



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

+91 70421 48991
editor@ijlar.com
www.ijlar.com

DISCLAIMER

The views and opinions expressed in the articles published in the Indian Journal of Legal Affairs and Research are those of the respective authors and do not necessarily reflect the official policy or position of the IJLAR, its editorial board, or its affiliated institutions. The IJLAR assumes no responsibility for any errors or omissions in the content of the journal. The information provided in this journal is for general informational purposes only and should not be construed as legal advice. Readers are encouraged to seek professional legal counsel for specific legal issues. The IJLAR and its affiliates shall not be liable for any loss or damage arising from the use of the information contained in this journal.

Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

**BREATHING TOXINS, BEARING TRAUMA; A
CONSTITUTIONAL AND HUMAN RIGHTS
PERSPECTIVE ON MANUAL SCAVENGING IN INDIA**

AUTHORED BY - CHANDRIKA WH

Class: LLM (CAL)

Semester: 1st

Christ Deemed To Be University

INTRODUCTION:

To breathe is the most basic act of human existence. Yet for thousands of individuals engaged in manual scavenging in India, every breath is poisoned by noxious fumes from human waste, and every day of survival is marked by the indignity of performing a task society itself condemns. Manual scavenging defined as the removal of human excreta from dry latrines, sewers, and septic tanks by hand stands as one of the most degrading and hazardous occupations known to humanity. Despite constitutional guarantees of equality, dignity, and the right to life, the persistence of this practice in twenty-first century India starkly exposes the chasm between law and lived reality.

The problem is not only legal, but profoundly human. Reports of workers collapsing inside septic tanks due to toxic gases, or entire families trapped in intergenerational cycles of scavenging, reveal a daily assault on both body and spirit. These men and women carry the burden of social stigma, physical trauma, and premature death, even as their work sustains urban sanitation systems that the rest of society takes for granted. The invisibility of their suffering is a form of violence in itself rendering them citizens in law, but outcasts in practice.

From a constitutional and human rights lens, manual scavenging poses troubling questions: What does the right to life under Article 21 mean when individuals are forced to inhale poisonous air for survival, How does the constitutional promise of abolition of untouchability under Article 17 resonate when Dalit communities remain disproportionately compelled into such labour, Why do

repeated legislative interventions from the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 to the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 fail to dismantle the structural realities that bind workers to this occupation.

Manual scavenging is not merely a socio-economic problem but a continuing constitutional wrong and a grave violation of international human rights norms to which India is bound. Situating the issue within constitutional morality, the right to dignity, and the state's duty to protect vulnerable groups, the discussion seeks to uncover the dissonance between progressive judicial pronouncements and their limited enforcement. It further considers how the silence of institutions perpetuates systemic violence under the guise of development and sanitation.



KEYWORDS:

Manual Scavenging, Constitutional Rights, Human Dignity, Caste Discrimination, Rehabilitation and Social Justice, Public Health and Trauma, State Accountability.

ABSTRACT:

Manual scavenging in India remains one of the most degrading and hazardous occupations, disproportionately affecting Dalit communities and violating their fundamental rights. Despite constitutional guarantees of equality (Article 14), the abolition of untouchability (Article 17), and the right to life with dignity (Article 21), thousands continue to be forced into cleaning human waste with minimal protection, exposing them to toxic gases, infections, and psychological trauma. Legislative measures, including the 1993 Act and the 2013 Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, alongside judicial interventions such as *Safai Karamchari Andolan v. Union of India* (2014), have attempted to eradicate the practice and provide rehabilitation. Yet, weak enforcement, caste-based discrimination, poor data management, and inadequate social support have limited their impact. This paper examines manual scavenging through a constitutional and human rights lens, highlighting the structural barriers that perpetuate the practice, the health and dignity violations it entails, and the gaps between law and lived realities. It argues for a comprehensive rights-based approach that combines legal enforcement,

rehabilitation, public health support, mechanisation, and social reform to ensure dignity, equality, and justice for affected communities.

LITERATURE REVIEW:

Manual scavenging in India occupies a well-documented but stubbornly persistent place at the intersection of caste, labour, public health, and constitutional law. Human Rights Watch's foundational empirical study *Cleaning Human Waste: Manual Scavenging, Caste, and Discrimination in India* offers a powerful qualitative account of coercion, stigma, and state failure, relying on more than a hundred interviews and situating manual scavenging as a form of caste-based exploitation that implicates international human rights norms.¹ Complementing HRW's field findings, governmental and parliamentary records including reports compiled by the National Commission for Safai Karamcharis (NCSK) and legislative materials provide documentary evidence of fatalities, official lists of affected families, and repeated administrative schemes whose implementation gaps explain the persistence of the practice despite formal prohibition.²³

Legal scholarship has tracked this dissonance between statutory reform and ground reality. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (the 2013 Act) is widely praised for broadening the legal definition of prohibited work and for centring rehabilitation; yet multiple critical reviews argue that the Act's rehabilitative measures remain aspirational absent strong enforcement, monitoring, and remedial budgets.⁴ Empirical legal commentators emphasise how identification procedures, benefit-delivery bottlenecks, and the absence of meaningful alternative livelihoods recreate dependence rather than dismantle structural caste-based labour markets.⁵

Judicial interventions form a crucial strand in the literature. The Supreme Court's decision in *Safai Karamchari Andolan v. Union of India* (2014) is repeatedly cited as doctrinally significant: the Court unequivocally condemned manual scavenging as incompatible with Articles 14, 17, and 21, and it directed remedial measures including compensation for deaths in sewer/septic-tank cleaning and systematic identification and rehabilitation of affected families.⁶ Case commentary, however, is often sceptical about the translation of judicial mandates into administrative practice; several

studies document a persistent shortfall in state compliance and in the implementation mechanisms the Court itself prescribed.⁷

Public-health and anthropological literatures enrich legal accounts by documenting the embodied harms of manual scavenging nonfatal morbidity, traumatic loss, intergenerational social exclusion, and psychological suffering that do not fit neatly into conventional tort or labour law remedies.⁸ Activist histories and movement literature (notably scholarship around Safai Karamchari Andolan and Dalit grassroots mobilisations) stress that legal fixes must be accompanied by anti-caste social transformation and reparative state action, not merely technical sanitation upgrades.⁹

International and policy reports (UN, ILO, and NGOs) press the human-rights frame convincingly: forced or caste-designated sanitation work engages prohibition of slavery, forced labour conventions, and the right to dignity.¹⁰ Finally, recent investigative journalism and parliamentary compilations underscore an urgent empirical point echoed across literatures deaths and injuries in confined-space sanitation work continue to occur at alarming rates, and official counts often understate the true scale of harm.¹¹

Taken together, the literature paints a consistent picture: while India's constitutional and statutory architecture provides normative ammunition to eradicate manual scavenging, persistent administrative failures, caste-based social structures, and inadequate rehabilitative policy design mean that legal norms alone have not sufficed. This body of work therefore supplies the analytical scaffolding for a rights-based critique that connects constitutional doctrine, state obligations, and the lived trauma of affected communities.

FOOTNOTES:

1. Human Rights Watch, *Cleaning Human Waste: "Manual Scavenging," Caste, and Discrimination in India* (2014). [Human Rights Watch](#)
2. National Commission for Safai Karamcharis (NCSK), Reports and compendia on manual scavenging (Government of India). [NCSK](#)

3. Parliament of India / Lok Sabha, Annexure: *Details of deaths of persons who died while cleaning sewer/septic tanks* (compilation). [Digital Sansad](#)
4. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 1 of 2014 (India). See text of the Act (Ministry of Social Justice & Empowerment). [PRS Legislative Research](#)
5. Aparajita Baruah, *The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013: A Review*, Space & Culture India (2014). [ResearchGate](#)
6. *Safai Karamchari Andolan & Ors. v. Union of India & Ors.*, Writ Pet. (C) No. 583 of 2003, (2014) 11 S.C.C. 224 (India) (Supreme Court of India, Mar. 27, 2014). [OUP Law](#)
7. On challenges of implementation and judicial enforcement, see scholarly commentary and law-reports summarising post-2014 compliance gaps. [SCC Online](#)
8. Public-health and anthropological analyses documenting bodily harm, stigma, and trauma of manual scavenging. See investigative reporting and scholarly pieces (e.g., DowntoEarth). [Down To Earth](#)
9. Movement histories and activist analyses: Safai Karamchari Andolan and allied Dalit rights organisations' materials; press releases and secondary analyses. [International Dalit Solidarity Network](#)
10. United Nations / ILO / NGO submissions framing manual scavenging as forced labour / slavery-adjacent practice and as a human rights violation. [Digital Library](#)
11. Investigative journalism and recent reporting documenting ongoing deaths and the gap between official and activist counts. See *Down To Earth* and recent press reports. [Down To Earth](#)

STATEMENT OF PROBLEM:

Manual scavenging persists in India despite constitutional guarantees of equality, dignity, and the right to life, as well as statutory prohibitions and judicial pronouncements unequivocally condemning the practice. Article 17 abolishes untouchability, and Article 21 guarantees a life of dignity, yet members of marginalized Dalit communities continue to be coerced socially, economically, and structurally into cleaning human excreta, sewers, and septic tanks with their

bare hands. This occupation exposes them to lethal toxins, frequent fatalities, and lifelong trauma, while simultaneously subjecting them to social ostracization and intergenerational stigma.

The Indian state has enacted successive legislations the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 and the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 yet both have suffered from weak enforcement, poor rehabilitation schemes, and systemic failures of accountability. The Supreme Court, most notably in *Safai Karamchari Andolan v. Union of India* (2014), recognized the continuing practice as a violation of Articles 14, 17, and 21, mandating compensation and rehabilitation. However, the gap between law and practice remains glaring: deaths in septic tanks continue to be reported annually, and survivors often receive neither justice nor support.

The persistence of manual scavenging raises fundamental constitutional and human rights questions: Why has a practice explicitly prohibited by law and condemned by courts endured for decades, What structural failures within governance, law enforcement, and social policy allow caste-based forced labour to thrive in a constitutional democracy, How should the Indian legal system reconcile its progressive jurisprudence with the lived experiences of those still breathing toxins and bearing trauma in their everyday work.

This problem thus lies at the heart of India's constitutional morality: the inability of the state to translate legal guarantees into lived realities, particularly for its most vulnerable citizens. The issue is not only one of occupational health and labour rights, but also a systemic denial of dignity, equality, and humanity. It calls for an inquiry into the adequacy of constitutional protections, the accountability of state institutions, and the possibilities of rights-based frameworks to finally eradicate manual scavenging in both law and practice.

RESEARCH HYPOTHESIS:

This research begins with the belief that the continued existence of manual scavenging in India is not just a social or economic failure, but a constitutional betrayal. Despite explicit guarantees under Articles 14, 17 and 21, and despite repeated legislative and judicial interventions, thousands of

people mostly from Dalit communities are still compelled to clean human waste with their bare hands, risking their lives and dignity every single day.

The hypothesis is that the persistence of manual scavenging reflects a deep gap between the promises of the Constitution and their actual enforcement on the ground. In other words, while the law formally abolishes untouchability and guarantees the right to dignity, the lived reality of scavengers shows that caste-based discrimination, administrative indifference, and weak rehabilitation mechanisms have allowed the practice to survive.

This study therefore tests the assumption that manual scavenging is not merely an illegal occupation, but a continuing constitutional wrong and a violation of India's human rights commitments. It further suggests that only a rights-based, dignity-centred approach combining stronger enforcement, genuine rehabilitation, and social transformation can meaningfully end this practice.

RESEARCH QUESTIONS:

1. How does the persistence of manual scavenging expose the gap between constitutional guarantees of equality, dignity, and life under Articles 14, 17, and 21, and the lived experiences of those forced into this work?
2. Why have successive laws, including the 1993 Act and the 2013 Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, failed to fully eradicate the practice, despite their strong prohibitory language?
3. In what ways has the Supreme Court's decision in *Safai Karamchari Andolan v. Union of India* (2014) advanced constitutional protections for scavengers, and why has its implementation been uneven across states?
4. How do caste, stigma, and social exclusion continue to bind certain communities to this occupation, despite the formal abolition of untouchability?
5. What role can international human rights frameworks particularly the prohibition of forced labour and the right to dignity play in strengthening domestic constitutional claims?

6. What forms of state accountability and rehabilitation are necessary to move beyond token compensation and ensure that former manual scavengers and their families can live lives of true dignity and freedom?

Research Objectives:

1. Examine how manual scavenging violates the fundamental rights to equality, dignity, and life under Articles 14, 17, and 21 of the Indian Constitution, despite their strong textual guarantees.
2. Critically analyse the effectiveness of legislative frameworks particularly the 1993 Act and the 2013 Prohibition of Employment as Manual Scavengers and their Rehabilitation Act in addressing the realities of scavengers' lives and in providing meaningful rehabilitation.
3. Evaluate the role of the judiciary, with a focus on *Safai Karamchari Andolan v. Union of India* (2014), in shaping constitutional protections, and to identify why judicial mandates have struggled in practice.
4. Understand the social and caste-based structures that perpetuate manual scavenging, even in the face of formal legal abolition, and to reflect on how stigma and exclusion continue to deny dignity.
5. Situate manual scavenging within the broader framework of international human rights law particularly in relation to forced labour, non-discrimination, and the right to dignity and to explore how these frameworks can reinforce constitutional obligations.
6. Propose rights-based, dignity-centred recommendations that move beyond symbolic reforms and address the structural causes of manual scavenging, ensuring justice, rehabilitation, and social transformation for affected communities.

Understanding Manual Scavenging: Human Cost and Social Context

Manual scavenging is more than just a hazardous occupation; it is a social injustice with deep historical roots. Individuals involved in this work are predominantly from Dalit communities, whose entry into such occupations is often dictated by caste and reinforced by economic deprivation. Their labour is both invisible and indispensable: while they ensure sanitation in cities and towns, their lives are constantly threatened by toxic gases, physical injury, and disease. The

work exposes them to confined spaces, foul odours, and pathogens, often leading to chronic respiratory illnesses, infections, and premature death. Beyond the physical dangers, these individuals bear profound psychological trauma, as societal stigma and discrimination label them untouchables, reinforcing exclusion and humiliation in everyday life.

In this sense, manual scavenging is not only a public health crisis but also a human rights violation. By compelling specific communities to perform degrading work under hazardous conditions, the state and society indirectly deny these individuals their dignity, equality, and freedom.

Constitutional Dimensions: Rights Violated

The Indian Constitution clearly enshrines values that stand against manual scavenging.

- **Article 14** guarantees equality before the law and equal protection of laws. By disproportionately confining Dalits to this occupation, the state violates this principle of equality.
- **Article 17** abolishes untouchability. Forcing people to clean human waste manually perpetuates the social stigma historically associated with untouchability, in direct conflict with the Constitution's vision.
- **Article 21** protects the right to life and personal liberty. Life cannot be said to be lived with dignity if individuals are exposed daily to toxic gases, life-threatening conditions, and social ostracization.

Despite these constitutional guarantees, the lived realities of manual scavengers reveal a gap between law on paper and law in practice. This gap is the foundation for considering manual scavenging a continuing constitutional wrong.

Legislative and Policy Framework

India has attempted to eradicate manual scavenging through legislation. The **Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993** was an early attempt to criminalise the practice. The **Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013** expanded the definition of prohibited work, introduced rehabilitation schemes, and mandated the identification of affected families.

However, implementation has been weak. Bureaucratic hurdles, lack of accurate data, limited budgets for rehabilitation, and inconsistent monitoring mean that many scavengers remain trapped

in the occupation. Compensation schemes often fail to reach intended beneficiaries, and skill development programs are insufficient to provide viable alternative livelihoods. The gap between statutory intent and practical enforcement highlights the structural failures perpetuating the problem.

Judicial Intervention

The judiciary has played a critical role in affirming the constitutional rights of manual scavengers. In **Safai Karamchari Andolan v. Union of India (2014)**, the Supreme Court unequivocally condemned manual scavenging and directed the government to identify affected families, provide compensation to victims, and ensure rehabilitation.

While the judgment was a significant milestone, implementation remains uneven. Many states have not fully complied with the Court's directions. Compensation is delayed, registers of manual scavenger families are outdated or incomplete, and enforcement against employers continues to be weak. This demonstrates that judicial pronouncements, while necessary, cannot by themselves end a practice deeply embedded in social and caste hierarchies.

Health and Psychological Impacts

Manual scavengers face severe occupational health risks. Confined-space work exposes them to toxic gases like methane and hydrogen sulphide, causing asphyxiation, respiratory illness, and even death. Injuries and infections are common, and protective equipment is rarely provided. Beyond physical harm, the psychological impact is profound. Constant social stigma, humiliation, and the fear of death in hazardous work conditions generate trauma that is passed across generations. Many scavenger families report anxiety, depression, and social isolation.

Structural and Social Barriers

Even with laws and judicial directives, caste-based prejudice and poverty continue to force individuals into this work. Social norms often discourage alternative employment, while economic dependency and lack of education keep families trapped. Urban local bodies may continue to outsource hazardous cleaning work to manual scavengers due to cost-saving pressures, and society often ignores their suffering until disaster strikes.

Role of Civil Society and Human Rights Framework

Activist organisations, such as the Safai Karamchari Andolan and Rashtriya Garima Abhiyan, have been instrumental in bringing attention to manual scavenging. Through litigation, advocacy, and grassroots mobilization, they have pressured governments to improve rehabilitation schemes, maintain accurate records, and enforce legal protections.

International human rights frameworks, including conventions against forced labour and discrimination, reinforce the domestic constitutional argument. These frameworks highlight the state's obligation to ensure not only the abolition of hazardous work but also comprehensive rehabilitation, protection, and dignity for affected communities.

Policy and Governance Challenges

Persistent issues include:

- 1. Inadequate data:** Poor record-keeping hides the true scale of manual scavenging.
- 2. Weak enforcement:** Many states fail to implement rehabilitation or prosecute violators.
- 3. Economic vulnerability:** Poverty and lack of alternatives trap families in the occupation.
- 4. Caste stigma:** Social norms continue to confine communities to degrading work.

Addressing these challenges requires coordinated action: transparent data collection, strict enforcement, meaningful rehabilitation, and societal transformation to dismantle caste-based occupational hierarchies.

SUGGESTIONS:

1. Comprehensive Identification and Transparent Registers

The first step toward meaningful reform is knowing who is affected. Central and state governments should maintain accurate, publicly accessible registers of manual scavenger families. These should be updated regularly and verified in collaboration with civil society organisations, ensuring that no affected family remains invisible.

2. Rights-Based Rehabilitation

Rehabilitation must go beyond token financial compensation. It should include transitional income support, vocational training aligned with local job opportunities, access to education for children, housing assistance, and priority in public employment schemes.

This holistic approach allows individuals and families to break free from intergenerational cycles of caste-based labour.

3. Health and Psychological Support

Given the severe physical and mental harms caused by manual scavenging, governments should establish specialized health programs for affected workers. This includes free medical care for chronic illnesses, injury treatment, and trauma counselling to address psychological impacts of occupational and social discrimination.

4. Strict Enforcement and Accountability

State governments must ensure enforcement of the 2013 Act and judicial directives, including prosecution of employers who violate prohibitions. Independent monitoring committees, with civil society representation, should oversee progress and report regularly to central authorities.

5. Mechanisation and Safety Improvements

Urban local bodies should adopt mechanised cleaning technologies and prevent outsourcing of hazardous sanitation work. This reduces dependence on human labour in dangerous conditions, saving lives and promoting dignity.

6. Anti-Caste Education and Social Transformation

Legal and administrative measures alone cannot end manual scavenging. Long-term social change requires anti-caste education, community dialogue, and awareness campaigns to dismantle stigma and create environments where former manual scavengers are fully integrated into society.

7. Data Transparency and Independent Oversight

An independent national body should audit implementation, track rehabilitation and compensation, and publish annual publicly accessible reports on progress and challenges. This ensures accountability, policy learning, and continuous improvement.

CONCLUSION

Manual scavenging is not merely an occupational or policy problem; it is a stark violation of constitutional values and human rights. Despite clear legal prohibitions and landmark judicial decisions, the continued existence of this practice highlights the gap between law and lived reality.

Every day, manual scavengers risk life and limb, breathe toxins, and endure humiliation, while society benefits from the sanitation they provide.

Ending manual scavenging requires more than legislation; it demands courage, accountability, and empathy. A comprehensive, rights-based approach combining strict enforcement, genuine rehabilitation, health and psychological support, mechanisation, social reform, and community participation is essential. Only then can India fulfil its constitutional promise of equality, dignity, and justice for all.

To ignore the plight of manual scavengers is to ignore the most vulnerable citizens whose lives silently sustain the hygiene and health of society. A constitutional democracy is measured not by the laws it enacts, but by the lives it protects and the dignity it guarantees. The abolition of manual scavenging is not just a legal imperative it is a moral and human obligation.

