

Executive Summary of Study

Research report on death workers of engaged in manual scavenging while cleaning of septic tanks from eleven states of India

By Rashtriya Garima Abhiyan

In complete violation of basic human rights and dignity, Dalits of India continue to be pushed to practise caste based occupations such as manual scavenging. This type of discrimination emanates from the notion of purity and pollution and untouchability, deeply rooted into the mindset of upholders of caste in the country. The prevalence of caste based occupations such as manual scavenging, is a prime example of how caste, as a social construct, continues to pervade economic activities and perpetuates discrimination, exclusion, ostracization and victimization. Dalits engaged in manual scavenging such as **Valmiki, Mehtar, Dom, Bhangi, Har, Hadi, Ghasi, Olgana, Mukhiyar, Thoti, Hela and Halalkhor** are compelled to perform the task of cleaning human excreta with bare hands or to clean sewer lines and septic tanks. This study is an attempt to understand and document the continued deaths of persons engaged in manual scavenging in sewers and septic tanks across India. Section 2 (1) p of The Prohibition of Employment of Manual Scavengers and Their Rehabilitation Act 2013 defines Septic tank as “a water-tight settling tank or chamber, normally located underground which is used to receive and hold human excreta, allowing it to decompose through bacterial activities”. Section 2 (1) q of MS Act 2013 defines sewer as “an underground conduit for carrying off human excreta, beside other waste matter and drainage waste”.

Persons mostly from the Valmiki caste are hired by municipalities and households through contractors to clean septic tanks or sewers. Though, it has been acknowledged as Manual Scavenging and prohibited under the MS Act 2013, this practice continues to prevail in revenue villages, Urban Agglomerations, Out growths, Census towns and Statutory towns. This illegal and inhuman practice consumes the lives of many every year. The primary focus of this study was to understand the progress on implementation of the MS Act 2013, socio economic condition of the families after the death of the deceased and to analyze legal course of actions in the incidents in which FIR was registered. The survey was carried out in 11 states of India in which the families of the deceased from the respective states were interviewed.

Findings:

- The present study identified a total 140 incidents and 302 deaths from 1992 to 2018. Out of 140 incidents a total of 51 incidents were covered by the study in which 97 deaths were reported.
- According to NCSK's data, Tamil Nadu reported highest number of deaths (194) followed by Gujarat (122), Karnataka (68) and Uttar Pradesh (51). In our report, Gujarat reported 62 deaths followed by Maharashtra and Uttar Pradesh reporting 29 deaths each and Madhya Pradesh and Tamil Nadu reporting 24 deaths each.
- Out of the total case interview, in 35% of the incidents the FIR was filed whereas in 59% of the incidents FIR were not filed and in 6% of incidents respondents do not know if FIR had been filed. In the total number of cases where the FIR had been filed (18 cases), the research team was able to furnish copies of the FIR for 13 cases during the investigation.
- **Legal Proceedings:**
 1. In the FIRs, section 304 and 304 A of IPC was charged 77% cases (10 cases out of 13 cases where FIR was filed and furnished), which is related to **death caused due to**

negligence and for the remaining 3 cases out of 13 cases where the FIR was filed and furnished, **sections 174 of IPC (Non-attendance in obedience to an order from public servant) and 284 (Negligent conduct with respect to a poisonous substance) and 7 and 9 of the MS Act 2013 had been charged. But, not in a single case except in that of Bengaluru, the arrest of the employers or the contractors was made.** In cases where the FIR had not been filed, the reasons cited by the family were that of compromises being made, pressure and intimidation faced and at times, they have been threatened that they would lose their current jobs.

2. In the 51 cases interviewed, **prosecution did not happen** in any of the cases.
- **Compensation:** On 27th March 2014, Honorable Supreme Court of India, in a landmark judgment, declared that a person being made/forced to enter into a manhole or septic tank would be considered as a crime even in an emergency situation and in case of death of the person, a compensation of Rs. 10 lakh would be awarded to the family of the deceased. The judgment also directed states to undergo a survey to identify incidents of deaths from 1993. **This research reports that out of a total of 51 incidents, only in 31% of the cases compensation was awarded to the families of the deceased whereas in the remaining 69% of the incidents compensation was not awarded.** It is important to note that in many of the cases where relief amount has been given to the families of the deceased by the employers/contractors, it was underlined with the intention to dispose the cases. Total 48 families out of 95 families in 16 incidents were awarded compensation.
 - Ministry of Social Justice and Empowerment also reported 172 deaths in the year 2016 and 323 deaths in the year 2017.
 - During the time this study (January to July 2018) was being undertaken, 46 deaths were reported from states of Bihar, Uttar Pradesh, Tamil Nadu, Odisha, Jharkhand and Tamil Nadu. Every 4 day one death cases is reported in last six months.
 - Of the 51 incidents across 11 states that the team investigated, **a total number of 70 workers survived minor to fatal injuries.**
 - **Rehabilitation:**
 1. The survey was also aimed at ascertaining implementation of the Self-employment scheme for Rehabilitation of Manual Scavengers (SRMS) and Pre-Matric Scholarship for the children whose parents are involved in occupation involving cleaning and health hazard.
 2. **Not a single family whose members have died while cleaning the septic tank or the sewer received their due rights mentioned in the SRMS scheme. Not a single family was rehabilitated in alternative job.** on the contrary; the deceased families have had to start engaging in manual scavenging as there was no alternate job available for their sustenance.
 3. The same goes for the pre-Matric scholarship also. **Not a single child of the families who are involved in this hazardous and demeaning practice have received the scholarship for their children.** As the pre Matric scholarship is demand driven, not a single state has raised their demand for the scholarship in the year 2014-15 to 2018. Same goes for the year 2015-16, 2016-17 and 2017-18 except for Gujarat in the year 2015-16 and Maharashtra in the year 2016-17.
 - The highest death rate of 37% was recorded in the age group of 15-25 followed by 35% and 23% in the age group of 25-35 and 35-45 respectively.

- 67% of the total deceased were married. Valmiki, Arunthutiyar, Dom, Mehtar, Rukhi, Kumbhar, Matang, Meghwal, Chambar, Rai Sikh and Hela are the communities engaged in cleaning and sanitation related work in the different states covered by the research.
- 94% of the families of the deceased belong to the Scheduled Caste category, 4% to the Other Backward Classes and 2% to the Scheduled Tribe.
- Out of the 94% Scheduled Castes families of the deceased, 65% of the families' interviewed belong to the Valmiki caste, a group pushed to engage in sanitation and cleaning related work mostly in the northern parts of the country.
- 49% of the deceased were found to have studied below the 10th standard whereas another 45% were uneducated.
- **Compliance and Non-Compliance of MS Rule 2013:**
 1. **Section 4 (Employers obliged to provide 44 protective gears and safety devices):** In our research, we found out that there has been 100% violation of this rule.
 2. **Section 5 (Local authority obliged to provide 14 cleaning devices):** In our research, we found out that there has been 100% violation of this rule.
 3. **Section 6 (Employer and Local authority obliged to provide protective measures at the time of work):** Except Section 6 (3)(a), which states that the Supervisor must be present at the time of work; and 6(3)(k), which states that the work must be completed in broad day-light, all the other sub-parts of Section 6 have been violated completely.
 4. **Section 7 (Employer and Local authority obliged to provide protective measures after the completion of the work):** In our research, we found out that there has been 100% violation of this rule.

Recommendation:

Prevention:

Technology induced intervention: In order to abolish the practices of Manual Scavenging, the foremost alternative proposed by various stakeholders was of **technological intervention**. "Technology Challenge", where they are inviting application from individual and The Bandicoot Robot, developed by GenRobotics, Kerala, for cleaning manhole and septic tank. Such moves should be promoted and (tested) implemented in the ground instantaneously.

Training of the workers and Sanitation Inspector: Section 6(3)(i) of the MS Rule 2013 states that all employees present at the site during cleaning work are given training and adequately familiarized with the knowledge to operate all equipments involved in cleaning work. Training of local bodies or sanitation inspectors about the act, safety procedure, technical knowhow of cleaning devices, non-employment of manual scavengers should be imparted effectively.

Proper awareness and sensitization of the authorities: It is essential that the authorities are sensitized to recognize the intensity of the issue and see the system as dehumanizing and unconstitutional. In order to achieve the complete eradication of the practices awareness and sensitization program for the authorities should be organized.

Rehabilitation:

Providing relief certificate: A relief certificate should be issued to the families of the manual scavengers who died in the incident, based on which all concerned agencies should extend provisions for the safety, security, benefits and subsidies to which they may be eligible.

Ensure compensation for the families: Supreme Court Judgment March 2014 directs states and local authority to identify and award compensation of Rs. 10 lakh to the families of the victims who have died cleaning septic tank. Moreover, the survey of the families from 1993 should also be initiated for awarding the compensation.

Comprehensive Rehabilitation of the families: MS Act 2013 mentioned only one-time cash assistance, loan, dignified (alternate) livelihood opportunity and training for the same. It also clearly mentioned residential plot and scholarship for the children. One adult family member of the deceased should be given adequate skill training and an opportunity of employment.

Coverage of worker who has met the fatal injuries: In many of the incidents that we have covered, there are workers who got severely injured while cleaning the sewer or septic tanks. These suffered minor or major injuries while their co-worker/s died in the incidents. The Legislature or Judiciary should cover the injured workers under the purview of MS Act 2013.

Scholarship for the children: During the research it was found that no one from the victim's family received any scholarship for their children. Therefore, it is recommended to allot the due amount of scholarship and that there is effective implementation of the scheme for the children whose parent/s engaged in occupation involving cleaning and prone to health hazards.

Budget:

Budget Allocation: Budget allocation for prevention and the implementation of the Scheme for Rehabilitation of Manual Scavengers (SRMS) has reduced drastically over the years. Adequate budget allocation for the SRMS should be the urgent need of the authority.

Prosecution:

Stringent action against the employers: We strongly recommend that the Police to register FIR along with invoking appropriate sections of the MS Act 2013 and The POA Act 1989.

Penalizing the implementing the agency: the authorities must be held accountable and responsible for the deaths and must be penalized, as per MS Act 2013 and recent amendment of POA Act in relation to manual scavengers

Standard operating Procedures (SOP):

Standard operating Procedures for sewer and septic tank cleaners: Although MS Rule 2013 laid down precautionary measures to be undertaken before the work starts, at the time of work and after completion of the work but failed to give due process to be followed for the persecution, FIR, trial, proceedings.