DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume I Issue V is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.
EDITORIAL TEAM

EDITORS

Ms. Ezhiloviya S.P.
Nalsar Passout

Ms. Priya Singh
West Bengal National University of Juridical Science

Mr. Ritesh Kumar
Nalsar Passout

Mrs. Pooja Kothari
Practicing Advocate

Dr. Shweta Dhand
Assistant Professor

INTERNATIONAL JOURNAL
FOR LEGAL RESEARCH & ANALYSIS
ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Quarterly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.
MANUAL SCAVENGING: REVIEW OF LEGISLATIVE FRAMEWORK AND POLICIES TO TACKLE THIS MENANCE

AUTHOR -1:

NEHA VIRMANI

DESIGNATION: student

INSTITUTION: UPES, Dehradun, School of Law

PHONE NO. – 9819630934

EMAIL: nehavirmani786@gmail.com

AUTHOR: 2

ADITI CHAUDHARY –

DESIGNATION: student

INSTITUTION: UPES, Dehradun, School of Law

PHONE NO.: 7384934573

ABSTRACT

Manual scavenging is a profession which continues to exist in India since time immemorial; this practice has also led to the
compartmentalization of human race into Varna system and considered the people engaged in such practice as “Untouchables”. The practice of manual scavenging in India can be traced back to the ancient times through various literatures, religious manuscripts and it becomes evident that people from a particular Varna/caste were engaged in scavenging and still known by different names: Bhangi, balmiki, Lalbegi and so on. However, the major swivel in this caste based discrimination came about during independence struggle when, eminent leaders raised voice against the prevailing practice of ‘Untouchability.’ Even though, great effort put on by the three pillar of constitution of India, the states failed in enforcement process due to various reasons which will be discussed in brief in this paper.

Through this Research paper Authors will try to throw light upon the prevailing situation of manual scavengers in India and how Pandemic has affected them and what are the ways through which we can eradicate this menace from our society.

With an aid of the relevant literature, scholarly articles and case studies pertinent to the topic of the research project, an in-depth understanding shall be cultivated. Any, conclusion arrived at shall be further by applicable case studies, as the interpretation of various international organizations is also very essential to better understand the laws in play. The relevant facts and figures shall also give weight-age for the better understanding about this socio-legal nuisance. This research project is an Empirical Research Project, with suggestions from author’s side and also includes the doctrinal and empirical research methodology on the given topic.

**Key words:** Manual Scavenging, Pandemic, Untouchability, Caste based Discrimination, Three Pillars of Constitution, International Organisation
INTRODUCTION

“I may not be born again, but if it happens, I will like to be born into a family of scavengers, so that I may relieve them of the inhuman, unhealthy and hateful practice of carrying night soil.”

-Mahatma Gandhi

Manual scavenging is a profession which continues to exist in India since time immemorial; this practice has also led to the compartmentalization of human race into Varna system and considered the people engaged in such practice as "Untouchables". Manual scavenging is an inhuman practice which involves removal of human excrement from dry toilets from bare hand, broom and carry it to dump site for disposal, this practice is not only atrocious but also great violation of human right on every ground.

The practice of manual scavenging in India can be traced back to the ancient times through various literatures, religious manuscripts and it becomes evident that people from a particular Varna/caste were engaged in scavenging and were and still known by different names: Bhangi, balmiki, Lalbegi and so on. However, the major swivel in this caste based discrimination came about during independence struggle when, eminent leaders like - M.H Gandhi, B.R Ambedkar, Sardar Patel raised voice against the prevailing practice of 'Untouchability.'

15 MOHAN DAS K. GANDHI, HARIJAN,( Navjivan Publishing House 1938 )
2Digvijay Singh, Cleaning Human Waste- “Manual Scavenging in India” HUMAN
RIGHT WATCH, (2017)
Gandhi and his followers campaigned for social reform one of which was upliftment of HARIJANS. Not only this the Chairman of Drafting Committee of constituent assembly D.R B.R Ambedkar who himself was from the Dalit or lower caste community emphasized on not only abolition of the practice but also to provide a levelled platform in each filed for people from this community. Hence, we saw provisions like: Article 17 which talks about abolition of untouchability, Article 338: which provides a national commission for schedule class, Article 42: just and human condition of work, Article 21: protection of life and personal liberty and so on.

We have come along a long way to curb this menace and the major contribution is done by our eminent leaders, legislative assembly, and judiciary. However, despite implementation of several schemes, laws and policies that states have failed in implementation process due to the lack of enforcement of laws, strict caste hierarchy that are still prevailing in rural and urban areas in India.

Hence, though this paper we will try to throw light upon the prevailing situation of manual scavengers in India and how Pandemic has effected them and what are the ways though which we can eradicate this menace from our society.

PRESISTENCE OF MANUAL SCAVENGING IN INDIA

The practice of manual scavenging in India is consistent due to the centuries old caste based custom, as we can deduce that from the community of people who are involved in Manual scavenging generally belongs to the bottom of caste hierarchy. Due to the involvement of custom and caste, there is a social stigma attached that people belonging to schedule tribe and schedule caste are ‘unclean or ‘untouchable’ and hence, this prevailing

stigma perpetuates widespread discrimination\(^6\). One of the major reasons because of which this dreadful practice is prevailing in India is: prevailing social stigma, lack of job opportunities, and failure of implementation of strict labor laws.

The existence of manual scavenging is not only limited to Indian and Asian society, but it was also prevalent in many first world countries like: Europe, USA, Russia and so on. Due to this widespread existence of the practice of Manual Scavenging issues and concerns were raised in international forum including United Nations and the International Labor Organization (ILO) took initiative to eradicate this menace from the world and hence, it distinguished Manual scavenging into three forms: \(^7\) (A) Removal of excrement from public streets and dry latrines; (B) Cleaning of septic tanks; and (C) cleaning gutters and sewers. Although due to the rapid development and modernization, scavenging with regards to human excrement removal is not prevalent but the other two forms of scavenging is still prevent in many parts of the world especially the underdeveloped countries\(^8\). Not only this many other sub-commissions are also established by UN under ILO few of them are: CEDAW, EEDWD, CERD etc.

According to the labour specialist for International Labour Organization (ILO) Dr. Coen Kompier, “manual scavenging can constitute forced labour, because this practice is being entirely caste designated, also because the people who try to raise their voice against such practice are given huge penalty, community threats, harassment which somehow prevents them from leaving this work.”\(^9\) By keeping his perspective in mind Indian Judiciary has pronounced several judgments like: PUDR v. UOI\(^10\); CREC v. UOI\(^11\) where the question of forced labour arose and

\(^8\) Digvijay Singh, Cleaning Human Waste- “Manual Scavenging in India” HUMAN RIGHT WATCH, (2017)
\(^10\) PUDR v. Union of India, AIR 1982, SCR 1 456
judiciary by taking the support of Article 21, 23, 24 of Indian constitution prevented such discriminatory and unjust behaviour done on labourers.

One of the major point which we need to notice is that due to the rapid development and modernization, manual scavenging has also evolved as now there are not only sewage and gutter cleaners but the present scenario is there are many families and communities who are involved in the process of segregation of waste in dumping zone, whose security, health is completely neglected by most of the government around the world\textsuperscript{12}. However, the Covid-19 pandemic showed the disgraced reality of these manual scavengers in dump yard where the harmful waste from homes, hospitals are dumped and they are to segregate the harmful waste substance without any proper health measures provided by state. In one of the recent ground report coverage by \textit{Aljazeera}, there is a Muslim Dalit family who is living beside Gazipur dump yard of National Capital\textsuperscript{13}. According to the interview “Mansoor Khan” with his family collect and segregate the dumped garbage for earning his livelihood. However, the most distressing part is that the government authorities have not provided them with any safety gears, insurance and medical safety which are given to other who are recruited by the municipal corporation and other authorities.\textsuperscript{14} Another, eye opening revelation by Mansoor khan was that the hazardous waste from hospitals and home and other sources are dumped altogether without segregating the dumping zone for different kind of waste. Hence, this showed that how the authorities are lacking in the implementation of precautionary principle in reality.

\textsuperscript{11} CREC v. Union of India, AIR 1995, 922 SCC 3 42  
\textsuperscript{13} Adnan Abidi, \textit{Indian Landfill Site a Covid-19 Risk for Scavengers}, \textit{ALJAZEERA}, (JUL.26,2020)  
SOCIAL DIMENSION AND MANUAL SCAVENGING

In a country like India where employment opportunities and global investment has such an incredible growth, it is surprising to see that heinous occupation like Manual Scavenging is still in existence even after the adoption of an impressive medley of legislations and policies by government of India which was majorly aimed at promoting, respecting and realizing the fundamental rights of non-discrimination, India practically failed in the implementation of such laws, due to certain reasons few of which are: social exclusion due to caste based stigma, lack of job opportunity, lack of education, poverty, to earn sustainable life.

In one of the interviews taken by International labour organization in Rajasthan, a Dalit woman told them that she has been trapped into the traditionally assigned caste-based occupation of scavenging due to the social exclusion and less employment opportunity and for earning livelihood\(^\text{15}\).

**SOCIAL SECURITY**

In 2013 Rehabilitation Act\(^\text{16}\) was implemented with an intention of rehabilitating the manual scavengers by providing them decent job opportunities however, there have been many discrepancies while implementation of the policies because of no specific authority was mandated for the execution of the task.\(^\text{17}\) Also, one of the major drawbacks of the Act is that this act is not gender sensitive as it is directly addressing to rehabilitate the occupation of men who are engaged in the manual scavenging and has ignored minor and women altogether. Hence, the scheme has not alleviated the plight of majority of workers engaged in such field.

---


\(^{16}\) Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

\(^{17}\) Navya Bhandari, Manual Scavenging: An Endless Cycle Of False Promises And Failed Policies, LAW SCHOOL POLICY REVIEW, (Jan. 15, 2020)

Few of the reasons because of which we as society and government authorities are unable to eradicate such hazardous practice are: (a) The issue of sceptic tank because of redundant technology: as India lack technological and infrastructural advancement it is difficult to clean the tanks with huge machines hence because of this man power is used to clean the tanks in a very hazardous way. So, until we do not get infrastructural and technologically advance we cannot eradicate the menace as whole from the society. (b) Indian Railways are one the substantial industry which used to employ Manual scavengers in large number for the cleaning of toilets or ‘kettle black’, however, we have to acknowledge that from past three years the government has adopted and installed bio-toilet in many coaches but still there is a long way to go. (c) No accurate data available about how many people are engaged in manual scavenging across the country thus, this shows how negligent the local authorities are regarding the issue. (d) Lack of proper legal documentation: the communities who are involved in manual scavenging are not issued with proper Caste Certificate, Ration Cards, Residential proof which somehow excludes them from availing governmental benefits and their rights as well. Hence, due to all these prevailing issues people from this community are ridiculed by upper caste and also engage them in forced labour practice not only this because of no proper documentation there right to approach judiciary is also hampered.

Apart from this according to the report submitted to the united nations by RashtriyaGarimaAbhiyan in 2013 stated that the

---

people who are engaged in the practice of scavenging Indian states are very much prone to severe health consequences like: constant nausea and headache, respiratory and skin disease, anemia, diarrhea, trachoma and so on. However, one thing here which is to be pointed out is this occupation not only has a dreadful effect on individual’s physical health but also the Mental health because of the vicious cycle of this undetermined social immobility and the feeling of vulnerability.

Even though, many legal policies, legislations has contributed considerably for the elimination of manual scavenging but the ground reality always differed the on paper reality hence, until there is no strict and balanced implementation of policies by state the stories like Musfir and Anita will prevail.

JUDICIAL AND LEGISLATIVE STANCE ON MANUAL SCAVENGING

I. LEGISLATIVE FRAMEWORK

The prominent leaders of India realized that modernizing India’s sanitation process is a vital step towards ending manual cleaning of excrement, however, they also had in mind that investing only on the sanitization will not be sufficient to end the social and economic exclusion which is faced by the communities engaged in such work. And hence, to curb this menace several legislative attempts are being made to end manual scavenging which is accompanied by many: schemes, policies, administrative programs, committees who are directed with an aim to help these communities engaged in manual scavenging seek dignified, equal and just livelihood.23

I.(I) CONSTITUTIONAL PROVISION:
The members of constituent assembly were well aware of the prevailing caste based discrimination and exclusion of certain communities from accessing basic needs hence, to curb this

---
nuisance they provided rights to the people of down-trodden community with Fundamental rights like:

- **Article 14**—this article talks about equality before law, that is no citizen is above law and everyone has equal rights in the country irrespective of their social, economic, cultural stand in the country.
- **Article 16(2)**—this article deals with equality of opportunity in matters of public employment.
- **Article 17**—this article has been specifically added by looking into the social scenario of the country and hence, it explicitly abolishes the practice of Untouchability.
- **Article 19(1)(a)**—“gives citizen a right to practice any profession, occupation, trade or business.”
- **Article 21**—this article of Indian constitution is basically known as mini constitution in itself as it has a broad meaning of Protection of life and personal liberty.
- **Article 23 & 24**—these articles are known as twin brothers as they both specifically deals with the aspect of forced labor, prohibition of trafficking of humans and hence, these are one of the most important provisions under constitution for the protection of manual scavengers.
- **Article 42**—Just and human condition of working
- **Article 46**—this is one of the most important provisions as it talks about promotion of educational and economic interest of S.C, S.T and other weaker sections.
- **Article 338**: it provides a national commission for schedule caste people.

**I. (II.) ENACTMENT OF LEGISLATIONS**

Apart from the plethora of constitutional provisions, the legislature with the help of executive administrative authorities has enacted several Acts, Schemes and commissions for the upliftment of schedule class including manual scavengers some of which are:
1. **Protection of Civil Right Act, 1955**\textsuperscript{24}: This act was implemented to prohibit the forced practice of manual scavenging however, initially it was known as “Untouchability prohibition Act, 1955” which was enacted to abolish the practice of untouchability and social disabilities but looking into the circumstances the parliament thought of including a broad aspect into consideration and hence, revised the Act.

2. **The Schedule Caste & Schedule Tribes (protection of Atrocities) Act, 1989**:\textsuperscript{25} the name of the Act itself portrays that it will specifically be dealing with offences specifically towards the people belonging to S.C and S.T and OBC classes and to provide them with the facility of speedy court trails and other remedies.

3. **National Commission for Safai Karamchari Act, 1993**\textsuperscript{26}: this act was established to evaluate and monitor the implementation of various schemes and legislation for *safai karamcharis* in various districts and sates.

4. **Employment of Manual Scavenging and Construction of Dry Latrines (prohibition) Act, 1993**\textsuperscript{27}: this act declared the employment of manual scavengers as a punishable offence which was extended till 2 years of imprisonment and fine. Although, recently in 2013, the act was amended and it included that cleaning of insanitary latrine, open drains or pit; dry latrines, are to be considered as offence punishable with imprisonment and fine.

\section*{I. (III). COMMITTES AND COMMISSIONS}

I. **Central Harijan welfare board (CHBW)**\textsuperscript{28} – Under the chairmanship of G.B Pant board was established by Ministry of Home Affairs in 1956, the reviewed the working and living conditions of

\textsuperscript{24}Protection of Civil Right Act, 1955
\textsuperscript{25}The Schedule Caste & Schedule Tribes (protection of Atrocities) Act, 1989
\textsuperscript{26}National Commission for Safai Karamchari Act, 1993
\textsuperscript{27}Employment of Manual Scavenging and Construction of Dry Latrines (prohibition) Act, 1993
\textsuperscript{28}Government of India, Report of Scavenging Condition Enquiry Committee, MINISTRY OF HOME AFFAIRS, 1956
scavengers and sweepers in India and recommended for the implementation of central welfare sponsored scheme\(^2\).

**II. Integrated Low Cost Sanitization Scheme**\(^3\) - The ministry of urban employment and poverty alleviation took major steps for the conversion of dry latrine system into water borne low cost sanitization system and to liberate manual scavengers from the long driven shackles\(^4\).

**III. Nirmal/Swach Bharat Abhiyaan** - in May, 2014 India’s newly elected Prime Minister Sh. Narendra Modi highlighted the importance of cleanliness and modern sanitation system and ensured 100% sanitization in rural and urban areas by 2017 although it then extended till 2019.

However, irony is despite of several legislation, commissions, constitutional provisions the plight of scavengers has been deplorable. This is because of the no strict laws against the officials, Panchayats who not only employ people to work as manual scavengers in urban and rural India but also exploit them by not providing sufficient wages and also threaten them if they retaliate to do the work.

### 2. JUDICIAL INTERVENTION

Judiciary has always played an important and active role in strengthening the social and economic welfare by translating various constitutional provisions and legislative enactments into enforceable rights for the upliftment of weaker section of the society. Judicial responses with regards to the welfare and security of scavengers have been considered as one of the successful attempts to eliminate manual scavenging and also to elevate the down trodden people of the society.

1. **SAFAI KARAMCHARI ANDOLAN v. UNION OF INDIA**\(^5\)

---

32. SAFAI KARAMCHARI ANDOLAN v. UNION OF INDIA 2014 (4) SCALE 165
In this case the supreme court of India acknowledges the prevalence of manual scavenging in India. The court observed that PEMSR act, 2013 and EMSCDL act, 1993 does not violates the constitutionality of Article 17 of constitution nor does it forces the union or state government to take actions under any of these acts\textsuperscript{33}.

Hence it was held that PEMSR act, 2013 expressly acknowledges that Article 17 and 21 of the constitution includes the right of a person who is engaged in any kind of manual scavenging activity. The apex court also stress on the rehabilitation process of manual scavengers according to the PEMSR act, 2013 and asked the state and central government to take appropriate actions for the non implementation and violation of rehabilitation provision under the said act.

\textbf{II. DELHI JAL BOARD v. NATIONAL CAMPAIGN FOR DIGNITY & RIGHT OF SEWERAGE & ALLIED WORKERS\textsuperscript{34}}

This is a landmark case in which the Supreme Court identified and highlighted the plight of socially excluded section of the society, which in particular includes sewage workers and scavengers. In this case the contention which was raised was that individuals who risk their lives by cleaning septic tanks, drainage without any safety measures, life insurance, sufficient wages and medical facilities has been deprived from their fundamental right to equality, life and liberty and hence there is a constant violation of measure fundamental rights of these people since last six decades\textsuperscript{35}.

The supreme court in this case directed the appropriate government to pay higher compensation to the family of deceived and also directed all the municipal and civic bodies to ensure immediate compliance of the directions passed by the Delhi high


\textsuperscript{34}DELHI JAL BOARD v. NATIONAL CAMPAIGN FOR DIGNITY & RIGHT OF SEWERAGE & ALLIED WORKERS 2011, 8 SCC 568

court for the insurances of safety and security of the sewage workers.

**MEDICAL WASTE SCAVENGERS– BMWM RULE 2016 AND COVOID-19 GUIDELINES**

There have been major concerns over biomedical waste which is generated by treating novel coronavirus disease (COVID-19) patients and the sanitation workers who handle this waste should take extra precautionary care by isolation wards which has been stressed by revised guidelines published by the Central Pollution Control Board (CPCB) in June, 2020. The guidelines issued by the CPCB need to be followed by all stakeholders including isolation wards, quarantine centers, sample collection centers, laboratories, Urban Local Bodies (ULBs) and common biomedical waste treatment and disposal facilities (CBWTFs) and are an addition to the existing practices under the Biomedical Waste Management Rules, 2016. Safety of the sanitation workers and waste handlers are associated with the functioning and care taken by the healthcare facilities, the facilities are emphasized to take extreme care and precautions especially in the isolation wards. According to the guidelines, foot operated lids and in different colour coded bins must be installed as to avoid contact from infections and the danger of contact of any foreign substance, therefore the method of segregation is recommended for the types of waste to be differentiated and to set treatments or disposal according to the types of waste, for say the like medicine wrappers and cartons, syringes, fruit peels, empty bottles, discarded paper would be classified as general solid waste and other waste items which have been contaminated by patients’ secretions and body fluids must be collected separately, according to Solid Waste Management Rules, 2016.36 The responsibility lies on the healthcare facilities,  

isolation wards, laboratories, quarantine centres, sample collection centre have to collect the wet and the dry waste separately and the wet and dry solid waste bags should be securely tied and only then must be handed over to the waste collectors authorized by ULBs daily. Non-disposable items must not be disposed of as much as possible and should instead be used to after being cleaned and disinfected simultaneously abiding by the rules of the hospital. As for the safety of the waste handlers the waste needs to segregated for the proper disposal of the waste and for the security of the worker disposing off the waste. For instance the guidelines provide for segregating the waste in different coloured plastic bags such as the left-over food, disposable plates, glasses, used masks, tissues, toiletries, etc used by COVID-19 patients are to be necessarily disposed under the label of biomedical waste and should be disposed in delegated yellow-coloured bags, while used gloves and PPE Kits should be disposed in red bags. There must be a nodal officer appointed by every facility who looks upon the biomedical waste management and is responsible for training the waste handlers about infection prevention measures, according to the guidelines. These preventive measures includes hand hygiene, respiratory etiquettes, social-distancing and use of appropriate personal protective equipment which must be demonstrated through videos and in local languages for better understanding of the workers. It is the responsibility of people operating quarantine camps, homes or homecare facilities to hand over general municipal solid waste to waste collectors identified by the ULBs. But not all items are classified as biomedical waste , some other waste items for say the waste generated from the kitchen, the packing material of and for groceries, the food material, the waste papers, the waste plastic, floor cleaning dust, the dust collected from the house cleaning etc, which are mostly and generally handled by the patient caretakers or by the suspected quarantined individuals
shall be treated as general waste and not otherwise. But the waste which has been contaminated by the blood or body fluids of COVID-19 patients must be collected in yellow bags and it is compulsory to store the contaminated waste in the yellow bag and it strictly prohibited to store general waste in the yellow bags. The role of the nodal officers according to the guidelines authorized the ULBs to hire services of professional waste management agencies for timely collection of solid and biomedical waste, if there happens to be inadequacy due to the existing staff conditions the collection and transportation operations leading to dis-functioning, the nodal officer is advised to hire professional agencies. Quantification and tracking the movement of COVID-19 needed to be carried out by all quarantine centres though the CPCB’s biomedical waste-tracking mobile application called COVID19BWM. The daily generation of COVID-19 waste must be updated by nodal officers of quarantine centres every day. The same application can also be used to enter data by CBWTF to develop a cross-checking mechanism at each level to avoid data discrepancies. The revisions in the guidelines aim to reduce the burden on CBWTFs and simultaneously do not compromise on safe disposal of COVID-19 waste, according to the operator.37

The scope of the rules of the BMWM 2016 has been expanded to include various health camps such as the vaccination camps, the blood donation camps, and the surgical camps.38 Duties of the occupier of a HCFs (health care facilities) have been revised and as of recently the occupier is the person having administrative control over the HCF that is generating BMW (bio-medical waste).39 The occupier must oversee and abide by the rule of 2016 where there must be compulsory pre-treatment of the

laboratory, microbiological waste, and blood bags on-site before disposal either at CBMWTF or on-site, the method of sterilization/disinfection should be in accordance with National AIDS Control Organization (NACO) or WHO, the use of chlorinated plastic bags, gloves, blood bags, etc. should be gradually stopped and this phasing out should be within 2 years from the date of notification of these rules and to make them prepared and aware of the risks of the collecting bio medical waste therefore they have to undergo training of the safe and do's and don't to all its HCWs and also to protect them against diseases for say hepatitis B and tetanus by immunization. Further the rule dictates that the liquid waste to be separated at source by pre-treatment before mixing with other liquid waste, to set up a barcode system for BMW containing that is to be sent out of the premises for treatment and disposal.\(^{40}\) According to the rules of BMWM 2016, all the major accidents including accidents caused by fire hazards, blasts during handling of the bio medical waste and remedial action taken by the prescribed authority. The authority should be reported and the existing incinerator should be upgraded or modified to achieve the new standard goal within 2 years from the date of this notification. A register is to be maintained on day to day basis of BMW disposal and shall be updated monthly on the website. The duties of the operator of a CBMWTF (common biomedical waste treatment and disposal facility) have been broadened and new additions have been made as they are to assist in the training of HCW from where the waste is being collected and there should be a system of barcoding and global positioning must be established for handling of the BMW within 1 year and are required to maintain records on all the operations of incineration/ hydroclaving/ autoclaving for a period of 5 years.\(^{41}\)

\(^{40}\)Walkinshaw E, Medical Waste-Management Practices Vary Across Canada. CANADIAN MEDICAL ASSOCIATION JOURNAL, 2011

The segregation, packaging, transportation, and storage of BMW have been improved, the biomedical waste has been classified into four categories based on color code-type of waste and treatment options and it is the duty of the occupier to take all the appropriate measures to ensure that the waste does not adversely affect human health and the environment, there is no need for permission to be obtained as the occupier has to take measures.\(^4\) The authorization for BMW disposal for non-bedded HCFs is granted to the occupier at one time only whereas the validity of authorization shall be synchronized with validity of consent orders for bedded HCFs. The Standards for emission from incinerators have been modified to be more environmental friendly and up to a permissible limit.\(^5\) The Ministry of Environment, Forest, and Climate change will monitor the implementation of rules yearly as they are responsible for each of the state to check for compliance. And for the compliance of the rules a will be done by setting up a district-level committee under the chairpersonship of the District Collector or District Magistrate or Additional District Magistrate and the committee must its report to the State Pollution Center in every 6 months.\(^6\)

---

of the medical waste which may be of or from diseases that are contagious or viral in nature are highly criticised. As of recently states like Delhi, Mumbai are facing a huge challenge of medical waste, as huge tonnes of waste is being generated and both these states are the epicentre of the corona virus drastically spreading , even though the medical waste is treated and disposal of health-care waste reduces risks, indirect health risks may occur through the release of toxic pollutants into the environment through treatment or disposal process as the landfills can get contaminated and the drinking-water is highly contaminated if the treatment is not properly constructed as there are too many risk and these occupational risks exist at disposal facilities that are not well designed, run, or maintained. “Incineration of heavy metals or materials with high metal content can lead to the spread of toxic metals in the environment and therefore materials containing chlorine or metal should not be incinerated”. There are alternatives to the treatment or the disposal available other then the practiced ways of incineration like the autoclaving, the microwaving, the steam treatment integrated with internal mixing, and chemical treatment. In other recent scenario in Chhattisgarh, where the corona ward was flooded as it was on lower ground and prone to flooding and all the safety gear, kits and other instruments where floating around and the patients had faced a lack of oxygen supply. As due to the situation of the flood the kits, medical instruments, waste materials were floating around which could spread infection and put the health at a risk.

There is such a high risk in the medical waste management because there is lack of awareness about the health hazards related to health-care waste, inadequate training in proper waste management, absence of waste management and disposal

---

46Anurag Dawary, Safety Gears, medical waste Float In Chhattisgarh Ward Due To Flood In covid-19 ward, NDTV NEWS, (oct,10 2020, 05:34 PM)
systems, insufficient financial and human resources, either many countries do not have appropriate regulations, or they do not enforce them. An essential issue is the clear attribution of responsibility for the handling and disposal of waste and should be held accountable according to the 'polluter pays' principle, the responsibility lies with the waste producer, usually the health-care provider, or the establishment involved in related activities, the responsibility is highlighted for it to help achieve the safe and sustainable management of health-care waste, financial analyses should include all the costs of disposal. To phase out chlorinated plastic bags, gloves, blood bags and to establish a bar code system for bags/containers the time period for doing this is two years, is too short and not cost effective as it would lead to more cost expenditure. There is a dire need for a rapid development of many more CBMWTF as to fulfil the required treatment and disposal of all the BMW generated in India. The treatment of incinerator emits toxic air pollutants and incinerator ash is potentially hazardous to the surrounding neighbourhood. Establishing of robust waste management policies within the health care facility and organizations and the lack of the wide awareness about the health hazards, sufficient financial and trained human resources, proper monitoring and control of waste disposal and to clearly state responsibility and traceability for appropriate handling and disposal of waste are some challenges for the management of biomedical waste.

Focusing on the social injustice towards the manual scavengers, it would be right to say that they face social, political, and economic discrimination; they are also prohibited from entering places of worship or for accessing places for basic services infringing the rights given to all the citizens under the constitution of India. The social attitude towards the manual

---

scavengers still remains a challenge as the society treats them as untouchables therefore leading towards a social exclusion. Many times their refusal to clean toilets, sewage has led to violent consequences which are caused by the upper caste community. There is no protection against this violence. As historically this law was made compulsory which is not the scenario now but the refusal of the practice to the upper caste members has been challenging.\textsuperscript{50} The discrimination of that of women as compared to men is wider bridge that hasn’t been crossed yet as this is also a result of generations of thinking considered as normal and a just behaviour of the society towards the women. Manual scavenger’s percentage of women is said to be higher then that of men, mostly 95% is considered to be the percentage of women than that of men. As manual scavengers and as women they face huge discrimination and not allowed to do any other work without any understanding or ways to find alternative jobs, though in today’s scenario however due to the interference of the organisational and their initiatives have helped some women to be rehabilitated and liberated.

The absence of any statutory obligation to provide sanitation services by the state agencies gives rise to a situation where the rights of manual scavengers hang in the air. The approach towards the issue of manual scavenging needs to be a multiple approach. Just by offering a good legislation or only education or only small economic rehabilitation will not help them. The article of right to life in its broader scope involves a right to a safe environment, safe in terms of life of the person involved in the said field of work. There is need for a multiple approach in which all the areas are in congruence. Unfortunately it is saddening the government is only looking at forward to providing economic rehabilitation by giving economic subsidies and not highlighting the problem in the rightful manner. And

\textsuperscript{50}A Report of Social Inclusion Of Manual Scavengers, UNITED NATION DEVELOPMENT PROGRAM, (Dec. 21, 2013)
lastly the problem of manual scavengers is not just their problem, but it is a problem for India as a country.

CONCLUSION

We have come along a long way to curb this menace and the major contribution is done by our eminent leaders, legislative assembly, and judiciary. However, despite implementation of several schemes, laws and policies that states have failed in implementation process due to the lack of enforcement of laws, strict caste hierarchy that are still prevailing in rural and urban areas in India. One of the major point which we noticed is that due to the rapid development and modernization, manual scavenging has also evolved as now there are not only sewage and gutter cleaners but the present scenario is there are many families and communities who are involved in the process of segregation of waste in dumping zone, whose security, health is completely neglected by the government and local authorities. And the recent Covid-19 situation showed us the harsh reality of manual scavengers who are earning their livelihood by indulging in such hazardous job without proper guidance and precautions from the government. Even after implementation of various legislations, judicial precedent we are unable to
eradicate the menace because of the prevailing social stigma, lack of infrastructural and technological development. Although we cannot deny the fact that various schemes like: Swatch Bharat Abhiyan, MNEREGA has contributed significantly in curbing such menace but still there is a long way to go. Thus, we can deduce that there is a lot of difference between the facts written on paper and facts which are prevailing in practical scenario.