MANUAL SCAVENGING AT EARLY AGE: A CRITICAL ANALYSIS FROM THE PERSPECTIVE OF CHILDREN OF MANUAL SCAVENGERS AS CHILD LABOUR

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ABSTRACT

Objective: The Children of Manual Scavengers' suffer the socio-legal marginalisation as daily reality. They are legally abandoned, monetarily impoverished, and socially tainted. Due to the caste system, they are compelled to take up their parents' traditional occupation of manually removing human excreta. The hidden reality causes children of manual scavengers to live in constant agony. The aim of this study is to examine the legislative actions and judicial activism to uphold their human dignity and equality throughout their lives and prohibiting manual scavenging.

Methods: The research is a type of doctrinal research. It is normative legal research based on analyzing the legal measures, case laws and principles.

Results and Conclusion: The children of manual scavengers enter into the traditional occupation of manual scavenging along with their parents as caste forced occupation and suffer the child labour. Moreover, the legislative measures on protection of child rights have not affected in their life.

Research Implications: The research highlights that the children of manual scavengers who are engaged in manual scavenging at their early age suffer the deprivation of human rights and dignity.

Keywords: Manual Scavenging, Child Labour – Prohibition, Child Rights, Effective Legislations, Judicial Activism.

CATAÇÃO MANUAL EM IDADE PRECOCE: UMA ANÁLISE CRÍTICA DA PERSPECTIVA DOS FILHOS DE CATADORES MANUAIS COMO TRABALHO INFANTIL

RESUMO

Objetivo: Os filhos de catadores manuais sofrem a marginalização sócio-legal como realidade cotidiana. Elas são legalmente abandonadas, empobrecidas monetariamente e manchadas socialmente. Devido ao sistema de castas, eles são obrigados a assumir a ocupação tradicional de seus pais de remover manualmente os excrementos humanos. A realidade oculta faz com que os filhos de catadores manuais vivam em constante agonia. O objetivo deste estudo é examinar as ações legislativas e o ativismo judicial para defender sua dignidade humana e igualdade ao longo de suas vidas e proibir a catação manual.

Métodos: A pesquisa é um tipo de pesquisa doutrinária. É uma pesquisa jurídica normativa baseada na análise de medidas legais, jurisprudências e princípios.

Resultados e Conclusões: Os filhos de catadores manuais entram na ocupação tradicional de catação manual junto com seus pais como ocupação forçada de casta e sofrem com o trabalho infantil. Além disso, as medidas legislativas sobre a proteção dos direitos da criança não afetaram sua vida.

Implicações da Pesquisa: A pesquisa destaca que os filhos de catadores manuais que se dedicam à catação manual em idade precoce sofrem a privação dos direitos humanos e da dignidade.

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LA RECOGIDA MANUAL DE BASURAS A EDAD TEMPRANA: UN ANÁLISIS CRÍTICO DESDE LA PERSPECTIVA DE LOS HIJOS DE LOS CARROÑEROS MANUALES COMO MANO DE OBRA INFANTIL

RESUMEN

Objetivo: Los «hijos de los carroñeros manuales» sufren la marginación sociojurídica como una realidad cotidiana. Están abandonados legalmente, empobrecidos monetariamente y manchados socialmente. Debido al sistema de castas, se ven obligados a dedicarse a la ocupación tradicional de sus padres de eliminar manualmente los excrementos humanos. Esta realidad oculta hace que los hijos de los carroñeros manuales vivan en una agonía constante. El objetivo de este estudio es examinar las acciones legislativas y el activismo judicial para defender su dignidad humana e igualdad durante toda su vida y prohibir la recogida manual de excrementos.

Métodos: La investigación es un tipo de investigación doctrinal. Se trata de una investigación jurídica normativa basada en el análisis de las medidas legales, la jurisprudencia y los principios.

Resultados y Conclusiones: Los hijos de los carroñeros manuales se dedican a la ocupación tradicional de la recogida manual de basuras junto con sus padres como ocupación forzada de casta y sufren el trabajo infantil. Por otra parte, las medidas legislativas sobre la protección de los derechos del niño no han afectado a su vida.

Implicaciones de la Investigación: La investigación pone de relieve que los hijos de los carroñeros manuales que se dedican a la recogida manual de excrementos a una edad temprana sufren la privación de los derechos humanos y la dignidad.


1 INTRODUCTION

India's caste system is deliberately designed to discriminate against its citizens on the basis of their employment and decency. The social institution of the caste system is deeply ingrained in a pyramidal structure that excludes those referred to as "panchamas," or outcasts, who are considered to be untouchable by birth and profession and so devoid of equality and human dignity. Those classified as Dalits belong to a group of lower castes who are considered untouchables. The Manual Scavengers caste, known by several names in different Indian states, is one such untouchable subcaste. They endure several horrors spanning the socioeconomic, political, and religious spectrums. They are impoverished and reliant on their oppressors from birth. Although child labour is not legal, children of manual scavengers are compelled to work in their parents' occupation from a young age. The study's goal is to examine the suffering of...
these children, free them from the inhuman practice of manual scavenging, and provide them with social, economic, and educational empowerment as a form of rehabilitation.

The caste system has designated some jobs, such sweeping, cleaning, leather work, disposing of dead animals and human remains that are deemed "polluted naturally" for dalits. Furthermore, the removal of human and animal waste is assigned to the sweeper group among Dalits and is rigidly enforced. They use little tinplate plates, brooms, and baskets held atop their heads to manually remove the excreta of humans and animals. Individuals imprisoned in the manual scavenging tradition are made to carry out a number of additional menial activities.

A straightforward definition of manual scavenging would be the removal of excreta (night dirt) from "dry toilets," such as those without the modern flush system, particularly those lacking the water seal (Rashtriya Garima Abhiyan, 2011). The risky and dishonourable practice of manually removing raw human excrement (also known as "night soil") from dry toilets or toilets without running water is known as "manual scavenging." The act of manually cleaning, moving, discarding, or handling human waste from dry latrines and sewers is known as "manual scavenging." This task requires the use of simple items like buckets, brooms, and baskets.

As per Indian law dated 1993, a "manual scavenger" (India, 1993) is defined as a worker who is regularly hired to perform manual cleaning tasks by a governmental or private agency, a local authority, or an individual. They transport, dispose of, or handle human waste in an unhygienic toilet, an open pit or drain where waste from unhygienic latrines is disposed of, or on a railway track before the waste completely breaks down and the term "manual scavenging" is understood appropriately.

The 2013 Act broadened the definition of manual scavengers to include those who clean railway lines, septic tanks, and open sewers (India, 2013).

The Hindi term "safai karamchari includes those who clean sewers and manholes, work at sewage treatment and sludge treatment plants and disposal sites, and clean toilets in private, public, and institutional settings. It also includes those who empty pits from pit latrines and vaults of septic tanks and other faecal sludge handlers. In relation to a sewer or septic tank, an employee means its manual cleaning by such employee without the employer fulfilling his obligations to provide protective gear and other cleaning devices and ensure observance of safety precautions, as may be prescribed or provided in any other law, for the time being in force, or rules made there under (Walters & Vicky, 2019). This is in line with the National Human Rights Commission of India's advocacy for the term to include other types of hazardous cleaning (NHRC, 2021).
2 RESEARCH METHODS

This research employs normative legal research methodology. This method is employed to examine legal laws as a means of safeguarding the rights of children and assessing the extent of judicial activism in protecting children of manual scavengers from engaging in child labour. It is examined from various perspectives, including socio-economic and legal factors. The research concentrated on the statutory approach, regulatory approach, and case approach.

3 DISCUSSION

3.1 CHILDREN IN MANUAL SCAVENGING

Children play a pivotal role in shaping the future destiny and progress of a nation. India places great importance on prioritising the well-being of its children as a crucial aspect of its future. Children's rights are consistently prioritised. The investigation into the well-being of youngsters engaged in manual scavenging has significant significance in this context. The pervasive practice of manual scavenging continues to persist in both rural and urban regions of India, resulting in the victimisation of children across various dimensions. The children of manual scavengers were compelled to engage in this inhumane activity as a result of socio-economic and educational deprivation stemming from casteism. Underage children, particularly girls, are currently being hired as manual scavengers in both rural and urban areas, facilitated by unidentified intermediaries (The Wire: The Wire News India, Latest News, News From India, Politics, External Affairs, Science, Economics, Gender and Culture, n.d.). Children are not compelled to follow and aid their parents in engaging in this employment depending on caste. The state of Maharashtra has the highest number of boys aged 8-13 working as manhole cleaning assistants. Additional states such as Tamil Nadu, Jharkhand, Odisha, Tripura, and Madhya Pradesh also engage in the practice of coercing children into this labour (Ibid). The number of youngsters employed in labour activities such as direct scavenging, sweeping, railway track cleaning, sewer and septic tank cleaning, and manual scavenging tasks exceeds 30,356 inscavenging jobs (https://www.downtoearth.org.in/).
3.1.1 Reasons for Insisting Children in Scavenging

The intergenerational transmission of caste-based prejudice, dehumanisation, social exclusion, poverty, and victimisation is a longstanding history. The aforementioned circumstances represent an indisputable reality in the lives of children who are compelled to engage in the activity of manual scavenging, either in conjunction with their parents or autonomously as a means of assisting with familial obligations. The reasons are further discussed below.

3.1.1.1 Socio-economic Status

The individuals in question endure a systemic occupational status based on caste, which is accompanied by social stigmatisation. They are considered out-caste or untouchables, and they face significant instances of caste-based prejudice and social exclusion due to the perception of contamination and purity. Discrimination and inequity perpetuate a perpetual state of suffering throughout individuals, irrespective of gender or age.

The Manual Scavengers occupy the lowest position within the caste structure, thereby experiencing the lowest economic standing. Thereby, the children in this group endure the hardships of poverty. The reward for caste-forced labour is not fixed, but rather contingent upon the higher caste individuals. This remuneration can take the form of monetary compensation or other forms of remuneration, such as food and clothing. The economic impact of this phenomenon persists across successive generations, resulting in poverty becoming an integral part of their economic identity.

3.1.1.2 Named with Caste Stigma

The children of manual scavengers, who are considered the most disadvantaged, are referred to by various names across different states. Bhangis can be found in the states of Uttar Pradesh and Gujarat. The term "broken identity" carries a pejorative and dehumanising connotation. The Phakis reside in Andhra Pradesh, the Balmiki live in Haryana, and the Sakkiliars are found in Tamil Nadu. The children from different castes also refer to them by their caste name, which is considered abusive. The children are imbued with the stigma that they are destined to engage in this activity due to its traditional nature, leaving them with no alternative but to carry out the labour.
3.1.1.3 Occupational Discrimination

The involvement in manual scavenging, which includes activities like sweeping, drain cleaning, and human excreta disposal in society, can be seen as a form of employment that reinforces bias and undermines the fundamental values of human dignity and equality. These persons are obligated to participate in a range of activities related to bias, such as the collection of animal waste and deceased animals. Furthermore, it is anticipated that individuals belonging to the upper caste will engage in menial labour during the period of death. Additionally, they are required to partake in ceremonial responsibilities, including the gathering of garments, washing of the corpse, and other tasks at the cremation site, in conjunction with their parents.

3.1.1.4 Educational Defects

The presence of a culture of poverty and occupational discrimination based on caste continues to have negative consequences, leading to educational impoverishment and catastrophe. Despite the potential of education to promote equality and dignity, it has continually proven ineffective in addressing the challenges faced by children engaged in manual scavenging, who have become victims of caste-based occupations. Traditional occupations often result in school dropout and provide financial support to the family through employment and wages. Furthermore, the prejudice experienced by teachers and other students in the school is also causing them to abandon their conventional and unskilled occupations (Santosh Sabale, 2019). The deficiencies in schooling also contribute to their involvement in this profession.

3.1.2 The Challenges on Children

The children of manual scavengers, who are compelled to engage in juvenile labour, have various difficulties in their daily existence. Here are some of the challenges:

3.1.2.1 Poverty

India has experienced robust economic progress; nonetheless, the enduring issue of poverty among children of manual scavengers persists as an inherent aspect of caste-based society. They reside in a persistent state of extreme poverty that is rooted in the caste system.
3.1.2.2 Child Labour

Child labour is an inevitable aspect of the lives of children who work as manual scavengers. The primary elements that contribute to these youngsters becoming victims are insufficient access to food, extreme poverty, and socio-economic circumstances. Another contributing factor may be the limited understanding regarding the detrimental consequences of child labour and the imperative for child education. The absence of school attendance is a common occurrence in the lives of children who actively participate in their parents' roles as primary earners and contributors.

3.1.2.3 Child Abuse

The offspring of manual scavengers experience several types of mistreatment, encompassing mental, physical, socio-economic, and particularly sexual abuse, which represents a distressing aspect of their lives. The influence of caste on socio-economic position and the subsequent loss of parental figures might lead individuals to exhibit a lack of concern within society, hence raising concerns about their security.

3.1.2.4 Educational Flaw

Children often drop out of school as a result of their involvement in home responsibilities and their need to contribute to their family's income. These youngsters experience a decline in motivation towards education and encounter many challenges in accessing education, such as the presence of prejudice from both teachers and fellow pupils inside the school environment.

3.1.2.5 Child Marriage

It might be argued that there has been a general decrease in child marriage in India, however complete elimination of this practice has not been achieved. Child marriage among children of manual scavengers is a prevalent phenomenon that is associated with various adverse consequences, including but not limited to poverty, sickness, illiteracy, engagement in unskilled employment, and child labour.
3.2 LEGISLATIVE ON CHILD LABOUR

The legislative body in India consistently endeavours to safeguard children and outlaw various forms of child employment. The legislative measures aimed at reducing child labour and safeguarding children's rights in India can be comprehended through constitutional and other Acts and policies. In contrast, there is a lack of dedicated legislation aimed at safeguarding children involved in manual scavenging activities.

3.2.1 Constitutional Protection

The Constitution of India has a comprehensive objective of safeguarding the rights of children and explicitly forbids any type of child labour, as outlined below: Article 21A of the constitution grants the fundamental right to education, which is mandated to be given by the State in the form of free and compulsory education for all children aged 6 to 14 years (Constitution of India, 1950). According to Article 24, it is prohibited to employ individuals under the age of fourteen in factories, mines, or any other form of hazardous job. Article 39 mandates the state to ensure the protection of children during their early developmental stages (Constitution of India, 1950).

The Right to Education Bill represents an additional step towards achieving the Constitutional objective of providing education for children. The execution of the measure also seeks to eliminate child labour and facilitate the inclusion of children in educational institutions.

3.2.2 Child Labour (Prohibition and Regulation) Act - 1986

The Act is created with the purpose of safeguarding children and forbidding child labour in India. The legislation defines a child as an individual who has not yet reached the age of fourteen. Additionally, it seeks to establish regulations pertaining to the working hours and circumstances of child labourers, while also prohibiting children from engaging in dangerous industries.

Section 3 of the Act outlines 13 vocations and 57 procedures that are prohibited as child labour. Additionally, the Act seeks to impose penalties on individuals who engage in the employment of minors in violation of the stipulations outlined in section 3 of the aforementioned Act (Child Labour (Prohibition and Regulation) Act, 1986).
3.2.3 National Policy on Child Labour – 1987

The Policy seeks to address the issue of child labour through the implementation of a legislative action plan. The primary objective of this initiative is to enhance the agency of children and establish strategies for the advancement and well-being of employed children. As part of the National Child work Policy, additional initiatives have been implemented to rehabilitate children and remove children from dangerous activities and procedures. These children are then placed in special schools before being integrated into the official education system.

Legislative action plans have been developed to enforce the Child Labour Act and other relevant laws, with the aim of preventing the employment of children in hazardous work. These plans also seek to regulate other working conditions, prioritise the health and safety of children, and facilitate their rehabilitation.

3.3 JUDICIARY ON CHILD LABOUR

The judiciary plays a crucial role in the promotion and safeguarding of human life and dignity. The objective of safeguarding children and preventing child labour has been of utmost importance, with the ultimate goal of effectively reducing child labour in India in a comprehensive manner. However, locating instances of judicial activism pertaining to the children of manual scavengers involved in parental labour is a challenging task.

The Supreme Court has ruled that it is impermissible to employ children in dangerous occupations, such as the manufacturing of fireworks or match boxes, which pose a significant risk to human life. Additionally, the Court determined that the employer is obligated to provide compensation in contravention of the law (India, 1996). The Court has imposed restrictions on the employment of minors in construction work, which is widely recognised as a hazardous and perilous occupation. Specifically, the Court has mandated that children under the age of 14 must be barred from engaging in any form of construction work (India, 1982). It is held that the Directive Principles of State Policy impose a duty on both the Central and State Governments to undertake actions and implement measures aimed at guaranteeing social justice for individuals who are disadvantaged. The Government's failure to acknowledge the inhumane exploitation endured by bonded labourers is unjust, and it is imperative for the Government to make every effort to eliminate it and prohibit such inhumane practices (India, 1982).
In various situations, the Judiciary has played a crucial role in expressing its strong opinions on the prohibition of child labour in all its manifestations. It has also instructed the States to establish appropriate legal measures to prohibit child labour and advance child rights. The Court issued a directive to the States, instructing them to assume exclusive responsibility for ensuring the appropriate development of society. The Court has issued a directive to the States, emphasising the need for their intervention in curbing the employment of children and promoting education as a means to prevent child abuse and child labour. Additionally, the Court has mandated the establishment of a distinct and autonomous department dedicated to the welfare of children (India, 1997b).

4 CONCLUSION

Children are considered to be the future of every nation, and it is imperative to prioritise their welfare, protection, promotion, and empowerment as essential elements. Furthermore, the legal measures and judicial activism aimed at promoting and safeguarding child rights are commendable, as they consistently prohibit all forms of child labour. Nevertheless, despite the implementation of legal measures and judicial activism aimed at prohibiting child labour, the impact on manual scavenging children remains ineffective. These children are compelled to engage in this inhumane practice as a result of several socio-economic factors. Furthermore, the enduring suffering experienced by children engaged in manual scavenging is a persistent form of anguish. They are deprived of healthcare, education, sustenance, and housing, and endure the prejudice and lack of human dignity. Special legislative measures should be implemented to address the needs of children involved in manual scavenging as a parental and family profession, with the aim of liberating and rehabilitilitating them. The judiciary must consistently prioritise the implementation of legislative measures and the executive mechanism to emancipate children involved in manual scavenging and empower them via education. Emphasising the importance of prioritising health care, education, and social-legal protection is crucial. Furthermore, the ongoing maintenance of socio-economic empowerment necessitates the implementation of certain measures.

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