

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

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A Study on Eradication of Manual Scavenging a form of Forced Labour in India: Problems and Perspectives

R DHIVYA¹

ABSTRACT

The Constitution of India guarantees the right to lead a life in a dignified manner becomes questionable when there is the exploitation of Manual Scavengers as forced labours. Most of the people in India become victims of forced labour. Finding out the forced labour is the biggest challenge in this modern world which makes it an obstacle in the way of the appropriate authority in rescuing those victims and rehabilitating them along with their family members. Everyone has a right to work which includes the right to decent work which is guaranteed under the Indian constitution. No one can interfere with the rights to work of a person and anyone can carry out any work which is permissible under the law of India. In today's Modern World, Manual scavenging is considered to be modern-day forced Labour. Several steps have been taken by the appropriate authority in rescuing the manual scavengers and rehabilitating them. The eradication of manual scavenging and their right to work is still a continuing challenge. The researcher used an empirical study in finding out the existence of manual scavenging with a sample size of 250 with the convenient sampling collected from NGOs and Manual Scavengers, etc in eradicating manual scavenging a form of forced labour.

Keywords: Manual Scavenging, Right to Work, Rehabilitation, Discrimination, sanitation.

I. INTRODUCTION

In India manual scavenging dates back to ancient times. Manual scavenging relates to the caste system in which the upper caste forced the lower caste Manual scavengers to go by different names in various parts of the country. Whatever they are called, they belong to the bottom of the social hierarchical system. Indeed, manual scavenging and untouchability, caste determination goes together. Castes that consider themselves superior enjoy a wider range of choices of work or employment or occupations compared to other castes. Manual scavenging is believed to be started during the development of the caste system. The people were categorized by their occupation. Occupation became hereditary. It is caste that decides a

¹ Author is an Assistant Professor at SRM Faculty of Law, SRMIST, India.

person's occupation or work. In different parts of the country, their names are different. In the ancient and medieval periods, manual scavenging was linked with caste and untouchability. But in the modern age manual scavenging is not connected with caste. It is connected with poverty, education, and family background. But untouchability is still there. But if we compare the manual system in the ancient and modern periods the upper-class people also did manual scavenging for their livelihood.

(A) Objectives

1. To find out the practice of manual scavenging and caste-based discrimination in India
2. To identify the significant relation between Manual Scavenging and forced Labour

(B) Hypothesis

1. There is a significant relation between Manual Scavenging and the caste system
2. There is a significant relation between manual Scavenging and forced Labour

(C) Review of Literature

After seventy-four years of independence even after the passing of the act called the constitution of India which guarantees social justice and basic human rights are still distant dreams for certain sections of the people in the society. Manual scavenging is a caste-based occupation and with very few exceptions, all manual scavengers are from the scheduled caste. It is found out that there are so many journals, articles, books, and research articles that were published related to Manual Scavenging. In the past decades, there were several articles posted online as well as offline regarding Manual scavenging. In those articles, most of them were identified as victims of caste-based occupation. In most of the Articles and journals, it has been found that the practice of Manual Scavenging is in existence in every part of India.

(D) Materials And Methods

This Non Doctrinal study was carried out for finding out the status of manual scavengers and manual scavenging which is considered to be a form of forced labor. This study is based on Primary sources as well as secondary sources. Primary sources were collected by using a convenient sampling method NGOs, Manual Scavengers, Secondary sources were collected from books, materials, Articles, etc. The researcher is limited in collecting the samples by collecting them only from the NGOs, Manual Scavengers. It is not possible to collect samples Large in number so the researcher carried out a convenient sampling method in collecting the samples. The Sample size is 250.

II. CONSTITUTIONAL STATUS OF FORCED LABOUR

The Constitution of India prohibits all forms of forced labour in India. Under Article 23 it prohibits similar forms of forced labour. It protects individuals not only against the state but also against any other citizens. Bonded labour is also recognized as forced labour under Article 23 and prohibits it. This Article gives protection not only against the state but also against the non-citizens of India, the supreme court widened the scope and ambit of Article 23 in *Peoples Union for Democratic Rights Vs Union of India* regarding forced Labour in India. It widened the scope of article 23 to cover any other forms of forced labour wherever they are found. It even directed the state to take necessary measures in punishing the private individuals for making people forced Labour without their will. Under Article 23 it prohibits similar forms of forced labour. It protects individuals not only against the state but also against any other citizens. Bonded labour is also recognized as forced labour under Article 23 and prohibits it. In forced labour, the labourers are treated like slaves and forced to do the work without their will. This Article gives protection not only against the state but also against the non-citizens of India. In *Peoples Union for Democratic Rights Vs Union of India*, the supreme court widened the scope and ambit of Article 23 about forced Labour in India. It widened the scope of Article 23 to cover any other forms of forced labour wherever they are found.

III. CONCEPTUAL ANALYSIS

Manual scavenging in India is the lifting and removal of human excreta or night soil manually. It is considered an unclean occupation. Under section 3(25 A) of the Chennai city municipal corporation act, 1919 “scavenger” means a person employed to collect or remove filth, to clean drains, latrines, or slaughter-houses and use carts for the removing of filth.

“Scavenger” means a person employed to collect or remove filth, to clean drains, latrines, or slaughterhouses, and use carts for the removing of filth;

According to section 2(j) “manual scavenger” means a person employed or engaged in manually carrying human excreta.

According to section 2(1) (j) “manual scavenger” means a person employed or engaged by an individual, an agency, a local authority, or a contractor for manually cleaning, carrying, or handling human excreta in a latrine or an open drain or pit in which the human excreta is disposed from the insanitary latrines, on a railway tracks or other space or premises, etc.

Manual scavengers are otherwise known as “Safai Karamcharis”. It means a person engaged or employed for manually carrying human excreta or other sanitation works etc.

In *People's Union for Democratic Rights vs Union of India*. This case is popularly known as the *Asiad project workers case*. In this case, the Supreme held that the right which is guaranteed under article 17 is available against private individuals also. The state has to prevent the violation of these fundamental rights.

State of Karnataka vs Appa Balu Ingale, in this case, the court held that the object of article 17 is to liberate the society from blind and ritualistic adherence and traditional belief which has lost all legal or normal base.

IV. RIGHTS OF MANUAL SCAVENGERS

S.N O	RIGHTS	UDHR	ICCPR	ICESCR	IC
1.	Equality before law	Art.7	Art.26		Art.14
2.	Prohibition of discrimination				Art.15
3.	Right to equal access to public service	Art.21(2)	Art.25 (c)		Art.16
4.	Abolition of untouchability				Art.17
5.	Right to life and personal liberty	Art.3	Art.2, Art.6, Art.9(1)		Art.21
6.	Prohibition of traffic in human beings and forced labour				Art.23
7.	Right to work	Art.23		Art. 6	Art.41
8.	Right to education	Art.26			Art.21A,

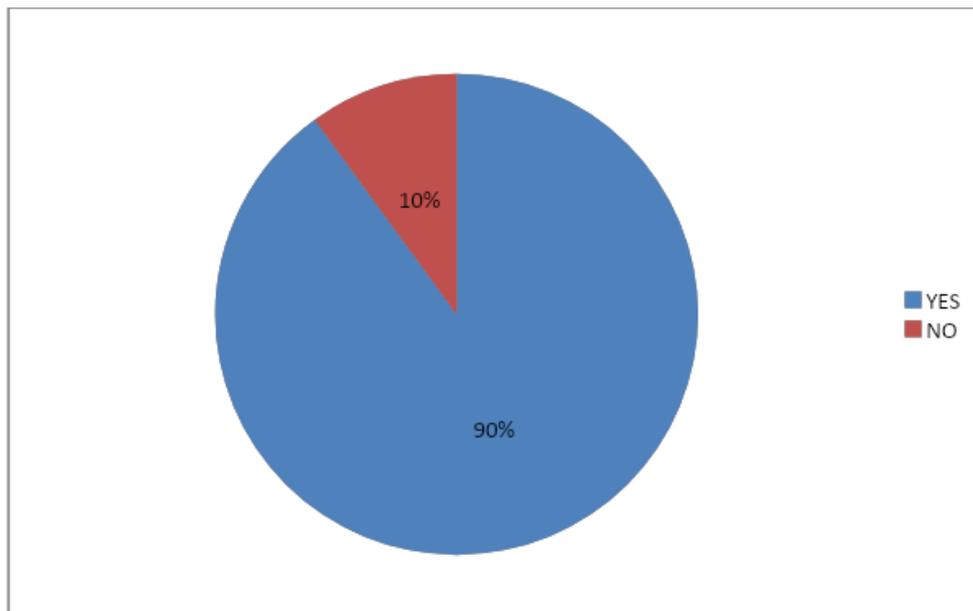
		(1)			45
9.	Right to effective remedy	Art.8			
10.	Freedom of profession, trade, occupation etc				Art.19(1)(g)
11.	Prohibition of torture, cruel, inhuman or degrading treatment or punishment	Art.5	Art.7		

V. RESULTS AND DISCUSSION

Pie chart 1:

Are you aware of the existence of the practice of manual scavenging in India ?

1. Yes
2. NO

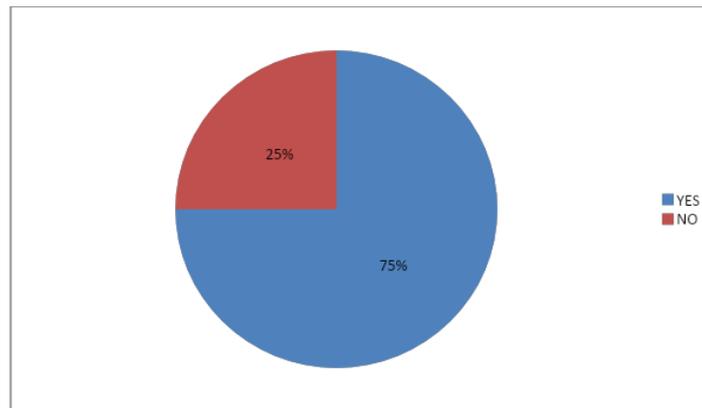


The first pie chart shows that 90% of the people are not aware of the existence of the practice of Manual Scavenging while 10 % are not aware of forced Manual Scavengers. From this study, it is clear that people are aware of the existence of the practice of manual scavenging in India.

Pie Chart 2:

Are you aware of the schemes available for Manual Scavengers?

1. Yes
2. No

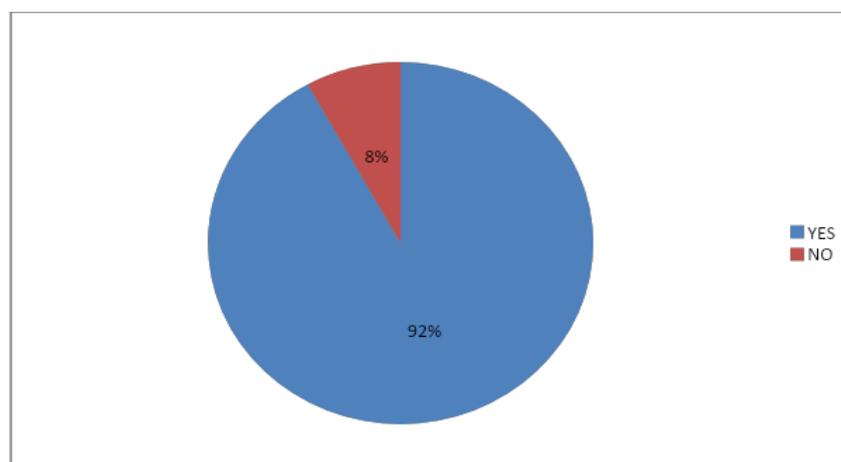


The second pie chart shows that 75% of the people are aware of the scheme available for Manual Scavengers while 25% of the people are not aware of the scheme available for manual scavengers. From this study, it is clear that people are aware of the schemes available for Manual Scavengers.

Pie Chart 3

Do you think that manual scavenging is a form of forced labour?

1. Yes
2. No

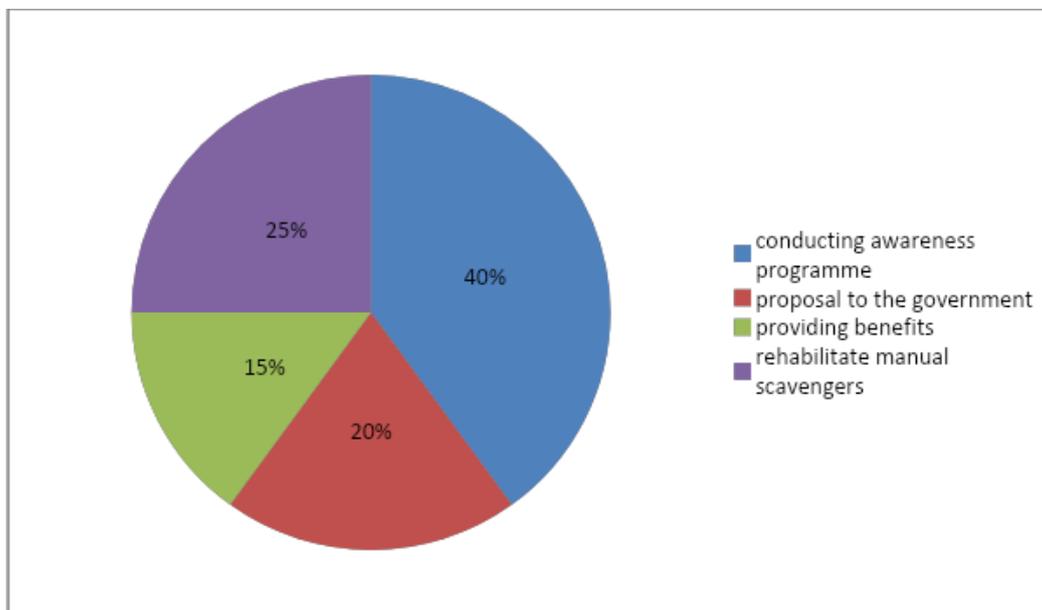


From the third pie chart, it shows that 92% of the people think that manual scavenging is a form of manual scavenging while 8% are not supporting it From this study, its clear that manual scavenging is a form of forced Labour

Pie Chart 4

What is the role of non-governmental organizations in the eradication of the practice of manual scavenging?

1. Conducting Awareness Campaign
2. Proposal to the government
3. Providing benefits
4. Rehabilitate the manual scavengers

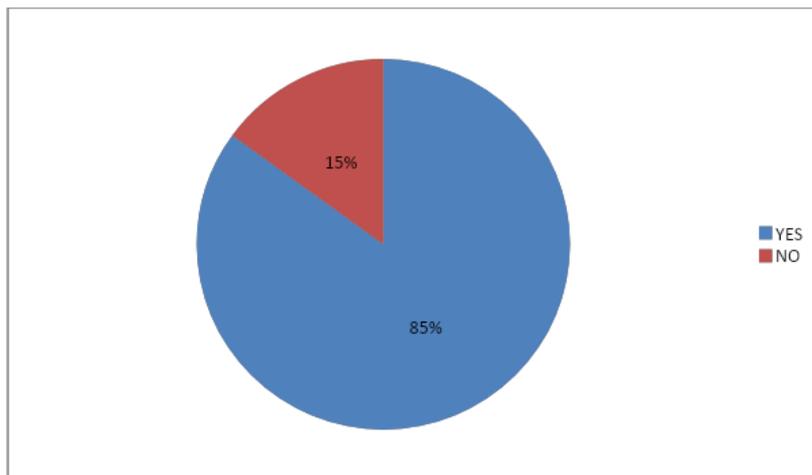


From the Fourth pie chart, it shows that 40% of the people think that NGOs play an important role in Conducting awareness programme,25% of the people think that NGOs plays an important role in rehabilitating manual scavengers,20% of the people think that NGOs sends proposal to the government regarding manual scavenging and 5 % of the people think that NGO provisioning benefits to the manual scavengers. From this study, it is clear that NGOs play an important role in conducting awareness programmes in eradicating manual scavenging.

Pie Chart 5

Is it possible for the eradication of manual scavenging?

1. Yes
2. No



From the third pie chart, it shows that 85% of the people think that eradication of manual scavenging is possible, 15% of the people think that it is not possible to eradicate the manual scavenging. From this study it is clear that eradication of manual scavenging is possible.

VI. CONCLUSION

Without any discrimination, a person shall be engaged in any work which is not hazardous. It is the duty and responsibility of the government to take steps towards the eradication of manual scavenging. There is a connection between manual scavenging and forced labour because this work is considered hereditary which carries these practices from generation to generation. Strict implementation of the measure will lead to the eradication of manual scavenging.

VII. REFERENCES

1. Scheduled castes and scheduled tribes (prevention of atrocities act), 1989/2015
2. Protection of human rights act, 1993
3. Prohibition of employment as manual scavengers and their rehabilitation act, 2013
4. Protection of civil rights act, 1955
5. National commission for safai karamcharis act, 199
6. Bhasha Singh, *Unseen: The Truth About India's Manual Scavengers*, penguin group publisher, 2014.
7. Srivastava, .B.N., *Manual Scavenging In India: A Disgrace To The Country*, concept publishing company 1997.
8. Gita ramaswamy, *India Stinking: Manual Scavengers In Andhra Pradesh And Their Work*, navayana publishing, 2005.
9. Philippe cullet and lovleen bhullar, *Sanitation Law and Policy In India: An Introduction To Basic Instruments*, oxford university press, 2015.
10. Dr. Agarwal, H.O., *Human Rights*, Central Law Publications, 2015.
11. Bakshi, B.M., *The Constitution Of India*, Universal Law Publishing co., 2010. Vivek, P.S., *The Scavengers: Exploited Class of City Professionals*, Himalaya publishing house, 1998.
12. Dr. Kapoor, S.K., *International Law and Human Rights*, central law agency, 2011.
13. Dr. Pandey, J.N., *The Constitution Of India*, central law agency, 2010
