



ISSN: 2583-7753

# LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 3

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.362>

© 2026 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: [www.lijdlr.com](http://www.lijdlr.com)

Under the Platform of LawFoyer – [www.lawfoyer.in](http://www.lawfoyer.in)

---

*After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.*

---

*In case of any suggestions or complaints, kindly contact ([info.lijdlr@gmail.com](mailto:info.lijdlr@gmail.com))*

*To submit your Manuscript for Publication in the LawFoyer International Journal of Doctrinal Legal Research, To submit your Manuscript [Click here](#)*

---

# MANUAL SCAVENGING IN INDIA: A COMPARATIVE STUDY OF THE EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION) ACT, 1993 AND THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION ACT, 2013

---

Arunraj.D<sup>1</sup>

## I. ABSTRACT

*Manual scavenging in India remains deeply entrenched in caste-based hierarchy and social exclusion, with those engaged in this occupation overwhelmingly drawn from historically marginalised communities. An overwhelming majority of manual scavengers belong to Dalit communities, so caste continues to determine who performs India's most hazardous and dehumanising labour. This paper undertakes a doctrinal and comparative analysis of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 and the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, examining their constitutional basis, definitional reach, rehabilitation design, penalties and institutional oversight. It advances two hypotheses. The first is that the 2013 Act keeps open the very practice it prohibits, because the definition of "hazardous cleaning" in Section 2(1)(d) withdraws the prohibition in Section 7 wherever the prescribed protective gear and devices are supplied. The second is that the deaths that continue in sewers and septic tanks are explained less by any gap in the constitutional or statutory text than by administrative denial, systematic undercounting in official surveys, and the interposition of private contractors between the state and the worker. The paper situates both claims within the guarantees of Articles 14, 17, 21 and 23, within the penal provisions of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and within India's commitments under the ICESCR, the ILO conventions, CERD and CEDAW. It then traces*

---

<sup>1</sup> II Year -LLM (Human Rights) & Advocate (India). Email: arundurairaj2305@gmail.com

*the judicial response from People's Union for Democratic Rights (1982), through Delhi Jal Board (2011) and Safai Karamchari Andolan (2014), to Balram Singh (2023) and its continuing supervision, and assesses the institutional position of the National Commission for Safai Karamcharis. Six recommendations follow, directed at legislative amendment, enforcement and rehabilitation.*

## II. KEYWORDS

Manual Scavenging; Caste-Based Discrimination; PEMSR Act 2013; Constitutional Jurisprudence; Sewer Deaths.

## III. INTRODUCTION AND BACKGROUND OF THE STUDY

Manual scavenging (the removal, by hand, of human excreta from dry latrines, open drains, pits, septic tanks and sewer lines) continues in India nearly eight decades after independence, notwithstanding a constitutional order that expressly forbids the social condition from which the occupation arises. The work is not open to persons from any background, nor is it taken up by free choice; it falls, with striking consistency, on particular Dalit sub-communities (among them the Balmikis, Bhangis, Mehtars, Helas and Madigas) whose forebears were bound to it by the purity-and-pollution logic that structures the caste order. Handling human waste therefore functions less as an ordinary trade than as a hereditary marker assigned along caste lines, closing off education, physical mobility and basic self-respect to entire families across successive generations.<sup>2</sup>

The Constitution speaks to this condition directly and in absolute terms. Article 17 abolishes untouchability and forbids its practice in any form, and it provides that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law, a mandate Parliament implemented through the Protection of Civil Rights Act, 1955.<sup>3</sup> Article 21 has been read consistently to secure

---

<sup>2</sup>B.N. Srivastava, *Manual Scavenging in India: A Disgrace to the Country* 20 (Concept Publishing Co. 1997).

<sup>3</sup>The Constitution of India art. 17; see also art. 35(a)(ii) (power of Parliament to prescribe punishment for acts declared to be offences under Part III); The Protection of Civil Rights Act, No. 22 of 1955, India Code (1955).

not mere biological survival but a life lived with dignity. Yet the space between what the founding document promises and what actually happens at the mouth of a manhole has never closed. Parliament has attempted, twice, to legislate the practice out of existence: first through the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (Act 46 of 1993), and then, once that statute proved largely ineffective, through the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (Act 25 of 2013) (referred to throughout this paper as "the 2013 Act" or "PEMSRA").

Each statute was accompanied, at the time of its passage, by genuine confidence that the practice would finally end; each has instead been followed by continuing, well-documented instances of workers entering sewers without protective equipment and dying of asphyxiation inside them.<sup>4</sup> The specific problem this paper investigates is why neither enactment has actually brought manual scavenging to an end. The 1993 Act approached the issue principally as one of urban sanitation infrastructure (in substance, a dry-latrine problem) and left its operation to the discretion of individual states acting under Article 252 of the Constitution, so that its practical reach depended entirely on state-level political will rather than on any national mandate. It said nothing at all about what should happen to displaced workers once dry latrines were removed. The 2013 Act corrected this framing in principle, describing the practice for what it is, an affront to human dignity rooted in caste, and widened its definitional net to capture insanitary latrines, open drains, pits and railway tracks, while adding, for the first time in Indian sanitation law, a dedicated chapter on rehabilitation.

Even so, municipal corporations, the Indian Railways and private sanitation contractors continue, as a matter of routine rather than exception, to send workers into unventilated manholes and septic tanks, frequently without so much as a safety rope, and workers continue to die of asphyxiation in numbers that official records

---

<sup>4</sup>See section 1.1 below, drawing on the records of the National Commission for Safai Karamcharis and the replies of the Ministry of Social Justice and Empowerment in Parliament.

persistently understate.<sup>5</sup> This continuity of harm across two statutes and more than thirty years is the central puzzle the study addresses: is the deficiency one of legislative drafting, or is it a deficiency of enforcement, administrative denial and contractual outsourcing that allows the state to keep its own hands technically clean while workers keep dying on its behalf? The chapters that follow work through this question by situating the practice in its social and constitutional context, comparing the two statutes provision by provision, and tracing how the judiciary has stepped in where the legislature and the executive have not.

The stakes of getting this diagnosis right are not merely academic. If the problem is primarily one of statutory drafting, the appropriate response is further legislative amendment: tightening definitions, closing exceptions, raising penalties. If, instead, the problem lies chiefly in administrative denial, contractual outsourcing and weak enforcement, then further amendment alone will accomplish comparatively little, and the more urgent task becomes building institutional mechanisms that make existing obligations actually enforceable against the specific officials and contractors who currently escape responsibility. This paper's position, developed across the chapters that follow and argued directly in Chapter VII, is that the second diagnosis fits the evidence considerably better than the first, though both forms of reform are ultimately necessary.

### **A. Official Data on Deaths and Identification**

The paper's second hypothesis, that official records understate the deaths which continue to occur, can be anchored in the Government's own figures. The National Commission for Safai Karamcharis had recorded 1,289 deaths during sewer and septic-tank cleaning since 1993 as on 31 December 2024, a figure reported in January 2025; the Ministry of Social Justice and Empowerment had placed the corresponding total at 1,248 in November 2024.<sup>6</sup> In Parliament, the Government reported 377 deaths

---

<sup>5</sup>Human Rights Watch, *Cleaning Human Waste: "Manual Scavenging," Caste, and Discrimination in India 1-4* (Aug. 25, 2014).

<sup>6</sup>National Commission for Safai Karamcharis, records of deaths during sewer and septic-tank cleaning since 1993 (1,289 deaths as on Dec. 31, 2024), reported Jan. 2025; the Ministry of Social Justice and Empowerment placed the corresponding total at 1,248 in Nov. 2024. Figures last verified Oct. 12, 2026.

in "hazardous cleaning" between 2019 and 2023, and, in July 2024, stated that 58,098 manual scavengers had been identified in the surveys of 2013 and 2018.

A later reply, of 5 August 2026, reported 498 deaths between 1 January 2019 and 30 June 2026, distributed as 132, 34, 62, 88, 65, 54, 47 and 16 across the years from 2019 to the first half of 2026. The entries for 2019 to 2023 in that later series total 381, against the 377 returned in July 2024; the two totals belong to different official series and cannot be reconciled as they stand. The same replies disclose the gap on which this paper's argument turns. While reporting deaths in the hazardous cleaning of sewers and septic tanks, the Government has also stated that no death due to "manual scavenging" has been reported, and that a fresh survey conducted in 2024-25 identified no manual scavengers at all, every district having declared itself free of the practice.<sup>7</sup>

These statements are possible together because the 2013 Act classifies work in sewers and septic tanks as "hazardous cleaning" under Section 2(1)(d), and not as "manual scavenging" under Section 2(1)(g). Official records can therefore show no deaths from manual scavenging, and indeed no manual scavengers at all, even as workers continue to die in the very work the statute was enacted to end, which is the pattern of administrative denial and undercounting that the second hypothesis predicts.

## **B. Research Design**

### **1. Objectives**

This study pursues five connected objectives:

- It seeks, first, to place manual scavenging within its sociological and constitutional context as an institution built on caste rather than as an ordinary occupational hazard that happens to be dangerous.
- Second, it compares the 1993 and 2013 statutes clause by clause to establish precisely what changed between them and what, despite the change in language, did not.

---

<sup>7</sup>Id.

- Third, it traces how constitutional courts have used Articles 14, 17, 21 and 23 to fill gaps that the legislature left open, particularly around compensation for sewer deaths and the liability of contracting bodies.
- Fourth, it tests India's domestic legal framework against its international commitments under the Universal Declaration of Human Rights, the ICESCR, the ILO conventions, CERD, CEDAW and the Sustainable Development Goals.
- Fifth, and finally, it proposes concrete legislative amendments and enforcement mechanisms capable of closing the loopholes identified in the course of the analysis.

## **2. Research Questions**

The inquiry is organised around five questions:

- How does caste hierarchy continue to reproduce this form of labour despite its formal constitutional and statutory prohibition?
- What precisely distinguishes the 1993 statute from the 2013 statute in terms of coverage, definitions and penal consequence, and where do the residual gaps between the two still lie?
- How has the judiciary intervened where legislative text and administrative practice have diverged, and with what practical effect?
- How far does Indian practice measure up against binding international labour and human-rights standards to which India is a party?
- And what combination of legal reform, technological substitution and rehabilitation policy could move sanitation work away from manual, contractor-dependent labour and toward mechanised systems owned and operated by the workers themselves?

## **3. Hypotheses**

Two propositions guide the analysis that follows:

- The first is that the 2013 Act represents a genuine improvement over its predecessor in both ambition and statutory reach, but that its own text (specifically, the definition of "hazardous cleaning" in Section 2(1)(d), under which cleaning performed with the prescribed protective gear and devices falls outside the prohibition in Section 7) keeps open a door the statute was ostensibly enacted to shut, so that the law as drafted still permits, in substance, some version of the very practice it claims to prohibit.
- The second is that the sewer deaths which continue to occur are better explained by administrative denial, systematic undercounting in official surveys, and the interposition of private contractors between the state and the worker, then by any remaining absence of constitutional or penal cover. In short: the text of the law is not, on this account, the primary obstacle to eradication; enforcement is.

#### **4. Methodology**

The paper adopts a doctrinal and comparative method. It works from primary legal material: the constitutional text, the 1993 and 2013 statutes, the Protection of Civil Rights Act, 1955, and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, read alongside the leading judgments of the Supreme Court and the High Courts on the subject.

It draws additionally on secondary material, including government committee reports, the earliest arising from a committee constituted in 1949, international treaty texts and ILO conventions, and the published research of scholars and civil-society organisations, most notably the Safai Karamchari Andolan, in order to build a fuller and more grounded picture of implementation. The statutory comparison in Chapter V is organised thematically (basis of enactment, definitional scope, treatment of sewers and septic tanks, rehabilitation, penalties, and institutional oversight) so that the shift from a sanitation-centred to a rights-centred legislative approach can be traced with precision.

The judicial material in Chapter VI is read qualitatively, tracking how successive decisions have built on one another, in order to assess how far court orders have actually translated into administrative compliance.

### C. Review Of Literature

Government inquiry into this subject substantially predates the two statutes examined in this paper. The Barve Committee, convened in Bombay in 1949, and the committee chaired by Prof. N.R. Malkani, which reported to the Ministry of Home Affairs in 1960, both identified the customary jajmani arrangement (under which particular families held a hereditary claim to clean the latrines of particular households, in exchange for token payment or leftover food rather than a wage) as the social mechanism binding scavenger castes to the occupation.<sup>8</sup>

The Malkani Committee went further still, tracing the immediate physical cause of the practice to the dry latrine itself and recommending that municipal authorities abandon head-loading in favour of mechanical collection wherever feasible.<sup>9</sup> Read together, these mid-century reports treated the problem chiefly as one of municipal sanitation and labour welfare rather than as untouchability operating under another name, a framing that later scholarship, and eventually the 2013 Act itself, would explicitly reject.<sup>10</sup>

B.N. Srivastava's study situates the practice squarely within ritual hierarchy, cataloguing the distinct regional sub-castes bound into scavenging by custom: Bhangis, Balmikis and Chuhras in the north; Hars and Helas in the east; and Madigas, Chachatis and Pakays in the south.<sup>11</sup> Sukhadeo Thorat's work on caste and labour markets demonstrates how this occupational segregation extends well beyond the job

---

<sup>8</sup>Government of Bombay, Report of the Scavengers' Living Conditions Enquiry Committee (1952) (committee constituted in 1949); Ministry of Home Affairs, Government of India, Report of the Scavenging Conditions Enquiry Committee (1960).

<sup>9</sup>Ministry of Home Affairs, Government of India, Report of the Scavenging Conditions Enquiry Committee 45 (1960).

<sup>10</sup>Government of Bombay, Report of the Scavengers' Living Conditions Enquiry Committee 12 (1952) (committee constituted in 1949).

<sup>11</sup>Srivastava, *supra* note 1, at 20-22.

itself, foreclosing the same families' access to credit, land ownership and independent enterprise across successive generations.<sup>12</sup>

Maya Suzuki's research into welfare policy documents the specific mechanism by which the trap perpetuates itself: poverty combined with institutional and social bias pushes the children of scavengers out of school early, leaving them with no realistic route out of their parents' occupation.<sup>13</sup> On the legal side, Aparajita Baruah's review of the 2013 Act credits it with recognising, for the first time in Indian statute, the link between manual scavenging and human dignity, while attributing the near-total failure of the 1993 Act to weak procedural design and an absence of political commitment at the state level.<sup>14</sup>

Human Rights Watch's 2014 report, *Cleaning Human Waste*, documents coercive practices (social boycott, threats and economic pressure) used by village panchayats and municipal bodies to keep Dalit workers performing this labour even after it had been formally outlawed.<sup>15</sup> The United Nations Committee on the Elimination of Racial Discrimination has taken the position, in its General Recommendation No. 29 on descent-based discrimination, that caste falls within the Convention's prohibition of discrimination based on descent.

India has consistently contested that reading in its periodic reporting, maintaining that caste cannot be equated with race or brought within "descent" for the purposes of Article 1, and the consequences of the disagreement for the scope of India's international obligation are examined in section 4.3 below rather than assumed here.<sup>16</sup> Finally, Darokar's critique of the Swachh Bharat Abhiyan argues that India's flagship

---

<sup>12</sup>Sukhadeo Thorat, *Dalits in India: Search for a Common Destiny* 33-34 (Sage Publ'ns 2009).

<sup>13</sup>Maya Suzuki, *Indian Government Strategy Against Caste Inequality: "Liberating" Untouchables in the Context of Welfare Schemes*, J. Pol. Sci. & Soc., No. 12, at 65, 68 (2010) (Global Center of Excellence, Center of Governance for Civil Society, Keio Univ.).

<sup>14</sup>Aparajita Baruah, *The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013: A Review*, 1 Space & Culture, India (No. 3) 9, 12 (2014), doi:10.20896/saci.v1i3.41.

<sup>15</sup>Human Rights Watch, *supra* note 4, at 2.

<sup>16</sup>U.N. Comm. on the Elimination of Racial Discrimination, General Recommendation No. 29 on Descent-Based Discrimination, U.N. Doc. A/57/18 (2002). For India's contrary position, see India, Combined Fifteenth to Nineteenth Periodic Reports to the Committee on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/IND/19, considered by the Committee in Feb.-Mar. 2007 (maintaining that caste cannot be equated with race or covered by "descent" under Article 1).

national sanitation programme has measured its own success almost entirely in the number of latrines constructed, with comparatively little institutional attention paid to the safety, dignity or rehabilitation of the workers who actually service that infrastructure once built.<sup>17</sup>

A joint assessment published by the World Bank together with the ILO, WaterAid and the World Health Organization situates the Indian experience within a broader global pattern, finding that sanitation workers in low- and middle-income countries generally lack legal recognition as an occupational category, are rarely covered by workplace safety regulation that applies to other hazardous trades, and are disproportionately drawn from socially marginalised groups even in contexts without a caste system as such, a comparative finding that helps distinguish what is specific to the Indian, caste-based version of the problem from what is a more general failure of labour regulation to reach informal and outsourced sanitation work everywhere.<sup>18</sup>

Taken as a whole, this body of literature establishes two things this paper takes as its starting point. The first is that manual scavenging cannot be understood, or effectively regulated, purely as a labour-safety issue separable from caste; every serious sociological account treats the caste dimension as primary rather than incidental. The second is that the existing legal and policy literature has, until relatively recently, paid closer attention to the adequacy of statutory text than to the question of why that text so rarely translates into changed administrative behaviour, a gap this paper's comparative and case-based method is specifically designed to address.

## **IV. CASTE, THE CONSTITUTION AND INTERNATIONAL LAW**

### **A. The Caste Roots of the Practice**

Classical texts describing the duties assigned to those placed outside caste society, including the *Naradiya Samhita*, list the handling of human waste among the

---

<sup>17</sup>S. Darokar, *Manual Scavengers: A Blind Spot in Urban Development Discourse*, 53 *Econ. & Pol. Wkly.* (No. 22) (June 2, 2018) (EPW Engage), <https://www.epw.in/engage/article/manual-scavengers-blind-spot-urban-development-discourse>.

<sup>18</sup>World Bank, ILO, WaterAid & WHO, *Health, Safety and Dignity of Sanitation Workers: An Initial Assessment* 6-9 (2019).

obligations imposed on slaves and outcastes, indicating that the association between this labour and social exclusion has a documented history stretching back well before the colonial period.<sup>19</sup> Wherever organised sanitation arrangements existed in the pre-colonial and early colonial periods, their upkeep was entrusted to hereditary scavenging communities rather than distributed as ordinary municipal labour open to all.<sup>20</sup>

Colonial administration entrenched, rather than dismantled, this arrangement. Instead of investing in underground water-carriage sewerage on the pattern then emerging in major European cities, colonial municipal boards installed dry bucket latrines across Indian towns and recruited fixed untouchable castes into formal municipal sanitation service, which had the effect of converting an existing social custom into a documented administrative category.<sup>21</sup> Over time this produced the *jajmani* relationship referenced above, a customary, quasi-contractual bond tying scavenging families to specific neighbourhoods and specific households, compensated not through wages in any conventional sense but through payment in kind or token cash.<sup>22</sup>

Two distinct forces keep the practice alive in the present day, and any successful legal response has to address both together. The first is social: Dalits assigned to this work are treated by caste-dominant communities as ritually impure, and that stigma attaches to the individual regardless of what other, cleaner work they might otherwise be capable of performing.

The second is economic: without land, without access to institutional credit, and without equal access to education, families historically locked into scavenging have had, in practice, nowhere else to go. A legal regime that addresses only the first of

---

<sup>19</sup>Bindeshwar Pathak, *Road to Freedom: A Sociological Study on the Abolition of Scavenging in India* 37-38 (Motilal Banarsidass 2000).

<sup>20</sup>Ministry of Home Affairs, Government of India, *Report of the Scavenging Conditions Enquiry Committee* 11-14 (1960); Srivastava, *supra* note 1, at 15-19.

<sup>21</sup>Shyamlal, *The Bhangi: A Sweeper Caste, Its Socio-Economic Portraits* 1 (Popular Prakashan 1992).

<sup>22</sup>Ministry of Home Affairs, Government of India, *Report of the Committee on Customary Rights to Scavenging* 28, 40 (1966).

these two forces (criminalising the act itself without simultaneously dismantling the economic dependency that produces it) tends, in practice, to push the work underground rather than end it, which is a large part of why formal prohibition since 1993 has not, on its own, been sufficient.

### **B. Constitutional Guarantees**

The Constitution supplies four overlapping guarantees of direct relevance. Article 14 guarantees equality before the law; Article 16(2) bars discrimination in public employment on grounds only of religion, race, caste, sex, descent, place of birth or residence, of which caste and descent are the operative grounds for this paper (the ground of "social origin" belongs to ILO Convention No. 111, discussed in section 4.3); Article 17 abolishes untouchability and forbids its practice in any form, providing that the enforcement of any disability arising out of it shall be an offence punishable in accordance with law, the penal consequence being supplied not by the Article itself but by legislation, namely the Protection of Civil Rights Act, 1955, enacted under Article 35;<sup>23</sup> and Article 21 has been read by the Supreme Court, across a long and consistent line of authority, to protect not bare existence but a life lived with dignity, a reading that necessarily extends to the conditions under which a person is made to work.

Article 23 separately prohibits traffic in human beings and other forms of forced labour, a provision whose interpretive reach the Supreme Court expanded significantly in the case discussed at the opening of Chapter VI below. Because the prohibition in Article 17 is framed in absolute terms, admitting of no qualification or exception of any kind, manual scavenging cannot be treated merely as a hazardous trade that happens to be dangerous in the way that, say, mining or construction work is dangerous.

Performed as it is almost exclusively by particular castes, it is untouchability practised through an occupation, and its imposition on any person on that basis amounts,

---

<sup>23</sup>The Constitution of India arts. 17, 35(a)(ii); The Protection of Civil Rights Act, No. 22 of 1955, India Code (1955).

without more, to a constitutional violation independent of whatever a labour or sanitation statute might separately provide. The Directive Principles of State Policy reinforce the same underlying commitment, albeit in terms that are not directly enforceable in court: Article 41 speaks to the right to work and to public assistance, Article 42 to just and humane conditions of work, Article 46 imposes a specific state obligation to protect Scheduled Castes from social injustice and exploitation, and Article 47 charges the state with the improvement of public health, an obligation that cannot sensibly be read to license the achievement of public sanitation at the direct cost of sanitation workers' own lives.<sup>24</sup>

### **C. The Penal Statutes: The Protection of Civil Rights Act, 1955 and the Act of 1989**

Two penal statutes carry the Article 17 argument from constitutional declaration into criminal liability, and the thesis of this paper depends upon both. Section 7A of the Protection of Civil Rights Act, 1955 provides that whoever compels any person, on the ground of untouchability, to do any scavenging or sweeping shall be deemed to have enforced a disability arising out of untouchability, an offence punishable with imprisonment of not less than three months and not more than six months together with a fine.<sup>25</sup>

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, as amended with effect from 2016, goes further: Section 3(1)(j) makes it an atrocity to make a member of a Scheduled Caste or a Scheduled Tribe do manual scavenging, or to employ or permit the employment of such a member for that purpose, while Section 3(1)(h) separately penalises compelling such a member to do begar or any other form of forced or bonded labour.<sup>26</sup> Read together with Article 17 and with the forced-labour reasoning examined in Chapter VI, these provisions already supply a direct statutory

---

<sup>24</sup>The Constitution of India arts. 41, 42, 46, 47.

<sup>25</sup>The Protection of Civil Rights Act, No. 22 of 1955, § 7A, India Code (1955).

<sup>26</sup>The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, §§ 3(1)(h), 3(1)(j), India Code (1989), as amended by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, No. 1 of 2016 (brought into force Jan. 26, 2016).

route to the criminal liability of the officials and contractors who authorise hazardous entry. The route is nevertheless little travelled.

Prosecutions under either Act against municipal officers or sanitation contractors remain rare, for the reasons set out at the opening of Chapter VI: a complaint, an investigating authority willing to act upon it and a prosecutor willing to proceed against the state's own officers must all coincide. That the penal provisions exist and are not used, while deaths continue, is itself evidence for the enforcement hypothesis rather than against it, and it is the deficiency that Recommendation 2 in Chapter VII is framed to address.

#### **D. International Human Rights and Labour Standards**

India's domestic constitutional obligations sit within a wider set of binding and persuasive international commitments. The Universal Declaration of Human Rights guarantees equal dignity and freedom to all persons under Article 1, security of person under Article 3, and just, favourable and coercion-free conditions of work under Article 23, each of which is implicated the moment a worker is sent into a toxic manhole under conditions of economic duress.<sup>27</sup>

The International Covenant on Economic, Social and Cultural Rights binds states parties, including India, to secure the right to freely chosen work and to safe and healthy working conditions under Articles 6 and 7, together with the right to the highest attainable standard of physical and mental health under Article 12.<sup>28</sup>

The instruments of the International Labour Organisation add further specificity to these general commitments. Convention No. 111 prohibits employment discrimination based on social origin, a category that has been read by international bodies to capture caste; Conventions No. 29 and No. 105, read together, prohibit labour exacted under threat of penalty, a description that fits the informal social and economic penalties which keep scavenging families bound to the work even in the

---

<sup>27</sup>Universal Declaration of Human Rights, G.A. Res. 217 (III) A, arts. 1, 3, 23 (Dec. 10, 1948).

<sup>28</sup>International Covenant on Economic, Social and Cultural Rights arts. 6-7, 12, Dec. 16, 1966, 993 U.N.T.S. 3.

absence of any formal legal compulsion; and Convention No. 182, which India ratified on 13 June 2017, includes among the worst forms of child labour, by Article 3(d), work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children, the particular types of such work being determined by national law or regulation after consultation under Article 4 and the guiding criteria being supplied by Recommendation No. 190, which names work in confined spaces and work exposing children to hazardous substances.<sup>29</sup>

In General Recommendation No. 29, the Committee on the Elimination of Racial Discrimination has interpreted Article 1 of the Convention to reach descent-based discrimination, including discrimination on the basis of caste. That interpretation is authoritative as the considered view of the treaty's monitoring body, but a General Recommendation is interpretive and not of itself binding, and India disputes it: in its combined fifteenth to nineteenth periodic reports, considered by the Committee in 2007, India maintained that caste cannot be equated with race or covered by "descent" under Article 1, the drafters not having had caste in contemplation. The disagreement governs the form of the argument rather than its outcome.

The claim that India is bound in respect of manual scavenging can be rested on the treaty text itself, read with the prohibition of discrimination on the ground of social origin in ILO Convention No. 111, to which India is a party, and need not rest on the General Recommendation alone. Because women disproportionately perform dry-latrines cleaning while men are more frequently sent into sewers and septic tanks, the practice also implicates Articles 11 and 14 of the Convention on the Elimination of All Forms of Discrimination Against Women, both of which require safe employment

---

<sup>29</sup>International Labour Organisation, Discrimination (Employment and Occupation) Convention (No. 111) art. 1, June 25, 1958, 362 U.N.T.S. 31; Forced Labour Convention (No. 29) art. 2, June 28, 1930, 39 U.N.T.S. 55; Abolition of Forced Labour Convention (No. 105), June 25, 1957, 320 U.N.T.S. 291; Worst Forms of Child Labour Convention (No. 182) arts. 3(d), 4, June 17, 1999, 2133 U.N.T.S. 161 (ratified by India June 13, 2017), read with International Labour Organisation, Worst Forms of Child Labour Recommendation (No. 190) para. 3 (1999).

conditions with particular attention to the position of rural and otherwise marginalised women.<sup>30</sup>

Finally, India's acceptance of the Sustainable Development Goals adds a contemporary policy dimension to these older treaty commitments: Target 8.8 of SDG 8 commits states to protect labour rights and to promote safe and secure working environments for all workers without distinction, while Target 6.2 of SDG 6 commits states to achieve adequate and equitable sanitation and hygiene for all, with specific and named attention to the needs of women, girls and other vulnerable populations, targets that, on the record traced through the remainder of this paper, India has formally accepted but has yet to satisfy in this particular sector.

## V. COMPARING THE 1993 AND 2013 STATUTES

The two statutes differ less in stated aspiration (both, after all, purport to end manual scavenging as a practice) than in their constitutional basis, the breadth of what they actually cover, and in what, if anything, is meant to happen to a worker once the practice is formally banned. The table below sets out the principal points of contrast before the discussion that follows examines each in turn.

| Point of Comparison  | 1993 Act                                                                                                                | 2013 Act                                                                                                                                                                                   |
|----------------------|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Constitutional route | Article 252; adopted on resolutions of six States: Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal | No source of power recited in the Act; competence inferred from Entries 23 and 24 of the Concurrent List; uniform, nationwide application. Articles 17 and 21 inform the Act's purpose and |

---

<sup>30</sup>Convention on the Elimination of All Forms of Discrimination Against Women arts. 11, 14, Dec. 18, 1979, 1249 U.N.T.S. 13.

|                                  |                                                                        |                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                  |                                                                        | construction, not its competence                                                                                                                                                                                                                                                                                                     |
| Central concern                  | Dry latrines and municipal sanitation infrastructure                   | Dignity and rehabilitation of the worker                                                                                                                                                                                                                                                                                             |
| Definition of "manual scavenger" | Confined to manual carrying of excreta from dry latrines               | Extended under Section 2(1)(g) to insanitary latrines, open drains, pits and railway tracks                                                                                                                                                                                                                                          |
| Sewers and septic tanks          | Not addressed at all                                                   | "Hazardous cleaning" regulated under Sections 2(1)(d), 7 and 9; the definition in Section 2(1)(d) turns on protective gear and other devices                                                                                                                                                                                         |
| Rehabilitation                   | No statutory mechanism                                                 | Chapter IV, Sections 11-16: cash assistance, training, housing, concessional loans                                                                                                                                                                                                                                                   |
| Penalties                        | Up to one year's imprisonment and a fine capped at ₹2,000 (Section 14) | Section 8 (employment as a manual scavenger; void contracts): up to one year, or fine up to ₹50,000, or both; subsequent offence up to two years, or fine up to ₹1,00,000, or both. Section 9 (hazardous cleaning): up to two years, or fine up to ₹2,00,000, or both; subsequent offence up to five years, or fine up to ₹5,00,000, |

|           |                                                                                                |                                                                                                                                                                                                                                                    |
|-----------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           |                                                                                                | or both. Offences cognizable and non-bailable (Section 22)                                                                                                                                                                                         |
| Oversight | National Commission for Safai Karamcharis, constituted separately under its own Act (advisory) | District and Sub-Divisional Vigilance Committees (Sections 24-25); State and Central Monitoring Committees (Sections 26, 29); powers and duties of local authorities and District Magistrates (Sections 18-19); Commission's function (Section 31) |

### A. Basis of Enactment

The 1993 Act was passed under Article 252 of the Constitution, a provision that allows Parliament to legislate on a subject otherwise within state competence only where two or more state legislatures have passed resolutions requesting it, and only those consenting states are then bound by the resulting law. In practical terms, this meant the 1993 Act's territorial reach depended entirely on which individual states chose to opt in, producing patchy, inconsistent coverage across the country rather than a uniform national standard. The six consenting States, named in the preamble to the Act, were Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal.<sup>31</sup>

The 2013 Act abandoned that route and applies uniformly throughout India from the outset, without any requirement of separate state consent, although the Act does not itself recite the source of the legislative power on which it rests. Public health and sanitation falls under Entry 6 of the State List, so the basis of competence for a central enactment is a matter of inference rather than of statutory declaration. The Legislative

---

<sup>31</sup>Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, No. 46 of 1993, preamble, India Code (1993).

Brief on the 2012 Bill suggested only that Parliament may rely on Entry 23 of the Concurrent List (employment and unemployment) and Entry 24 (welfare of labour, including conditions of work), the Bill being directed principally at employment in a hazardous occupation and at the protection of the weaker sections.<sup>32</sup> Articles 17 and 21 are guarantees of right, not entries in any legislative list, and cannot of themselves supply competence; what they supply is the Act's purpose and the standard by which its provisions are to be construed, which is a distinct matter.

### **B. Definitional Scope**

The 1993 Act's definition of "manual scavenger" was narrow by design: it covered only persons manually carrying human excreta away from dry latrines, and it said nothing whatsoever about sewers, septic tanks, open drains or railway tracks, precisely the sites where the overwhelming majority of contemporary worker deaths in fact occur. Section 2(1)(g) of the 2013 Act widens this considerably, reaching manual cleaning, carrying or handling of excreta from insanitary latrines, open drains, pits and railway tracks, and the Act separately defines and regulates "hazardous cleaning" of sewers and septic tanks under Sections 2(1)(d), 7 and 9, an entire category of dangerous work that the 1993 statute did not contemplate at all.<sup>33</sup>

### **C. Rehabilitation**

Perhaps the starkest contrast between the two Acts lies here. The 1993 Act contained no rehabilitation mechanism whatsoever, meaning a worker displaced by its enforcement had no statutory entitlement to alternative income, occupational training or housing support of any kind; enforcement, where it happened at all, could leave a family worse off rather than better. Chapter IV of the 2013 Act, comprising Sections 11 through 16, creates a structured package of cash assistance, skill training, housing support and concessional institutional loans, together with provision for the education of workers' children.

---

<sup>32</sup>Sakshi Balani, Legislative Brief: The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012, PRS Legislative Research (June 21, 2013).

<sup>33</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, § 2(1)(g) & § 7, India Code (2013).

Whether this statutory entitlement is honoured on the ground in practice is a separate question, taken up in the discussion of implementation that follows, but as a matter of legislative design, the 2013 Act treats rehabilitation as a legal right rather than a discretionary welfare gesture left to administrative goodwill.

The record of implementation is considerably thinner than the statutory design. The rehabilitation machinery depends first on identification, and identification depends on surveys: surveys of manual scavengers were conducted in 2013 and 2018, and the Government stated in July 2024 that 58,098 manual scavengers had been identified.<sup>34</sup> The benefits that the Act attaches to identification, namely one-time cash assistance and the other measures provided under Sections 13 and 16, are therefore only as extensive as the surveys that trigger them, and consolidated data on the benefits actually delivered under those sections is not available in the official sources consulted for this paper.<sup>35</sup>

The scheme through which rehabilitation is delivered has also changed. The earlier Self-Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) has been replaced by the National Action for Mechanised Sanitation Ecosystem (NAMASTE) scheme, framed for the period 2023-24 to 2025-26, which extends coverage to sewer and septic-tank workers and places mechanisation and safety at the centre of the programme.<sup>36</sup> Its stated implementation period has now ended, and its extension or replacement has not been confirmed in the sources consulted.

Section 33 of the Act, for its part, places a duty on the authorities to use modern technology in cleaning sewers and septic tanks. These implementation findings bear directly on Recommendations 3 and 5 in Chapter VII. The dependence of statutory benefits on identification surveys, and the movement of policy towards mechanisation under NAMASTE and Section 33, are the reasons why worker-owned mechanisation

---

<sup>34</sup>See *supra* note 6.

<sup>35</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, §§ 13, 16, 33, India Code (2013).

<sup>36</sup>Ministry of Social Justice and Empowerment, Government of India, National Action for Mechanised Sanitation Ecosystem (NAMASTE) scheme guidelines (2023-24 to 2025-26).

(Recommendation 3) and durable rehabilitation beyond one-time cash assistance (Recommendation 5) are proposed.

#### **D. Penalties and Institutional Oversight**

Under Section 14 of the 1993 Act, an offence carried a maximum of one year's imprisonment and a fine capped at a mere ₹2,000, modest even by the standards of the time, and, in practice, rarely enforced at all. The 2013 Act raises the stakes considerably: Section 8, which covers contravention of the prohibitions on employment as a manual scavenger and on contracts for such employment (Sections 5 and 6), prescribes imprisonment of up to one year, or a fine of up to ₹50,000, or both, rising on a subsequent offence to imprisonment of up to two years, or a fine of up to ₹1,00,000, or both.

Section 9, which covers hazardous cleaning of sewers and septic tanks in breach of Section 7, prescribes imprisonment of up to two years, or a fine of up to ₹2,00,000, or both, rising on a subsequent offence to imprisonment of up to five years, or a fine of up to ₹5,00,000, or both. Section 22 makes offences under the Act cognizable and non-bailable, which materially changes how the police are meant to respond when a violation is reported. The ceiling for a first offence under Section 9, two years, already exceeds anything in the 1993 Act, which strengthens the point that the 2013 Act represents genuine legislative progress.<sup>37</sup>

Institutional oversight has likewise been restructured. The National Commission for Safai Karamcharis, a separate body constituted on 12 August 1994 under its own statute, the National Commission for Safai Karamcharis Act, 1993 (Act 64 of 1993), and not under the 1993 manual scavenging Act, has functioned largely as an advisory and monitoring body without direct enforcement powers of its own. That Act lapsed on 29 February 2004, and the Commission now operates as a non-statutory body, with its tenure extended to 31 March 2028, a status that is consistent with the institutional

---

<sup>37</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, §§ 5-9, 22, India Code (2013).

weakness examined in Chapter VII. Under the 2013 framework the Commission's function is set out in Section 31.<sup>3839</sup>

The 2013 Act instead creates a multi-tier structure: district and sub-divisional Vigilance Committees (Sections 24 and 25) and separate State and Central Monitoring Committees (Sections 26 and 29). Section 18 enables the appropriate Government to confer powers and duties on local authorities and District Magistrates, and Section 19 sets out the District Magistrate's duty of implementation, a design intended to locate responsibility for enforcement in an identifiable official rather than diffuse it across multiple agencies, although the Act names no personal liability on the District Magistrate.<sup>40</sup>

### **E. The Surviving Loophole**

Notwithstanding this real progress, the 2013 Act preserves a significant escape route from its own prohibition. Section 7 prohibits any person, local authority or agency from engaging anyone in "hazardous cleaning" of a sewer or septic tank, and Section 9 penalises its breach. But the definition of "hazardous cleaning" in Section 2(1)(d) covers cleaning where the employer has not met its duties on protective gear and other devices, and the Rules framed under the Act prescribe those devices; cleaning by a worker equipped as prescribed therefore falls outside the prohibition. The explanation to Section 2(1)(g) separately governs who counts as a "manual scavenger" for the purposes of Sections 5 and 6.<sup>41</sup>

The practical effect is that a statute framed around eliminating the practice still permits, through the structure of its definition of hazardous cleaning, the entry of equipped workers into sewers and septic tanks, provided only that a municipal body or private contractor can point to the fact of having issued a safety kit regardless of

---

<sup>38</sup>National Commission for Safai Karamcharis Act, No. 64 of 1993, India Code (1993) (lapsed Feb. 29, 2004).

<sup>39</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, § 31, India Code (2013).

<sup>40</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, §§ 18-19, 24-26, 29, India Code (2013).

<sup>41</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, §§ 2(1)(d), 2(1)(g), 7, 9, India Code (2013).

whether that equipment is adequate, properly maintained, or actually used. This permission sits uneasily beside the absolute character of Article 17 discussed in Chapter IV, since a constitutional guarantee framed without exception is difficult to reconcile with a statutory permission framed with one.

Section 33, which places a duty on the authorities to use modern technology, points in the same direction, but it frames the move away from manual entry as a duty to adopt technology rather than as an unqualified bar on entry. The Supreme Court has since pressed beyond the statutory text, though its direction carries limits of its own. The first of the directions in *Balram Singh* (2023), at paragraph 96(1), requires the Union to frame policies and issue directions so that manual sewer cleaning is completely eradicated in a phased manner, and so that sewer cleaning work outsourced to, or discharged through, contractors or agencies does not require individuals to enter sewers "for any purpose whatsoever".

The Court recorded elsewhere, at paragraph 82, that hazardous cleaning is permitted where protective gear and cleaning devices are provided, and it accepted, at paragraph 85, that the safeguards in the Rules make clear that a person must not enter a sewer or septic tank "except under exceptional situations"; it did not read that statutory permission down.<sup>42</sup> The direction is therefore phased in operation, addressed in terms to outsourced work, and framed against a residual category of exceptional entry, and the NAMASTE action plan proposes widening Section 2(1)(d).<sup>43</sup>

The better view is accordingly not that the direction overrides the statutory permission, but that it narrows that permission in practice while leaving it intact in the text, so that the gear-based exception survives whatever change in administrative behaviour the direction produces. The orders made subsequently in that proceeding, considered in section 6.5 below, confirm that reading. This paper's position, developed further in Chapter VII, is that Section 2(1)(d) should be amended, and the Rules

---

<sup>42</sup>*Balram Singh v. Union of India*, 2023 INSC 950, ¶¶ 82, 84-86, 96(1) (India).

<sup>43</sup>See *supra* note 36.

conformed to it, so that the gear-based permission is removed altogether rather than merely tightened or better regulated.

## VI. JUDICIAL RESPONSE – A CASE ANALYSIS

Because legislative text and administrative practice have diverged so persistently on this subject, constitutional courts have had to do a great deal of work that Parliament and the executive left undone. This chapter traces that judicial history through four decisions which, read together, chart a shift from treating manual scavenging as an ordinary labour dispute toward treating it as an ongoing constitutional wrong demanding structural, supervised remedy. Each decision is examined for its facts, its reasoning, and, as far as the subsequent record allows, the extent to which its directions were actually carried out, since the gap between a favourable judgment and a completed remedy is itself part of what this paper is trying to explain.

It is worth noting at the outset why courts, rather than the ordinary machinery of prosecution under the 1993 or 2013 Acts, have become the principal instrument of enforcement in this area. Criminal prosecution under both statutes requires a complaint, an investigating authority willing to act on it, and a state prosecutorial apparatus willing to proceed against officials of its own government or against contractors operating under government licence, a chain of institutional willingness that has, in practice, very rarely held together. Public interest litigation, by contrast, allows affected workers and the organisations that represent them to bypass that chain entirely and to place the matter directly before a constitutional court, which can then use the tools discussed below (continuing supervision, escalating compensation and specific, dated directions) to achieve indirectly what ordinary prosecution has failed to achieve directly.

### **A. People's Union for Democratic Rights v. Union of India (1982)**

Although decided more than a decade before either of the two statutes examined in this paper, PUDR remains the doctrinal foundation for much of what follows, because it settled the meaning of "forced labour" under Article 23 of the Constitution. The petitioners in that case argued that workers engaged on construction projects connected to the 1982 Asian Games in Delhi were being paid below the statutory

minimum wage, and that this underpayment amounted to labour extracted under compulsion.

Writing for the Court, Justice Bhagwati held that "force" within the meaning of Article 23 is not confined to physical coercion; it extends equally to economic compulsion of a kind that leaves a person with no genuine choice but to accept exploitative terms of work. Labour supplied for payment below the legal minimum wage was accordingly held to constitute "forced labour" within Article 23, regardless of whether the worker could formally be said to have volunteered for the job.<sup>44</sup>

The relevance of this holding to manual scavenging is direct, even though PUDR itself did not concern sanitation work. Where a Dalit family accepts scavenging work because generations of exclusion from land, credit and education have left it with no realistic alternative, the "voluntariness" of that acceptance is illusory in precisely the sense PUDR describes.

This reading has since become the doctrinal bridge by which later courts treat manual scavengers as victims of forced labour under Article 23 independently of whatever a sanitation-specific statute separately provides, a point the courts discussed below appear to treat as settled rather than argue afresh from first principles. PUDR is also significant for a second, more institutional reason: it was among the decisions that helped establish public interest litigation itself as a recognised procedural route by which persons other than the immediate victim (social action groups, trade unions, concerned citizens) could invoke the Supreme Court's writ jurisdiction on behalf of workers who, realistically, could never have litigated the matter themselves.

The later decisions discussed in this chapter show that this standing opened the Court to organisations and public-spirited individuals alike, though by different routes. The Delhi Jal Board case reached the Supreme Court as a civil appeal (No. 5322 of 2011) by the Board against a decision of a Division Bench of the Delhi High Court in a public interest petition filed in 2007 for sewerage workers; Safai Karamchari Andolan was an

---

<sup>44</sup>People's Union for Democratic Rights v. Union of India, (1982) 3 S.C.C. 235, AIR 1982 SC 1473, 1485-86 (India).

organisation's writ petition; and Balram Singh (W.P.(C) 324/2020) was filed under Article 32 by an individual petitioner, Dr. Balram Singh. Public interest standing of the kind PUDR helped entrench made it considerably easier for such proceedings to be brought on behalf of workers who could rarely have litigated on their own.

**B. Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers (2011)**

This case arose from a public interest petition, filed in the Delhi High Court in 2007 on behalf of sewerage workers and reaching the Supreme Court as the Board's appeal (Civil Appeal No. 5322 of 2011), documenting the deaths of sewage workers employed, whether directly or through intermediary contractors, by the Delhi Jal Board, who were repeatedly sent into manholes without protective equipment, adequate training or any meaningful emergency backup arrangement.

The Board raised threshold objections of a different character: that the High Court had exceeded its jurisdiction under Article 226 in entertaining the petition and had usurped the legislative function, that the court could not alter the terms of the Board's contract with its contractor, and that the contract made the contractor, and not the Board, responsible for supplying safety equipment to the workers.

The Supreme Court rejected that objection and proceeded to hold the Board, together with its contracting agencies, accountable for what it described as institutional indifference toward the lives of workers who, on account of extreme poverty, had no meaningful bargaining power to refuse hazardous assignments.<sup>45</sup> The Court's reasoning is significant for two distinct reasons.

First, it declined to treat the presence of a private contractor standing between the Board and the individual worker as a shield against constitutional scrutiny, an important precedent given how much of the contemporary sanitation sector now operates through exactly this kind of outsourcing arrangement.

---

<sup>45</sup>Delhi Jal Board v. Nat'l Campaign for Dignity & Rts. of Sewerage & Allied Workers, (2011) 8 S.C.C. 568, ¶¶ 10, 20, 24-27, 30-34 (India) (Civil Appeal No. 5322 of 2011, decided July 12, 2011) (Singhvi and Ganguly JJ.).

Second, the reasoning rests on Article 21, read as the right to live with dignity, Article 14 appearing in the Court's account of Vishaka rather than as a ground of decision; the routine, unprotected entry of workers into sewers was treated as itself a continuing violation of that right, and not merely as a breach of ordinary labour or occupational safety regulation. Drawing on Vishaka and Vineet Narain to locate its own authority under Article 32 read with Article 142, the Court dismissed the appeal and enhanced the compensation payable to approximately ₹5,00,000 for each victim, directing the Board to pay a further ₹3,29,000 over the ₹1,71,000 already paid, while holding that the Board was entitled to recover the additional amount from the contractor.

It required compliance reports within two months, held that the Municipal Corporation of Delhi and the New Delhi Municipal Council must submit similar reports, and left the remaining directions of the High Court to that court's continuing supervision. It stopped short, however, of the nationwide, structural directions that would follow three years later in *Safai Karamchari Andolan*.

The case is also a useful marker of how far administrative practice had not moved even by 2011, nearly two decades after the 1993 Act came into force. The record before the Court showed the body of a worker who had died in a sewer being retrieved with the help of ropes and cranes, and a survey finding that none of the workers had been trained to render first aid in the event of a mishap, precisely the pattern of unprotected entry that both the 1993 Act and, later, the 2013 Act were meant to have eliminated.

That the Delhi Jal Board, an instrumentality of the state operating in the national capital and subject to a comparatively high level of public and media scrutiny, could still be found operating in this manner as late as 2011 supports this paper's broader contention that the deficiency lies substantially in enforcement rather than in statutory text, since the relevant prohibitions were already on the books well before the litigation began.

### **C. *Safai Karamchari Andolan v. Union of India* (2014)**

This decision is, on any account, the one most responsible for translating the still-new 2013 Act from statutory text into enforceable practice on the ground. The *Safai Karamchari Andolan*, a civil-society organisation working directly with sanitation

workers across several states, had petitioned the Court years earlier; by the time the matter reached final hearing before a bench led by Chief Justice P. Sathasivam, the 2013 Act had already come into force, and the Court used the occasion to give that statute genuine operative content.

The judgment accomplishes three things of lasting importance. First, it reaffirms, in terms going beyond anything said explicitly in earlier decisions, that manual scavenging is untouchability practised through labour and is accordingly a direct violation of Article 17 in its own right, not merely a matter regulated incidentally by ordinary labour statute, but a distinct constitutional wrong.<sup>46</sup>

Second, the judgment treats continuing state inaction (failing to identify manual scavengers who remain in the occupation, failing to rehabilitate those already identified, and failing to prosecute those who continue to employ them) as itself an ongoing breach of constitutional obligation, rather than as a historical wrong the state has simply not yet finished remedying at its own convenient pace.

Third, and most concretely, the Court issued specific, time-bound directions: states and union territories were directed to identify the families of every worker who had died during sewer or septic-tank work since 1993 and to pay each such family compensation of ₹10,00,000; the Indian Railways was directed to mechanise track-side cleaning within a fixed period; entry into a sewer without protective gear was to be treated as a punishable offence even where undertaken in a claimed emergency; and, under paragraph 14(ii)(d), livelihood support was directed for safai karamchari women "in accordance with their choice".<sup>47</sup>

The significance of Safai Karamchari Andolan lies less in any single individual direction than in its overall method: rather than declaring the 2013 Act adequate on its face and leaving implementation entirely to the executive, the Court issued final directions, namely retrospective compensation, a nationwide identification exercise

---

<sup>46</sup>Safai Karamchari Andolan v. Union of India, (2014) 11 S.C.C. 224, 229-30 (India) (W.P.(C) No. 583 of 2003).

<sup>47</sup>Id. at 230-32 (the direction on livelihood support for safai karamchari women is at ¶ 14(ii)(d)).

and sector-specific mechanisation deadlines, as concrete tools to force a degree of compliance that ordinary criminal prosecution under the 2013 Act had, up to that point, conspicuously failed to achieve.

It did so while holding that further monitoring was unnecessary because the 2013 Act "occupies the entire field", and it disposed of the writ petition, leaving implementation to the states. The Court's withdrawal from monitoring preceded years of non-compliance that Balram Singh would later record, which supports this paper's enforcement thesis.<sup>48</sup>

The retrospective sweep of the compensation direction deserves particular attention. By requiring states to identify and compensate the families of every worker who had died in sewer or septic-tank work since 1993, rather than only those who died after the judgment itself, the Court effectively treated the intervening two decades of non-enforcement as a continuing wrong for which the state remained answerable, rather than as a closed chapter that the 2013 Act had superseded.

This retrospective framing is doctrinally significant because it forecloses an argument the state might otherwise have made: that liability for pre-2013 deaths had lapsed along with the narrower 1993 statute under which those deaths occurred. The Court's approach instead treats Article 17 itself, rather than either statute, as the continuing source of the state's obligation, which is part of why the judgment reads as an assertion of constitutional wrong rather than as an interpretation of any one piece of legislation.

#### **D. Balram Singh v. Union of India (2023)**

Nearly a decade after *Safai Karamchari Andolan*, the Supreme Court took up a separate petition on the same subject, W.P.(C) 324/2020, decided on 20 October 2023 by Justices S. Ravindra Bhat and Aravind Kumar, and the tone of its judgment in *Balram Singh* reflects evident and explicit frustration that its earlier directions had gone substantially unimplemented in the intervening years. The Court took judicial notice of continuing sewer deaths, incomplete mechanisation of railway track

---

<sup>48</sup>Id. ¶¶ 15-16.

cleaning, and identification surveys that persistently undercounted the true number of manual scavengers still working, an enforcement gap that corresponds closely to the second hypothesis this paper advances in Chapter II.<sup>49</sup>

The Court's principal intervention on this occasion was financial: it raised the mandatory compensation payable for a sewer-related death from ₹10 lakh, the figure fixed in 2014, to ₹30 lakh, and for the first time established a compensation floor of ₹20 lakh for workers who survive a sewer-cleaning accident with permanent disability, with ₹10 lakh for lesser disabilities.<sup>50</sup> Beyond compensation, the Court reiterated its earlier demand for genuine, verified mechanisation across municipal and railway sanitation work, and renewed pressure on state governments to conduct honest, independently verifiable identification surveys rather than administratively convenient undercounts that make the problem appear smaller, and therefore more manageable, than it actually is.

In all, the Court issued 14 directions, and it found that the earlier directions had not been implemented. Beyond compensation, it ordered a national survey by the National Commission for Safai Karamcharis together with the National Commissions for Scheduled Castes and Scheduled Tribes; a model contract providing for cancellation and blacklisting of contractors after mishaps; a monitoring dashboard; state and district committees; and scholarships for the dependents of workers.

Balram Singh is, in an important sense, an audit as much as a new judgment: the Court found that the directions of Safai Karamchari Andolan had not been implemented and asked, in effect, why they had not produced the result they were meant to produce nearly a decade on. On compensation it did not develop fresh doctrine but raised the quantum of an existing remedy, while its other directions add institutional machinery to the earlier orders. That postures a constitutional court auditing compliance with the directions of an earlier decision is itself informative. It suggests that, by 2023, the legal question of what the state was obliged to do had long since been settled, and the only

---

<sup>49</sup>Balram Singh v. Union of India, 2023 INSC 950, 2023 SCC OnLine SC 1386, ¶¶ 14-18 (India) (W.P.(C) No. 324 of 2020).

<sup>50</sup>Id.

live question remaining before the Court was the practical one of why the state had not done it.

### **E. The Doctrine of Continuing Mandamus**

Continuing mandamus is the technique by which a court does not simply decide a case and close the file, but retains the matter before it, sometimes for years, issuing successive directions, calling for compliance reports, and returning to the same file when those reports show the earlier order has not been obeyed; its doctrinal authority in Indian public law runs through the Vineet Narain line of cases.<sup>51</sup>

Of the decisions discussed in this chapter, it accurately describes one proceeding, the Balram Singh petition, after its 2023 judgment. The others are separate proceedings: Delhi Jal Board was an appeal from a High Court public interest petition, Safai Karamchari Andolan was disposed of in 2014 as a one-time disposal with final directions, and Balram Singh began only in 2020. This technique is particularly well suited to a problem like manual scavenging, where the underlying wrong is not a single, discrete event capable of being remedied once and for all, but a continuing pattern of administrative failure spread across thousands of municipal bodies, none of which any single order can fully reach in one sitting.

The technique has real advantages: it keeps the issue formally alive before the highest court in the country, gives petitioner organisations like the Safai Karamchari Andolan a standing forum in which to report continuing violations without having to file an entirely fresh case each time, and allows the Court to escalate its response, as it plainly did on compensation between 2014 and 2023, when an earlier, more modest order proves insufficient. The post-2023 record in Balram Singh shows both retained supervision and escalation.

On 11 December 2024 a bench of Justices Sudhanshu Dhulia and Aravind Kumar recorded that most of the directions of 20 October 2023 had not been complied with, called for a compliance affidavit from the Union on each direction, state by state, listed

---

<sup>51</sup>Vineet Narain v. Union of India, (1998) 1 S.C.C. 226 (India).

the matter for 29 January 2025, and warned that it might begin contempt proceedings for wilful disobedience. On 29 January 2025 the same bench ordered that manual scavenging and manual sewer cleaning be stopped in all the principal metropolitan cities, naming Delhi, Mumbai, Kolkata, Chennai, Bengaluru and Hyderabad, and directed the chief executive officer, or an officer of equivalent designation, of each city to file an affidavit by 13 February 2025 explaining how and when the practice would end.

The Union had told the Court that the practice was absent from 456 of the country's 775 districts, a claim the *amicus curiae* questioned because several districts had not constituted the committees the Act requires and others had reported data gathered before those committees existed. The order bears directly on the "no entry" question examined in section 5.5 above, but its scope has since been narrowed at the Union's instance: on 20 January 2026 the Court modified it to delete the words "and manual sewer cleaning", the affidavit on which it had proceeded having related only to a survey of manual scavengers.

What survives is a direction addressed to manual scavenging in those six cities, not a judicial prohibition of manual sewer cleaning capable of displacing the gear-based permission in Section 2(1)(d).<sup>52</sup> On 27 July 2026 it issued show-cause notices to the Chief Secretaries of 15 States, directing each to file an affidavit within four weeks explaining why contempt proceedings should not be initiated.<sup>53</sup>

Its limitation is equally real: continuing mandamus depends on the executive's eventual compliance for its ultimate effect, and a court can only ask so many times before the exercise starts to look less like supervision and more like an acknowledgment that supervision itself has reached the limit of what litigation can achieve. That the Balram Singh bench has moved from compliance reports towards

---

<sup>52</sup>Dr. Balram Singh v. Union of India, W.P.(C) No. 324 of 2020 (India), order of Dec. 11, 2024 (Dhulia and Aravind Kumar JJ.).

<sup>53</sup>*Id.*, order of July 27, 2026.

contempt notices suggests that this limit is now being tested within the proceeding itself.

Enforcement has not, however, been confined to the Supreme Court. In *Shramik Janata Sangh v. State of Maharashtra* the Bombay High Court, applying *Balram Singh*, struck down as violative of Article 14 the clause in the State's resolutions relieving the State and its local authorities of the obligation to compensate sanitation workers engaged at private sites, and directed the State to identify within six months every person who had died during hazardous cleaning and to pay ₹30,00,000 to the dependants of each, recoverable thereafter from the establishment for which the deceased had worked.<sup>54</sup>

That decision illustrates enforcement by constitutional courts other than the Supreme Court, and the practical difference that the allocation of liability between the state and the private employer makes to a deceased worker's dependants.

#### **F. Reading the Four Cases Together**

Two patterns emerge clearly from this line of authority when the four decisions are read as a single, developing body of jurisprudence rather than as isolated rulings. The first is a steady broadening of constitutional characterisation: from an economic-compulsion reading of Article 23 in *PUDR*, through an Article 21 dignity-and-safety framing in *Delhi Jal Board*, to an explicit Article 17 untouchability framing in *Safai Karamchari Andolan*, each successive case treating manual scavenging as a graver and more direct constitutional wrong than the case immediately before it had done.

The second pattern is the Court's repeated and escalating resort to monetary compensation as its principal lever of enforcement, tripling the relevant figure across a single decade, precisely because criminal prosecution under both the 1993 and the 2013 Acts has in practice been used so rarely against the officials and contractors actually responsible.

---

<sup>54</sup>*Shramik Janata Sangh v. State of Maharashtra*, W.P. No. 1570 of 2023 (Bom. H.C. 2026) (Dangre and Deshpande JJ.) (reported Sept. 2026).

That pattern lends direct support to this paper's second hypothesis: the courts do not appear to have found the underlying constitutional or statutory text wanting so much as they have found the state's institutional willingness to enforce that text wanting, and each successive judgment functions less as the announcement of new doctrine than as a renewed and increasingly pointed attempt to compel compliance with doctrine that had, in truth, already been settled a decade earlier.

## **VII. FINDINGS, RECOMMENDATIONS AND CONCLUSION**

### **A. Findings**

The comparative and judicial analysis set out above supports both hypotheses advanced in Chapter II. The 2013 Act is, on its face, a substantially more serious piece of legislation than its predecessor: broader in definition, backed by meaningfully higher penalties, and, for the first time, coupled with a genuine statutory rehabilitation entitlement rather than mere prohibition. Yet the protective-gear condition embedded in the definition of "hazardous cleaning" in Section 2(1)(d), and in the Rules framed under it, keeps open exactly the practice the Act otherwise exists to end, and four successive rounds of Supreme Court intervention suggest that even those provisions containing no such built-in loophole have gone substantially unenforced at the state and municipal level.

Sewer deaths have continued to occur after 2013 at a pace that judicial intervention running from Delhi Jal Board through Safai Karamchari Andolan to Balram Singh has not, on the available record, been able to halt. This persistence points toward administrative denial, systematic undercounting and contractual outsourcing, rather than toward any remaining gap in the constitutional or statutory text itself, as the primary obstacle standing between the law as written and manual scavenging as a practice that has genuinely ended.

### **B. Recommendations**

Six changes, taken together, would address the principal gaps identified in this study. First, Parliament should amend Section 2(1)(d) of the 2013 Act, and the Rules framed under it should be conformed, so as to remove altogether the protective-gear

condition on which the permission for human entry into sewers and septic tanks rests, leaving Sections 7 and 9 to operate as the prohibition and its penalty without qualification, so that human entry into a sewer or septic tank is prohibited without qualification of any kind, and mechanised, non-man-entry cleaning becomes the sole lawful method of clearing such infrastructure.

Second, the law should impose direct and vicarious criminal liability on the specific municipal officials and private contractors who authorise hazardous entry, closing the accountability gap that outsourcing currently creates, and ensuring that violations are treated as cognizable and non-bailable in day-to-day practice and not merely on the face of the statute.<sup>55</sup>

Third, the state should scale up worker-owned mechanisation on the model already piloted by the Hyderabad Metropolitan Water Supply and Sewerage Board's mini-jetting programme, using concessional finance from the National Safai Karamcharis Finance and Development Corporation to help former manual scavengers acquire and independently operate jetting machines and robotic cleaning equipment, rather than remaining wage labourers within essentially the same hazardous system under a different job title.<sup>56</sup>

Fourth, identification surveys should be taken out of municipal hands and conducted independently, with civil-society organisations and worker representatives involved directly in the process, since self-reporting by the very bodies responsible for enforcement has repeatedly produced systematically low counts that understate the scale of the problem they are meant to measure.

---

<sup>55</sup>The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, §§ 8-9, 22-23, India Code (2013); Balram Singh, *supra* note 42, ¶ 96. See also World Bank, ILO, WaterAid & WHO, *supra* note 18.

<sup>56</sup>On the Hyderabad programme, see the launch of 70 mini sewer-jetting machines by the Government of Telangana on June 5, 2017, the machines being maintained by the Hyderabad Metropolitan Water Supply and Sewerage Board; Housing and Urban Development Corporation, HUDCO Best Practice Awards 2018-19; and Ayesha Minhaz, *Three Years After Hyderabad Got Machines to End Manual Scavenging, Sickness and Degradation Endure* (Apr. 20, 2021), <https://scroll.in/article/992666> See also World Bank, ILO, WaterAid & WHO, *supra* note 18, at 22.

Fifth, rehabilitation policy should move beyond one-time cash payments toward more durable alternatives: secure land titles, guaranteed public employment outside the sanitation sector, health insurance covering occupational exposure to toxic gases, and assured education for workers' children, so that the intergenerational cycle traced in Chapter IV does not simply continue in a new form under a different administrative label.

Sixth, municipal authorities should be actively encouraged to formalise sanitation workers into registered, self-governing cooperatives on the public-community partnership model that has been applied to decentralised municipal waste management in India, which gives workers genuine collective bargaining power and removes the layer of intermediary contractors that currently insulates municipal bodies from direct responsibility for what happens on their own infrastructure.

### **C. Conclusion**

Manual scavenging persists in India not because the Constitution or the statute book is silent on the subject, but because caste hierarchy has, to date, proved more durable than the legal instruments deployed against it. The move from the 1993 Act's narrow, sanitation-centred approach to the 2013 Act's rights-based framework marks real and measurable progress, and the Supreme Court's sustained interventions in *Safai Karamchari Andolan* and *Balram Singh* have kept the issue before the state in a way that ordinary legislative or administrative processes have not managed to do on their own.

But progress recorded on paper has not yet translated into an end to workers dying in manholes, and it is unlikely to do so for as long as the gear-based condition in the statutory definition of hazardous cleaning continues to permit hazardous entry, for as long as contracting arrangements allow municipal bodies to avoid direct responsibility for what happens on infrastructure they legally control, and for as long as identification surveys continue to undercount the true scale of the problem they exist to measure. Closing those three specific gaps rather than issuing further declarations of legislative or judicial intent is what genuinely stands between the law as it is currently written and manual scavenging as a practice that has, in fact, ended.

## VIII. BIBLIOGRAPHY

### A. Statutes

1. The Constitution of India.
2. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, No. 46 of 1993, India Code (1993).
3. National Commission for Safai Karamcharis Act, No. 64 of 1993, India Code (1993).
4. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, No. 25 of 2013, India Code (2013).
5. The Protection of Civil Rights Act, No. 22 of 1955, India Code (1955).
6. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, India Code (1989).
7. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, No. 1 of 2016, India Code (2016).

### B. Cases

1. Balram Singh v. Union of India, 2023 INSC 950, 2023 SCC OnLine SC 1386 (India).
2. Delhi Jal Board v. Nat'l Campaign for Dignity & Rts. of Sewerage & Allied Workers, (2011) 8 S.C.C. 568 (India).
3. People's Union for Democratic Rights v. Union of India, (1982) 3 S.C.C. 235, AIR 1982 SC 1473 (India).
4. Safai Karamchari Andolan v. Union of India, (2014) 11 S.C.C. 224 (India).
5. Shramik Janata Sangh v. State of Maharashtra, W.P. No. 1570 of 2023 (Bom. H.C. 2026) (India).
6. Vineet Narain v. Union of India, (1998) 1 S.C.C. 226 (India).
7. Vishaka v. State of Rajasthan, (1997) 6 S.C.C. 241 (India).

### **C. Committee and Other Reports**

1. Government of Bombay, Report of the Scavengers' Living Conditions Enquiry Committee (1952).
2. Housing and Urban Development Corporation, HUDCO Best Practice Awards 2018-19 (recognising the Mini Sewer Jetting Vehicles of the Hyderabad Metropolitan Water Supply and Sewerage Board).
3. Human Rights Watch, Cleaning Human Waste: "Manual Scavenging," Caste, and Discrimination in India (Aug. 25, 2014).
4. India, Combined Fifteenth to Nineteenth Periodic Reports to the Committee on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/IND/19 (considered Feb.-Mar. 2007).
5. Ministry of Home Affairs, Government of India, Report of the Committee on Customary Rights to Scavenging (1966).
6. Ministry of Home Affairs, Government of India, Report of the Scavenging Conditions Enquiry Committee (1960).
7. Ministry of Social Justice and Empowerment, Government of India, National Action for Mechanised Sanitation Ecosystem (NAMASTE) scheme guidelines (2023-24 to 2025-26).
8. Ministry of Social Justice and Empowerment, Government of India, written reply in the Rajya Sabha (July 31, 2024); written reply in the Lok Sabha (July 21, 2026), Press Information Bureau Release No. 2287317; and written reply in the Lok Sabha (Aug. 5, 2026).
9. National Commission for Safai Karamcharis, records of deaths during sewer and septic-tank cleaning since 1993 (as on Dec. 31, 2024).
10. Sakshi Balani, Legislative Brief: The Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012, PRS Legislative Research (June 21, 2013).

11. World Bank, ILO, WaterAid & WHO, Health, Safety and Dignity of Sanitation Workers: An Initial Assessment (2019).

#### **D. Books**

1. B.N. Srivastava, *Manual Scavenging in India: A Disgrace to the Country* (Concept Publishing Co. 1997).
2. Bindeshwar Pathak, *Road to Freedom: A Sociological Study on the Abolition of Scavenging in India* (Motilal Banarsidass 2000).
3. Shyamlal, *The Bhangi: A Sweeper Caste, Its Socio-Economic Portraits* (Popular Prakashan 1992).
4. Sukhadeo Thorat, *Dalits in India: Search for a Common Destiny* (Sage Publications 2009).

#### **E. Articles**

1. Aparajita Baruah, *The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013: A Review*, 1 *Space & Culture, India* (No. 3) 9 (2014), doi:10.20896/saci.v1i3.41.
2. Ayesha Minhaz, *Three Years After Hyderabad Got Machines to End Manual Scavenging, Sickness and Degradation Endure*, Scroll.in (Apr. 20, 2021), <https://scroll.in/article/992666>.
3. Maya Suzuki, *Indian Government Strategy Against Caste Inequality: "Liberating" Untouchables in the Context of Welfare Schemes*, *J. Pol. Sci. & Soc.*, No. 12, at 65 (2010).
4. S. Darokar, *Manual Scavengers: A Blind Spot in Urban Development Discourse*, 53 *Econ. & Pol. Wkly.* (No. 22) (June 2, 2018) (EPW Engage), <https://www.epw.in/engage/article/manual-scavengers-blind-spot-urban-development-discourse>.

#### **F. International Instruments**

1. *Convention on the Elimination of All Forms of Discrimination Against Women*, Dec. 18, 1979, 1249 U.N.T.S. 13.

2. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.
3. International Labour Organisation, Abolition of Forced Labour Convention (No. 105), June 25, 1957, 320 U.N.T.S. 291.
4. International Labour Organisation, Discrimination (Employment and Occupation) Convention (No. 111), June 25, 1958, 362 U.N.T.S. 31.
5. International Labour Organisation, Forced Labour Convention (No. 29), June 28, 1930, 39 U.N.T.S. 55.
6. International Labour Organisation, Worst Forms of Child Labour Convention (No. 182), June 17, 1999, 2133 U.N.T.S. 161.
7. International Labour Organisation, Worst Forms of Child Labour Recommendation (No. 190) (1999).
8. U.N. Comm. on the Elimination of Racial Discrimination, General Recommendation No. 29 on Descent-Based Discrimination, U.N. Doc. A/57/18 (2002).
9. Universal Declaration of Human Rights, G.A. Res. 217 (III) A (Dec. 10, 1948).