

POSITION OF WASTE WATER WORKERS: PROTECTION, REHABILITATION AND WELFARE¹

“If 39 deaths in 100 days don’t matter to the country, then this is one of the biggest challenges to our democracy”

-BEZWADA WILSON

WASTE WATER WORKERS: THE PROLOGUE

Early Harappan civilisation had an extensive underground drainage and sewerage network which was replaced by dry latrines later on as a part of urbanisation. During the 20th century, to get rid of cholera and other deadly water borne diseases, British established underground sewerage collection and disposal programs. In order to operate and maintain the collection and disposal of underground sewage, waste water workers or sewerage workers were appointed in Indian Municipality and other local bodies. They were engaged in activities like removing clogged gutters, storm septic tanks, sewer drains and manholes. Waste water workers are being subjugated, oppressed marginalised and victimised over years. Even after 71 years of independence, the country is struggling to eradicate the inhumane activity of manual scavenging, completely neglecting equally degrading waste water works.

DILEMMA IN SOCIAL LIFE

Waste water workers suffers from extreme form of discrimination, exclusion and powerlessness. With a very few exceptions, most of the waste water workers are from backward castes and experiences most atrocious forms of untouchability. Manual cleaning of sewers and septic tanks are not a form of employment but injustice and slavery towards targeted sections in the society which transforms them to patients physically and they experience high mental strain due to depression and distress which are results of their routine.

Caste in India

¹ Aswin Nanda. A, Bharati Vidyapeeth Deemed University, New Law College, Pune.

In India, economic, civil and social life has been regulated by the caste system since ages. The social hierarchy which we can find in this stratified system was developed on occupation and parted people based on their jobs as decent and indecent. Caste is hereditary irrespective of the religion an individual practices and so are the undignified waste water works. A broad congruence between caste and class was established by the impact of designation of a community's caste on its member's activities. Dalit's are displaced to the bottom of the social ladder. They were obliged to do sewage works, cleaning dry latrines and other subhuman professions. Within the caste structure, Dalit's who work as manual scavengers are usually from the Hindu Valmiki sub-caste, which is further subdivided into regionally named groups such as Chuhada, Rokhi, Mehatar, Malkana, Halalkhor, and Lalbegi, or the Muslim Hela sub caste.² These communities faces discrimination within Dalit communities. They are considered fit for only inhumane works like water or sewage works

Social and Economic Pressure

People among scheduled caste, scheduled tribe and other backward communities are eliminated from the society where the evil practice of untouchability still persists even after continuous law-makers efforts to rule out the same. There are instances where educated people from the backward communities resists to pick up jobs they are entitled to, fearing the exclusion that they face among their colleague's. This exclusion happens even in educational institutions which propagates socialisation. Children of waste water workers are treated with despise by their classmates and teachers and leads to very high drop-out rates³ due to this fear of denial of dignity. Since it's a hereditary occupation, children of waste water workers are implied to carry out the same occupation as their parents and ancestors are doing. They are socially assigned to do the horrendous waste water and manual scavenging works. They have extremely limited job opportunities other than their inherent work and lives in acute poverty in isolated communities

² Vibhawari Kamble, "Steps toward the Elimination and Eradication of Manual Scavenging Practice: Advocacy Manual for NGO's, CBO's and other related organizations," idsn.org/uploads/media/Manual_for_advocacy_2.doc (accessed August 3, 2014).

³ A 2013 survey of 480 women from manual scavenging communities, undertaken by Jan Sahas Social Development Society with the support of UN Women, in nine districts in the Indian states of Bihar, Uttar Pradesh, and Madhya Pradesh, found that in Uttar Pradesh and Bihar, children of 62% of respondents, and in Madhya Pradesh children of 51% of respondents did not go to school. Jan Sahas Social Development Society, "Socio Economic Status of Women Manual Scavengers: Baseline Study Report, 2014," http://www.unwomensouthasia.org/assets/Baseline_-Jan-Sahas.pdf (last updated on August 3, 2014), p. 4.

with low literacy level.

Impact on Health

Due to exposure to harmful gases such as carbon monoxide, hydrogen sulphide, methane, and ammonia, waste water workers are subject to severe health conditions like cardiovascular degeneration, skin infections, pulmonary issues, and musculoskeletal disorders like osteoarthritis changes, hepatitis, respiratory system problems, tuberculosis and other deadly diseases.⁴ Watt et al. studied 26 sewer workers exposed to smell and found that 53.8% developed sub-acute symptoms including sore throat, cough, chest tightness, breathlessness, thirst, sweating, irritability and loss of libido.⁵ Waste water workers often encounter difficulties in having food because of their continuous exposure to harmful gases, sewage, excreta and other wastes. Their standard of living is very low and fail to afford permanent accommodation. So as to beat back frustration and the inability to fulfil basic needs, they end up being addicted to tobacco or liquor which in turn ruins the entire family.

LEGAL INSTRUMENTS

Efforts have been taken by international, governmental and non-governmental organisations to demolish the waste water and manual scavenging works. These dehumanising works are clear cut violations of Article 14, 17, 21, 23 and 47 of the Constitution of India. Earlier legal position of waste water workers was ambiguous. Presently they are being identified and have been given a position under Sec.7 of The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act 2013.

International Human Right efforts

Human rights activists have sought to generate international pressure on the Indian government to raise the awareness of the impact of caste-based discrimination and articulated caste-based discrimination and violence as human rights. In 1996, despite vociferous opposition from the Indian government, the UN Committee on the Elimination of Racial Discrimination (CERD)

⁴ Rashtriya Garima Abhiyan, "Violence Against Manual Scavengers: Dalit Women in India," Report Submitted to UN Special Rapporteur on Violence Against Women during her visit to India between April 22-May 1 2013, <http://www.dalits.nl/pdf/violenceagainstmanualscavengers.pdf> (last updated on August 3, 2014), p. 3.

⁵ [Niohervis.nic.in/newsletters/vol10P_no2_Occup_Health_Iss_of_Sewage_and_Sanitary_Workers.pdf](http://niohervis.nic.in/newsletters/vol10P_no2_Occup_Health_Iss_of_Sewage_and_Sanitary_Workers.pdf) (last updated on 21/10/2017).

recognized caste-based discrimination as a form of racial discrimination.⁶ Linking race and caste-based discrimination catalysed attention by the United Nations and fostered ties with other populations worldwide suffering from similar forms of discrimination

In March 2014 the Supreme Court ruled⁷ that the practice of manual scavenging was prohibited in India under various international instruments, including the Universal Declaration of Human Rights (UDHR),⁸ the International Convention on Elimination of Racial Discrimination (ICERD),⁹ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁰

LEGISLATIVE EFFORTS

The Indian constitution abolishes the evil practice of “untouchability” and also prohibits caste-based discrimination in employment. The criminalisation of untouchability are set out in the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Soon after independence in 1949, with the formation of Barve Committee, the Indian government began to appoint committees to address manual scavenging. In 1953, Backward Classes Commission was formed followed by Scavengers Conditions Enquiry Committee in 1957 popularly known as Malkani Committee. Later on Committee on Customary Rights was formed in 1965 and Pandya Committee was formulated in 1968. In these committee reports, the plight of waste water workers are also discussed in mild. As per The Protection of Civil Rights Act 1955, compelling any person to practice scavenging is deemed to be offensive. The 1993, Employment

⁶ Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: India,” CERD/C/304/Add.13., September 17, 1996, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2F304%2FAdd.13&Lang=en (accessed August 3, 2014), para. 14

⁷ Safai Karmachari Andolan & Ors. Vs. Union of India & Ors., Supreme Court of India, Writ Petition (Civil) No 583 of 2003, March 27, 2014, para. 7

⁸ Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A (III) U.N. Doc. A/810 at 71 (1948).

⁹ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106, annex, 20 UN GAOR Supp. (No. 14) at 47, UN Doc A/6014 (1966), 660 U.N.T.S. 195, entry into force January 4, 1969. In particular, the Supreme Court cites ICERD, article 2(1) (c)-(d).

¹⁰ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 UN GAOR Supp. (No. 46) at 193, UN Doc. A/34/46.

of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act¹¹ criminalized employment of manual scavengers to clean dry latrines and provided for construction and maintenance of water latrines. The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act 2013¹², is the recent effort which repealed the earlier 1993 act and outlaws the practice of manual scavenging, and hazardous cleaning of insanitary latrines, septic tanks, dry latrines, sewers or pits.

Government Efforts

Various administrative programs like schemes and policies were formulated so as to implement and give effect to the legislations. Several schemes were thus introduced. National sanitation schemes aimed at modernizing human waste management include the Integrated Development of Small and Medium Towns Scheme (1969), Sulabh Shauchalaya (simple latrines) Scheme (1974), the Integrated Low Cost Sanitation Scheme (1981), the Low Cost Sanitation for Liberation of Manual Scavengers Scheme, 1989, Pay and Use toilet Scheme (1992), National Scheme for liberation and rehabilitation of scavengers (NSLRS) (1992), National SafaiKaramchari Finance and development Corporation (NSKFDC) (1997), The Total Sanitation Campaign (1999), renamed Nirmal Bharat Abhiyan (Clean India Campaign), Nirmal Gram PuraskarYojana (2003) and Scheme for Rehabilitation of manual scavengers (2007) focussing on scavengers who are not benefited under any Central/State Government schemes.

REALITY BEHIND THE LAWS

According to a survey done by the sewer cleaners union in Mumbai, Mr Kazi was among 28 workers who have died in the city since May 2014. Mumbai's municipal corporation does not have data specifically for sewer workers, but last year it said 1,386 conservancy workers had died over six years since 2009.¹³

In July 2017 at Delhi three privately hired labourers were killed while cleaning a septic tank near Chhatarpur. In the past two years, close to 15 labourers have suffocated to death while cleaning

¹¹ The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, No. 46 of 1993.

¹² The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, No. 25 of 2013

¹³ <http://www.bbc.com/news/business-35958730>

sewers.¹⁴On February 2017 three people died while cleaning a sewage tank in Malad, poisoned by toxic gases generated by rotting sewage.¹⁵

According to an estimate S Anad made in 2007, at least 22,327 men and women die in India every year doing various kinds of sanitation work. Figures are hard to come by since this concerns the deaths of a section of population that most of India refuses to see. Santosh Choudhary, then chairperson of the National Commission for Safai Karamcharis, had told me in 2007 that at least “two to three workers must be dying every day inside manholes across India.”¹⁶

Ahmedabad NGO Kamdar Swasthya Suraksha Mandal believes that at a conservative estimate, there could be over 1,000 manhole worker deaths per year across India. Santosh Choudhary, chairperson of the National Commission of Safai Karamcharis (NCSK), told Tehelka that at least “two to three workers must be dying every day inside manholes across India.”

Another Ahmedabad NGO, Manav Garima, led by balmiki activist Parshottam Vaghela has documented the deaths of 145 manhole workers in seven years in the municipalities of Vadodara, Surat and Ahmedabad. According to data obtained in Mumbai under the RTI Act, 2,039 safai karamcharis (SKs) died between 1996 and 2006 in 14 of the city’s 24 civic wards. Projected to all 24 wards in the Brihanmumbai Municipal Corporation (BMC), the figure stands at 3,495 deaths over 10 years in the city with a population of 13 million. At 350 deaths per year from among 22,000 permanent sanitation workers in the BMC, the mortality rate (MR) is 16 for every 1,000 SKs. Says demographer Leela Visaria, former director of the Gujarat Institute of Development Research, “The death rate for urban Indians aged 15-59 years is 3 per 1,000 population.

This gives you an indication about the deplorable health status of the Safai Karamcharis. In neighbouring Pune, there were 227 deaths between October 2005 and September 2007 for a population of 4.4 million. In the four metros, there are 1, 07,400 SKs serving a population of 36 million. At an MR of 16, at least 1,718 of these workers are dying every year. For the urban population of 286 million, assuming there are 2,000 SKs per million, conservatively there must be 5, 72,000 SKs servicing urban India. At an MR of 16, a minimum of 9,152 of them must be

¹⁴ <https://timesofindia.indiatimes.com/city/delhi/sewer-deaths-probe-on-bjp-wants-lg-to-stepin/articleshow/59945978.cms> (Last updated on 10/10/2017)

¹⁵ <http://www.hindustantimes.com/mumbai-news/why-death-continues-to-stalk-mumbai-s-sewer-workers/story-qY0tdhIOhaPpDfnV5aykcL.html> (Last updated on 15/09/2017).

¹⁶ <http://www.thehindu.com/opinion/op-ed/deaths-in-the-drains/article5868090.ece> Last updated on 17/10/2017

dying in our cities every year. Officially, India has 6.76 lakh manual scavengers — those who dispose human excreta with their bare hands — working in 96 lakh dry latrines. The Planning Commission sub-group on SKs says, “Independent estimates indicate that there could be about 12 lakh manual scavengers.” For these 12 lakh manual scavengers, if we assume a reduced, conservative MR of 8 per 1,000 workers, we arrive at 9,600 deaths per year. With 5,500 permanent and 1,500 temporary beldars engaged in sewer work for Delhi’s 14 million population, there are 500 sewer workers per million general population. India’s 286 million urban population must be served by at least 1, 43,000 sewer workers. Assuming a higher MR of 25 among this group, since their job is most hazardous, 3,575 sewer workers must be dying every year. All this adds up to 22,327 deaths every year among a cross-section of sanitation workers. Visaria, who is on the advisory council of the Population Foundation of India, says Tehelka’s projections are “very conservative”.¹⁷ They want strong measures to end manual scavenging which, besides being an inhuman relic of the past, has taken over 1327 lives in the past couple of years.¹⁸ After 9 people were killed in three separate incidents in Delhi, initiatives to form Vigilance Committees to be headed by district magistrate that will monitor and prevent any more deaths have bolted.

Eventhough the constitution which came into effect on 1950’s ensures right to equality and abolishes the practice of untouchability, waste water workers are ruled out of these provisions because of the social stigma attached and the inevitability of the state. The National Commission for Safai Karamcharis Act whose agenda was to protect those who are forced into the sphere of unidentified and undignified profession failed to meet the specified objectives of the act and this can be well substantiated by the above mentioned death rates. The prohibition of employment as manual scavengers and their rehabilitation act 2013 was set up with similar objectives repealing the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 is also failing to achieve its target.

INSUFFICIENCY OF LAW TO PROTECT THE INTEREST OF WATE WATERE

¹⁷ S Anand, with inputs from Shalini Singh in Mumbai Reprinted from Tehelka Magazine, Vol 4, Issue 47, Dated Dec 08 , 2007 <https://www.quora.com/How-many-cleaning-workers-die-in-India-every-year-What-to-do-about-it> (last updated on 04/11/2014).

¹⁸ <https://timesofindia.indiatimes.com/city/delhi/Over-1300-manual-scavengers-died-at-work-Safai-Karmachari-Andolan/articleshow/51826182.cms> (last updated on 14/04/2016).

WORKERS: FILLING WITH SUITABLE AMENDMENTS

The failure of 1993 Act and the inefficiency of the state government and union territories was the essence of the *Safai Karamchari Andolan & Ors Vs. Union of India*. The 2013 act was enacted to strengthen accountability mechanisms and to change the direction in which the issue was viewed from a matter of sanitation to the question of dignity. Waste water workers or sewer workers were first identified under Sec.7 with the punishment for contravening its provision under Sec.19 (d) of 2013 act. While the act has corrected the historical injustices suffered by manual scavengers and their families by providing rehabilitation and welfare schemes, the act fails to equally recognise waste water workers. Before passing the 2013 Act, it was sent to The Standing Committee on Social Justice and Empowerment 2012-13 which recommended the government to redefine the definition of manual scavenging in all other aspects. It is to be noted that the committee knowingly or unknowingly failed in the inclusion of waste water or sewer workers in its proposal for amended definition.

The Supreme Court in its judgment¹⁹ dated 12 July 2011 has recognised the plight of sewage workers, who risk their lives by going inside drains without any safety equipment and are denied their fundamental rights of equality, life and liberty. The Court had also criticised the government for being insensitive to the safety and well-being of these workers. This direction was passed on a pending case in the High Court of Delhi²⁰ that had issued numerous directions in its interim order dated 20 August 2008. We can also see similar directions that have been issued in other courts, for example, the High Court of Gujarat in *Praveen Rashtrapal Vs. Chief Officer Kadi Municipality* (SCA Nos. 8989/2001 and 11706/2004), where a series of directions were issued. Interestingly, unlike the other courts, the High Court of Karnataka in its Order (WP 41076/2010) dated 4 July 2012, hearing the case of the sewage workers²¹ said, “Chairman, BWSSB, in his affidavit dated 02.02.2012, wherein he has undertaken as to effectively implement the prohibition of manual entry into manholes and sewage lines by securing all means at my disposal.” The court has received affidavits from the respective respondents that no manual labour shall be engaged

¹⁹ SC-Civil Appellate Jurisdiction Civil Appeal No 5322 of 2011 (Arising out of Special Leave Petition (Civil) No 12345 of 2009), *Delhi Jal Board Vs. National Campaign for Dignity and Rights of Sewerage and Allied Workers & others*

²⁰ High Court of Delhi WP No 5232/2007: *National Campaign for Dignity & Rights of Sewerage and Allied Workers Vs. MCD and others*

²¹ WP 30221/2009: *PUCL-Karnataka vs State of Karnataka and others and WP 41076/2010 RN Narasimhamurthy V s. State of Karnataka*

for clearing, cleaning or unblocking any underground sewerage system. Apart from court directions there have been a number of committees²² constituted to give recommendations for the upliftment of these poor and vulnerable workers. The National Human Rights Commission has also given comprehensive guidelines to regulate the employment of sewage workers.²³

With the continuous hike of manhole and other related deaths in the country, Delhi model Vigilance committees must be formed in every state and union territories. This alarming death rate is the result of inefficiency of the government and the inexistence of a parallel technology to wipe out the manual labour involved in this heinous work. Sewage workers are being neglected and lack equal recognition as that of manual scavengers. The 2013 Act in its current form is confusing the work continues in various disguised forms. Sec.2 (g) have narrowly focussed on manual scavenging and ignore the plight of sewage workers. Waste water workers and manual scavengers are oppressed and exploited. Sewage workers are humiliated and excluded by the society. Apart from social atrocities, they are exposed to various health hazards by virtue of their occupation. Their working conditions are very much similar to that of manual scavengers. But the 2013 act doesn't give equal rights to those manually cleaning the septic tanks. The title of the act itself doesn't have any mentions about waste water or sewage workers. The gruesome condition of sewage workers needs to be addressed by the act by retitling the act itself and by including the waste water workers in the definition part. The retitling can be as: "The Prohibition of Employment as Manual Scavengers and Waste Water Workers, and their Rehabilitation Act". The rules which was passed on December 12, 2013 to give effect to the 2013 act, lack provisions to implement critical aspects of new legislation. Union Social Justice Minister Thawar Chand Gehlot, emphasizing Centre's commitment to eliminate manual scavenging, expressed his concern over "only few states" furnishing information on manual scavenging. "Only very few states have furnished information about families involved in manual scavenging. It would not be an exaggeration if I say hardly 10 to 11 states have given required information," Gehlot said.²⁴

Numerous legislations have been framed as per the Indian constitution dealing with the health,

²² IPD Salappa Committee report on the improvement of living and working conditions of scavengers – 1976; Brave Committee 1948-1951; Malkani Committee 1957-1960; Renuka Roy Committee 1958; Pandya Committee 1967-69

²³ National Human Rights Commission Report on "Guidelines and Safety Code for Operations and Maintenance of Sewerage System".

²⁴ Zee News, February 18, 2015

safety and welfare of the workers employed in organised sector but corners the waste water workers and others employed in unorganised sector. Though Occupational Safety and Health legislations exists in our legal system, they are fragmented and addresses the issues of selected works. The legislature has failed to frame a unified legislation that has general applicability to workers of both the organised and unorganised sectors. Enactment and implementation of “Occupational Safety and Health Act, rules and regulations for Waste water workers” to be more precise is the urgent need of the hour.

INTRODUCE PROPER TECHNOLOGY

Backward technology is one of the reasons for the accidents inside the septic tanks and manholes. A survey conducted by The Bangalore Water Supply and Sewage Board (BWSSB) says that the jetting machines that they are provided with to clear the blockages often fails to clear the blockages that the workers are forced to enter manholes to clear the obstructions. Helix technology manufactured by R.S Technical Services in Petaluma, California, can be applied and tested in micro-scale to survey the manholes and to develop systematised sewer system. Existing machineries and tools must be inspected on monthly basis to avoid incidents of manhole deaths.

CONCLUDING THOUGHTS

Waste water works must be treated on par with manual scavenging and the authorities must stay awake to annihilate the twin evils from the society. The enactment and implementation of Occupational Safety and Health , rules and regulations for waste water workers will restrict the entry of sewerage workers into manholes and gradually decrease the manhole deaths, develop the existing technology as well as introduce innovative ideas to improve the machinery and will also meet the health and safety concerns of waste water workers. Technical backwardness can be expunged with the collective effort of authorities and youth expertising in technical area. Students can contribute towards developing an innovative technology to avoid direct human intervention in cleaning the sewers and septic tanks by the technical skills that they gain through education. Mechanisation and technical up-gradation measures is an immediate step that the government must take in order to tackle the issue. Introduction of proper technology that blends in perfect ratio with our decades old sewer systems must go in hand with the eradication of waste water works.

In our country, committees are formed, acts are passed, schemes are formulated and strategies are facilitated but when it comes to execution, we fail to achieve expected results. What we lack are implementation skills. There should be a perfect mix of government wings, clear cut legislations and NGO's along with the civil society working for the eradication and upliftment of neglected waste water workers so as to achieve reliable and authentic results. Education itself is a self-awareness tool which will make people aware of their rights and responsibilities and must be made compulsory for children of waste water workers. Waste water workers must be made aware of their rights so that they will stop settling up for anything less than they actually deserve. Awareness campaigns must be initiated by governmental, non-governmental organisations and NGO's in national, state, district and panchayat levels to wake up the oppressed community.

Waste water workers or sewer workers who does more hazardous works and are prone to more accidents and deaths encounters very peculiar form of human rights violations. Protecting their dignity is complete only when they are rehabilitated equally like the manual scavengers. The state has to prioritise its agenda to wash off the gruesome waste water works.