

Proper Awareness & Enforcement of Law Can Stop the Crime Against Scavengers, Safai Karmacharies and Their Dependants

***Parameswar Dash**

Introduction

Despite experience of a number of special legislations for providing protection to scavengers, the proportions of crime against scavengers are deplorable condition. Scavengers continue to be victims of various types of crimes and all these are happening due to lack of proper awareness and enforcement of concerned law.

Manual scavenger means a person engaged or employed by an individual or a local authority or a public or private agency, for manually cleaning carrying, disposing of or otherwise handling in any manner, human excreta in an insanitary latrine.

Safai Karmacharies play a crucial role in keeping the environment clean and upholding sanitation. But they are unable to do the same in their personal lives which is a big problem for them among others. Problems faced by safai Karmacharies are many but few which are

- (i) Compromise of health,
- (ii) Loss of social dignity and
- (iii) Low wage and poor health puts them in poverty.

Draw backs & Provisions

Safai Karmacharies normally include persons engaged as 'Sweepers' or 'sanitation/cleaning workers' in municipalities, government and private medicals, offices. These sanitation workers face many problems during execution of task and which has ill after effects too i.e.

1. Absence of adequate protective gear, and the hazardous working conditions, violating Article 42 of Indian Constitution, due to which their mortality rate is unusually high.
2. Heart-related problems, asthma and tuberculosis are common diseases among them.
3. Many of them also die on-duty due to road accidents
4. They have to collect really hazardous garbage, especially in slums and colonies. They have to inhale hazardous gases emanating from the rotting garbage which irritates them and affects their mental health too.
5. They face social discrimination, considered 'kachrawala' rather than 'safaiwala'.
6. They lack economic security and in case of death at workplace the compensation amount is meager and their dependents do not get jobs on compassionate grounds.

Government Contribution

Government has taken various steps to provide assistance and improve the conditions of Safai Karmacharies. The major such initiatives are:

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1. National Safai Karmacharies Finance and Development Corporation (NSKFDC), 1997, as an Apex Institution for all round socio-economic upliftment of the Safai Karmacharies and their dependents and to extend concessional financial assistance to the Safai Karmacharies beneficiaries for establishment of income generating projects.
2. National Scheme of Liberation and Rehabilitation of Scavengers (1992) to provide alternate employment to the scavengers and their dependents.
3. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993.
4. Pre-metric Scholarships for the Children of those engaged in unclean occupations.
5. Valmiki Malin Basti Awas Yojna (VAMBAY), 2001, with the aim to provide shelter.

All these initiatives have however not been rigorously implemented and their success still remains a distant dream, especially the Manual Scavengers Act of 1993. Scavengers/Safai Karmacharies still are devoid of their right to healthy living and working conditions, social inclusion and economic protection.

Article 21 of the Constitution of India 1950 provides that “No person shall be deprived of his life or personal liberty except according to the procedure established by law”. ‘Life’ in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air etc. ‘Right to life’ is fundamental to our very existence without which we cannot live as human being and includes all those aspects of life which to make a man’s life meaningful, complete, and worth living under the canopy of Article 21 so many right have found shelter, growth and nourishment.

Article 21 assures the right to live with human dignity, free from exploitation. The state is under a Constitutional obligation to see that there is no violation of the fundamental right of any person. Particularly when he belongs to the weaker section of the community and is unable to wage a legal battle against a strong and power full opponent who is exploiting him, both the Central Govt. and State Govt. are therefore bound to ensure observance of the various social welfare and labour laws enacted by parliament for the purpose of securing to the workmen a life of basis human dignity in compliance with the directive principles of the state policy.

Right to life means the right to lead meaningful, complete and dignified life. It does not have restricted meaning. It is something more than surviving or animal existence. The main object of Article 21 is that before a person is deprived of his life or personal liberty by the state the procedure established by law must be strictly followed. Article 21 of the Constitution deals with prevention of encroachment upon personal liberty or deprivation of life of a person “No person shall be deprived of his life or personal liberty except according to a procedure established by law”.

The right to life with human dignity enshrined in Article 21 derives its life breath from the directive principles of state policy and particularly clauses(e) and (f) of Article 39 and Articles 41 and 42 and the least, therefore, it must include projection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a health manner and in conditions of freedom and dignity, educational facilities, just and humane, conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no state neither the central Government nor any State Government has the right to take any action which will deprive a person of the enjoyment of

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these basis essentials.

It includes the right to live in piece, to sleep in peace and the right to repose and health. "It is the fundamental right of everyone in this country to live with human dignity free from exploitation.

Due to non-payment of minimum wages to the scavengers i.e. sweepers, sewerage workers, SWM workers, employed in different projects is a denial to them of their right to live with basis human dignity and violate of Article 21 of the constitution. Rights and benefits conferred on workman employed by a contractor under various labour laws are clearly intended to ensure basis human dignity of workman. Non enforcement of these laws by the state authority of the provisions of these laws was held to be violation of fundamental right of workers to life with human dignity contained in Article 21 (vii).

Article 46 of the constitution of India expressly provides that the State shall promote the educational and economic upliftment of the weaker sections of the society, in particular of SCs & STs with special care and shall protect them from injustice and all forms of exploitation.(3) Healthy body is the very foundation of all human activities. In absence of proper device, machinery, equipments and protective gears scavengers/Safai Karmacharies and rag pickers are exposed to the most virulent forms of viral and bacterial infections that affect their skin, eyes, limbs, respiratory and gastro-intestinal system.

Article-47, a directive principle of state policy in this regard lays stress note on improvement of public health and prohibition of drugs injuries to health as one of primary duties of the state (XIV)(4)

Right to live is a fundamental right under Article 21 of the constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. The 'Right to life' under Article 21 means a life of dignity to live in a proper environment free from danger of diseases and infection maintenance of health, preservation of the sanitation and environment have been held to fall within the purview of Article 21 as it adversely affects the life of the citizens and it amounts to slow poisoning and reducing the life of the citizens because of the hazards created if not checked.

According to tradition scavengers and beating drum in festive occasion which is treated as a holy job. But now a day's DJ mixed with drum creating heavy noise which is very painful to tolerate harmful for their health. Section 5 & 6 of the "Prohibition of employment as manual scavengers and their Rehabilitation Act. 2013, prohibits employment of manual scavengers in any form and contravention of the said Act. is punishable under section 8 of the Act.

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The survey conducted by the Govt. from time to time is not proper and accurate for which no sweet able action yet been taken for their liberation and rehabilitation.

Indian Scenario

Towards eradication of manual scavenging and rehabilitating of manual scavengers there are multi-pronged strategy fixed by the Govt. but due to lack of their involvement, information, communication

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and education all the programs are meaningless for them. The ULB and other local bodies are not emphasizing to the matter for their proper survey and evaluation. Simultaneously alternative dignified occupations are not properly identified and selected. Due to lack of confidence upon the scheme selected by the Govt. they do not prefer to switch over for which since inhuman practice of manual scavenging continues to be a hereditary occupation, the children of scavengers also tend.

A person who is frequently ill may not be able to provide all the needs of the family. He is enmeshed in the "Circle of Poverty". He has less energy and hence produces less work. In turn, he may produce less food, or earn less money to buy food. If the family does not have enough to eat, they will be more likely to fall ill. This circle can be broken if the spread of disease is controlled.

The country also suffers economically because of diseases related to water and sanitation. It has been calculated that India loses 180crores person-hours each year due to these diseases.

It is important to gain the confidence of the people. For instance, do not start telling mothers that their children get sick because of their dirty habits. Instead try asking mothers what sickness their children get, what they think is the reason and what they do to deal with these sicknesses. Show them how human excreta sticks to the feet when one walks over it, land howl one's feet carry it everywhere one goes. Ask them what would happen if a fly walks over excreta. Would it be transferred to food and drink that the fly latter stands on? Let people work things out for themselves.

Scavengers are providing sanitary services to the ULB/Municipalities/Municipal Corporations throughout the year where as ULB/Municipalities/Municipal Corporation authorities are feeling their existence but not bother about their health, standard income. Neither they are getting safe drinking water nor a clean environment.

Maximum scavengers have no any own land and a minimum standard house. They are residing in Govt. land, river bank, canal beach, cremation/burial ground or endowment land by way of encroach where there is no guarantee. Neither ULB/Municipalities/Municipal Corporations have given any land nor shelter to them. They are suffering a lot only to get job for their earning. In rural areas Govt. is providing 4decimile of land to the eligible landless person but there is no any provision of the same in Urban areas. In this absence neither they are getting any caste certificate nor Income certificate. BPL card, any type of govt. subsidy towards Awas Yojana, LCS etc are dream for them.

Remedies

Urban Local Bodies (ULBs) are extracting / exploiting to the scavengers/safai Karmacharies in many ways since the beginning.

- a) According to the norm, crimes against SC/STs include all Indian Penal Code, 1860 crimes, along with those listed under the Protection of Civil Rights Act., Employment of Manual Scavengers Act., and the construction of dry latrines among & others. So, even in a case where a dry latrine is being constructed and someone reports it, it is recorded as a crime against SC/STs.
- b) "Atrocity" as per the legal parlance means a situation where caste considerations are really the root cause of the crime and the victims of the crime are members of scheduled caste and the offenders do not belong to scheduled caste, even though caste consideration may be only vivid and minimum notice for the crime.
- c) Eradication of manual scavenging will right the injustices Dalits have faced for centuries finally breaking the link between occupation and caste" once the stigma is broken there is a possibility for these communities to participate in the economic growth of the country. India will grow

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faster and will become a more democratic place.

- d) Scavengers/safai Karmacharies find freedom and self-respect. They are interested to through their basket and have courage to burn their basket. Thousands of scavengers are ready to refuse the work and preparing to accept the alternate, where others are not finding the way to get escape.
- e) The achievement what we will achieve may not give the immense pleasure to us, because eradication of manual scavenging and prohibition of construction of dry latrine are not only the crime faced by the scavengers/safai Karmacharies and their dependants.
- f) Now the problems of scavengers are not confined within the problem of manual scavenging or construction of dry latrine or their liberation and rehabilitation. Most of the States have reported that they do not have manual scavenger. If it is true, then how they are utilizing the funds and privileges which exclusively meant for liberation and rehabilitation of scavengers and their dependants.
- g) Manual scavenging is not a career chosen voluntarily by workers, but is instead a deeply unhealthy, unsavoury and undignified job forced upon these people because of the stigma attached to their caste. The nature of the work itself then reinforces that stigma.
- h) But it is not fully admissible fact. In my opinion due to severe poverty, drugs and acute hunger forced to do manual scavenging including other similar activities too.

There is a need of awareness among scavengers/safai Karmacharies and their dependants about different schemes of the govt. In April 2005, a Supreme Court bench directed all state governments and all ministries and corporations of the central government to file affidavits within six months reporting the prevalence of manual scavenging, use of funds earmarked for ending manual scavenging, and progress toward rehabilitating manual scavengers

Legislative attempts to end manual scavenging have been accompanied by administrative programs, referred to as schemes, and policies directed at converting India's sanitation system and at helping communities engaged in manual scavenging seek alternate livelihoods. The responsibility for implementing these schemes and policies rests with a number of different government departments, which often do not coordinate their efforts. India has allocated resources to modernize sanitation. 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, and the Total Sanitation Campaign, 1999, renamed Nirmal Bharat Abhiyan (Clean India Campaign).

Training must go beyond teaching skills and proficiency. The real barriers come after the training. They have to use the skill to find a job. People have difficulty when they go to get jobs, and they have difficulty believing they can get a job. They need to be guided through the process. Although the 2013 Act contains strict penalties for maintaining dry latrines, these require enforcement. The Indian government's track record of imposing penalties upon those who perpetuate manual scavenging under the 1993 Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition Act) is extremely poor. In fact, according to the National Advisory Council, "almost no one has been punished under this law." Not only are laws abolishing manual scavenging routinely ignored in practice, people who try to leave can suffer retribution, including community threats of physical violence and displacement.

Due to pervasive discrimination, Dalits require significant assistance in accessing the criminal justice

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system when they are victims of crime. While people throughout India face police inaction and outright refusals to investigate their complaints, these problems are exacerbated for people on the lower rungs of the economic and social ladders.

In rural India, to file a complaint, victims of crime must ordinarily identify and travel to the police station with jurisdiction to investigate. Those who attempt to do so are often rebuffed. Victims who are poor and without legal counsel are vulnerable to police refusal to register and investigate complaints because they cannot afford to pay bribes, cover costs of investigation as the police typically demand, or call upon local influential figures to intervene with the police on their behalf. Traditional gender-bias means that women are particularly likely to be ignored.

Conclusions

Explicitly addressing these barriers, The Scheduled Castes and Scheduled Tribes, (Prevention of Atrocities) Amendment Ordinance, 2014, pending enactment at the time of writing, makes it a crime, punishable with imprisonment for six months to one year, for a public servant to “willfully neglect [their] duties” under the ordinance. These enumerated duties include reading informants the information given orally and written before taking their signature, registering an FIR, providing a copy of the recorded information to the informant, recording the statements of victims of witnesses, and conducting investigations and filing charge sheets within 60 days.

Descent-based practices are so deeply internalized that even state institutions such as village councils and municipal corporations perpetuate these practices. Many from the manual scavenging caste communities are denied any other jobs, leaving them dependent on manual scavenging for subsistence. Where the government itself employs manual scavengers, there is no hope for effective implementation of the 2013 Act and other laws aimed at ending manual scavenging.

In my opinion, it can possible to stop the crime against scavengers, safai karmacharies and their dependants and that is by the way of proper awareness and enforcement of law.

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