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COUNTED OUT: DEFINITIONAL ERASURE, CASTE AND THE PERSISTENCE OF SEWER DEATHS UNDER INDIA'S MANUAL SCAVENGING LAW

AUTHORED BY - JINESH M
Assistant Professor of Law, School of Law,
Vels Institute of Science, Technology & Advanced Studies (VISTAS), Chennai

Abstract

Between January 2019 and June 2026, 498 workers died while cleaning sewers and septic tanks as per Lok Sabha figures. In the same reply, the Union government had reported that not a single death had taken place due to manual scavenging. This paper is not a quibbling over words, but a commentary on the central socio-legal fact of India's anti-manual scavenging regime. Using the 'law in books and law in action' tradition, Galanter's many-account theory of repeat players, and anthropological research on dirt and purity, it reads the 1993 and 2013 legislation and the Supreme Court's Safai Karamchari Andolan (2014) Balram Singh (2023-2026) jurisprudence against the official record of deaths, prosecutions and compensation. It demonstrates four ways of delegitimising a formally abolished law in a caste-based practice: definitional silencing, contractual disavoidance of responsibility, substitution of compensation for prevention, and enforcement whose authority rests on the least powerful. It concludes with definitions, non-delegable employer liability, independent death audits and rehabilitative mechanisation reforms.

Keywords: *manual scavenging; caste; sewer deaths; Article 17; socio-legal studies; PEMSR Act 2013; Balram Singh*

I. Introduction

Every few weeks an Indian newspaper will run a snippet about some men who have died in a sewer or a septic tank. They are always in twos and threes because the first man to succumb to the fumes is always followed by co-workers. The story is short and not all that sweet. It is an old story and that is what this paper is about.

Yet the act of manual scavenging has been prohibited by law since 1993 in India, further

ISSN: 2582-6433

prohibited more widely in 2013. 193 (XIX of 1949) 170 191 (III of 1960) 293 434 (7 of 1992) Article 17 of the constitution abrogated the practice of 'untouchability' in 1950, turning anyone practicing untouchability into a criminal offence.[1] Article 21 of the Constitution of India guarantees and protects life and personal liberty. Statutes and other laws also prohibit the practice of manual scavenging. In 2014 the Supreme Court ordered compensation for each sewer death since 1993; in 2023 it tripled the sum; in January 2025 it banned manual sewer cleaning in six metro cities; and in July 2026 it issued show cause notices for contempt to the chief secretaries of five States. However, the Union government says that 498 deaths in sewers and septic tanks from 1 January 2019 to 30 June 2026, were not due to manual scavenging.[2]

The question this paper asks is, how does a legal order that has explicitly and explicitly hierarchically outlawed a practice in all its registers- constitutional, statute, criminal, and judicial- remain in cohabitation with that practice? The usual explanation is non-implementation, a familiar and sometimes surmountable obstacle. But this explanation does not suffice, and risks concealing the deep ways in which the law constructs the entity it seeks to eradicate, and in doing so perpetuates it. It will be argued that persistence also has to do with its object as a mode of legal construction; the way the law construes its other, distributes the burden of liability, defines its project, and identifies its markers of success and failure; and the way it assigns responsibility to the people.

II. Method and Theoretical Frame

The paper integrates doctrinal analysis of legal texts and judgments with a socio-legal reading of the official record (parliamentary replies, survey returns, information on compensation and numbers convicted) drawing on the reports of human rights bodies and ethnographic descriptions. Its main weakness, and perhaps its main contribution, is the weakness of the official data, which are patchy, vary from one reply to another, and are only known through the press coverage of the replies. The paper reads them as part of the law.

Three paradigms undergird the analysis. Roscoe Pound's normal law and living law conception of law in books and law in action demystifies the blind spot between rule and practice not as a

[1] Constitution of India 1950, art 17; see also arts 21, 23 and 46.

[2] Lok Sabha, written reply of the Minister of State for Social Justice and Empowerment to a question by Rahul Gandhi, giving data for 1 January 2019 to 30 June 2026, reported in 'India's Sewer Death Crisis: Why Fatalities Don't Count as Manual Scavenging' *Outlook* (New Delhi, August 2026) <https://www.outlookindia.com/amp/story/national/indias-sewer-death-crisis-why-fatalities-dont-count-as-manual-scavenging> accessed 19 November 2026; see also *Business Standard* (New Delhi, 5 August 2026) <https://www.business-standard.com/india-news/sanitation-workers-sewer-septic-tank-cleaning-deaths-since-2019-126080500881_1.html> accessed 19 November 2026.

ISSN: 2582-6433

matter of course but as something that may be studied.[3] Eugen Ehrlich's theory of the living law, especially the social norms that inform who cleans as a caste norm about who will do the cleaning, provides the second: as a social norm about caste, who cleans is a law in the statute book that stays on the books but has not yet been fully legislated out of existence.[4] The third tool is Marc Galanter's paradigm of the legal marketplace, especially his pessimistic account of why repeat players often beat one shot litigants who show up in court, presumably in response to losing.[5]

These will have to be complemented by an explanation of why this work, and not some other, is assigned by birth. Mary Douglas's reading of pollution as 'matter out of place' accounts for the social production of the script that demarcates dangerous substances and dangerous persons as such.[6] Gopal Guru has suggested that the persistence of untouchability in India rests less on open ritual exclusion than on the ongoing connection of particular persons with polluting work.[7] That is a matter for the law: the statute can criminalize this act, but it cannot as readily undo the social script that designates the assigned persons who must perform the act once the forbidden form has been substituted with one permissible.

III. Caste, Purity and the Social Organisation of Sanitation Labour

B.R. Ambedkar's statement, that caste is not merely a division of labour but a division of labourers, fixed by birth and graded in honour.[8] Ambedkar fiercely criticised the Gandhian attempt to make scavenging seem like a noble service - praising the work availed nothing to alleviate those who were assigned it.[9] With the Valmiki, Bhangi, Mehtar and Hela communities of the north, and the Arunthathiyar of Tamil Nadu, among those who have been tasked with the removal of human waste, they are the bottom of the graded order even within the SCs.

The work is gendered. Human Rights Watch's monitoring throughout the country identified the majority of those clearing dry latrines in villages and smaller towns are women, who are paid in some residual food or grain rather than wages; working in sewers and septic tanks is mostly

[3] Roscoe Pound, 'Law in Books and Law in Action' (1910) 44 American Law Review 12.
[4] Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Walter L Moll tr, Harvard University Press 1936).
[5] Marc Galanter, 'Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change' (1974) 9 Law & Society Review 95.
[6] Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (Routledge 1966).
[7] Gopal Guru, 'Archaeology of Untouchability' (2009) 44(37) Economic and Political Weekly 49.
[8] BR Ambedkar, 'Annihilation of Caste' (1936) in *Dr Babasaheb Ambedkar: Writings and Speeches*, vol 1 (Government of Maharashtra 1979).
[9] BR Ambedkar, *What Congress and Gandhi Have Done to the Untouchables* (Thacker & Co 1945).

ISSN: 2582-6433

reserved for men.[10] Bhasha Singh's reporting from across the country demonstrates how rejection of the work has resulted in social exclusion, eviction and violence so that leaving the occupation is itself a struggle against the local caste system.[11]

The scale of the older form can be gleaned from the Census of 2011, when 7,94,390 dry latrines, all emptied by manual labour, were documented.[12] The 2013 Act's surveys held between 2013 and 2018 found 58,098 persons in manual scavenging across 17 States, 32,473 of them in Uttar Pradesh.[13] Urbanisation and the sanitation effort of the past decade have affected the form, but not the assignment. The growth of flush toilets, installed without access to sewer networks but instead connected to septic tanks or pits, has created vastly more containments to be emptied. Diane Coffey and Dean Spears have demonstrated how caste bias to pit-emptying influences how rural households make sanitation choices.[14] The labour has gone underground, into tight corners, but it has not left the communities that have traditionally performed it.

IV. The Legislative Arc: From 1993 to 2013

A. The 1993 Act

Art. 252 empowered Parliament to legislate for certain specific matters only with the approval of the legislatures of the States. Accordingly, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993 was enacted as the Act was applicable only to States with their consent. It narrowly defined a manual scavenger as a person engaged in or employed for manually carrying human excreta and prohibited its employment and the construction of dry latrines with some mild punishment.[15] The Act was hardly ever enforced. In May 2013, after 20 years of enacting the law, the Ministry of Social Justice and Empowerment informed the Lok Sabha that it has no record of convictions.[16]

B. The 2013 Act

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013

[10] Human Rights Watch, *Cleaning Human Waste: 'Manual Scavenging,' Caste, and Discrimination in India* (Human Rights Watch 2014).
[11] Bhasha Singh, *Unseen: The Truth about India's Manual Scavengers* (Reenu Talwar tr, Penguin Books 2014).
[12] Office of the Registrar General and Census Commissioner, *Census of India 2011: Houselisting and Housing Census Data* (Government of India 2012).
[13] Lok Sabha reply of 2026 (n 2).
[14] Diane Coffey and Dean Spears, *Where India Goes: Abandoned Toilets, Stunted Development and the Costs of Caste* (HarperCollins India 2017).
[15] Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993, ss 2(j), 3 and 14.
[16] Lok Sabha, Unstarred Question No 6544 (answered 7 May 2013), Ministry of Social Justice and Empowerment <https://eparlib.nic.in/bitstream/123456789/643034/1/142498.pdf> accessed 19 November 2026

ISSN: 2582-6433

(PEMSR Act) is the response to this failure. It is applicable across India, and expands the section 2(1)(g) definition to include the manual cleaning, carrying, disposal or handling of human excreta in an insanitary latrine, on an open drain or pit, on a railway track or in any other notified place. It criminalizes the offence as cognizable and non-bailable, mandates a survey of manual scavengers in urban and rural areas, and establishes a scheme of rehabilitation and a duty on local authorities to employ modern technology to clear sewers and septic tanks.[17] In 2016 Parliament also designated employment of any person for manual scavenging and the Permitting Employment of any person for manual scavenging as an atrocity under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.[18]

Two amendments may be made to the 2013 Act. First, the proviso to section 2(1)(g) of the 2013 Act excluding from the definition of a manual scavenger a person who cleans excreta by using devices and safety equipment that the Central Government may notify of the manual clearing of excreta. Second, the Act creates a separate category of manual scavenging, namely, "hazardous cleaning" in section 2(1)(d), defined as the manual cleaning of a sewer or septic tank by an employee without the employer providing the protective gear and safety measures as may be notified by the Central Government. Section 7 of the Act prohibits employing a person for hazardous cleaning and section 9 prescribes a punishment for violating this provision, of imprisonment for up to two years or a fine of up to two lakh rupees, with a higher duration of five years and five lakh rupees respectively, for repeat offences.[19]

The net result is that whether a worker is a manual scavenger depends on the device (here, the breathing apparatus) provided by the employer, and not the work or the worker. A Dalit man lowered into a septic tank by a contractor without a breathing apparatus is not, in law, a manual scavenger. He is a person involved in dangerous cleaning. If he is killed, his death does not fall into a category, which would trigger the rehabilitation procedure under the Act. That is the 'textual root' of the statement, repeated in Parliament in reply after reply, that no deaths are reported to have occurred due to manual scavenging.

V. The Supreme Court as Institution of Last Resort

Thus, out of the much missing executive action, judicial institution has been the prerogative of law for the ultimate adjudication. For instance, in Delhi Jal Board v National Campaign for

[17] Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013, ss 2(1)(d), 2(1)(g), 5, 7, 9, 11–16, 22 and 33.
[18] Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989, s 3(1)(j), inserted by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015 (Act 1 of 2016).
[19] PEMSR Act 2013 (n 17).

ISSN: 2582-6433

Dignity and Rights of Sewerage and Allied Workers, the Court sustained directions for compensation and safety and refused to let a public utility escape its liabilities on the ground that the sewage workers were employed through a contractor.[20] In March 2014, in Safai Karamchari Andolan v Union of India, the Court read the 2013 Act along with the Articles 17 and 21, directed every family that had suffered death in sewer work since 1993, and ordered ten lakh rupees compensation for each death.[21]

Dr Balram Singh v Union of India (2023) is the doctrinal high point.[22] The Court promised to the Union and the States a phased removal of manual sewer cleaning, increased the compensation paid for sewer deaths to thirty lakh rupees, and set out graded compensation for disability. It read the phrase 'other forms of forced labour' in Article 23 to include the employment of sewer workers as they are forced into it (building on People's Union for Democratic Rights v Union of India).[23] The Court explained in January 2026 that the increased sum extended to past deaths, for which compensation had not been announced and paid.[24]

The litigation did not end with the order. On 29 January 2025, the Court directed that manual scavenging and manual sewer cleaning "should stop forthwith" in Delhi, Mumbai, Kolkata, Chennai, Bengaluru and Hyderabad, and asked the heads of these municipal bodies to file affidavits detailing the steps to be taken and time line for stopping such work.[25] On 27 July 2026, after the amicus curiae brought to the Court's notice the parliamentary data of 54 deaths due to manual scavenging in 2024 and 46 in 2025, including 17 in Maharashtra, 13 in Rajasthan and 12 in Tamil Nadu in 2024, the Court issued notices to the Chief Secretaries of these five States calling for a show cause why contempt proceedings should not be initiated. The bench said that directions issued by the Court in 2023 had not percolated down to the ground.[26]

The chronology is consistent with Upendra Baxi's formulation of social action litigation as a

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[20] *Delhi Jal Board v National Campaign for Dignity and Rights of Sewerage and Allied Workers* (2011) 8 SCC 568.

[21] *Safai Karamchari Andolan v Union of India* (2014) 11 SCC 224.

[22] *Dr Balram Singh v Union of India* [2023] 14 SCR 1083, 2023 INSC 950.

[23] *People's Union for Democratic Rights v Union of India* (1982) 3 SCC 235.

[24] Rs 30 Lakhs Compensation for Manual Sewer Cleaning Deaths Prior to "Balram" Judgment If Unpaid: Supreme Court Clarifies' *LiveLaw* (29 January 2026) <https://www.livelaw.in/amp/supreme-court/rs-30-lakhs-compensation-for-manual-sewer-cleaning-deaths-before-to-balram-judgment-if-unpaid-supreme-court-clarifies-521031> accessed 19 November 2026.

[25] *Dr Balram Singh v Union of India* WP (C) No 324 of 2020 (SC, order of 29 January 2025); Gursimran Kaur Bakshi, 'Supreme Court Bans Manual Scavenging & Manual Sewer Cleaning in Six Metropolitan Cities' *LiveLaw* (29 January 2025) <https://www.livelaw.in/top-stories/supreme-court-bans-manual-scavenging-manual-sewer-cleaning-in-six-metropolitan-cities-282386> accessed 19 November 2026.

[26] *Dr Balram Singh v Union of India* WP (C) No 324 of 2020 (SC, order of 27 July 2026); Gursimran Kaur Bakshi, 'Supreme Court Raises Concern over Recurring Manual Scavenging Deaths, Issues Contempt Notices to 5 State Chief Secretaries' *LiveLaw* (27 July 2026) <https://www.livelaw.in/top-stories/supreme-court-raises-concern-over-recurring-manual-scavenging-deaths-issues-contempt-notices-to-5-state-chief-secretaries-543038> accessed 19 November 2026.

ISSN: 2582-6433

judicial solution to suffering that ordinary politics left unaddressed.[27] But it also reveals a strategy that Anuj Bhuwania has documented in public interest litigation: The Court's order becomes the government's complaint to the executive, and the executive's response becomes a set of affidavits filed in a court in Delhi.[28] There is compliance to be filed at the registry, next to the intemperance at the manhole. Each document of non-compliance is answered with an order that is even more intemperate. A court can make sure that the price of death is higher, but it cannot determine who goes down.

VI. The Arithmetic of Erasure: What the State Counts

Official figures are the means by which the State informs the Court and Parliament of the degree of its compliance. Official figures should thus be read as legal artefacts. Table 1 shows the report of the year for the most recent reply, and for comparison, the figures provided in reply of July 2023 for the same year.

Table 1: Deaths during cleaning of sewers and septic tanks, as reported to the Lok Sabha

Year	Reported in 2026 reply	Reported in July 2023 reply
2018	—	67
2019	132	117
2020	34	22
2021	62	58
2022	88	66
2023	65	9 (to July 2023)
2024	54	—
2025	47	—
2026 (January–June)	16	—
Total, 2019 to June 2026	**498**	**—**

[27] Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 Third World Legal Studies 107.
[28] Anuj Bhuwania, *Courting the People: Public Interest Litigation in Post-Emergency India* (Cambridge University Press 2017).

ISSN: 2582-6433

Sources: Lok Sabha replies of the Ministry of Social Justice and Empowerment, sources for the numbers are as cited in the sources cited at nn 2 and 29. A dash indicates the reply did not provide a figure for that year.

There are four things extraordinary about this record. First, the numbers change: deaths for 2019 were first put at 117 in 2023, then at 132 in 2026. 2022 deaths went up from 66 to 88.[29] The 2013 Act simply doesn't require States to report deaths, the Union government in 2019 said it had no intention of changing it to make deaths reporting mandatory.[30] The figures that go to Parliament depend on what district offices choose to submit.

Second, the classification itself is consistent: all 498 deaths are classified as hazardous cleaning - none as manual scavenging.[31] Third, the relief, which the Court has ordered most vigorously, remains partial. Of the 498 cases, 345 families got ten lakh each, 75 got thirty lakh each, 22 got partial payment, and in 56 the payment was not confirmed.[32] A separate response in March 2026, dealing with 622 deaths since 2017, said 52 families received nothing.[33]

Fourthly, they have been rarely convicted. The Department of Social Justice and Empowerment told a Parliamentary Standing Committee in March, 2023, that out of 616 cases filed against contractors under the 2013 Act for not providing safety gear, only one had resulted in conviction.[34] Two years earlier, the Minister informed the Lok Sabha that so far, no State or Union Territory had reported any conviction of manual scavengers.[35]

In between these figures, however, is a stark counterpoint. A 2024-25 national survey found that every single district in the country declared itself free from manual scavenging. But every single district in the country, over the very same years, also identified the nearly ninety thousand individuals who are still employed in this deadly work through the Union's

[29] Compare n 2 with '339 Lives Lost to Manual Scavenging in the Last Five Years, Govt Data Reveals' *The Wire* (July 2023) <https://thewire.in/rights/339-lives-lost-to-manual-scavenging-in-the-last-five-years-govt-data-reveals> accessed 19 November 2026.

[30] 88 Manual Scavenging Deaths in 3 Years' (India Environment Portal, July 2019) <https://indiaenvironmentportal.org.in/news-clippings/88-manual-scavenging-deaths-in-3-years> accessed 19 November 2026; 'Protection of Manual Scavengers under the Law: The Real Picture' *SabrangIndia* <https://sabrangindia.in/protection-manual-scavengers-under-law-real-picture/> accessed 19 November 2026.

[31] Lok Sabha reply of 2026 (n 2).

[32] ibid

[33] '622 Sanitation Workers Died in Sewers, Septic Tanks across India in 9 Yrs, 52 Families Got 0 Compensation' *ThePrint* (17 March 2026) <https://theprint.in/india/622-sanitation-workers-died-in-sewers-septic-tanks-across-india-in-9-yrs-52-families-got-0-compensation/2881398> accessed 19 November 2026.

[34] Only One Conviction for Unsafe Sewer Cleaning, Centre Tells Parliament Panel' *Scroll.in* (24 March 2023) <https://scroll.in/latest/1046230/only-one-conviction-for-unsafe-sewer-cleaning-centre-tells-parliament-panel> accessed 19 November 2026.

[35] 'No Reports of People Being Convicted for Employing Manual Scavengers: Centre' *The Wire* (July 2019) <https://thewire.in/rights/manual-scavenging-ramdas-athawale-parliament-questions> accessed 19 November 2026.

ISSN: 2582-6433

NAMASTE scheme.[36] The State, in other words, announces that it employs zero manual scavengers and, at the very same time, that it employs nearly ninety thousand manual scavengers. Because, under the 2013 Act, survey identification leads directly to rehabilitation, what is not counted is not rehabilitated. In this way, the statistic is not a fact about the operation of the law. It is one of the ways the law operates.

VII. Why the Law in Books Fails in Action: Four Mechanisms

A. Definitional erasure

The first mechanism has been mapped above. By linking the definition of a manual scavenger to the non-notification of equipment, and then segregating sewage and septic tank deaths out of the mechanism, the 2013 Act allowed the State to declare itself free of the practice even as the deaths go on. The definition only responds to the question of whether the employer made the gear available. It does not answer the query posed by Article 17-that caste-determined degrading labor is still around.

B. Contractual distancing of liability

Municipal corporations and water boards never directly hire sewer workers. The work is contracted out to contractors, who in turn hire men on a daily wages basis, most often on a verbal agreement. When a death occurs, the liability has been devolved down the line. A legal principle in Delhi Jal Board- that a public body cannot shirk its responsibility by contracting the work out to another - is reflected in case law, but is rarely present in the charge sheet. Cases of causing death by negligence, now section 106 of the Bharatiya Nyaya Sanhita 2023, are filed with the police in instances where they can be pressed into action against the contractor or supervisor. According to an official record of deaths till 2020, FIRs have been filed in only 462 of 1,013 deaths.[37] Officers whose agencies had sponsored the work are never named.

C. Compensation in place of prevention

Compensation is the easiest of Court's directions to quantify, and so it has emerged as the primary measure of compliance. Increasing this to thirty lakh rupees is a moral pronouncement about how much a human life is worth. But compensation is not paid until after the event,

[36] Lok Sabha reply of 2026 (n 2).
[37] Citizens for Justice and Peace, 'Manual Scavenger Deaths: How Effective Is the Law in Preventing Them?' <https://cjp.org.in/manual-scavenger-deaths-how-effective-is-the-law-in-preventing-them/> accessed 19 November 2026, citing figures reported by *Scroll.in*.

ISSN: 2582-6433

generally by the Union, the State, or the Union Territory in which the death occurred, meaning the cost is borne by the public treasury rather than the contractor or officer who caused the death. A promise to compensate the dead risks becoming the cost of participation rather than the payment to the dead, while affidavits of payment are an epistemological apology for silence in the tunnels.

D. Enforcement dependent on the least powerful

Galanter's explanation accounts for the tipping, the balance away from the system when municipal contractors and bodies repeat players, working with the police and courts, able to withstand delay, learning where their attention pays.[38] The dead worker families are one shotters, poor, often migrant, drawing on the same local order for future work. The PEMSR Act and the Atrocities Act both in practice, rely on such families or activist organisations to give effect to enforcement. Galanter's earlier field studies of compensatory discrimination found that such benefits as the law gave were captured by those most able to navigate the bureaucracy.[39] Rehabilitation under the 2013 Act, based on a survey by the very administration that reports no manual scavengers in the country, reproduces that pattern.

Ehrlich's living law applies behind all four mechanisms. The Court and the Act are right to prioritise mechanisation, which may alter the physical tools, but it will not necessarily alter the larger picture - who is employed, who is called in at a late hour when there is no one around, who is asked to unblock a pipe when no assistant can be found. Without a system of real and viable alternatives and the ability to ownership of the machinery that replaces them, mechanisation will simply perpetuate this residual and hazardous labour in the shadows.

VIII. Recommendations

The reforms discussed below tackle the above mentioned mechanisms and not the symptoms.

1. Redefinition. Remove the proviso to section 2(1)(g) and incorporate hazardous cleaning into the definition of manual scavenging such that a human entry into a sewer or septic tank for cleaning (except in terms of a certified emergency protocol) is covered within the expression manual scavenging and hence makes the act's rehabilitation provisions applicable.
2. Non-delegable liability. Make the Delhi Jal Board apply the principle – the local

[38] Galanter, 'Why the "Haves" Come Out Ahead' (n 5).
[39] Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press 1984).

ISSN: 2582-6433

body/utility that orders the work should be jointly and severally (civil and criminally) responsible with the contractor and designate the official in-charge of the jurisdiction responsible for any death there.

3. Compulsory reporting and independent audit. Legislate a legal obligation to report all deaths to the National Commission for Safai Karamcharis within 7 days and, in case of more than 1 death, an independent audit within 30 days, with the findings uploaded on Balram Singh's Unionwebsiteanddashboard.
4. Declaring crimes to be mandatorily registered. For instance, the police must register every death under section 9 of the PEMSR Act and section 3(1)(j) of the Atrocities Act, along with the general criminal law, and prosecute those offences in Special Courts within a specific timeline.
5. Measuring off the 'path back to life': Linking automatisation and rehabilitation. Decouple rehabilitation from enumeration, and make it accessible to all sanitation workers and the families of every deceased worker; and promote workers' cooperatives when making the arrangements for ownership of and contracts for mechanized cleaning equipment.

These steps would align Indian law better with its constitution and international obligations: the right to live with dignity in Article 21,[40] the evolutionary reading of the ban on forced labour in Bandhua Mukti Morcha v Union of India,[41] and the Committee on the Elimination of Racial Discrimination's finding that discrimination on the basis of descent (including caste) is covered by the International Convention on the Elimination of All Forms of Racial Discrimination.[42]

IX. Conclusion

Manual scavenging in India is often told as a story of a progressive law flummoxed by a backward society. The present argument shows that the gap was also by design. It was possible to report the death of 498 persons without any death reported 'due to manual scavenging' while the State claimed to have abolished the practice because of the presence of a liability structure that stops at the contractor, of an equipment-based definition, of a post mortem remedy and of an enforcement mechanism that waits for the bereaved to act.

[40] *Francis Coralie Mullin v Administrator, Union Territory of Delhi* (1981) 1 SCC 608.
[41] *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161.
[42] Committee on the Elimination of Racial Discrimination, 'General Recommendation XXIX on Article 1, Paragraph 1, of the Convention (Descent)' (61st session, 2002) UN Doc A/57/18.

ISSN: 2582-6433

By sticking to Balram Singh, the Supreme Court has demonstrated that the judiciary understands the stakes. However, only a codified definition can refer to the practice as it is, a liability rule that covers employers and a counting system that does not rely on the discretion of the counted against. The promise of Article 17 to abolish Untouchability in every form can only be kept by counting the dead properly.

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