave alone lack of transparency, corruption, delay, uncertainty and harassment in availing subsidy and loan. Experiences suggest that schemes should be entirely grant-based, individual income generating plans must be supported by backward and forward linkages accompanied by capacity building training and counseling services.

6. DISPUTED NUMBERS

Despite the country has the “Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993” According to the latest figures of the Socio Economic and Caste Census (SECC) 2011 there are still 18.06 lakh people across the country engaged as manual scavengers. Maharashtra [63,713] has the highest number followed by Madhya Pradesh [23,093], Uttar Pradesh (17,619), Tripura (17,332) and Karnataka (15,375). No such cases were found in Chandigarh, while Himachal Pradesh and Haryana had 4 and 42 cases each. However, States have reported existence of 1.16 lakh manual scavengers. And only about 80,000 scavengers were identified as eligible to the benefits under the Central scheme for rehabilitation of manual scavengers. Though the Karnataka State has banned manual scavenging in 1970 the Census reports still 15,375 persons engaged in this occupation. According to figures released by the Government in 2011, there were 1,18,474 manual scavengers or their dependents identified under the Self-employment Scheme for Rehabilitation of manual scavengers [SRMS] launched in 2007. The 2011 decennial census reveals that over 26 lakh households still have insanitary latrines which are serviced by manual scavengers. Every day 1.3 million people in India (comprising more than 80% Dalit women) are forced to clean human excrement, a practice called manual scavenging. Recently, the Union Government has announced at a review meeting with senior government officials on eradication of manual scavenging to undertake a survey of the number of manual scavengers in the country with a view to understanding the extent of the problem and efficiently solving it by facilitating them to avail benefits of various schemes meant for them.

7. ACTION PLAN

The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Bill, proposed to be introduced in the Parliament is once again a renewed attempt of the year 1993 to prevent employment of people in the cleaning, handling or carrying of human excreta. In order to remove any kind of doubt about the political will, Governments’ concern and commitment and law enforcing authority’s ability, transparency and accountability to end this dehumanizing activity once and for all Action Plan must be formulated which include, *inter alia*, [i] It is necessary to identify manual scavengers and dry latrines jointly by designated teams of Government officials and community members so that the Governments cannot deny the fact

which often is the case [ii] Central, State and local Governments by mandate must invest in developing and using technologies [available in developed countries] that can render the occupation humane, dignified and safe without any direct human contact with excreta are prerequisites to liberate manual scavengers [iii] the new law should make the village panchayat and urban local body as well as the district magistrate of the district concerned responsible to ensure that no household constructs or maintains an insanitary latrine or employs a manual scavenger [iv]the poor sanitation in rural India where dry latrines remain in use must be improved to eliminate manual scavenging. In the absence of networked sewerage facilities, even urban local bodies engage workers to manually clean septic tanks. Manual scavenging can, therefore, be eliminated by significantly improving overall sanitation in the countryside [v]in case scavengers are employees of municipalities, Government, semi-Government or private companies the law should specifically provide for a clause/section “*no termination from the jobs but should be confirmed in regular employment in a task not at all connected with scavenging*”[vi] Government programs for promotion of flush latrines in place of dry latrines; livelihood rehabilitation including health of freed manual scavengers; and education of their children can effectively be implemented by local bodies and NGOs in which case administrative officials and elected representatives should be made accountable for targeted outcomes. Their children of existing and freed scavengers should be guaranteed Government-funded free school education right up to college or vocational training to transfer technical skills necessary to seek employment and women too should be adequately financially incentivised and provided housing facilities [vii]manual scavengers must be empowered to fight collectively to change this centuries-old practice [viii] legislators must demonstrate their political will to pass the new Bill assigning top priority during the ensuing session and the Government must show concern and commitment to make it a law within three months and direct all concerned authorities to enforce without delay [ix] at Block level, monitoring committee chaired by the Block Development Officer should review the performance village & urban center-wise every month [x]at district level monitoring committee chaired by the District Magistrate/Collector must review the performance Block-wise quarterly. District Magistrate must be accountable to ensure that targeted numbers are genuinely liberated and rehabilitated [xi] at State level the monitoring committee chaired by the Chief Minister should review the performance district-wise half-yearly [xii] at national level the committee chaired by the Home Minister should review the performance annually and present to the parliament.

8. CONCLUSION

The preamble of the new bill aptly acknowledges that “it is necessary to correct the historical injustice and indignity suffered by the manual scavengers and to rehabilitate them to a life of dignity”. Accordingly, the new law must introduce the offence of dereliction of duty by public officials under the statute and prescribe deterrent punishment for their failures, on the basis of The Supreme Court judgment pronouncing jail for those responsible for death of 1268 and payment of Rs.10 lakh to each died at the instance of Shree Wilson’s fight for the cause and winning a case in the Supreme Court in 2014 about 1268 deaths of safai karmacharis while cleaning blocked sewers and septic tanks. Panchyats at village level and local bodies at urban centers must identify manual scavengers and put in place a Development Action Plan to liberate and rehabilitate all manual scavengers by 2nd October 2019.by drawing a road map duly supported by effective monitoring, review and evaluation studies system.

9. REFERENCES

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