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“Dharma is to protect the Needy”

Article on
Status of Sanitation Workers during the Pandemic Covid-19

Author: Ashok Kumar (Research Scholar) *



“Sanitation is more important than Independence”¹

Mahatma Gandhi

ABSTRACT

The sanitation workers are the most vulnerable group of the society. Since most of the sanitation workers such as manual scavengers belong to lower caste in the Hindu society, they are commonly known as ‘Untouchables’. The practice of manual scavenging still found in some parts of the India which shows the failure of great ‘Swachh Bharat Mission’. The Covid-19 pandemic has possessed new challenges and struggles in the life of sanitation workers. On one hand where this covid-19 pandemic has snatched their livelihood and on the other it gives them a chance to work with dignity. The most marginalised people of the society were stood as frontline warrior with the fight against Covid-19 pandemic. However, the working conditions of sanitation workers are still worst, dangerous and menial as they work in a direct exposure of toxic gases and hazardous material emitted from septic tanks, sewers, drainage lines etc. But these sanitation workers are selflessly working to save our lives.

In this chapter the authors examine the status of sanitation workers and their human rights. Further it focuses on the policies, advisories and guidelines provided by the government to the authorities for the protection of life, health and rights of sanitation workers during the period of Covid-19 pandemic.

Keywords: Sanitation worker, Manual scavenging, Untouchability, Covid-19, Hygiene.

* Research Scholar, Department of Human Rights, School of Legal Studies, Babasaheb Bhimrao Ambedkar (A Central) University, Lucknow, India.

¹ Mahatma Gandhi. AZQuotes.com, Wind and Fly LTD, 2021, available at: <https://www.azquotes.com/quote/856445>, (visited on 07-02-2021)

Introduction

The year 2020 can be called a year of health crisis that hooked the entire world, ahead of an epidemic named Corona Virus. Due to lack of proper treatment and effective vaccine of Covid-19 has burdened the whole health system. During this pandemic doctors, health workers and the sanitation personnel are working at the frontlines. Due to the direct exposure of various toxic gases and hazardous materials emitted from the sewers, drainage lines and solid waste affect their health and reduces immunity system and make them feeble but these sanitation workers are engaged in this menial, smeary, dangerous and inhuman work selflessly to save our lives. Thus, these great persons have been called as "The Corona Warriors". But amidst all this, the worst situation is that the sanitation workers are endangering their lives with or without any dues and proper safety gears, while other professionals like health workers and doctors are getting the same. It is really intricate to understand why only a particular section of the society is facing this discrimination on the basis of their caste and their work which is obviously one of the most important needs of the society and it goes without saying, even in such hard times. Such situation is very unfortunate and disheartening because the cooperation of every person involved for combating this epidemic is valuable, irrespective of their working conditions. The contribution of the sanitation workers becomes more significant because their struggle is more isolated and difficult during the pandemic COVID-19. A sanitation worker always risks his/her life during the work cleaning of septic tanks, sewers, handling human waste, dumping of garbage etc. to protect our lives except all this they live a vulnerable life. Women sanitation workers are more vulnerable because most of them are illiterate, economically poor and underrepresented in the employee's union. In this hard time it is very necessary that like every frontline fighter sanitation workers should also get every facilities and safety gears so that they do their job fearlessly and protect themselves from harmful infections and live happily with their families. Thus, our government should pay attention to providing them protective equipments and ensure payment of their salaries as well as health insurance.

Concept and Meaning of Sanitation Work

The concept of sanitation is complex in nature and its reality is very harsh and sturdy because the work of cleanliness is the matter of social practice rather than mere occupation. The architect of Indian Constitution, Dr. Ambedkar said, "*In India, a man is*

*not a scavenger because of his work. He is a scavenger because of his birth irrespective of the question whether he does scavenge or not.*²” This means that sanitation work or manual scavenging is an occupation done by a particular caste as per the Indian caste system. According to the Indian Hindu social order, the caste system has been categorized into four parts i.e., *Brahmins, Kshatriya, Vaishya* and *Shudra*. The scavenger fall under the lowest hierarchy of the caste system i.e. *Shudras* and are commonly known as untouchables.

Generally, sanitation is understood as a system that promotes disposal of human and animal waste, proper use of toilets and avoidance of defecation in open spaces. The range of such services is termed as sanitation work. The sanitation work ranges from personal cleanliness to public hygiene. Personal cleanliness consists work are in the form of handling menstrual waste, cleaning household toilets, and managing household waste. Public sanitation work includes garbage collection from households across a municipal area, dumping the city’s garbage in zonal dumping sites, sweeping of roads, cleaning drains, school, community and public toilets, sewer lines, sewage treatment plants, septic tanks, and cleaning faecal matter from railway tracks, platforms, train toilets and platform toilets.

Difference between sanitation work and manual scavenging

The traditional form of manual scavenging – cleaning human excreta from dry latrines that might not be visible in urban areas but it is still present in the different rural parts of India. The other forms of manual scavenging can be very easily seen in urban areas. According to the definition of ‘manual scavenger’³ given in the statute:

"manual scavenger" means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a 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 is disposed of, or on a railway track or in such other spaces or premises, as the Central Government or a State Government may notify,

² Available at: <https://www.thehindu.com/opinion/open-page/scourge-of-manual-scavenging/article4038824.ece> (visited on 29-01-2021)

³ Prohibition of Manual Scavenging and their Rehabilitation Act, 2013, s. 2 (g)

before the excreta fully decomposes in such manner as may be prescribed, and the expression manual scavenging shall be construed accordingly.

This means that a person or a sanitation worker who is cleaning human excreta from an open drain, pit, railway track or other space or premise is also a manual scavenger then what is the difference between sanitation worker and manual scavenger, for example, a sanitation worker might be employed to clean garbage from railway track but he has to clean human excreta also if it is there. The difference between sanitation worker and manual scavenger is *“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.”*⁴

Such thin line of difference marked a question regarding the implementation of the statute. Because sanitation workers are also handling human excreta many a times during their work without proper protective gears but as per the statute they shall not be deemed to be a manual scavenger. Most sanitation workers especially those among the informal workforce lack access to decent and regular wages and employment opportunities. Usually coming from specific caste groups and marginalized communities, they also face systemic exclusion from basic health and education services, government schemes, social security measures, and alternative livelihood opportunities. Therefore, all sanitation workers do come in the purview of the Prohibition of Manual Scavenging and their Rehabilitation Act, 2013 (Hereinafter, PMSR Act), and are entitled to different rehabilitation schemes made for manual scavengers.

The Dalberg Advisors, in 2017, estimated a study where it is found that nearly 5 million sanitation workers presently working in which approximately 2.5 million face high occupational hazards and risks.⁵ The sanitation workers working in urban areas are lesser than workers working in rural areas i.e. about 45%. Though their number is less than sanitation workers in rural areas but they are working in more hazardous and slovenliness condition by cleaning sewers and septic tanks. Nearly 50 % of urban sanitation workers are women, mostly engaged in school toilet cleaning.

⁴ Prohibition of Manual Scavenging and Rehabilitation Act, 2013, s.2 (g) (b)

⁵ The Sanitation Workers Project was 5-month long study of sanitation workers across India carried out by Dalberg Advisors in 2017, with the support of The Gates Foundation, available at <http://sanitationworkers.org/> (visited on 29-01-2021)

Most of the sanitation workers belong to the lowest Dalit sub-castes. They are known by different names in different areas of the country, such as, *Valmiki, Bhangi, Mehtar, Chooda* in northern and western India; *Bassfor, Dom, Ghaasi* in eastern India; *Thotti, Arunthathiyar, Madiga* in southern India. Between 40 to 60 per cent of these 6 million households are engaged in sanitation work.⁶

People in our society want to discuss about sanitation, but no one wants to discuss about them who undertakes this work. The moment the waste spread by one person reaches the other person indulging in such kind of works, it becomes a sanitation work.

International Efforts for recognising the Human Rights of Sanitation Workers

Many Dalit rights activists, in order to raise awareness of the effects of caste-based discrimination have sought to generate global pressure on the Indian government. Starting in the early 1980s, Dalit activists expressed their opinion that violence and caste based discrimination against manual scavengers is a human rights issue.⁷

In 1996, the UN Committee on Elimination of Racial Discrimination (CERD) recognized discrimination on the basis of caste as racial discrimination. This stand was taken by CERD despite vociferous and determined opposition from the government of India.⁸

The Supreme Court, in case of *Safai Karamchari Andolan and Ors vs. Union of India and Ors*⁹ on March 2014 stated that the practice of manual scavenging was banned in India under various international instruments. These instruments included Article 2 of International Convention on Elimination of Racial Discrimination (ICERD), Article 5(a) of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Article 1¹⁰, 2(1)¹¹ and 23(3)¹² of the Universal Declaration of Human Rights (UDHR).

⁶ Available at <http://sanitationworkers.org/wp-content/uploads/2018/04/Phase-1-Understanding-the-Problem-Part-I.pdf> (visited on 30-01-2021)

⁷ Manual Scavenging- The Oppression Continues, available at: <https://legaldesire.com/manual-scavenging-the-oppression-continues/> (visited on 01-02-2021)

⁸ Ibid.

⁹ (2014) SCC, SC, 15, pp 611

¹⁰ "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood"

¹¹ "Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"

India also follows other international conventions like International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR). These conventions also strengthen the idea of eradication of manual scavenging. Various other international human rights organizations and United Nations agencies have also expressed their concerns over the practice of manual scavenging. The World Health Organization (WHO) approached manual scavenging as a health issue whereas UNICEF has taken up the problem of manual scavenging as a sanitation issue.

Constitutional Provisions for Prevention of Manual Scavenging

Manual scavengers are the most discriminated people experiencing the sever form of atrocious and practice of untouchability against them. The spirit of Article 17(Abolition of Untouchability)¹³, Article 21(Right to life with dignity)¹⁴ and Article 42 (Just and humane condition of work)¹⁵ of the Indian Constitution has not fully touched their lives as yet which clearly states that these constitutional and statutory provisions were path breaking in them, they were found to be inadequate in addressing the continuation of the obnoxious practice of manual scavenging across the country, a practice squarely rooted in the concept of the caste-system and untouchability.

Plight of Sanitation Workers during the Covid-19 Pandemic

Sanitation workers are the foundation of the sanitary conditions and cleanliness in India. The services provided under the sanitation sector are very hazardous in nature in which some are moderately hazardous and some are extremely hazardous. Working under such hazardous environment sanitation workers puts themselves into a wide range of health issues and diseases due to the exposure of harmful chemicals and toxic gases. While these sanitation workers already face many unfortunate things like health risks, financial challenges and social discrimination due to their working conditions, the Covid-19 has

¹² “Everyone who works has a right to just and favourable remuneration enduring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection”

¹³ “Abolition of Untouchability: ‘Untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘Untouchability’ shall be an offence punishable in accordance with law.”

¹⁴ “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

¹⁵ Provision for just and humane conditions of work and maternity relief. —The State shall make provision for securing just and humane conditions of work and for maternity relief.

further added a new hitch in their life. Covid-19 pandemic has created a deadly situation in the life of sanitation workers because their work requires them to move across different locations, interact with several people and work in high-risk settings including health care facilities, quarantine centres and containment zones. The lack of personal protective equipment and other safety measures at work puts sanitation workers at a high risk of infection.¹⁶ Any sanitation workers get infected with the pandemic Covid-19 that can lead to an additional layer of stigma and discrimination due to which they can loss their livelihood and life too.

In India approximately 22 per cent population lives in urban slums and maximum resident are sanitation workers. The situation of slums can be characterized by acute poverty, over-crowding, unhealthy living conditions, and a weak urban public health setup.¹⁷ Sanitation workers reside mostly in informal settlements / slums with high population density, where they don't have individual toilets and hence they use community / public toilets or compelled to open defecate. According to many reports it is found that the transmission of COVID-19 via faecal-oral transmission is very high.¹⁸ "A single undetected positive case in a slum area could make it almost impossible to contain a community spread."¹⁹ They put their lives at risk every day and play a critical role in preventing the spread of the virus, by ensuring our streets, parks, public spaces, sewers, septic tanks, communities, and public toilets are kept clean and hygienic, and in return they only get curse and insult from the prudent civilized society.

Impact of Covid-19 on the Working Condition of Sanitation Workers

Covid-19 pandemic has induced the unprecedented event of lockdown. The lockdown began slowly but from 25th march, 2020 when the complete lockdown was announced creates panic nation-wide. It was severe, prolonged, confusing and unpredictable in multiple ways.²⁰ The impact of this lockdown has seen in the working condition of sanitation workers. Most sanitation workers returned to their native places due to the fear of infection of corona virus and thus it led to availability of smaller workforce.

¹⁶ Available at <https://www.ircwash.org/sites/default/files/health-safety-and-social-security-challenges-of-sanitation-workers-during-the-covid-19-pandemic-in-india.pdf> (visited on 01-02-2021)

¹⁷ Available at <https://www.outlookindia.com/website/story/opinion-covid-19-outbreak-in-indias-slums-will-be-disastrous-for-the-urban-poor/350335> (visited on 01-02-2021)

¹⁸ Available at <https://www.downtoearth.org.in/blog/health/covid-19-slums-in-india-provide-fertile-ground-for-outbreaks-71037> (Visited on 01-02-2021)

¹⁹ ibid

²⁰ Available at: <https://link.springer.com/article/10.1007/s41027-020-00259-w> (visited on 01-02-2021)

Those sanitation workers were available for the job has bound to work longer hours than usual. Due to the complete shutdown of transportation services public transport were stopped which resulted new challenges for sanitation workers. This shutdown left no choice but either to walk to their work site or use a cycle or bike. The pandemic also affected livelihoods of sanitation workers due to various reasons including prohibition of movement in absence of identity cards/passes; shutdown of worksites such as schools and offices; restrictions for those living in containment zones; and lack of demand for informal sanitation work.²¹ Sanitation workers are the deceptive base of the society and without them daily routine and the normal life would fall down. They are one of the most essential parts of the frontline COVID-19 workers investing their blood and sweat to keep the citizenry sound and safe but they are poorly paid, ill prepared for the circumstances and vulnerable to attacks and social stigma. Hygiene is the key measure to fight the virus and it is a well-known fact to each and every one out there, ignoring just the people who actually maintain it. Facing the current scenario, it is of much importance to address the needs of the sanitation workers and providing them with the same. Right from emptying toilets, pits and septic tanks, entering into manholes and sewers to fix or unblock them, to cleaning public toilets or defecation around homes and businesses, a sanitation worker does it all to ensure for us a surrounding that is super hygienic and safe to reside in.

Awareness Programme for Sanitation Workers in Covid-19 Pandemic

The Urban Local Bodies (ULBs) has initiated many training sessions and skill programs among sanitation workers for the awareness of Covid-19 prevention. They shared information regarding prevention of Covid-19 virtually and physically by maintaining social distancing. ULBs have covered importantly the use of PPE and hand hygiene as spreading awareness amongst sanitation workers. However, many critical topics were not covered such as reuse and disposal of PPE, handling and disposal of waste, and disinfection procedures. Television, Whatsapp, Arogya Setu App and by Employers the sanitation workers received many important information regarding the prevention of Covid-19.

²¹ Available at: <https://www.ircwash.org/sites/default/files/health-safety-and-social-security-challenges-of-sanitation-workers-during-the-covid-19-pandemic-in-india.pdf> (visited on 01-02-2021)

Covid-19 Prevention Measures for the Protection of Sanitation Workers

The various ministries and agencies of Central and State governments has issued advisories and guidelines regarding the safety of sanitation workers during their work. Some of the national level guidelines and advisories are as follows:

- Ministry of Housing and Urban Affairs (MoHUA) had issued an advisory on 'Safe and Sustainable Wash Services'.²² The advisory directed authorities to aware people regarding safe use, reuse and disposal of Personal Protective Equipment (PPE). It further provided awareness about frequent and proper hand hygiene and respiratory hygiene, Support for essential supplies to informal workers if required, Arrangements for hand hygiene, drinking water, toilets etc., at treatment and waste management sites.
- Ministry of Health and Family Welfare (MoHFW) had issued guidelines regarding disinfection of common public places including offices²³ and rational use of personal protective equipment (PPE).²⁴ In this guideline, the authorities has been directed to aware sanitation workers regarding the types and specification of different kind of PPE kits during the disinfection of public places, hospitals, and quarantine centres, and use of mask.
- Central Pollution Control Board (CPCB) had issued guidelines for Handling, Treatment, and Disposal of Waste Generated during Treatment/Diagnosis/ Quarantine of COVID-19 Patients²⁵ in which various aspects like Protocols for handling, treatment and disposal of waste, role of ULBs and other institutions, disposal of PPE has been discussed.

²² Ministry of Housing and Urban Affairs (MoHUA) (2020), "Advisory on safe management of water supply & sanitation services during COVID-19 crisis", Available at: <http://mohua.gov.in/pdf/5edf84915e23aCOVID%2019%20%20Advisory%20on%20Water%20and%20Sanitation%20Services.pdf> (Visited on 01-02-2021)

²³ Ministry of Health and Family Welfare (MoHFW) (2020), "Guidelines on disinfection of common public places", Available at: <https://www.mohfw.gov.in/pdf/Guidelinesondisinfectionofcommonpublicplacesincludingoffices.pdf> (visited on 01-02-2021)

²⁴ Ministry of Health and Family Welfare (MoHFW) (2020), Guidelines on rational use of personal protective equipment", Available at: <https://www.mohfw.gov.in/pdf/Guidelinesondisinfectionofcommonpublicplacesincludingoffices.pdf> (visited on 01-02-2021)

²⁵ Central Pollution Control Board (CPCB) (2020), "Advisory on Handling, treatment and disposal of waste generated during treatment/diagnosis/quarantine of COVID-19 patients, Available at: https://cpcb.nic.in/uploads/Projects/Bio-Medical-Waste/BMW-GUIDELINES-COVID_1.pdf (visited on 01-02-2021)

However, various advisories and guidelines on protection of sanitation workers were issued by the different ministries of the government but in the name of implementation they all look blank. There were many sanitation workers who don't even know about PPE kits and its usage because most PPE kits were not user friendly and the specific challenges included discomfort due to heat, sweating, suffocation, inappropriate size and fitting, and inadequate grip of gloves.²⁶

Conclusion and Suggestions

The Covid-19 pandemic has raised many critical challenges to every individual in the society but it has mostly affected the sanitation workers and labourers. The sanitation workers are the most vulnerable group of the society and during this pandemic they suffered a lot with the infection of deadly coronavirus disease as they were working close to the affected persons and are compelled to do sanitation work without any safety precautions. They are so tightly bound to sanitation work that if they leave the work, they would die of starvation. Unless the workers are protected from the virus, they might end up with infecting their families as well as the people surrounding in their localities. Since there is no national surveillance system available to locate the clusters of disease, it has become very difficult to control a community spread. There has been no prior human experience to this horrendous quandary. The guidelines of World Health Organisation become just lip service only as it is very difficult to keep social distance among sanitation workers at the time of their working. They live in small houses which are overcrowded with persons and there infection to corona-virus could not be avoided. Hence, the normal isolation or quarantine could still contain the problem. Planning, coordinating and managing health, water and sanitation resources for the sanitation workers is the first step that should be taken towards curbing the problem. Amid heavy rains, scorching heat, or even spine-chilling winters, one can generally finds a sanitation worker is working just to meet a two-time meal for his family and to provide us an environment free of germs. They are not just the heroes of their own families but the whole mankind. It would not be wrong to say in their case that, "A soldier is never off-duty." The Central and State governments have initiated various advisories and guidelines for the safety of sanitation workers if these guidelines properly implemented then surely picture can be better. Some suggestions are as follows:

²⁶ Available at: <https://www.ircwash.org/sites/default/files/health-safety-and-social-security-challenges-of-sanitationworkers-during-the-covid-19-pandemic-in-india.pdf> (visited on 01-02-2021)

- 1) Adequate and user-friendly personal protective equipments should be given to the sanitation workers and urban local bodies and other government authorities should ensure that their contractor provisioning proper PPEs with penal clauses;
- 2) Local authorities should ensure that functional hand-washing and bathing facilities are provided near the work sites with access to water, soap and disinfectant for the sanitation workers;
- 3) Adequate arrangements for safe handling and disposal of waste;
- 4) Adequate measures should be adopted for regular medical examination and routine checkups;
- 5) Authorities should ensure the provisions for paid leave, monetary compensation and proper treatment of Covid-19 infected worker;
- 6) Life and health insurance for all sanitation workers irrespective of the nature of their employment;
- 7) Special support for informal workers, including preparing local databases and ensuring social and financial security. Local civil society organisations to be brought in for supporting these initiatives;
- 8) Capacity building of ULB or state officials on guidelines, advisories and schemes for sanitation workers, and strategies for their implementation.

References:

- The Constitution of India (1950)
- Prohibition of Manual Scavenging and their Rehabilitation Act, 2013
- Sanitation Law and Policy in India, 2015
- <https://www.thehindu.com/opinion/open-page/scourge-of-manual-scavenging/article4038824.ece>
- <http://sanitationworkers.org/>
- <http://sanitationworkers.org/wp-content/uploads/2018/04/Phase-1-Understanding-the-Problem-Part-I.pdf>
- <https://legaldesire.com/manual-scavenging-the-oppression-continues/>
- <https://www.ircwash.org/sites/default/files/health-safety-and-social-security-challenges-of-sanitation-workers-during-the-covid-19-pandemic-in-india.pdf>
- <https://www.outlookindia.com/website/story/opinion-covid-19-outbreak-in-indias-slums-will-be-disastrous-for-the-urban-poor/350335>
- <https://www.downtoearth.org.in/blog/health/covid-19-slums-in-india-provide-fertile-ground-for-outbreaks-71037>
- <https://link.springer.com/article/10.1007/s41027-020-00259-w>
- https://www.ircwash.org/sites/default/files/health-safety-and-social-security-challenges_of-sanitation-workers-during-the-covid-19-pandemic-in-india.pdf
- <http://mohua.gov.in/pdf/5edf84915e23aCOVID%2019%20%20Advisory%20on%20Water%20and%20Sanitation%20Services.pdf>
- <https://www.mohfw.gov.in/pdf/Guidelinesondisinfectionofcommonpublicplacesincludingoffices.pdf>
- https://cpcb.nic.in/uploads/Projects/Bio-Medical-Waste/BMW-GUIDELINES-COVID_1.pdf