



### 3. Caste based discrimination - the continuing curse of manual scavenging:<sup>30</sup>

Manual scavenging in India is officially defined as 'lifting and removal of human excreta manually', at private homes and toilets maintained by municipal authorities. The practice consists of gathering human excreta from individual or community dry toilets with bare hands, brooms or metal scrapers into woven baskets or buckets. This the scavengers then carry on their heads, shoulders or against their hips, (and in wheelbarrows if they can afford it) into dumping sites or water bodies. Apart from this, many scavengers are similarly employed to collect, carry and dispose excreta from sewers, septic tanks, drains, and railway tracks.

Manual scavengers are condemned to live and work in most dehumanising conditions. Cleaning public/private latrines, sewer systems, and septic tanks, they work amidst excruciating filth and stench. Carrying the refuse to disposal grounds merely adds to their woes as they are generally compelled to carry it refuse as head load. It is insignificant to point out that these working conditions make them vulnerable to serious health hazards exposing them to viral and bacterial infections.

Apart from the dehumanising and degrading nature of the work, scavengers are employed at highly exploitative wages. Those working for the municipalities seldom earn more than 40-50 Rupees a day. The enactment of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 has effectively worsened their situation. The Act prohibits municipalities to hire scavengers as permanent workers and therefore and they take recourse to contracting out all the scavenging work. These private contractors have been seldom



<sup>30</sup> This chapter is based on the findings of the research and contributions made by Mr. Avinash Pandey, Research Scholar at the JNU, working on the political economy of manual scavenging. His research interest includes the overall political economy of caste and caste based occupations, and he has done projects partially supported by the AHRC, exploring the sources of the entrapment of Balmiki community in manual scavenging and the perpetuation of the violation of their human rights and dignity. The text is the abridged summary of Pandey's article, reproduced with his kind permission.



found to pay stipulated minimum wages to their workers.<sup>31</sup> The condition of those employed privately is even worse. All they get for this demeaning job is left over food as well as a meagre 20-30 Rupees per month per house.

In sum, the scavengers have been pushed out of the religious boundaries by virtue of their 'untouchability', are denied rights whether scriptural, religious or social and are placed on the margins of the society, necessary for its survival but unwelcome to be a part of it. The predicament of the *Balmikis* is a classic case of subversion of logic making the manual scavenger who cleans and disposes waste (including human and animal excreta) by others becomes ritual 'polluter' condemned to remain on the fringes of society.

Yet, far more intriguing is the fact that instead of taking corrective measures, India after independence has not made any gains in reinstating the Balmikis to the mainstream of the society. For all its lofty ideals of equality, democracy, secularism, and socialism promised in the Indian constitution, Balmikis continue to be discriminated because of sheer accident of birth in a marginalised community.

### **The rise of manual scavenging and fall of manual scavengers:**

The scavengers known by different names (bhangis, mehtars, thottis) in different parts of the country stands at the bottom of the caste system. Their basic functions in the villages are to do away with the carcasses of the dead animals, to clean and sweep the village, to beat drums (as drums are made of leather and so were filthy, unfit to be handled by the upper caste Hindus), and to announce deaths, the most unwelcome news. Thus, they are considered to be the heralders of bad omens whose contact and presence can defile the caste-Hindus. To put it in the words of Dr B.R. Ambedkar, they are "the lowest in a system of graded inequality".<sup>32</sup>

Even the other Dalit (lower caste) caste groups discriminate the manual scavengers, thus forcing them to face the worst forms of double burden of exploitation. The recent political assertion of the Dalit groups has left this particular community out of its ambit. The reasons behind this are manifold. First, the occupation they are in is considered to be most polluting and filthy. In a system where occupations are ranked not over their economic value, but on their religious and ritual ranking, heredity

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<sup>31</sup> See Ramaswamy, Gita (2005) *India Stinking: Manual Scavengers In Andhra Pradesh And Their Work*, Navayana, Chennai; and Thekaekara, Mari Marcel(1999) *Endless Filth: The Saga Of Bhangis*, Books For Change, Bangalore among other for prevalent wage rates

<sup>32</sup> Dr. B.R. Ambedkar, the father of the Indian constitution was also a lower caste, born into the Chamar caste



profession of manual scavenging predestines the members of the community to be ranked at the dead bottom of the hierarchy and to be despised by everyone.

Contrary to the popular belief, even the British interventions during the pre-independence period did not bring any change to the condition of manual scavengers. The sight of head loading of the shit, and shoddy brooms reminded the dominant castes of the Balmikis's inevitable occupation and of their menial status. Om Prakash Valmiki, a poet who hails from the same caste, comments with anger and disgust simmering within. *"As long as there will be a metal trash can in Rameshwari's hands, the democracy of my nation will be an insult"*.<sup>33</sup>

Dr. B.R. Ambedkar was first to spot and oppose the nefarious designs inherent in pre-independence legislations that nailed manual scavengers to the bottom of social hierarchy. Commenting on the criminalisation of refuse to do scavenging work and supporting the sweepers' strike in Bombay, he described the Acts as sanctions for forced labour and a perpetuation of slavery through the legitimacy drawn by state power. A long quote of him on the issue reads:

*"People may be shocked to read that there exists legal provision which sanctions forced labour. Beyond doubt, this is slavery. The difference between free labour and slavery lies in this. Under slavery a breach of contract of service is an offence which is punishable with fine or imprisonment. Under free labour a breach of contract of service is only a civil wrong for which the labourer is liable only for damages. Judged in this light of criterion, scavenging is a legal obligation imposed upon the untouchables which they cannot escape."*<sup>34</sup>

The miserable conditions of Dalits were not lost upon Gandhi. He did notice their pain, agonies and sufferings. Yet, the contradictions of Gandhi's position on the issue become evident when we analyse his take on the question of scavengers' right to strike. Gandhi was categorically opposed to this and suggested other ways to the scavengers to give voice to their anger. Gandhi said:

*"Just as man cannot live without air, so too he cannot exist for long if his home and surroundings are not clean. One or other epidemic is bound to break out, especially when*

<sup>33</sup> Valmiki, O P (1991): 'Jharuwali' Sadiyon Ka Santap, Philhal, Dehradun, pp16-17

<sup>34</sup> Ambedkar, B. R.(1989) Essays On Untouchables And Untouchability, writings and speeches, Vol. 5 Government of Maharashtra, Mumbai p 257



*modern drainage is put out of action. ... A Bhangi may not give up his work even for a day. And there are many ways open to him for securing justice."*<sup>35</sup>

Faced with this dual assault of native elites (read upper caste Hindus in the main) and the might of colonial empire, the scavengers were doomed to enter the profession for mere survival, and once in the profession had no way out. The legislations, the punitive powers of the state, religious bigotry and economic penury have sealed their fate. They were to remain entrapped in the profession and were also to be blamed themselves for their predicament.

### **Government inaction and intentional neglect:**

Despite official abolishment of all forms of untouchability with the framing of Constitution itself, it took 24 years more for India to introduce Section 7A into the Protection of Civil Rights Act, 1955 which made the compelling any person on grounds of untouchability to scavenge a cognizable offence. The practice was illegalised finally in 1993 with the passage of Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 in Indian parliament making even the supposed "voluntary" employment as scavengers an offence. The political will of the Indian state behind this legislation gets exposed from the fact that the Act got notified in the Gazette of India only in 1997 and no state promulgated it till 2000.

Adoption of the Act by state governments was crucial to achieve the goal of eradicating manual scavenging as sanitation is a state subject as per entry no. 6 of the Seventh Schedule of the Constitution; and the central act remained an ineffective and worthless tool for eliminating the practice in absence of its adoption by state governments. As per rules, the responsibility of enforcing the various provisions of the act was with the state governments and their inaction ensured the failure of it.

Despite repeated attempts and mounting pressure from activists and civil society organisations, both the central and state governments did not budge on the issue. In 1996, Justice Rangnath Mishra, the then Chairperson of the NHRC, sent a letter to various authorities expressed his concern about the continuation of the 'inhuman and degrading practice of manual handling of night soil' which was 'prevalent even today in certain parts of the country'.<sup>36</sup> He asserted the need for translating the 'landmark' legislation into concrete measures in view of various constitutional provisions and the

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<sup>35</sup> Harijan, 21 April, 1946

<sup>36</sup> NHRC (1996) D.O.No. 15 (19) / 96- Coord.



protection of human rights in view and urged upon the authorities to '*set an example on this score by replacing dry latrines, wherever they exist in the buildings owned by your [m]inistry, with pour-plush ones, and fix a date for achieving this target*'.

However, it required another letter, far sterner in tone and tenor, from the NHRC to make the states get their act together. Justice M.N. Venkatachalliah, the then Chairperson of the NHRC communicated his displeasure to chief ministers of all the states and requested them to implement the provisions of this Act.<sup>37</sup> However, it took another decade for some states to adopt the Act. As of now, only 17 states of the Union of India viz; Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura, West Bengal, Orissa, Punjab, Assam, Haryana, Bihar, Jharkhand, Chhattisgarh, Madhya Pradesh, Tamil Nadu, Uttar Pradesh, Gujrat and some union territories have adopted the Act. Most of these states have adopted the Act only after 2005, including Uttar Pradesh, the most populous state of the country.

In a clear violation of all the constitutional provisions and the their self-proclaimed commitment to uphold the constitution, eleven states including six major states of Himachal Pradesh, Rajsthan, Uttarakhand, Kerala, Jammu and Kashmir are yet to adopt the act together with the states/union territories which have claimed to be 'manual scavenging free' despite data to the contrary. These states include Arunachal Pradesh, Delhi, Goa, Himachal Pradesh, Meghalaya, Mizoram, Nagaland and Sikkim.

### **Estimating the numbers: engaging with the perplexing statics:**

For all the false claims of success in eradicating the inhuman practice of manual scavenging from India, the ground realities are grim. Even after sixteen years of passage of the Act, the government of India itself unabashedly accepts the continuation of the practice. The Ministry of Social Justice and Empowerment holds that nearly 676000 people are still engaged in manual scavenging, though official figures are definitely an underestimation of the extent of problem.

Based on surveys and fieldworks conducted by them, the activists engaged in campaigns against manual scavenging and other atrocities on Dalits estimate a number three to four times higher than the government data. The reasons behind this underestimation of the number of people engaged in manual scavenging are manifold.

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<sup>37</sup> NHRC(1997) D.O. No. 11/1/99-PRP 7 P, January 24th



First and foremost, acknowledging unabated persistence of a practice illegalised full sixteen years ago is not only a source of huge embarrassment for the government of India, but is a direct affront on the constitution of India by denying the very basic fundamental rights and freedoms guaranteed by it to Indian citizens. The continuation of this dehumanising practice violates fundamental rights guaranteed under Article 17 (right against untouchability) together with Articles 14, 19 and 21 guaranteeing equality, freedom, and right to life with dignity.

Presented with this situation, the only way of estimating the numbers of people condemned to be engaged in manual scavenging is making an attempt to infer their numbers by triangulating government's own statistical data with the surveys and field studies conducted by activists, campaigns and independent researchers. For example, National Commission for Safai Karamcharis, a statutory body established by the parliament of India, puts the number of dry latrines in country around 9,600,000.

As against this figure, the 2001 census of India found service latrines (another name for dry latrines) in 13 million households, 6 million in rural and 7 million in the urban areas.<sup>38</sup> The staggering difference of around 3,400,000 between these two figures is a telling comment on the reliability of government data on number of manual scavengers employed in cleaning these dry latrines. Compounding the problem are another 122 million households in the country without any kind of toilet facility of which 108 million are in the rural and 14 million are in the urban areas. Even if we assume that there is absolutely no need of cleaning the human excreta generated by these households in the rural areas for the fact that most of the people defecate in open agricultural fields, the question that who cleans the urban streets is never addressed by the government authorities.

### **Plenty of schemes: poverty of vision:**

The question of scavenging has remained in the public discourse since the times of Indian struggle for independence. The issue kept springing up post independence as well. Right from 1949, when the government of Bombay (now Maharashtra) appointed the Scavengers Living Conditions Inquiry Committee, under the Chairmanship of Mr. V.N. Barve, many a committees, commissions and task forces have been appointed by the government of India as well as state governments to tackle the problem. A few prominent ones of these include, the *Scavengers Living Conditions Enquiry Committee* (Barve Committee, 1949) *The Scavenging conditions enquiry Committee* (Malkani Committee) 1957, *The Committee on Customary Rights to Scavenging* (Prof. N R

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<sup>38</sup> Census of India 2001



Malkani Committee) 1965, *The Committee to study the working and service conditions of sweepers and scavengers* (National Commission on Labour) 1968.

Interestingly, most of these reports accused the scavengers themselves arguing (seemingly) that they had taken up the job voluntarily without even thinking of the material and conditions that forced them into the profession. The following recommendation of the Barve Committee is a classic example of this misplaced identification of the problem:

*The caste of Bhangi as such was confined only to certain provinces like Gujrat, Maharashtra, Karnataka, etc. it was of a very late origin. Ancestors of these Bhangis were just field labourers of a low caste but never did the work of scavenging. **Some of these people took to the dirty work of cleansing the latrines for the sake of profit. Slowly this developed into a monopoly. The stage was reached when the Bhangis wanted to exploit this monopoly and a sort of customary right was thus developed. By force of habit the Bhangi lost his self-respect to such an extent that he did not consider the dirty work of cleansing latrines as a curse from which he should Endeavour to extricate himself.***<sup>39</sup> [Emphasis added]

In blaming the Bhangis for taking the dirty job 'for the sake of profit' and by losing their self-respect 'by the force of habit' the committee made a mockery of its own stated goal as well as that of the very basic belief in the rationality of individuals, the cornerstone of modernity. Fascinatingly, nowhere the committee talks of the material conditions which might had forced the Bhangis into the profession or, cite any data in support of its laughable claim that Bhangis took to the job willingly!

Just to give an idea of the enormity of the issue, the Indian Railways has more than 8000 stations of which, only six per cent or some 500 stations are currently marked for concrete platform tracks which allow a washable apron system (in other words use of mechanical water jets to remove human excreta). Again, only 60 of these 500 stations figure in the short term up-gradation plans of the railways and the Railways is tight lipped about when it would upgrade remaining 94 per cent stations. Furthermore, the annual allocation in the Railway budget under passenger amenities, a section of which is used for such up-gradation is a meagre two billion rupees as against the estimated budget of 11 billion rupees for upgrading just 500 top stations.

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<sup>39</sup> Barve, V. N. (1958) *Report of the Scavengers Living Conditions Enquiry Committee, State of Bombay* ; Government Printing Statistical , Bombay.



Many of the defence establishments flatly deny any dry latrines even while employing manual scavengers. Municipalities, on the other hand, have been found to threaten the scavengers and others who brought the existence of dry latrines to public knowledge and achieved silencing of these voices in most cases.

Government of India, on its part has failed singularly to bring the offenders to book. Multiplicity of departments, institutions and agencies for tackling the problem has done anything but helping the scavengers. Armed with the confusing jurisdictions of different government agencies of competing departments, officials have treated the issue with absolute abandon and have seldom tried to fix responsibilities. Further, these agencies keep passing the buck to other departments when confronted with concrete data regarding absolute failure of the schemes for liberation and rehabilitation of the scavengers. For example, in 2005 an official of the Ministry of Social Justice and Empowerment (hereafter MoSJW) lamented the inaction of Railways in containing the practice by inadequate allocation of funds in railway budget for doing away with manual scavenging.<sup>40</sup>

#### **Situation now:**

Unfortunately, despite scathing critiques, the ministries and implementing agencies did not change their ways. Even after 2002, the implementation of the Scheme was as appalling as earlier. The audit report of 2006 gives a fair idea of the underperformance by demonstrating the allocated budget and actual expenditure. The data shows the taxpayers' money meant for manual scavengers remained underutilised in government coffers year after year.

Similarly, the auditors' report of 2007 indicted the Railways for violating the directives of government of India and the Supreme Court by failing to eradicate manual scavenging from railway tracks. It found that washable aprons were either not provided at all or were not provided on tracks between all platforms in 69 per cent of the A category stations reviewed. The report further observed that:

*- Existing washable aprons were not maintained properly and were found in broken condition in 15 stations including important stations such as Mumbai Central, Bandra Terminus, Sealdah, Kharagpur, Ranchi, Bilaspur, Lokmanya Tilak Terminus, Pune, Surat, Ballarshah etc.*

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<sup>40</sup> Mazoomdar, Jay (2005) Railways say Manual Scavenging to Stay, Indian Express (New Delhi Ed), Sept 10





*-Non-availability of washable aprons and poor maintenance of existing washable aprons compounded by the inadequate water supply restricted the use of machines for cleaning. Consequently, the night soil and waste collected near the tracks had to be disposed off manually, even though manual scavenging was banned by Government of India through the 'Employment of Manual Scavengers and Construction of dry latrines (Prohibition) Act 1993' and Supreme Court had also issued directions regarding the same. <sup>41</sup>*

Very recently, The Safai Karamchari Andolan, an organisation working towards the implementation of the 1993 law banning manual scavenging, submitted a report before the Supreme Court on 9 May this year pointing out it had identified 15 dry latrines and five manual scavengers in North East Delhi, the capital city of the country. <sup>42</sup> Only after drawing the opposition of the Supreme Court, the Delhi Cabinet decided to implement the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 in all areas covered under the National Capital Territory of Delhi.

### Conclusion:

Though there have been many studies which dealt with the perennial subordination and subjugation of the Dalits in general, far less attention has been paid to the scavengers. Their plight was believed to be explicable by the structure of Hinduism through the perpetuation of caste hierarchy over millenniums.

Undoubtedly, Hinduism and the caste structure did produce and shape the fate of the scavengers, yet their plight cannot be explained by it alone. The exploitation they suffered with the onset of colonialism was significantly different from what they underwent in their rural settings. As it has been argued earlier, though exploited, subordinated and dehumanised, yet manual scavengers did not carry human excreta as head load.

Manual scavenging was never a hereditary specialised caste based occupation till the onset of the colonial rulers. The nineteenth century entrapment of the scavengers did not emanate from the structured inequalities of Hinduism, it derived rather from the

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<sup>41</sup> CAG (2007) Union Report, Performance, Ministry of Railways, Cleanliness and Sanitation on Indian Railways, para 2.10.3

<sup>42</sup> Dhananjay Mahapatra (2009) A Capital Shame: SC Gets Details Of Manual Scavenging In Delhi, Times Of India (Delhi Ed.) May 10th



massive urbanisation and the consequent needs of urban government, though the existing social divisions along the lines of caste hierarchy did help the process.

As of today manual scavenging continues to haunt the prospects of the 'developed country within 2020' projection of India. Caste based discrimination, corruption and government neglect have contributed a large share to continue the 'status' of manual scavengers unchanged in India. India has a long way to go to clear its image as one of the societies practicing the worst forms of discrimination conceived by the human race. Yet, the urge required to bring about that change is not yet visible in the Indian polity.