



Is the manual scavenging law working?

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30 Nov 2019

The Manual Scavenging law covers **insanitary latrines** and work that involves entry into **septic tanks, sewers, pits and open drains**.

Also cleaning **railway tracks**.

Manually **handling human excreta** which has not fully decomposed, and without **protective gear**.

- Caste
- Human dignity
- Long-term exposure risks
- High risk of fatal accidents from presence of poisonous gases

Development of the statutory framework

The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 prohibited “dry latrines”, i.e., latrine without a “water seal”, but not concerned with where excreta goes after flushing

Manual scavenging as “manually carrying human excreta”

The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 expanded the scope to cover manual handling of human excreta that was not completely decomposed

“insanitary latrines”, “manual scavenging” and “hazardous cleaning”

Specifically covered sewers and septic tanks

Permitted manhole entry with safety conditions

Legal mandate to identify and rehabilitate

Legal mandate to mechanise sanitation work

Dry latrines and the case of *Safai Karamchari Andolan v. UOI (SC 2014)*

Manual scavenging is violative of fundamental rights and international human rights

Case filed in 2003 seeking implementation of the 1993 law, govt scheme for dry latrines and rehabilitation, but the new law was enacted by the time of disposal of the writ

Continuing mandamus of the Supreme Court

- Court mandated survey, identification, demolition of dry latrines, notices to states and government agencies to show cause for non-implementation of the law
- Demonstrated the continuing unwillingness of the state to implement the law

Compensation of Rs. 10 lakhs for families of everyone who died since 1993

The law from the perspective of **sanitation technologies** includes networked and non-networked scenarios

From the labour perspective, sanitation work is increasingly informalized and ad hoc

Scenario 1

Toilet – sewers – sewage treatment plants

- *But could include open drains & untreated disposal into water bodies*

Scenario 2 (more common and increasing) aka Faecal Sludge Management

Toilet – septic tank – vacuum truck – treatment plant

Toilet – on-site STP

- *But mostly improper disposal*
- *Septic tanks should never have manual entry/ case of deaths*

Praveen Rashtrapal v. Chief Officer Kadi Municipality (Gujarat 2006) looked at manual scavenging work being carried out by municipal employees and contract workers in Gujarat

No human entry unless absolutely necessary

Civic bodies should stop using contractors

Safety conditions for manhole workers

Ensure decent accommodation and job conditions

Compulsory insurance with Rs. 1 lakh cover for death

Directions to the State and municipalities to mechanise the work, and for the State to support municipalities for buying equipment

Similarly, the *National Campaign for Dignity v. Delhi Jal Board* (2007 petition, ongoing) put a spotlight on working conditions of sewer workers, deaths and morbidity in Delhi

2008 order of the Delhi High Court directing medical care, wages during periods of illness

Compensation of Rs. 1.5 – 2.25 lakh for deaths (Raised to Rs. 5 lakh by the Supreme Court in 2011 appeal)

Map critical areas, provide records of workers and contract workers

Provide plans for mechanization

- Case continues and most of its directions have not been implemented
- No reference to criminal liability for any of the deaths
- How would the medical care directions be applied to informal & ad hoc workers?

In *A Narayana v Chief Secy* (Madras 2008) the court got a bit further, & with a slightly more cooperative attitude from the State

Chennai Metro Water provided a report of what mechanization equipment is available, and arrangements to prevent blocking of sewers to minimize need for human intervention

Set of limited conditions in which manual entry is necessary

Obligations of state vis-à-vis employees and contract workers

Focus on sewerred areas, but some directions on banning human entry into septic tanks and obligation of municipalities to ensure mechanized cleaning

- But deaths have continued in Chennai and in Tamil Nadu

In Court on its own motion v. UOI (Punjab & Haryana 2019) emphasis on state legal obligations for eradication & rehabilitation

Compensation for deaths to include

- **Monthly pension** of Rs. 35,000 for families of persons who have died, who were engaged in a private capacity
- **Class IV jobs** for families of persons who have died, who were employees of govt

Cases are clear that it is state responsibility to provide compensation, and can recover from private employer

And yet the same grounds of objection raised in each of the cases

Is the person a manual scavenger | the person was a contracted worker

Ramadevi v. State of Karnataka (2015 & 2018), Chinnamma v. State of Karnataka (2016), Elangbam Ongbi Anubi Devi v. State of Manipur (2017), ChangeIndia v. Govt of Tamil Nadu (2017), Rajesh & Anr v. DJB (2018)

In *Subhashini v. The Area Engineer, Chennai Metro Water (Madras 2016)* case dismissed as no proof or contract document to show that the person was engaged as a manual scavenger

Manav Garima (Guj HC, ongoing), National Campaign for Dignity (Delhi) and Court in its Own Motion (P&H) the court is monitoring payment of compensation for deaths

But what about the penal provisions of the law?

No convictions reported from any HC, or reported by any of the activist organisations

FIRs filed only for compensation

Even at FIR stage, liability stops at "employer", who is a contractor or private person

Recent attempts to use IPC and Atrocities Act in many incidents

- Depends on the facts of the case, but in *Hareshbhai Dhirubhai Danger* (Gujarat 2016) Atrocities Act not applicable and in *M Garkey* (Madras 2015) – rejected plea for general direction for prosecution to include IPC and Atrocities Act

Only two cases in which penal provisions invoked even though there was no death

- *Akhieshkumar v. State of Karnataka* (2017) – bail granted
- *National Institute of Rock Mechanics v. Asst Comm Kolar* (2017) – FIR can be filed

Rehabilitation is inadequate and inappropriately designed

The 2013 Act provides a legal mandate for rehabilitation, which was reiterated in *Safai Karmachari Andolan*, and several subsequent cases. SKA also said

- “Persons released from manual scavenging should not have to cross hurdles to receive what is their legitimate due under the law.”
- “Rehabilitation must be based on principles of justice and transformation.”

Puttuswamy (SC 2018): Aadhar linking for rehabilitation benefits, the stigma of being a manual scavenger is permanently linked with a person’s identity

But the govt scheme implementation is pathetic, & even most of the manual scavengers who have come forward to avail of its benefits cannot cross the hurdles of the scheme design.

Some big questions remain unresolved

What about the **state obligation to provide services?**

- With currently available technologies, it is not feasible for individuals or small groups to treat their own faecal waste
- Sewerage (or de-sludging tankers) and treatment have to be provided at scale, and are best as a state responsibility
- Owners of infrastructure are penalized if sanitation work results in death, but what about their responsibility to have safe infrastructure?

How to enforce the law in **cases that do not result in death?**

How do we strengthen and support **local networks of sanitation workers?**



THANK YOU



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