



MODERN SLAVERY BY DESIGN: CASTE, LAW, AND MANUAL SCAVENGING IN INDIA

By *Megha Gupta*

Scholar, Babu Banarasi Das University, Lucknow

By *Dr. Sudhir Kumar*

Head, Babu Banarasi Das University, Lucknow

ABSTRACT

Manual scavenging is a legally sanctioned form of caste-based slavery that persists in India under the pretext of sanitation work. This paper argues that manual scavenging, as it exists today in India, qualifies as modern slavery under international law. Despite legal protections such as the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act of 2013, the 1956 Supplementary Convention on the Abolition of Slavery, and ILO Conventions, along with constitutional guarantees under Articles 17 and 23, the practice continues due to institutional apathy and legal denial.

Using a qualitative doctrinal approach, this paper thoroughly analyses the gap between legal bans and ground realities, situating manual scavenging within international frameworks governing slavery, servitude, and forced labour, while advocating structural reforms for its eradication.

Manual scavenging persists because of ongoing caste-driven exploitation. Comparative insights from successful abolitionist efforts in countries such as Mauritania, Nepal, Brazil, the United Kingdom, and South Africa highlight the importance of dismantling ingrained social hierarchies, ensuring transparent legal accountability, and fostering genuine inclusion for eradication. Reforms need to go beyond statutory amendments by addressing vote-driven politics, the informal and precarious nature of this work, and ongoing bureaucratic inertia. The research maintains that only strong enforcement, societal change, and resistance to superficial compliance can challenge the systemic denial that sustains caste-based slavery. By

framing manual scavenging as a breach of both domestic and international human rights standards, the paper urges urgent, structural interventions based on accountability and social justice to secure true liberation for those enduring this long-standing oppression.

Keywords: Manual scavenging, modern slavery, international legislation, comparative analysis, Barriers.

1. INTRODUCTION

India abolished untouchability in 1950 and outlawed manual scavenging in 1993; however, the practice endures in every village, town and city of India. Dalit communities and similar lower-caste strata are routinely forced to clean dry latrines, unclog drains, and enter sewers without protective equipment. These are not isolated incidents or administrative lapses; they are symptoms of structural casteism reinforced by legal denial, policy fragmentation, and institutional indifference.

To truly understand this malpractice, one must situate it not only in the post-colonial and constitutional framework but also within the deeper historical and societal consciousness of the country. It is a tragic irony that a civilisation which reveres the spiritual devotion of *Shabari*—an old *Adivasi* woman from the Ramayana who offered berries to Lord Ram with utmost humility—is the same civilisation that later constructed an unyielding social order where women like *Shabari*'s descendants would be condemned to clean human waste. Even her symbolic inclusion did not translate into social emancipation for those like her. Instead, the caste system evolved to institutionalise humiliation as a duty, divinity as a monopoly, and cleanliness as a curse borne by the lowest caste. Centuries before the Indian Constitution, even Gautama Buddha rejected the caste hierarchy and invited untouchables and manual workers into his Sangha. He famously accepted food from *Sopaka*, the so-called “untouchable” youth and publicly declared that purity lies not in birth but in conduct. However, today also, India's sanitation workers remain outside



the bounds of social and legal dignity—trapped in roles that replicate caste-based bondage under modern garb.

This paper makes a straightforward but radical claim: *manual scavenging, as it exists in India today, constitutes a form of modern slavery under international law.* It is neither a “sanitation issue” nor a simple “implementation failure.” It is an organised caste-based denial of human dignity through labour imposed by descent—a form of social death repackaged as public service. Their caste continues to make them salves of the system from birth.¹ This paper refuses to treat manual scavenging as an outdated tradition or a bureaucratic shortfall. Instead, it frames the practice within the legal architecture of slavery and servitude, as defined by international human rights instruments. This paper starts by providing a sociological and historical overview of caste and untouchability in relation to sanitation work. Thereafter, it outlines the Indian & International legal frameworks, and then evaluates the gap between India’s legal commitments and ground-level realities, conducting a comparative legal analysis to examine institutional and structural failures and suggest reform strategies.

2. Caste, Untouchability, and the Persistence of Manual Scavenging

The persistent existence of manual scavenging in India is not simply a product of poverty, poor governance, or urban-rural disparities but is the direct outcome of the caste system mandating the assignment of sanitation work to the lowest strata of society. This arrangement has now been so deeply entrenched in the social order that it necessitates the degradation of some as a cost of the purity of others. Although Article 17 abolishes untouchability, Article 23 prohibits forced labour. The social contract envisioned by the framers remains fractured, as for the *Valmiki*s in North

India, *Madigas* in the South, and the *Paraiyars* and *Arundhathiyars* in Tamil Nadu, being sanitation labour is not a job; it is an inheritance passed down across generations.

The *Manusmriti*, the ancient Hindu text often cited as the ideological bedrock of the varna system in India, explicitly prescribes humiliating and dehumanising occupations for Shudras. It declares that “*a Shudra shall serve the Brahmana...removing excreta, sweeping, and cleaning*”. Such moral scaffolding of caste continues to shape the Indian subconscious, legitimising the social exclusion of sanitation workers while obscuring the violence embedded in their labour. The social reality of India’s modern caste economy is that those born into the “lowest” castes are systematically denied access to land, education, or secure employment, leaving sanitation work as one of the few options available. The illusion of choice collapses when structural coercion becomes the only pathway to survival. A 2023 field investigation by the Human Rights Law Network (HRLN) revealed that in Bihar and Uttar Pradesh, young Dalit boys were recruited to clean sewers in exchange for daily meals or meager wages—often without safety gear or contracts. In many cases, municipal authorities collude with private contractors to outsource such work, thereby avoiding accountability while perpetuating caste-based servitude under the guise of informal employment.² A 2022 report by the Centre for Equity Studies noted that nearly 80% of female manual scavengers were engaged in cleaning dry latrines in rural households. Their labour is not only physically toxic but socially stigmatized; they are barred from entering temples, segregated at community events and denied basic dignity in death as in life.³

The Indian Judiciary has also acknowledged this link between caste and sanitation work. In *Safai Karamchari Andolan v. Union of India*, the Supreme

¹ *The Manusmriti (Laws of Manu)*, ch 10, verses 121–123 (c 2nd century BCE–2nd century CE).

² Human Rights Law Network, *Field Investigation Report on Manual Scavenging in Bihar and Uttar Pradesh* (2023).

³ Centre for Equity Studies, *Women Manual Scavengers: A Study of Gender and Caste-based Exclusion* (2022).



Court unequivocally stated that the practice of manual scavenging is a “denial of constitutional guarantees” and directed all states to identify and rehabilitate affected workers.⁴ However, implementation of the Apex Court orders remains elusive. States routinely underreport figures, and even fewer prosecutions are made under the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. For instance, 32-year-old Suresh Kumar died in 2023 while cleaning a septic tank in Ghaziabad, Uttar Pradesh, despite clear Supreme Court orders mandating ₹10 lakh compensation for such deaths, his family received only partial payment after more than a year of legal wrangling. His widow told rights groups, “*Yeh kaam humare kismat mein likha hai*” (This work is written in our fate)—a chilling testament to the fatalism caste inscribes into social reality.⁵ Meanwhile, State narratives increasingly claim that manual scavenging has been “eliminated.” This deliberate erasure is not only bureaucratic—it is ideological. It allows the Indian State to present itself as progressive while concealing ongoing caste atrocities beneath the rhetoric of cleanliness and development. Dr. Ambedkar warned in his 1936 speech, *Annihilation of Caste*, that social reform must precede political reform. “*You cannot build anything on the foundation of caste. You cannot build up a nation, you cannot build up a morality.*”⁶ The continued existence of manual scavenging therefore, is not just a failure of law; it is a betrayal of the republic’s founding ethos.

3. LEGISLATIVE FRAMEWORK, JUDICIAL INTERPRETATION AND GAP IDENTIFICATION.

India’s legal and constitutional structure explicitly pledges to eradicate caste-based labour and untouchability, but the reality of manual scavenging underscores the ongoing disconnect between the promise and the actual application of the law. This

failure is jurisprudential in nature rather than just administrative.

Despite layered legal protections, the State machinery has failed to operationalise them in a manner that dismantles the structural underpinnings of caste-based labour exploitation. The Indian Constitution’s unwavering commitment to human dignity is expressed in Article 17, which outlaw’s untouchability “in any form.” “Traffic in human beings and beggars, and other similar forms of forced labour” is forbidden under Article 23. Furthermore, protection from humiliating labour has been read broadly under Article 21, which provides the right to life with dignity. The Supreme Court ruled in *Bandhua Mukti Morcha v. Union of India* that, even in cases where there is no physical coercion, forced labour violates the right to life and liberty under Article 21 since consent is vitiated by social or economic pressure.⁷

3.1 LEGISLATIVE FRAMEWORK

India’s statutory response to manual scavenging has evolved over the decades but has remained fragmented, weakly enforced, and largely symbolic. The first formal attempt to implement Article 17 was the Protection of Civil Rights Act of 1955; nevertheless, its implementation has traditionally been subpar, with relatively low conviction rates and little deterrent impact. The first law to specifically address manual scavenging was the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. It prohibited the construction of dry latrines and the employment of persons for their manual cleaning; however, as the Act failed to define “manual scavenging” comprehensively, it did not mandate rehabilitation, and was poorly enforced by States, as in many States the Act was not notified altogether, hence, the 1993 Act was rendered legally

⁴ *Safai Karamchhari Andolan v Union of India* (2014) 11 SCC 224 (India).

⁵ Field Interview with Widow of Suresh Kumar, Ghaziabad (2023) (on file with authors).

⁶ BR Ambedkar, *Annihilation of Caste* (1936).

⁷ *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161 (India).



inert.⁸ Last but not least, the 1993 Act was abolished, and the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 was passed in response to local and international criticism. The Act defined the term “manual scavenger” legally and forbade hiring someone to manually clean septic tanks, open drains, or dry latrines without safety equipment and mandates comprehensive rehabilitation, including cash assistance, skill training, and alternative employment, however, still the new Act suffered from limitation of (1) weak enforcement mechanism due to absence of independent body with prosecutorial powers or establishment of special courts. (2) non-criminalisation of Act violations because offences under the 2013 Act are punishable by bail and compound interest, which undermines deterrence, and (3) Implementation at the state and municipal levels is inconsistent since many governments have not set up the necessary vigilance committees or finished identification surveys. According to the Ministry of Social Justice and Empowerment data, just 47% of urban local authorities had completely complied with the 2013 Act's requirements as of 2024.⁹ The lack of an explicit mention of caste in the 2013 Act is a conspicuous omission. Instead of being viewed as a caste-based infringement, manual scavenging is still considered a “public health hazard” or a “sanitation problem” under the Act's framework. This causes the problem to become politicised and merely provides technical fixes, such as awareness campaigns, while neglecting the problem's profoundly social roots. Moreover, the absence of command responsibility on Municipal Commissioners, senior bureaucrats or elected representatives and no provision of accountability. The institutional impunity flourishes, and victims are left without legal standing, as there is no public defender system or *pro bono* scheme.

⁸ Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993, No 46, Acts of Parliament, 1993 (India)

⁹ Ministry of Social Justice and Empowerment, *Implementation Status Report* (2024) (India).

¹⁰ National Commission for Safai Karamcharis, *Annual Report 2023* (India).

3.2 JUDICIAL INTERPRETATION

The Supreme Court of India imposed strict guidelines in *Safai Karamchari Andolan v. Union of India* (2014) to end manual scavenging. These guidelines include: (1) promptly identifying manual scavengers, (2) compensation of ₹10 lakhs to the families of sewer and septic tank victims, (3) prosecution of responsible officials, and strict monitoring of municipal corporations and railways. Despite a clear mandate, most State governments still fail to act decisively. As of 2023, the National Commission for Safai Karamcharis (NCSK) confirmed that fewer than 60% of sewer deaths had led to full compensation, and only 31 FIRs had been registered under the 2013 Act in the past five years.¹⁰ While the judiciary has occasionally intervened in the sorry state of affairs but due to a lack of legislative political will, no direct structural reforms have happened.

4. INTERNATIONAL LEGAL FRAMEWORK ON MODERN SLAVERY

Manual scavenging also violates the well-established *jus cogens* (prohibition of slavery, servitude, and forced labour) norms of international human rights law. Slavery was defined as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” in the 1926 Slavery Convention, which was accepted by India and endorsed by the League of Nations, the forerunner of the United Nations.¹¹ The definition is expanded to encompass organizations and behaviours “similar to slavery” by the 1956 Supplementary Convention on the Abolition of Slavery.¹² Slavery was defined as any “institution or practice whereby a person is born into a status... and is compelled to render services to another” in Article 1(d) of the 1956 Convention. This Convention specifically targets hereditary, caste-based labour regimes, including bonded labour, feudal

¹¹ Slavery Convention art 1, 25 September 1926, 60 LNTS 253.

¹² Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 7 September 1956, 266 UNTS 3



duties, and slavery based on ancestry. Manual scavenging is a good example of this. In addition to violating these Conventions, India is undermining the fundamental principles of equality and human dignity that form the foundation of international law by failing to end this type of descent-based labour.

4.1 ILO CONVENTIONS: FORCED LABOUR AND STRUCTURAL COERCION

The International Labour Organisation's Agreement 29th (1930), which India signed in 1954, defines forced labour as "any work or service which is exacted from any person under the threat of any penalty and for which the said person has not offered himself voluntarily."¹³ The ILO's Operational Indicators of Forced Labour (2012) include the following criteria: (1) abuse of vulnerability, (2) restriction of mobility, (3) deception, (4) isolation, (5) intimidation and threats, (6) retention of identification papers, (7) withholding of earnings, and (8) debt bondage. All of these markers exist in manual scavenging cultures. The ILO Protocol to Convention No. 29 (2014) urges member states to improve victims' prevention, protection, and access to justice. Despite being a signatory to India's own periodic reports to the ILO, the execution of these obligations is fragmented, with little or no coordination between the labour, sanitation, and social justice ministries.¹⁴

4.2 UNITED NATIONS PROTOCOL AND CONVENTIONS

The Palermo Protocol, also known as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), mandates that States Parties make slave labour trafficking illegal, particularly when consent is tainted by "abuse of power or of a position of vulnerability."¹⁵ Caste-based sanitation worker meets these criteria. India ratified this Protocol¹⁶ in 2011, but the domestic legislation, *the Trafficking in Persons (Prevention, Care and Rehabilitation) Bill*¹⁷, though repeatedly introduced, has not been enacted to date; further, the Bill lacks caste-specific language. By failing to recognise caste-based coercion as trafficking, India weakens its own legal architecture and violates the principle of effect utile, i.e., the obligation to give meaningful effect to treaty obligations.

Under Article 8 of the International Covenant on Civil and Political Rights (ICCPR), to which India has been a member since 1979, slavery, servitude, and forced labour are forbidden. The Human Rights Committee¹⁸ highlighted in its General Comment No. 28 that caste and other forms of discrimination based on ancestry were incompatible with human dignity and needed to be addressed under Articles 2 and 26 as well.¹⁹ Notably, in 2009 Concluding Observations²⁰, the Committee encouraged India to take decisive action to end manual scavenging and voiced worry about its widespread occurrence. These include prosecuting

¹³ Convention Concerning Forced or Compulsory Labour art 2, 28 June 1930, 39 UNTS 55.

¹⁴ Government of India, *Periodic Report to the ILO on Convention No 29* (2020).

¹⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children art 3, 15 November 2000, 2237 UNTS 319.

¹⁶ India, Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (5 May 2011).

¹⁷ The Trafficking in Persons (Prevention, Care and Rehabilitation) Bill (India) (various years, not enacted).

¹⁸ UN Human Rights Committee, *General Comment No 28: The Equality of Rights Between Men and Women* (Article 3), UN Doc CCPR/C/21/Rev.1/Add.10 (29 March 2000).

¹⁹ UN Human Rights Committee, *Concluding Observations: India*, UN Doc CCPR/C/IND/CO/4 (4 August 2009).

²⁰ UN Special Rapporteur on Contemporary Forms of Slavery, *Report*, UN Doc A/HRC/33/46, para 47 (5 August 2016).



those who employ manual scavengers, ensuring access to justice for victims, and introducing caste-sensitive protection in law and policy.²¹ Still, even after 15 years, the situation remains largely unchanged, indicating systemic non-compliance with ICCPR mandates. India has also not yet allowed the Optional Protocol to the ICCPR, which would allow individual Dalit sanitation workers to approach the UN Human Rights Committee directly. This refusal limits accountability and denies victims of caste-based slavery access to international redress.

A major contributing factor to bonded labour and servitude in South Asia is caste-based discrimination, according to the Special Rapporteur on Contemporary Forms of Slavery's 2016 report. Entire families are born into systems of exploitation and held there by threat, stigma, and the absence of state protection.²² In the same way, governments must guard against forced labour resulting from 'traditional or cultural practices' that infringe upon equality and dignity, according to the Committee on Economic, Social, and Cultural Rights (CESCR).

All nations are expressly urged to "take immediate and effective measures to eradicate forced labour, end modern slavery, and human trafficking" as part of the ambitious Sustainable Development Goals (SDGs) Target 8.7.²³ Caste, sewer mortality, and the continued practice of manual scavenging are not included in India's Voluntary National Reviews (VNRs) presented to the UN High-Level Political Forum, despite the country's frequent claims of progress on SDGs 6 (clean water and sanitation) and 8 (decent employment). India's progress narrative loses credibility as a result of this erasure, which might also draw attention from other countries through the Universal Periodic Review (UPR)

process. Moreover, India's inability to eradicate manual scavenging was noted as a significant barrier to reaching Target 8.7 in the UN Special Rapporteur on Contemporary Forms of Slavery 2019 report on caste-based slavery.²⁴

4.3 INTERNATIONAL JUDICIAL PRECEDENT

In the *Barcelona Traction Case*, the ICJ identified slavery as a matter of *erga omnes* obligation, binding all states regardless of consent.²⁵ This implies that India's failure to prevent caste-based slavery is not merely a domestic issue; it has global legal implications, potentially inviting universal jurisdiction or diplomatic censure. In *Siliadin v. France*²⁶, the European Court of Human Rights (2005) held that a 15-year-old Togolese girl, who worked unpaid and under threat, had been held in servitude, even though she was not physically confined. The Court determined that a breach of Article 4 of the European Convention on Human Rights might be established by "an obligation to provide services under coercion and the impossibility of changing one's condition." Siliadin and other manual scavengers in India are not chained; instead, they are forced by their ancestry, hardship, and fear of famine.

5. COMPARATIVE INTERNATIONAL ANALYSIS

It needs both a comparative international perspective and a domestic legal lens to comprehend manual scavenging as contemporary slavery. This comparative study shows that the state's persistent failure to recognise caste-based sanitation labour as a systemic human rights violation, rather than the practice's uniqueness, is India's problem.

²¹ I bid.

²² GA Res 70/1, *Transforming Our World: The 2030 Agenda for Sustainable Development*, Target 8.7 (25 September 2015).

²³ I bid

²⁴ UN Special Rapporteur on Contemporary Forms of Slavery, *Report on Caste-based Slavery*, UN Doc A/HRC/42/44 (11 July 2019).

²⁵ *Barcelona Traction, Light and Power Company, Limited (Belgium v Spain)* (Judgment) [1970] ICJ Rep 3, para 33 (5 February).

²⁶ *Siliadin v France* App no 73316/01 (2005) VII ECHR 333.



5.1 MAURITANIA: FROM CULTURAL PRACTICE TO CRIME AGAINST HUMANITY

Mauritania, located in West Africa, has long grappled with the legacy of hereditary slavery, particularly among the *Haratin* people, who were historically enslaved by Arab-Berber elites. Although slavery was formally abolished in 1981, the persistence of descent-based bondage necessitated further legal reforms. In 2007, Mauritania enacted *Law No. 2007-048*, which criminalised slavery and prescribed penalties for slaveholders²⁷. The turning point came in 2015, when the nation passed a constitutional amendment declaring slavery a crime against humanity, followed by *Law No. 2015-031*, which created special anti-slavery courts with jurisdiction over such cases.²⁸

5.2 NEPAL: REHABILITATING THE KAMAIYAS

Nepal's *Kamaiya* system trapped generations of landless labourers, predominantly Dalits and ethnic Tharus, into bonded agricultural servitude. This system, normalized over centuries, combined debt, caste, and landlessness to produce conditions strikingly similar to India's manual scavenging networks. Nepal abolished the *Kamaiya* system in 2000, followed by the *Bonded Labour (Abolition) Act, 2002*.²⁹ The state implemented a *Kamaiya* Rehabilitation Program, which offered land titles and housing, cash grants and vocational training, free education for *Kamaiya* children and skill development linked to caste-sensitive job placement. Thereafter, Nepal's Supreme Court in *Gauri Shankar Chaudhary v. Government of Nepal (2008)* upheld these rehabilitation schemes as a constitutional obligation under the right to dignity and equality.

5.3 BRAZIL: REDEFINING SLAVERY FOR THE MODERN ERA

Brazil has historically used legal tools not only to criminalise slavery but to expand its legal definition in line with present-day realities. Article 149³⁰ of Brazil's Penal Code defines slavery to include forced labour, Degrading working conditions, Exhaustive working hours, and Restriction of movement. This broader framing allows Brazil to criminalise exploitative practices that fall outside the classical model of physical bondage. Brazil put this legal concept into practice in the early 2000s by creating the *Group Especial de Fiscalização Móvel* (GEFM), a Special Mobile Inspection Group made up of police officers, prosecutors, and labour inspectors. Under these mobile units, more than 54,000 personnel were saved between 2003 and 2020.³¹ This enforcement model has won international praise and is replicated in other Latin American countries.

5.4 UNITED KINGDOM: CORPORATE ACCOUNTABILITY AND OVERSIGHT

While the UK does not face caste-based labour exploitation, its *Modern Slavery Act 2015* provides a sophisticated framework for addressing exploitative labour through both criminal and corporate mechanisms. The Act requires business supply chain audits by requiring the publication of yearly reports and defines contemporary slavery to include forced labour, servitude, and human trafficking. "Slavery and Human Trafficking Statements" and the Act also create a Modern Slavery Commissioner, empowered to review policy, coordinate enforcement, and engage with victims.

²⁷ Mauritania, Law No 2007-048 on the Criminalization of Slavery (9 August 2007).

²⁸ Mauritania, Law No 2015-031 on the Creation of Anti-Slavery Courts (10 September 2015).

²⁹ Nepal, Bonded Labour (Abolition) Act 2002, No 8 (2002).

³⁰ Código Penal [Criminal Code] (Brazil) art 149.

³¹ Brazil Ministry of Labour and Employment, *Report on Rescued Workers (2003–2020)*.



5.5 SOUTH AFRICA: CONSTITUTIONAL PROTECTIONS AND STRUCTURAL REDRESS

Post-apartheid South Africa offers a robust model for linking historical injustices with modern legal remedies. The South African Constitution explicitly prohibits slavery, servitude, and forced labour (Section 13)³², and mandates redress for “past patterns of disadvantage” (Section 9(2))³³. Programs like the Expanded Public Works Programme (EPWP) aimed to provide dignified employment for historically disadvantaged groups, including former domestic workers and sanitation labourers.

Country	Legal Recognition	Enforcement Model	Rehabilitation Approach	Relevance to India
Mauritania	Slavery as a crime against humanity	Anti-slavery tribunals, NGOs	Legal aid and housing	Criminal classification, command responsibility
Nepal	Bonded labour by caste	Court oversight, land distribution	Land, cash, education	Structural rehabilitation, caste-sensitive planning
Brazil	“Slavery-like” conditions	Mobile inspection squads (GEFM)	Immediate relief + blacklisting	Broad legal definition + aggressive enforcement
UK	Modern slavery supply chains	Corporate reporting, commissioner	N/A (market regulation focus)	Municipal and corporate accountability
South Africa	Forced labour as a constitutional wrong	Employment equity, public schemes	Dignified work programs	Rights-based economic redress

Table 1: Comparative table of countries mentioning the enforcement model, rehabilitation approach compared to India.

³² Constitution of the Republic of South Africa, 1996, s 13

³³ Constitution of the Republic of South Africa, 1996, s 9(2).



6. STRUCTURAL AND INSTITUTIONAL BARRIERS TO ERADICATION

Despite more than a decade of constitutional protections and three decades of statutory prohibition, manual scavenging persists in plain sight, enabled by a dense web of structural inequality, institutional indifference, and policy myopia that forms a self-perpetuating system of caste-based labour exploitation. These barriers subsist across five major domains: (1) caste hierarchies, (2) informal labour dynamics, (3) symbolic statecraft, (4) bureaucratic inertia, and (5) intersectional invisibility.

6.1 CASTE AND THE POLITICAL ECONOMY OF SANITATION

India's sanitation infrastructure is built on the backs of *Dalits*, even in cities which are equipped with mechanised cleaning systems. Municipalities overwhelmingly recruit Dalits for sewer and latrine work, reinforcing caste as the default structural criteria for sanitation labour. Sociologist Gopal Guru notes, "the Indian state has modernised its cities without modernising its caste consciousness."³⁴ Policies like the *Swachh Bharat Abhiyan* (Clean India Mission) speak of toilets but not of the people forced to clean them. A 2022 survey of sanitation workers in Uttar Pradesh revealed that over 89% of respondents came from the Scheduled Castes, and only 3% had ever worked outside sanitation in their lifetime.³⁵

6.2 INFORMALIZATION AND THE CRISIS OF ACCOUNTABILITY

Outsourcing and informal labour models have become the most effective ways by which the state has avoided accountability. Increase in subcontracting the services of sewer and septic work to private contractors, who, to cut costs, make them work without legal contracts, safety gear, or insurance, thereby bypassing labour laws and criminal liability. When deaths occur in

sewers, officials claim that the deceased was "not a government employee," therefore evading the restitution that the Supreme Court ordered in the matter of *Safai Karamchari Andolan*.³⁶ Contractors frequently move employees between locations, which makes it almost hard to track down labour infractions or enforce minimum wage regulations, according to the National Commission for Safai Karamcharis (NCSK).

6.3 SYMBOLIC INCLUSION, SUBSTANTIVE EXCLUSION

Gestures toward sanitation workers, like felicitating them on national holidays, featuring them in media campaigns, or showcasing toilet construction milestones, only remain symbolic. For instance, *Swachh Bharat* posters often show Dalit sanitation workers with brooms under slogans like "Cleanliness is Godliness." Yet, the same program refuses to acknowledge that these workers are forced into this labour by birth, social stigma, and economic exclusion. According to *Safai Karamchari Andolan* founder Bezwada Wilson: "They show us as proud workers with brooms, but they don't ask why our children must carry them too."³⁷ Internationally, India showcases toilet coverage statistics; domestically, it suppresses reports of sewer deaths.

6.4 BUREAUCRATIC APATHY AND INSTITUTIONAL WEAKNESS

The accountable organisations, which include the NSKFDC, the Ministry of Social Justice and Empowerment, and state-level nodal offices, frequently lack adequate funding, personnel, and priorities. A 2023 audit by the Comptroller and Auditor General (CAG) revealed that less than 60% of allocated funds for the rehabilitation of manual scavengers were spent across five states.³⁸ Surveys mandated under Section 11 of the 2013 Act were

³⁴ Gopal Guru, 'The Language of Dalit-Bahujan Political Discourse' in Ghanshyam Shah (ed), *Dalit Identity and Politics* (Sage 2001).

³⁵ Survey of Sanitation Workers in Uttar Pradesh (2022).

³⁶ *Safai Karamchari Andolan v Union of India* (2014)

11 SCC 224 (India).

³⁷ Interview with Bezwada Wilson, Founder, *Safai Karamchari Andolan* (2023) (on file with authors).

³⁸ Comptroller and Auditor General of India, *Performance Audit Report on Manual Scavengers Rehabilitation* (2023).



either not conducted or grossly underreported affected populations. Furthermore, key institutions like the National Commission for Safai Karamcharis (NCSK) function merely as advisory bodies without enforcement powers. In 2023, the Madras High Court ordered the arrest of officials responsible for sewer deaths in Tamil Nadu; however, none were prosecuted; instead, internal transfers were used to diffuse accountability.³⁹

6.5 INTERSECTIONAL INVISIBILITY: GENDER, DISABILITY, AND GEOGRAPHY

Dalit women, especially in rural India, are doubly burdened; stigmatised not only by caste but also by gender. A 2021 study by the Centre for Equity Studies revealed that 71% of women engaged in manual scavenging reported sexual harassment at work, and over 80% had no access to toilets or bathing facilities during work hours. Their status as informal workers means they lack even the minimal safeguards under the Sexual Harassment at Workplace Act, 2013.⁴⁰ Additionally, manual scavengers with disabilities receive no specific recognition in rehabilitation schemes. Urban migrants from scavenging communities face documentation barriers, leading to their exclusion from activities such as the Self-Employment Scheme for Manual Scavengers (SRMS).

6.6 THE CASTE OF THE STATE

By refusing to name caste as the root cause, policies remain reactive rather than transformative. In his seminal work, *Annihilation of Caste*, Dr. B.R. Ambedkar warned that “those who suffer inequality must frame the laws of equality.” Yet the laws around sanitation labour are rarely shaped by those who suffer its consequences. Dalits remain structurally underrepresented in policymaking, the judiciary, and senior bureaucracy. As a result, even well-intentioned reforms are filtered through a lens that refuses to see caste as coercion. The persistence of manual

scavenging is not the failure of a few policies or the indifference of a few officials. It is the consequence of a structural system that distributes risk by caste, renders labour invisible, and rewards silence. Unless caste is explicitly addressed, the informal economy is regulated, and institutions are restructured for accountability, the practice will persist.

7. REIMAGINING ACCOUNTABILITY AND LEGAL REFORM

To align Indian law with its international obligations, manual scavenging must be explicitly defined and prosecuted as a form of modern slavery. Manual scavenging shall be described in terms of forced labour and descent-based servitude. Further, classifying such an offence as non-bailable and non-compoundable with a minimum sentence of five years. India must draw from international criminal jurisprudence—especially the doctrine of command responsibility, to hold superiors liable for crimes committed by subordinates.

Current organizations like the NSKFDC and the National Commission for Safai Karamcharis (NCSK) are weak, underfunded, and nondependent; they must be given power to summon officials, initiate prosecutions or recommend departmental action, conduct binding performance audits of ULBs and ministries, and create a Special Task Force on Caste-Based Labour Exploitation under the NHRC or the Ministry of Social Justice with prosecutorial powers and use of technology to establish a national manual scavenging data dashboard—linked to real-time updates from all ULBs—capturing the number of sanitation workers engaged, incidents of sewer deaths, rehabilitation status, compensation disbursed. Rehabilitation steps to include employment guarantees (akin to reservation), education Quotas, mental health support, and Legal Aid cells, and a Manual Scavengers Reparations Fund modelled on international transitional justice funds (e.g., South

³⁹ Madras High Court Orders and Subsequent Government Response (2023) (on file with authors).

⁴⁰ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, No 14, Acts of Parliament, 2013 (India).



Africa's TRC Fund, Rwanda's Gacaca Compensation Program).

India has ratified key international treaties prohibiting forced labour and slavery, yet compliance reporting remains irregular; therefore, India must invite the UN Special Rapporteur to conduct a country visit focused on manual scavenging. Civil society organisations such as Safai Karamchari Andolan, Jan Sahas, and Dalit Human Rights Forum must be empowered by giving them statutory recognition as "human rights monitors" under the 2013 Act, with added power to do investigation, reporting and filing complaints directly with oversight bodies, access sewer death and employment data and make recommendations for action to state governments. To truly dismantle manual scavenging, legal reform must become a vehicle for redistributive justice. Establishing fast-track courts for sewer-related death cases with clear timelines for compensation and prosecution, and mandatory PIL hearings every quarter in the High Courts to monitor state compliance, is equally necessary.

8. CONCLUSION: FROM ERASURE TO EMANCIPATION

Manual scavenging is more than simply a social wrong; it is a structurally sanctioned type of caste-based slavery that exists in the world's greatest democracy, disguised as sanitation work. Manual scavenging has persisted not because it is hidden, but because it is institutionally invisible.

It is evident throughout this paper that this practice satisfies every legal threshold of modern slavery, persisting through intergenerational transmission, contractual camouflage, and administrative denial. The comparative legal analysis has shown that countries such as Mauritania, Nepal, and Brazil, despite being economically challenged, have developed frameworks that have successfully recognized factors promoting manual scavenging and have created special courts and task forces for enforcement and have embedded anti-slavery principles into national action plans and budgeting

frameworks but due to political and moral failure India remains unwilling to adopt a similar model.

Thus, it is recommended that manual scavenging be legally reclassified as modern slavery, accountability must move upward, and justice must be reparative, not just regulatory. Unless manual scavenging is confronted as a caste atrocity and a legal crime, the society will continue to pretend that "abolition" means deletion from law books, rather than actual transformation of society. As Ambedkar warned, "Justice has always evoked ideas of equality... Law is the mechanism by which justice is delivered. But when law becomes silent to suffering, it becomes a tool of oppression." India must choose: continue its tradition of dignified declarations and undignified realities—or act decisively to dismantle the world's most ancient form of institutional slavery.
