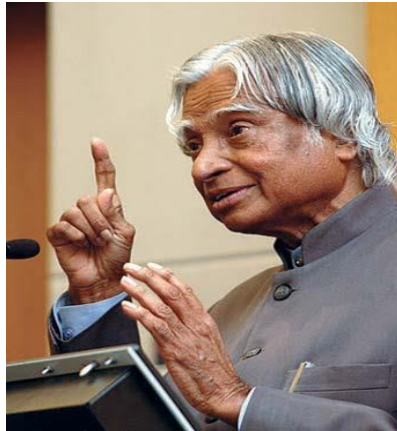


MANUAL SCAVENGING – UNRESOLVED PROBLEM IN INDIA



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“When it comes Human Dignity, we cannot make Compromises.”

-Angela Merkel

INTRODUCTION

Manual Scavenging is the old age practice of manually dealing with including cleaning, carrying, disposing or handling in any manner, human excreta from dry latrines and sewers. Manual scavenging refers to the practice of manually cleaning, carrying, disposing or handling in any manner, human excreta from dry latrines and sewers. It often involves using the most basic of tools such as buckets, brooms and baskets. The practice of manual scavenging is linked to India’s caste system where so-called lower castes were expected to perform this job. Manual scavengers are amongst the poorest and most disadvantaged communities in India.

The ancient practice was started by the English men in the colonial era where there was no alternative for the same and which oddly and to utter surprise still continues after all these years of independence. The practice is where the lower strata of the society was forced to do the inhuman practice, the progress however, has no impact on the position of the manual scavengers in the country. According to the India Census 2011¹, India as a developing country still has more 2.6 million dry latrines in the country with 13,14,652 toilets where human excreta is flushed in open drains of which 7,94,390 are cleaned manually. The practice is not only discriminatory on the grounds of caste but also on the grounds of gender with 90% of the manual scavengers being women. Households with dry latrines prefer women to clean the excreta instead of men as they are located inside the house.

The social issue is brought about in the shadow report by the UN Committee which examines the issue of caste based discrimination in India. It describes the practice of “untouchability” as the imposition of social disabilities on persons due to birth in certain caste. It recognises that Dalits are forced to work in “polluting” and degrading occupations like manual scavenging and septic tank cleaning. It defines “manual scavenging” as a practice by which Dalits remove excreta from public and private dry pit latrines and carry them to dumping grounds and disposal sites. It is both caste-based and hereditary occupation. The report states that manual scavengers are routinely exposed to both human and animal waste without the

¹ India, G. o. (2011). 15th National Census Survey of India 2011. New Delhi : Census Commission of India

protection of masks, uniforms, gloves, shoes, appropriate buckets, and mops. This has severe repercussions on their health.²

Ministry of Social Justice and Empowerment is responsible and it falls under its own ambit to rehabilitate the manual scavengers and it implements the ‘Self Employment Scheme for Rehabilitation of Manual Scavengers’(SRMS). Ministry of Social Justice and Empowerment has associated reputed NGOs like Safai Karamchari Andolan, Rashtriya Garima Abhiyan, Sulabh International etc. for identification of manual scavengers and their rehabilitation.

India has been violating the legislations on manual scavenging ever since the Constitution of India came into being with Article 17 abolishing untouchability and Article 14 abolishing discrimination on any grounds. The manual scavengers are still treated as untouchables and discriminated on the basis of their profession and way of life. The Government of India enacted the 1993 and 2013 Act for the prohibition of manual scavenging in India, inspite of which the actual number of manual scavengers still remains an open ended question. The practice still continues without the fear of punishments and the government either being one of the biggest offenders or the ones completely unaffected by the problem. The biggest violator of this law in the country is the Indian Railways which still has toilets dropping all excreta from the trains to the open tracks which then have to be cleaned by the manual scavengers.³ The country is led to a situation where on one hand the Swachh Bharat Abhiyaan aims at protecting the dignity of women by providing them with covered sanitation spaces, and while on the other hand lays down the way for the humiliation of the female manual scavengers as they are the ones that then have to collect the human excreta from the dry latrines.

SERIOUSNESS OF THE SITUATION

The Manual scavengers are at multiple disadvantages which go completely unnoticed by the Government of the country. They are members of lower castes and as such, face enormous discrimination in society, and are disadvantaged because they are manual scavengers who clean human excreta. Their bodies and health is exposed to the various contagious diseases that they have to live with in their unhygienic ways of life.

² Shadow Report, UN Committee on the Elimination of Racial Discrimination (CERD)

³ Manual Scavengers: Indian Railways in denial, *available at: <http://southasia.oneworld.net/features/manual-scavengers-indian-railways-in-denial#.VHA80vmUeTd>*

The threat of contagious infections is something scavengers face every day in their work lives and have no complains about it anymore. In the absence of appropriate protective gear, a simple scrape or a needle poke could put workers at risk of acquiring bacterial and viral infections like leptospirosis and hepatitis. Skin diseases are commonplace. Sanitary worker's biggest complaint relentless skin inflammation and itchiness during the sewer cleaning days.

A large number of latrines are 'serviced' by pigs. Many contract leptospirosis through contact with pigs' blood, urine and other body fluids. Leptospirosis causes high fever, joint pain, anaemia, and liver and kidney infections - and it can be fatal. People who are heavily exposed to poultry and pigs are most likely to be affected. Another danger is the presence of swine brucellosis, a bacterial disease that can be transmitted to humans from infected pigs through contamination of your eyes, nose, mouth or any open wounds.

Human faeces turn into a toxic cocktail of sulphide and volatile gases when left to be digested in the absence of air. Septic tanks and underground sewers are replete with gases such as hydrogen sulphide, methane, and carbon monoxide, by-products of organic decomposition. Hydrogen sulphide (H₂S) being highly corrosive, the septage management rules, in no uncertain terms, instruct the administration to ensure the use of sulphur-resistant cement to prevent physical damage to the structures owing to corrosion.

Low concentrations of the gas irritate the eyes, nose, and throat, causing respiratory distresses. Headaches, dizziness, and nausea increase with increased exposure. H₂S results in 'olfactory fatigue', where the brain loses its ability to distinguish the smell, and over time, the entire stimulus gets de-sensitised. This fatigue is one of the main reasons behind men losing consciousness in septic tanks. The presence of the gas goes unnoticed by the olfactory sensors, and when the H₂S accumulation in septic tanks or sewers exceeds 300 parts per million (ppm), the gas gets absorbed by the lungs rapidly, causing unconsciousness and increased risk of death.⁴

The hazards and seriousness of the issue is not only limited to the causes and diseases caused by the unhygienic work of the manual scavengers, but also extends to the psychological damage to the scavengers that lead them to substance dependence and abuse. Alcoholism and the use of tobacco is deeply rooted in this profession. No person, in his senses, would get into

⁴Manual Scavengers and their Health, available at;
<http://www.mfcindia.org/main/bgpapers/bgpapers2013/am/bgpap2013h.pdf>

a closed, smelly pit filled to the brim with filth. Many claim that alcohol is almost a necessity, to dull their senses before entering muggy sewage-filled pits. This behaviour, however, is hard to condone, as it aggravates the risk of unconsciousness in gas-filled chambers, not to mention the socio-economic aspects of alcohol addiction in general. Most men spend close to a third of their earnings on alcohol, certainly wasteful, considering the fact that most families live in penury. And alcoholism can never be considered in isolation; it is almost always accompanied by domestic violence, fostering dysfunctional family dynamics. For many, tuberculosis and asthma are lifelong companions. Muscle-aches, headaches, and fever are so customary that they fail to raise alarm.

Working conditions of the sanitation workers have found to remain unchanged over the years and pose a considerable risk to the dignity and health of the workers. Unsurprisingly, manual scavengers are victims of grave discrimination owing to their ‘low’ caste and ‘disgusting’ job. They are shunned from the rest of the society and forced to live an ‘outcast’ life just because they were born into a caste which had been labelled as the ‘lowest’ by our ancestors. Even though in modern times these people desire to leave the profession, it is very difficult for them to find an alternate profession owing to the social stigma of untouchability attached to their identities. According to the 2012 UNDP report,⁵ manual scavengers face discrimination in social, political as well as economic spheres; They are not allowed to enter places of worship; or access basic services.

GOVERNMENTAL POLICIES AND LEGISLATION

The issue of Manual Scavenging has been raised in and by various countries, and has been tackled by the different countries in different ways. Countries like Malaysia, Europe, Haiti have totally abolished this practice yet in India we still carry out this occupation. Nepal and Sri Lanka are the few such countries where this practice is still prevalent. Haiti, yet another country in the continent of Caribbean had no sewage treatment initiatives till 2006, but worked out the Sustainable Organic Integrated Livelihood’s initiative to promote dignity of the people and avoid health crisis in the country.

India as a country, apart from the constitutional provisions for the Manual Scavengers has also enacted various legislations in the years to prevent and protect the dignity of the

⁵ “Social Inclusion of Manual Scavengers”, A report of National Round Table Discussion, Organised by United Nations Development Programme and UN Solution Exchange (Gender Community of Practice), Dec 21, 2012, available at <http://in.one.un.org/wp-content/uploads/2016/09/Social-inclusion-of-Manual-Scavengers.pdf>

unprivileged castes. Our constitution provides for the betterment of all strata's of society and for the prevention of any kind of discrimination by the following Articles:

- Article 14: Equality before law (Right to Equality);
- Article 16(2): Equality of opportunity in matters of public employment;
- Article 17: Abolition of Untouchability;
- Article 19(1)(a): Right to practice any profession, or to carry on any occupation, trade or business;
- Article 21: Protection of life and personal liberty;
- Article 23: Prohibition of traffic in human beings and forced labour etc;
- Article 41: Right to work, to education and public assistance in certain circumstances;
- Article 42: Just and humane conditions of work;
- Article 46: Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections;
- Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
- Article 338: Constitution of a National Commission for Schedule Caste.

Apart from the abundant constitutional provisions provided, the Government of India has also enacted various Acts for the upliftment of the unprivileged classes of the society. The Protection of Civil Rights Act, 1955 ⁶ had been enacted to abolish the practice of untouchability and discrimination of all sorts arising out of it against members of the scheduled castes. The Government has launched various schemes for the betterment and to deal with the issue of manual Scavengers like the Self Employment scheme for rehabilitation of manual scavenging was initiated to liberate the manual scavengers and to rehabilitate them with its main features including one-time cash assistance, concessional loans with subsidy and training with stipend for taking up alternative occupations. The National Scheme of

⁶ Act No. 22 of 1955

liberation and rehabilitation of scavengers and their dependents with the main objective to liberate manual scavengers from their existing hereditary inhuman occupation of manually removing night soil and filth and to provide for and engage them in alternative and dignified occupations. The Government of India, Ministry of Urban Employment and Poverty Alleviation along with HUDCO have joined hands in taking up a very major programme for Integrated Low Cost Sanitation for conversion of dry latrine system into water borne low cost sanitation system and at the same time liberating the manual scavengers. In addition, HUDCO has also been extending assistance to basic sanitation schemes.⁷

The Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989⁸ was another step towards the abolition of discrimination on the basis of caste in the society. The most recent two enactments of the Government are the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993⁹ which was then replaced by the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013.

The PEMSR Act, 2013 with its main objectives of Prohibition of employment as manual scavengers and their rehabilitation was passed on 7th September, 2013 and started operating by being published in the Gazette of India on 19th September, 2013 with its various Salient features like it prohibits the employment of manual scavengers, the manual cleaning of sewers and septic tanks without protective equipment, and the construction of insanitary latrines. The Act recognizes the link between manual scavengers and weaker sections of the society. It therefore, views manual scavenging as being violative of their right to dignity. Under the Act, each local authority, cantonment board and railway authority is responsible for surveying insanitary latrines within its jurisdiction. They shall also construct a number of sanitary community latrines. Each occupier of insanitary latrines shall be responsible for converting or demolishing the latrine at his own cost. If he fails to do so, the local authority shall convert the latrine and recover the cost from him. It provides for detailed vigilance mechanism and monitoring committee at district, state and central level. The Act specifically provides for carrying out surveys for identifying persons employed as manual scavengers.

⁷ Under 'Pay and Use Toilet Scheme', Central assistance through Housing and Urban Development Corporation (HUDCO) was available to Urban Local Bodies (ULBs) for construction of toilets for footpath and slum dwellers who were unable to construct their own toilets.

⁸ Act No. 33 of 1989

⁹ Act No. 46 of 1993

The 2013 Act aims at providing better job opportunities to the manual scavengers and to prohibit their exploitation in any way. The Supreme Court of India has also recognised the seriousness of the situation in the *Safai Karamchari Andolan v. Union of India*¹⁰ and in the *Delhi Jal Board v. National Campaign for Dignity & Rights of Sewerage and Allied Workers*¹¹. The court stressed on the rehabilitation of manual scavengers in accordance with part IV of the PEMSAR Act, 2013. The Supreme Court directed the state governments and union territories to fully implement various provisions of PEMSAR Act, 2013 and take appropriate action for non-implementation as well as violation of provisions contained in PEMSAR Act, 2013. The Supreme Court blamed and criticised the present situation of the manual scavengers and expressly stated that:¹²

Whenever one of the three constituents of the State i.e., judiciary, has issued directions for ensuring that the right to equality, life and liberty no longer remains illusory for those who suffer from the handicaps of poverty, illiteracy and ignorance and directions are given for implementation of the laws enacted by the legislature for the benefit of the have-nots, a theoretical debate is started by raising the bogey of judicial activism or judicial overreach and the orders issued for benefit of the weaker sections of the society are invariably subjected to challenge in the higher courts. In large number of cases, the sole object of this litigative exercise is to tire out those who genuinely espouse the cause of the weak and poor.

However, this law leaves people “helpless” and is a toothless piece of legislation. In the earlier Act, the district magistrate had the power to solve all the cases, but that’s not the case with the current one. If the assigned public official isn’t doing his duty of identifying manual scavengers and processing their rehabilitation, there is no mechanism to pull them up. The Act does not address critical aspects of provisions like the rehabilitation of those who were liberated from manual scavenging before passing the law in 2013. Liberated manual scavengers regularly face brutal atrocity and violence. Therefore, ensuring protection for these families is crucial.

¹⁰ 2014 (4) SCC 165

¹¹ 2011 (8) SCC 568

¹² Supra

The Government of India has adopted a two-pronged strategy of eliminating insanitary latrines through demolition and conversion into sanitary latrines, and developing a comprehensive rehabilitation package for manual scavengers through a survey.

The constitution might have enshrined several rights for the historically backward scheduled castes, namely the Dalits, however in reality, even after 70 years of Independence, the ground reality is that they are still fighting for their most basic rights. Manual scavengers are made to do some of the most disgusting jobs in the society. Because they offer their services to clean the sewers and collect night soil with their bare hands, they are usually looked down upon in the society. Because of their job profile most of the social institutions shy away from them and are not too keen on including them in the societal processes. Because of such lack of opportunities and societal boycott, they usually gather in ghettos of despair and backwardness. Generations after generations are thus deprived from participation in the most basic socio economic political processes of the country. Over the years, the governments who have come to power and the shrewd political class operating in our country, have followed policies of appeasement to convert them into a vote bank.

However, while manual scavenging for many may have ended as a form of employment, the stigma and discrimination associated with it lingers on, making it difficult for former or liberated manual scavengers to secure alternate livelihoods and raising the fear that people could once again return to manual scavenging in the absence of other opportunities to support their families. Correctly identifying manual scavengers remains a key challenge. A comprehensive rehabilitation package has recently been put together that includes livelihoods and skill development, access to education for children of former manual scavengers and alternate livelihoods.

Another important fact to note is that not a single arrest was made under the Employment of Manual Scavenging and Construction of Dry Latrines (Prohibition) Act, 1993, the precursor of the 2013 legislation. Passed two decades apart, both laws sought to eliminate the use of unsanitary toilets, and thereby manual scavenging, though the 2013 Act is much more stringent in terms of coverage. The Indian Railways and Cantonment Boards have been brought under the law's ambit. However, no concrete measures have been laid down to ensure rehabilitation; monitoring and implementation mechanisms lack clarity and continue to remain lax. The government has been apathetic towards the deaths of various such manual scavengers and their families and relatives have to wait for compensation and relief.

There have been various reasons for the failure of the Governmental legislations, one of the major reason being that for a long while now the governmental schemes have been focusing upon the male workers rather than the female workers that constitute a good 98% of the practice. Another reason for the same could be that Government programmes have emphasized the financial aspect of rehabilitation and failed to address the caste-based oppression and related social conditions that have perpetuated this practice for centuries, including the Muslim communities such as Hela and Halalkhor who have been slaves of these practices just like the Hindu Dalits. Several states have refused to implement the Employment of Manual Scavengers and Construction of Dry Latrines (prohibition) Act, 1993, by denying the existence and presence of dry latrines and manual scavenging in their jurisdictions despite evidence to the contrary in their own states. In other states, implementation has suffered because the Act itself is deficient on several counts; it neither lays down clearly the areas of responsibility nor provides penalties for non-enforcement of the law. There hasn't been an establishment of any national or state level body that looks after and monitors the various acts laid down in this aspect. The government has been trying to compensate the poor lifestyle of the manual scavengers and the failure to implement policies by paltry sum of money totally ignoring the loss faced by these due to the failure of the government to rehabilitate them.

There have been serious mistakes and errors in the surveys that seek to identify and rehabilitate the victims. So far, 12 States have identified about 12,000 manual scavengers. In view of the prevalence of large number of insanitary latrines, the number of manual scavengers identified in the country is too small. Even the identification of insanitary latrines is not in agreement with the data of Census, 2011. The most glaring distortion of the reality is that more men have been shown to be the victims of manual scavenging than women. The surveys also leave out a large number of deserving people from the list of potential beneficiaries while including people who and their families have no longer anything to do with manual scavenging. The surveys have also been biased in favour of urban areas, leaving out large swaths of the rural population. The state has been totally absent to stop the private illegal employment of the manual scavengers.

Apart from these reasons which have led to the failure of the Governmental enactments, there are other economic and societal reasons as well that will have to tackled before any scheme relation to the betterment of manual scavengers is successful in its entirety. The reasons include the lack of awareness in the various groups of societies and their difficulty in

accessing the justice system for the enactment of their rights which are still not known by the majority in the country. The employers of these manual scavengers often threaten them and makes it all the more difficult for them to break the chain, adding to the lack of employment opportunities in the country that they could move to in case they decide to move away from the activity. Society and the people have also been uncooperative in providing the right statistics and data which has led to inadequate surveys and the failure to identify the people still engaged in the ancient practice of manual scavenging.

The modern society still looks at scavengers as ‘untouchables’ and treats them indifferently even though the supreme law of the land, i.e. the Constitution of India, has declared that “untouchability is abolished and its practice in any form is forbidden” under Article 17 of the Constitution of India. Manual scavengers are victims of severe human rights violations. The fundamental rights guaranteed under Articles 14 and 15 remains dead letter to the scavenger community as they have been constantly discriminated and downtrodden by the society for generations in addition to denying them to have a dignified life. Manual Scavenging is one kind of forced labour where the prevalent castes are forced to do their hereditary roles and it is difficult for them to move out of the cycle which is mainly the result of lack of implementation of the provisions and failure to do the needful by the government and the people.

RECOMMENDATIONS

Most of the Municipalities in India are not equipped with the latest machines to clean the sewage system and therefore, sewage workers employed under compulsion to enter the underground sewerage lines through the manholes and cleanse them wherever the lines are clogged for whatever reason. The job of the sewer worker is to inspect and maintain the underground network pipes that make up sewerage system. Sewage workers have to remove solid substance wastes which responsible for blockage of flow of fluid waste in sewage system.

For an effective implementation of the schemes, it is imperative to link the various other schemes of the government with the scavenging act of 2013, so that the development of the country is inked with the development of the lower castes. Moreover, such an entitlement will facilitate the scavenging communities to get jobs under MNREGA and other social security laws, which are often deprived to them due to the stigma attached to their profession and lack

of express provisions in the law. The various authorities at the public level should seek to strike a balance and level of coordination between them and the private authorities.

It is also extremely important to create various awareness programmes that will help create community initiatives and will discourage and demoralise people from sub-letting the work of cleaning sewers to the people and will aim at getting the work done by techniques and proper sanitation methods. This can be aided with the help of running sanitation programmes can be the most impactful driving element in the abolition of manual scavenging. The The municipal and panchayats bye laws of the states should have provisions not to allow the construction of any new house with dry latrine or without a water sealed latrine or sanitary latrines with appropriate technology and measures should be taken so that dry latrines made in the past can be demolished and new water sealed latrines or sanitary latrines with appropriate technology be constructed. There should be a time bound limit for conversion of dry latrines into wet latrines and construction of new latrines. It should be one of the criteria for deciding grants to municipal bodies and there should be some measures to take penal action against municipalities not fulfilling their obligations in this regard.

A National Institute for Sanitation Research and Technology to be set up to address the issue of sanitation in its entirety. “Research still revolves around civil engineering, whereas the subject is much more than that. Basic sciences, social sciences, and technology are integral aspects that often get overlooked. The need for manual scavenging can be greatly eliminated by employing appropriate technological solutions depending on sewage volume, constituents, and geology.

The government must drastically improve the implementation of its own legislations as well as court directives on this high-priority issue, particularly at a time when the contribution of sanitation workers to a ‘Swachh Bharat’ needs to be recognised and respected. The Government has to impose more stringent methods and has to be accountable for the policies it lays down for the betterment and upliftment of the manual scavengers if results have to be seen. The reason for the resentment amongst the public is because of the lack of governmental support and attention towards the issue of manual scavenging that is only affecting the people engaged in it but also their generations to come and their forefathers who have lived and led this life of misery and stench. For the problem of manual scavenging to reach an end, it is imperative not only for the government to extend its support but also for the people to help fight out of the stereotypes and start looking at people with equality and

respect. Until and unless, people start treating each other and their respective profession's with respect, peaceful co-existence will merely remain a term without meaning that will have no other meaning other than being a term on paper. The schemes wouldn't require much force for their enforcement if only the society acts responsible enough to not employ anyone as manual scavengers or for any job that hurts the dignity of the other person, and try to implement better techniques for the cleanliness of the environment and the stereotypical society.

CONCLUSION

For some of the people it is a stench filled and down-trodden business to do, while for the others it is the only way to have a decent lifestyle. From places that no-one ever thinks of going to, these manual scavengers give away their entire lives with even their deaths in these pot holes handling the dirt that was never meant to be dealt with by anyone of human nature. The issue of manual scavengers should be taken seriously not only because it deprives people of their right to live with dignity and equality but because people lose their lives in these death holes.

The government has come up with legislations to tackle the problem of manual scavenging but has always lacked its implementation in the right ways. The sanitation system is very complex and the absence of proper sanitation is only one aspect of it which is why the present schemes should focus primarily on the cleanliness drives rather than focusing on the exterior cleanliness of the country. We as a country have come a long way in the rehabilitation of the manual scavengers, like many of the families are sending their kids for education so that they don't have to take up the family profession like their fathers and thus change is taking place. The pace of change is unexpected slow, for a society that is developing in almost every field but it wouldn't be right to say that it is not happening. All that the change asks for is a little export from the government and understanding from the people of the country in the betterment of their fellow brothers and sisters.

Rehabilitation of manual scavengers can take place easily if we ensure a discrimination free, secure and safe environment by providing an opportunity to the manual scavengers to have alternate livelihoods by training them and allowing them access to governmental schemes and entitlements, vocational training and support the liberated people to live as equals in the society with respect. It is important to build the capacity of the community to promote

rehabilitation efforts and self-reliance and also build leadership in the community with a particular focus on Dalit women.

Under the Self Employment Scheme for Rehabilitation of Manual Scavengers launched in 2007, 18 states and union territories identified 118,474 manual scavengers and their dependents for rehabilitation. As many as 78,941 beneficiaries found to be eligible and willing were provided loans. After the enactment of the 2013 Act, an additional cash assistance of Rs 40,000 would be given to each scavenger identified, and the loan amount was increased up to Rs 15 lakhs for sanitation projects. Committees like The Rashtriya Garima Abhiyan, a national campaign working for eradication and rehabilitation of manual scavengers, supported by UNWOMEN organised a National Consultation on the Rehabilitation of Manual Scavengers to deliberate on the challenges of rehabilitation, including promotion of alternative employment opportunities, education for children, skill development and accessibility of rights and entitlements with the aim to build a national level platform for stakeholders to promote comprehensive rehabilitation. Approaches like these give the country and these manual scavengers a ray of hope and development and furtherance of the constitutional provisions like equality can be seen.

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