A Quest for ‘Legal Subjectivity’ of the Manual Scavengers’ in India: An Ethnomethodological Study of National Capital

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Introduction

We are marking the tenth year since the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013 was passed with a promise to “end the dehumanising practice” of manual scavenging. On September 18, 2013, the Indian parliament passed the Act after the corresponding bill got approval in 2012. In the year 1993 another law was passed to check on the occupation of manually cleaning human excreta. It was The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 which focused on demolishing dry latrines. Thus, manual scavenging became a ‘cognizable criminal offence’ for the first time in 1993, yet strangely, no case of prosecution under the legislation was identified until 2013 (Mehta & Bhandari, 2019). The legal effort of 2013 attempted to break through the status quo with the order of the honourable Supreme Court to completely ban the entry of manual scavengers inside sewers/septic tanks. It is interesting to note in this regard, that no FIR1 has been lodged against the employment of manual scavengers in any of the states and union territories of India till now (Bhatt, 2022). Contrarily, the number of deaths reported by the Government of India itself due to manual scavenging inside sewers/septic tanks is 941 during 2015-20202.

In this context, the paper seeks to unearth the cause behind the successive failures of legal measures in addressing the virulent condition of manual scavengers in India. For this, the study would attempt to:

a) critically rationalize the provisions of the latest Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013
b) depict the material reality of the occupation after a decade of passing this Act that promises to end manual cleaning of risky wastes, contextualizing the national capital Delhi as the area of inspection, and
c) critically reassert the Brahmanical inclination in the framework of Indian Legal system that structurally trivializes the legal subjectivity of Dalits in Indian law. The study would examine whether such systematic silencing of manual scavenger’s experiential reality results in the failing operationalization of the existing legal measures. The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013- as a case of observation would substantiate the former argument in this paper.

Towards the “subjectivity” of the Indian Manual Scavengers

The purpose of the paper is to build a debate that the legal viewpoint on scavenging as an occupation is problematic and exclusive because it frames the concept of “dealing with human excreta” as the primary (and only) issue entangled with the task. Thus, the paper strives for an intersectional imagination of the Indian legal school to address the “stigma” of purity-pollution. This reconceptualization of the law would create a shift in the lived-experiences of Indian Manual Scavengers. The government of Delhi has been bragging that there is no manual scavenger since the Arvind Kejriwal-led administration purchased 200 machines in 2019 to replace the manual process of cleaning the sewers3. Nonetheless, manual scavenging persists; in Delhi alone, 46 manual scavengers have perished in between 2017 and 2022 (Deep, 2022). In order to unravel the state apathy towards a dehumanizing, risky task of manually cleaning the wastes in the administrative centre of India, this study has thoroughly interviewed 65 cleaning staffs from Delhi Jal Board, New Delhi Municipal Corporation, and Municipal Corporation of Delhi. Intimate interviews with the family members of two deceased sewer workers have also been the classic cases that constitute the argument of the study. In this context, the next section will focus on how the implication of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013 reflects on the mirror of a historically continuing oppression and exploitation.

In Search of the Materiality of the 2013 Act: “Who shall be deemed to be a Manual Scavenger?”

The task of scavenging, in general, is ought to be of serious concern particularly in the Indian context. The peculiarity of Indian society lies in the way of stigmatization in certain occupations where Caste plays as the central variable. Certain jobs are treated as ‘impure’ or polluted, hence, regarded as degraded and disgraceful. In consequence certain occupations are by-birth assigned by the society to those groups consigned to the bottom of the institutionalized social hierarchy (Dumont, 1980). Thus, Dalits are excommunicated from the top-down structure of Chaturvarna and further, are compelled to do the ‘unclean’ jobs associated with human/animal bodily wastes, death, and any kind of waste in general (waste pickers, for example). In India the ‘impurity’ of the task and the low social status of those who perform it are mutually reinforcing characteristics. In the circular logic of untouchability, the tasks are ‘impure’ because they are performed by Dalits, and Dalits are impure because they perform these

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1 First Information Report
tasks. As a result, 95% men and 99% women scavengers engaged in this occupation are Dalit (Thorat & Sabharwal, 2011; Permutt, 2011). In this milieu, it has become crucial to understand the task of scavenging (specifically when done manually) with an intersectional imagination. The legal structure associated with the same also needs to be understood in a dynamic frame (Broekman, 1986) of caste, gender and occupational “filth”. By the pioneering scholars from different legal schools, law has been described as a process of social engineering, a tool to seek for a more clearly defined material rationality, and a way to create new levels of formal rationality in the legal system (Jenkins, 2014). This theory of legal rationalization was thoroughly discussed by Wankhede who simultaneously identified the failures of the 1993 Act (Wankhede, 2021). As a result, the 2013 Act included the question of “historical injustice and indignity suffered by the manual scavengers” and promises corrective measures “to rehabilitate them to a life of dignity”. Naturally, the task of identification of the Manual Scavengers became a central expedient in the Act, mentioned in its Chapter IV.

The paper seeks to draw attention to the Chapter I, Sub clause 2 (g) of the Prohibition of Employment of Manual Scavengers and their rehabilitation Act, 2013 where the definition of Manual Scavenger with an explanation of “who shall” and “who shall not be deemed a Manual Scavenger” is enshrined-

“Manual Scavenger means a person engaged or employed, at the commencement of this Act or anytime thereafter, by an individual or local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines in disposed of, or on a railway track or in such other spaces or premises, as a Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly.”

Explanation- for the purpose of this clause,
(a) “engaged” or “employed” means being engaged or employed on a regular or contract basis;
(b) A person engaged or employed to clean excreta with the help of such devices and using such protective gear as the Central Government may notify in this behalf, shall not be deemed to be a “manual scavenger”;

The definition of manual scavenging as prescribed in the Act 2013, in the present scenario of waste management in India, is exclusive. To put it the other way, the entire discourse on the scavenging tasks done in the streets, inside and around the Hospital areas, public toilets under urban public sectors, are ignored. However, the annual reports of National Commission of Safai Karamchari as prescribed in the Chapter VII of the Act, 2013, Clause 31 (1) and (2) include the active number and functioning of street and public toilet cleaners (mostly women)3. Yet, the workers, not regularly in contact with human excreta, have legally been ostracized from the official identification process of ‘Manual Scavengers’ and further from the scope of Rehabilitation. Interestingly, a majority of this section of workers are women. More importantly, the explanation of the definition of Manual Scavenger in the act denotes the use of any safety gear/cleaning device as an exemption from being identified as a manual scavenger.

In turn, it shifts the entire discourse on ending the dehumanizing practise of manual scavenging to a “condition-based permissibility” (Wankhede, 2021) by the Act, 2013 itself. In the sub clauses 2 (m), (n), (p) and (q)- the Act has mentioned the spaces/locations where cleaning task is to be considered as “hazardous” with the first ever inclusion of “railway track”. However, the definition of “Hazardous Cleaning” has still been kept under the conditionality of using safety gears (Goyal, 2020). A significant advancement is relevant to note in this regard, in the Monsoon session of the Parliament in 2020, the Prohibition of Employment as Manual Scavengers and their Rehabilitation (Amendment) Bill was passed. The proposed amendment would fully automate sewer cleaning, improve worker safety, and compensate manual scavengers in the event of an accident- as has been mentioned in the bill4. According to the 2013 Act, anyone involved in the dangerous cleaning of septic tanks and sewers can be sentenced to up to five years in prison, a fine of up to 5 lakhs, or both. In the most recent Bill, it was suggested that the fine and sentence for violating the law to be increased., Any further materialization of the bill is still awaited though.

Thus, scholars (Gupta, 2016; Jain, 2018; Khan, 2020; Wankhede, 2021) have consistently indicated to the legal constraints to end the humiliating task of manual scavenging; however, the lived stories from the workers, who are regularly engaging themselves to the risk of innumerable wastes in the city, remain unheard, silent, and, absent. Therefore, the study has traced on the field experience of Safai Karamcharis on using/accessing the 44 safety gears and 14 cleaning devices as mentioned in the Prohibition of Employment of Manual Scavengers and their Rehabilitation Rules 2013. Further, considering the exclusive nature of the act to identify Manual Scavengers, the paper attempts to substantiate the limited definition of Hazardous Cleaning and Manual Scavenging by conducting thorough focus group discussions with the cleaning staffs of the New Delhi Municipal Corporation. A large number of these participant observers are women, unrecognized as Manual Scavengers, and are completely outside the access of any protective gear or Rehabilitation program, mentioned in the 2013 Act.

### Subjectivity of Manual Scavengers: Mapping the Impact of the 2013 Act

The study seeks to elucidate the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013 that promises to end the dehumanizing practice of Manual Scavenging based on the experiences, perspectives, and subjectivities of the Manual Scavengers (whether or not officially recognized). Therefore, the study has conducted four rounds of descriptive surveys and in-depth interviews among workers engaged with various categories of scavenging. The questionnaire attempts to implicate a fusion of quantitative and qualitative methods of collecting responses, with open-ended questions. Most of the 65 participants were purposively selected and further snowballed for the investigation that also includes workers who do not fall under the category of manual scavengers as defined by the Act. Delhi, the national capital of India, has been taken as a case to reflect the condition of

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Manual Scavengers and the impact of the concerned Law at the political-administrative-legal centre of the country. In the first half of this section, the paper will discuss about the results (Table no. 1) obtained from the descriptive survey conducted among 65 workers engaged with several cleaning works from Delhi Jal Board, NDMC (New Delhi Municipal Corporation) and MCD (Municipal Corporation of Delhi). While Delhi Jal Board comes directly under the Government of NCT of Delhi, NDMC comes under the Central government and the MCD is a separate local body with funding from both the Delhi and Central government.

The second half of this section will be a thematic analysis of the observations from the site of work, in-depth interviews and Focus Group Discussions conducted among the same 65 workers as mentioned earlier. The gender distribution of manual scavengers contributing as the respondents of the study is 45 Men and 20 Women who are further categorized by their age group and type of employment (Permanent/Contractual) as is represented by Diagram 1 and 2.

Table 1

<table>
<thead>
<tr>
<th>Type of Employment</th>
<th>Contact with Bio-waste</th>
<th>Contact with Chemical waste</th>
<th>How many safety devices have you used?</th>
<th>Any encounter with intoxication?</th>
<th>Health issues due to occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Workers (Men)</td>
<td>All responded: Yes</td>
<td>16 participants say: no; 8 participants say: yes</td>
<td>19 respondents have used four safety devices, 4 respondents have used one safety device, 1 respondent have used nothing</td>
<td>18 respondents have encountered with toxic gas</td>
<td>All 24 respondents recorded the problem with eyesight due to poisonous gas, 22 have breathing trouble, 13 have skin problem; all 24 respondents believe the occupation causes reduction of life expectancy</td>
</tr>
<tr>
<td>Contractual Workers (Men)</td>
<td>All responded: Yes</td>
<td>7 participants say no; 14 participants say: yes</td>
<td>5 participants have used three safety gears, 14 participants have used two safety devices, 2 participants have used nothing</td>
<td>13 participants have experiences of getting in touch with poisonous gas</td>
<td>16 records the issues with eye-sight, 11 participants have skin problems, and 8 have breathing trouble</td>
</tr>
</tbody>
</table>

*Diagram 1 and Diagram 1.1 (Author’s)*

all 20 women staffs are employed on the basis of contractual workers whose duty includes: cleaning the roads, public toilets, toilets of schools run by New Delhi Municipal Council. The men, who participated in the investigation, are employed under the Delhi Jal Board Authority as sewer workers. 21 men, out of 45, are contractual staffs while the rest of the 24 men are Permanent. 

*Author’s*
The correlation between Age Group and type of employment in case of male respondents shows that the younger workers joining the occupation lately, are all contractual staffs. Only 1 woman cleaning staff (out of 20 women who have been interviewed) belonging to the age group 18-30 years is a permanent staff under the Municipal Corporation of Delhi. The data indicates a speedier tendency of recruiting the Scavenging staffs on contractual basis. Additionally, the largest section of the permanent staff participating in the investigation fall under the age division 46-60 years. Hence, within less than a decade, the number of permanent staff working as manual scavengers will become minor and the entire occupation will be dominantly under the system of contractual recruitment. In this assumed context, the study forwards its endeavour to understand the differences of experiences between permanent and contractual workers associated with manual scavenging. It contextualizes the benefits, securities and safety conducts in the workplace prescribed in the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013.

Field Study phase I: Narratives of Manual Scavengers during COVID

These were the cold mornings of January 2021 in Delhi; the mercury reading showed 3-6 degrees Celsius as the average temperature. I visited Govind Puri and Srinivaspuri Jal Board Centres, South Delhi for 8 consecutive days. At the then prevailing stage of the corona pandemic in the country's semi-lockdown phase, 13,823 new cases of COVID were reported in every 24 hours, while nearly 400 cases were reported daily in the study area, Delhi. In total, 26 people have been employed as Manual Scavengers in these two Centres under the Delhi Jal Board, Government of NCT of Delhi. The descriptive interviews were taken among 11 workers of whom 7 are permanent staffs while 4 have been employed as contractual staffs\(^7\) (Table 2).

Table 2\(^8\)

<table>
<thead>
<tr>
<th>Centre Name</th>
<th>Name of Respondent</th>
<th>Age</th>
<th>Type of Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Govindupuri Jal Board Centre</td>
<td>Rahul</td>
<td>32</td>
<td>Contractual</td>
</tr>
<tr>
<td></td>
<td>Vijay Kumar</td>
<td>53</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Ram Pal</td>
<td>57</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Vikas Lal</td>
<td>48</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Jagjivan</td>
<td>51</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Suresh</td>
<td>36</td>
<td>Contractual</td>
</tr>
<tr>
<td>Srinivaspuri Jal Board Centre</td>
<td>Bhushan Kumar</td>
<td>59</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Navneel Kumar</td>
<td>44</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Gajendra Singh</td>
<td>45</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Upen</td>
<td>37</td>
<td>Contractual</td>
</tr>
<tr>
<td></td>
<td>Radhe</td>
<td>28</td>
<td>Contractual</td>
</tr>
</tbody>
</table>

\(^7\) The participants were not interested to mention their full names

\(^8\) Author’s
**Vijay Kumar:** Abhi pichhle kuch time se jo corona chal raha, log hospital mein admit ho rahe kuch logon ko hospital bhi nehi mil paa raha. Aab yeh jo saare log jinko covid hua inka latrine toilet sab mein corona virus hay, yeh sara bathroom ka paani sewer mein aata hay. Sewer ke andar hun log kam karte hay. Yeh poora covid ka time jo chal raha humme aisa koi facility govt ki taraf se nehi diya jaa raha jisse humari safety rahe.


The interviews with Rahul, Suresh, Upen, and Radhe, the contractual staffs, were completely different and contradictory to the narrations of Vijay Kumar, Ram Pal, and other permanent staffs on several notes. According to Rahul, he had to go inside the sewer even in this chilling cold a few days back while Vijay Kumar and Ram Pal were supervising them from outside the sewer.

**Rahul:** Kitna bar puchhte hay ki aisi thaand mein nahana bhi mushkil hota hay bar bar. Aise andaar nehi jana hay, bass duty ka suna dete hay aur aapna purana time ka kahaani barhata barhata hay.

The irking tone of Rahul substantiates the official facts reflecting the privatization schema in public sectors. The sharp gap in the wage between the contractual staffs and the permanent ones has caused a further inconsistency in their respective job roles where the occupational hazards were falling mostly on the formers. The provisions of medical facilities (even in cases of on-duty accidents) have been absent in all the cases of Rahul, Suresh, Upen, and Radhe, unlike the permanent staffs; while they were more exposed to the chances of health hazards.

Bhushan Kumar has been working in the Srinivasapuri Jal Board Centre for the last 25 years and takes a daily commute from Ballabhgarh, Haryana to his work place and covers about 58 km (29.3km each side). During the semi-lock down period when he was interviewed, he was cycling the whole way to work every day.

Me: aapko nehi laga kabhi yeh Naukri chhodke kuch aur dhundunga?

**Bhushan ji:** bacheche kaise palenge madam? Aixe chhod nehi sakte na.

Me: kuch aur kyoon nehi kiya?

**Bhushan ji:** dekhiye dusrra Naukri milne ko koi chance hi nehi tha, sewer mein ghusne ka karan majboori thi. Aur dekhiye humari jo chhoti jaati hay who majboori mein yeh kaam karte hay.

Me: aap hi ne kyoon chuna yeh kaam?

**Bhushan ji:** gharr pe main hi bada tha. Issiliye gande kam mein ghusna padha.

Me: aap koi aur kam kar sakte the?

**Bhushan ji:** haan main chaprasi ka kam kar sakta hoon, office ka khata likhane mein bhi mittal hai, par mile hi nehi kuch aur. Yehi mila.

The account of Bhushan Kumar raises a crucial aspect of choice of occupation as a socio-economic situation for the Dalits whose role in the labour market operates under a legacy of social exclusion (Thorat & Attewell, 2007). As a worker with 25 years working experience in a public sector, Bhushan Kumar has the self-confidence to see himself as an efficient “chaprasi” (clerk). However, he fails to recall any governmental initiative for a prospective alteration of his profession or rehabilitation program in the last 10 years since the 2013 Act promises the same. He sighs and adds, “Humare Naseeb mein yehi kiya. Pahle safety ke andar hum log karte hay. Yeh poora covid ka time jo chal raha humme aisa koi facility govt ki taraf se nehi diya jaa raha jisse humari safety rahe.

After the 8 days’ consistent visit, the field work was broken off for an uncertain period due to the thrust of the pandemic’s second wave.

Meanwhile, an amendment bill was tabled in the monsoon session of the Parliament in September 2020, followed by the consecutive sewer deaths were reported by the National commission for Safai Karamcharis, The Prohibition of Manual Scavengers and their Rehabilitation (Amendment) Bill, 2020 proposes a complete mechanization of the task of scavenging, provide better protection during work and compensation in case of accident⁹. In lieu, my next phase of field study will thematically concentrate on the use of safety gears repeatedly traced by the Act 2013 and the followed-up Bill, 2020. Additionally, the opportunities of Rehabilitation and alternative employment extended before the Manual Scavengers, the health hazards faced by the workers going inside the sewer, etc. which are given prominence in the Act, 2013 will be re-examined from the social-economic locus of the Manual Scavengers.

**Field Study phase II: Narratives of Manual Scavengers Post-COVID**

Under the scorching Sun and a heat wave with yellow alert, Gopal Chauhan (43), Sitaram (53), Rakesh (31) and Binod Kumar (46) had driven the Jet machine to the location I mentioned. It was 46 degrees Celsius, and they had received a call from a slum of sector VII, Indira Market about an overflow of sewer water inside a lane. It was 4th May, 2022. I had reached the Indira Market area, Sector VII., R.K. Puram. I was there to attempt an ethnographic study of the on-duty experience of the Manual Scavengers of Delhi. We all arrived at the mouth of that cozy, narrow lane through which hardly two people can move together. Inevitably, we had to leave the jet machine far behind on the main road due to the scanty space. The demographic density of this degree itself confused me about the term ‘complete mechanization of sewer cleaning’ repeatedly mentioned in the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013. It seems challenging in a densely populated city like Delhi.

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which is comprised of hundreds of such narrow lanes. Doubtless to mention, these lanes make the mobility of any machine, nearest to impossible.

**Gopal:** Bataiye Madam, yahan machine kaise aayega? Haath se hi kaam karna hoga nehi toh logon ke ghar mein ghus jayega sewer ka ganda paani.

On 25th May, a Focus Group Discussion (FCD) was organized among the 14 participants from the RK Puram Jal Board Centre followed by personal interviews ensuring all of them are present in the FCD. Six themes were kept at the central talking point, they are: a) materiality of resolving the case of manual cleaning with Machines, b) experience of going inside the sewer, c) access and use of safety gears, d) health hazards, e) wage, and f) Rehabilitation. The participants responded on the first theme i.e., the utility of machines as follows:

**Me:** machine ke ane se kya kya change hua hay aap logon ke kaam pe?

**Participants:** aise aise galiyon mein jana padhita hay, jahan machine toh door who gadi ass pass bhi nehi jaa sakta. Aise galiyon bahot sara hay Delhi mein

**Me:** tab aaplog kya karte hay?

**Participants:** tab toh aur kya, haath se karna padhta hay neechee uthaar ke. Sab manually hota hay phir.

**Participants:** nehi nehi (Collectively)

**Sitaram:** manually ke bagair yeh kam ho hi nehi sakta.

**Me:** kya karan hay isska, aapke hisab se?

**Sitaram:** aap samajh lijiye ek gali 200 mitre ka hoti hay yahan zada se zada ass 200 mitre ke beeche mein 6 se 7 manhole hay, dono building wall ke beeche 4 ft tak doori hay toh humari koi gadi usse nehi jaa sakti. Sewage andar jo hay blockage ho jati hay, use manually hi hatana padhita hay. Lamba bnaa (bamboo) hota hay humare pass use chhilke ek kulhari sa banake hum istemal karte hay. Jahan tak humari jating machine ka pipe chala jata hay, wahan usse se blockage hatega lekin zada se zada jagao par pipe jayega hi nehi. Wahan manually hi karna padhita hay kam.

The Chapter III, clauses 5, 6, and 7 of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013 mention a complete prohibition of “employment” or “engagement” of any person for hazardous cleaning in sewers and septic tanks. However, the FCD finds that the persons engaged with the task are identifying this “Prohibition” unpracticable even though access to Machines are viable. The Chapter I, section 2 (b) of the Act, 2013 disproves a person as a manual scavenger if any one of the enlisted protective gears is used while entering inside the sewer or septic tank. In this context, the access and use of safety gears among the workers has been kept as a key factor to understand the experience of going inside the sewer or septic tanks. The chapter II of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Rule, 2013 has invested a through list of 14 cleaning devices and 44 safety gears as mandatory tools to use or to be kept in hand while any person enters inside a septic tank or sewer. The entire list was shown to the participants many of which could not be identified by them and as the ground experience was recorded:

**Gopal Chauhan:** 2013 mein kuch saman aya hay. Ekdum shuru shuru mein. Kuch gloves, oxygen, boot juta yeh sab. Lekin 40 ke upar itna saman aya toh nehi.

**Me:** 2013 ke bad kuch saman aya?

**Participants:** nehi ji bass yeh covit ke time mask aya. Equipment kuch nehi milta madam. **Sitaram:** Thoda bahot jo aya tha ussme zada cheeesin kharab tha aur who gloves jo aap bol rahe, use pahenke ko kam nehi hota. Pipe pakad hi nehi sakte. Samaan ka list aapke aapke pass jo hay baas naam ka hoga, yahan kuch nehi aya. Gloves teen din mein poora fateke kharab ho jata hay.

**Me:** gloves teen din mein kharab ho jata hay toh usse bad kyo karte hay aap?

**Participants:** haath se karte hay aur kya? (Scornful laughter)

![Diagram 2](https://ielrc.org/content/e1314.pdf)

Hence, chances of hazardous cleaning are massive among more than 80% of the participants. It is important to note here that, all of the workers had complained about the pain in the abdomen muscles due to the process of uncovering sewers which involves the removal of a concrete block weighing 40 to 50 kgs. Beside this, breathing trouble and poor eyesight in a premature age are common in every worker due to heavy exposure to the poisonous gas. Writing about the health hazards faced by the participants reminds me of Sitaram ji saying, “humari toh umar hi kam ho jati hay neechee ghuske madam”; The loss of appetite is another
regularly encountered issue as the workers find similarities in the physical features of the dirt they handle, with that of the food they eat. Further, a massive disparity in the wage and the medical assistance is found between the permanent and the contractual workers. The later has to wait for three to four months every year until the next year’s renewal of contract is done which terminates again at the end of one year. This three to four month’s unemployment brings significant financial miseries to their families, however in the interviews they expressed the pressure of refusal from the private agency’s end to renew the contract once they get engaged with any other work during these three to four months of unemployment.

To Wind up this section with the accounts of the officially recognized manual scavengers, it is important to address another elementary prescription of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013 – the question of Rehabilitation. The section 13, chapter IV of the 2013 Act includes the procedures and categories of Rehabilitation to be vested in the cases of identified Manual Scavengers by the urban authority or the state government or the central government as may be applicable. The clauses (b), (c), (d), and (e) writes:

(b) his children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) he shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority;

(d) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training;

(e) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority;

In the interviews done among the Manual Scavengers employed under the Delhi Jal Board, Government of Delhi reveals that the tuition fees for children were received by 11 permanent staff out of the 24 and rest of them were seen to be much certain about receiving it once the ongoing identity card making process gets over. However, this provision along with all the provisions of Rehabilitation mentioned in the Act were observed as debilitated in all the 21 cases of contractual workers assigned at the core area of national capital- Delhi. Hence, almost each legal prescription for the safety, health, dignity of life and working condition for the manual scavengers as promised in the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013 were identified as concerningly overturned in the 45 cases examined in the study. This observation has led to an organic furthering of the study among those who are not legally or officially identified as manual scavengers but are engaged in various cleaning works, a large portion of whom constitute women.

Narratives from “who shall not be deemed as a Manual Scavenger”

This phase of field study involves in-depth interviews among 20 cleaning staff from NDMC and MCD of whom all are women (Table 4 contains the details of those who agreed to disclose their names). The cleaning duties they perform include dusting on the roads of Delhi, cleaning the public toilets and toilets of schools under the Municipality.

The definition of Manual Scavengers as enshrined in the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013 exclusively emphasises the cleaning of human excreta in a sewer or a septic tank without safety gear and further ostracizes a significant number of cleaning staffs who nevertheless are seen to be facing health hazards due to their occupation along with several other threats in the workplace for their gender-based locus as women. One of the participants working in the NDMC (unwilling to be named in any document) led me to the other women and I met Meena ji, a street cleaner assigned in the streets around Connaught place. Meena ji’s husband (Balveer Singh) was a sewer worker, who died in an accident inside the manhole 4 years back.

**Meena:** Mere pati ka death ho gaya tha neeche gas se. do aur mare the unke sath. Kya se kya ho gaya mere ghar ko tab se, kabhi socha nehi tha tha ghar se bahar kaam karungi aab dekhiye raaste pe poora din jharu lagati hoon.

**Me:** kuch muawza mila?

**Meena:** kuch nehi madam. Kahan se kahan chakkar laga liya maine… (sobs)

Meena ji describes the hardships of working since early morning till 11.30/12 under the sun. She complaints about breathing trouble due to massive inhalation of dust and smoke from the vehicles running on one of the busiest roads of Delhi. Her duty does not encompass any relief either in heavy heat waves/freezing cold/heavy rain.

**Meena:** kuch bhi ho, kam chalu rakha hay

The 14 other women, among whom only Pooja (42), Rekha (30), and Rani (40) agreed to mention their names in my report, are employed as toilet cleaners in the municipality schools and public urinals. These women contractual staffs of NDMC and MCD frequently comes in contact with human excreta, urine, and bio-wastes like used sanitary pads. The availability of gloves is very rare, as they say while they are compelled to use bare hands and a broom stick to clean all the mentioned dirt on duty. The act and its provisions stipulating the use of cleaning devices and Rehabilitation are legally imperative for these workers who also mentioned instances of workplace sexual harassment in the in-depth interviews.

**Participant (unwilling to reveal name):** dusra school mein to aab ayi hoon, pahle jahan thi wahan garden ke mali ke sath panga ho gaya tha. Bahot ganda buddha tha who aadmi mujhe chhedta tha aaur ekdin pichhe se aake pakad liya aaur shaadi ke liye bola. Ina (slang) aadmi janta hay main shadishiya hoon, bachcha hay mera. Maine jaake principal madam ko bataya toh madam ne kahan main school ka mahol bigad raha. Phir mujhe dusre school mein deel diya.
Conclusion

Sociology of Legal Subjectivity: Rationalizing Indian Manual Scavengers

The first section of the article introduces the central inquiry of the study which traces the approach and impact of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013 on the tenth year after its enactment. This section also whips up a doubt on the overall conceptual framing of Indian legal system on addressing caste-based discriminations. Here, the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013 is taken as a case of study. The paper also takes note of the state apathy reflected in actualizing the consecutive laws aimed at ending the dehumanizing practise of manual scavenging. The next section has elaborated the lived experiences of the manual scavengers against the promises and prescriptions registered in the 2013 Act. Here, the national capital Delhi is taken as an area of observation. This part of the paper has identified a significant anomaly between the promises made in the legal effort, and the experiences of the Manual Scavengers. A great deal of instances is found where the pledges mentioned in the Law are clearly absent in the experiential materialization. For example, the experiences of frequent entry inside the sewer by the workers without adequate protection and the rehabilitation assistance, hold no congruency with the promises made in the Act. The third section attempts to defend the rationale of choosing field experiences of the Scavengers, and consequently formulating an argument that the Indian socio-polity beholds a more inclusive and intersectional legal imagination to protect the most marginalized, exploited communities of Indian society.

The definition of Manual Scavengers, the explanation of the task, and the elaboration on possible health hazards in the profession, reposit on dealing with human excreta with bare hands (or, without safety gears), which structurally puts a larger scope of scavenging tasks aside. For example, cleaning medical wastes, constant exposure to sanitary napkins (bio-waste) in public toilets, and street cleaning in general. It is also interesting to note that the dehumanizing practise of carrying human excrement in our country could not be ended despite several legal attempts and the intensified measures of punishments with focus on occupational hazards. In this context, the paper argues that the social stigma entangled to almost all the cleaning tasks, institutionally validated by the existing system of Caste, should be addressed beyond cleaning human excreta from insanitary latrines and through the inclusive lens of purity-pollution taboos. Therefore, this study has also included the in-depth interviews from the scavenging workers associated with street, public toilet, and medical waste cleaning, all of whom are women, and interestingly are not legally recognized as manual scavengers by the definition enshrined in the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013. The investigation has largely relied on the data retrieved from the surveys and in-depth interviews conducted among 65 Safai Karamcharis and conceptualised the theory of “legal subjectivity” in order to contextualize the principal argument of the study.

The formal Indian juridical system has attempted to address the existing caste hierarchy and its resultant socio-economic relationships through the Protection of Civil Rights Act, 1955, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2016. However, in the historical milieu of the caste-based social and cultural normativity, these legal measures can claim an independent operationalization within a very specific bound, or for as long as the tension between the fact and the norm does not go beyond a predetermined threshold (Kelsen, 1967). Thus, to establish the objective existence of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013, it is not sufficient to analyse the normative content of the act. It is more crucial to critically examine whether this normative content manifests itself in the social interactions where Caste plays a key role in determining occupation and further carries through the stigma of impure profession, hereditarily. The mainstream discourse on manual scavenging as a profession rest only on a socio-cultural imagination of carrying human excreta from dry latrines. However, the operative law and operative ideation does not correspond to what the sociology of law would seek to further explore focusing on the lived experience of manual scavengers associated in a more diverse tasks of cleaning (Pashukanis, 1980). With a conceptual underpinning to the “legal subjectivity” (Guibentif, 2022) of the manual scavengers, the normative effort written in the act are examined- viz. the working condition of the scavengers, availability of safety gears and medical assistance, prospects of rehabilitation, and the state responsibility to identify manual scavengers based on the definition of manual scavenging and the corresponding task. The paper considers the accounts of lived experiences of the manual scavengers (beyond the legal definition) as their legal subjectivity where the formers are situating the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013 as a tool to develop their consciousness about the legal rights (Guibentif, 2022). This is in contradiction to the historically imposed socio-cultural stigma of being “polluted” (Saldanha, DeAngelo, 2022, Kumar, 2020, Ranganathan, 2022). Consequently, the workers (mostly women) associated with the scavenging tasks, not being recognized by the same law, are denied of their legal rights and the cognisance stemmed at their professional and social identity as women.

Thus, the study reclaims the importance of legal subjectivity as a research domain in conventional sociology (Wallbank, 1995, Shin, 2006, Guibentif, 2022), especially in the contexts where discussions on lived experience of the most dominated and marginalized social categories like Dalits in India are concerned. The further scopes of the study include the inclusion of those intersectional components in the socio-legal imagination of Manual Scavenging, more specifically the unrecognized women, to resurrect the mechanisms, to accommodate the massively exploited workers, in the political, social, and cultural functioning of India.
Reference