

Policy Brief I

STRENGTHENING THE IMPLEMENTATION OF THE PEMSR ACT, 2013

Optimising Education and Skill-building programmes for breaking the Inter-generational chain of Manual Scavenging



SAFAI KARMACHARI ANDOLAN
A movement for elimination of manual scavenging



1. Constitutional Foundations

The Preamble to the Indian Constitution secures to all citizens of India equality of status and opportunity. Equality of opportunity means to give equal chance to every individual for the development of his/her capacity.

Education is a Fundamental Right under Article 21 (A) of the Constitution of India. The Constitution of India under Directive Principles as well as Fundamental Duties also provides for universal, free and compulsory education for all children. India has a Right to Education Act as well, that sets up clear mandates for governments and authorities at different levels, in ensuring these rights.

Article 45 of the Directive Principles reads: “Provision for free and compulsory education for children - states shall endeavour to provide, within a period of 10 years from the commencement of this Constitution, for free and compulsory education for children until they complete the age of 14 years.” This in fact was the only provision in the constitution that had a built in time frame. Alongside Article 16 of the Fundamental Rights promised equal opportunity in employment for its citizens.

Now when we say equality, the Constitution had a much more nuanced understanding that upheld equity as the latter concept recognises differences, and attempts to counteract unequal individual opportunities and thereby qualifies the notion of equality further. Various Articles of the Indian Constitution safeguard the educational interests of the weaker sections of the Indian society particularly those who are socially and educationally backward such as scheduled castes and scheduled tribes. This includes reservations and various other affirmative actions and upliftment programs.

Keeping in view this constitutional background, the Govt. of India in 1974 adopted a national policy for children that said “Children's programmes should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivations needed by society. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice.”

Despite the ideals and ambitions prescribed in the Constitution, even decades since, education and opportunities still elude millions of those, whose fatal accident of birth in particular castes precludes their access to decent education and fair opportunities of employment. They still end up cleaning our sewers, septic tanks, drains, rail tracks and insanitary dry latrines, dealing with human excreta or slush with bare hands and bare bodies, often losing lives too. Opportunities get culled intergenerationally as market-led growth combine with feudal caste structures and our collective apathy. Education and skill development are something that can leverage the process of rehabilitation of these workers and supporting the future generations, however they are not working in favour of these workers despite constitutional foundations.

2. Problem Statement

To arrive at the statement of the problem, we ought to first glance through some of the realities as observed both through snippets of some studies and also our own field visits while evaluating the implementation of the PMESR Act 2013.

Findings from previous studies:

- a) A study conducted by Rawat et al. (2007) in a survey conducted of 117 manual scavengers in the Gorakhpur region of Uttar Pradesh revealed that only 27 percent of the children were literate whereas leaving 73 percent to illiteracy also adding to the total illiteracy level of the community to 76 percent. This illiteracy has resulted in the virtual isolation of community from the rest of the society and in the continuous grip of superstition and backwardness.
- b) Narayanaswamy et al (2009-2010) in his study conducted with the children of manual scavengers in Tamil Nadu notes that 24 percent of the children dropped out of the school out of which 3/4th were boys and 1/4th were girls. The author also notes that unfavourable attitude of teachers towards the children of manual scavengers and branding them as the children 'unfit' for education and in result children develop an aversive feeling towards their school as their behavior is criticized and condemned by teachers.
- c) A 2013 survey of 480 women from manual scavenging communities in nine districts in the three Indian states of Bihar, Uttar Pradesh, and Madhya Pradesh, undertaken by Jan Sahas Social Development Society with the support of UN Women, found that 12% of all survey respondents were educated until the primary level, 5% received education until the middle school level. Just 1% of respondents studied till the high school and beyond. Bihar had 98% of illiterates, which is the highest, compared to Uttar Pradesh and Madhya Pradesh which is 60% and 30% respectively.
- d) Sridhar (2011), pointed in a paper series on Dalit Households about their relatively poor access to official sources of credit, their lack of command over assets and amenities, and lower levels of employment and income.
- e) There seems to be a reverse reservation when it comes to jobs in the sanitation sector for the Dalits thereby perpetuating inter-generational social immobility. There are for instance around 30,000 sanitation workers employed by the Greater Mumbai Municipal Corporation and all 30,000 are Dalits.

Empirical observations from the field:

- a) As per SKA's baseline survey in one of the study towns, all 44 identified manual scavengers had only primary level education. In a district of Bihar among the 58 manual scavengers identified, only 2 had primary education. In Dhanbad out of the 44 identified in the baseline, 23 had never received any education whatsoever. In Panna, out of 129 manual scavengers identified by SKA, 123 have had no education at all. The figures only give credence to the

fact that the communities are unable to break the curse of caste in absence of adequate education and scholarship support for their children.

- b) Santoshi from one of the study locations stopped manual scavenging after SKA's intervention. After receiving one-time cash assistance, she decided to open a small grocery store. She never went to school herself but aspired her children to be educated. Her younger son is studying in class 4th, elder one studied till class 8th and dropped out. Two daughters have studied till class 3rd and 5th. She says, "after leaving manual scavenging work, the discrimination has significantly reduced. Now even the people who never greeted, greet us with *ram ram*." Nonetheless, the stigma still sticks on and her children are called "*bhangi's*¹ son/daughter" in school, by other kids.
- c) During the field visits in four towns, researchers encountered a high rate of school dropouts in younger generations and the low level of literacy among elders. A local lady from one of these locations, Dehri said, "*Hum bhi apne baccho ko padhne dekhna chahte hai, age badhne huve dekhna chahte hai. Hume hamare haq ke 40,000/- bi sarkar nahi de rahi hai, wo keya humare bachho ke shaiksha ke khatir paisa degi.*" (We also want our children to get good education, to see success in life. A government that doesn't even give us our rightful 40,000 rupees, how can we expect them to give our children proper education?)
- d) Researchers asked persons in manual scavenging about the treatment they get in offices when they go to ask for their rights, like bank loans, schemes, skill programs, scholarships etc. One said, "*hum jab bhi kisi kaam se jate hai, afsar hume taal dete hai. Abhi vyast hu, meeting hai, kal aana, parso aana. Is karan hum nirash ho jate hai aur us chij ki aasha chhod dete hai.*" (Whenever we go for some enquiry or work, the officer avoids us with one excuse or another... says they are busy, or have a meeting, or postpone indefinitely. So we lose all hope of ever getting our rights.) The researchers when discussing the condition of manual scavengers, heard from the City Manager of the Dhanbad Municipal Corporation that "If these people (Dalits) do not do this work, what will they eat? *Kisiko ko toh tyag karna padega.*" (Someone has to sacrifice).
- e) The researchers also observed that the hegemonic internalisation of the caste was very much there amongst some of the manual scavengers themselves. In one of the towns, a woman said "*Yeh toh bhagwan ka dia hua kaam hai, hum kaise inkaar kar sakte hai?*" One said, "*Ye to humare picble janm ke bure karmo ka fal hai*". (This is our divinely ordained task, how can we refuse? This is the curse of our last birth.)

¹ Bhangi, Chuhra, also known as Balmiki, is a Dalit caste in Indian subcontinent.

Key issues identified

- Very low levels of literacy and basic education amongst people engaged in manual scavenging.
- High dropout rates amongst school going children, owing to both financial constraints and social stigma.
- Lack of viable alternative employment options and absence of incentives, including lack of support for identifying and availing the existing ones.
- Ingrained caste-oriented thinking amongst the administrative circles which creates additional barriers
- Internalisation of the inferior social position by the manual scavenging communities, and their lack of confidence to deal with the caste hierarchy, as reinforced by the caste system

3. Review of the PEMSR Act, 2013

On the 64th year of the Republic the nation for the first time recognized formally under the UPA II government through a legislative act the “dehumanising practice of manual scavenging, arising from the continuing existence of insanitary latrines and a highly iniquitous caste system” that “still persists in various parts of the country”. It considered it imperative that the “historical injustice and indignity suffered by the manual scavengers” be corrected through a process of rehabilitation to a sustainable life of dignity. This was called The Prohibition Of Employment As Manual Scavengers And Their Rehabilitation Act, 2013. The National Advisory Committee steered the process of framing the law, though all the recommendations that found expression in the NAC did not find place in the final Act. But in more ways than one it remains one of the landmark legislations that in fact connected one’s right to free or uplift oneself from the degrading occupation of manual scavenging as a fundamental right guaranteed by the Constitution.

Provisions made in the PEMSR Act, 2013 to achieve this:

- (1) **Education Loans** of up to 10 and 20 lakhs respectively for studying in India and abroad were to be granted under this scheme
- (2) **Skill Development Training** upto two years with stipend of Rs.3000/- per month: Training is provided to the beneficiaries for acquiring new skills and entrepreneurship capabilities. Training can be provided by Govt. agencies/Institutes as well as by reputed specialized training agencies. Training is provided in selected industries/business activities which facilitates gainful employment of the trainees.
- (3) **Pre-Matric Scholarship** scheme to the Children of those engaged in occupations involving cleaning and prone to health hazards. It promised Rs 110 per month to day scholars and Rs 700 per month to hostellers.

Our observation in the statement of problem clearly demonstrates that there remain huge gaps between the outcomes as prescribed in the Act and the reality as it exists seven years since its promulgation. In this section, we are evaluating the performance of the Act from three different yet

overlapping perspectives so as to critically and systematically analyse as to what created this gap. What were the limitations that led to this? Were there flaws in the design of the Act itself? Or was the problem largely in implementation? Or was it a result of active bias among functionaries of state? It could be one, or two or all of the above to varying degrees. But this diagnosis will help us figure antidotes accordingly.

A. Were there design flaws in the Act that account for this exclusion?

- 1) **Definitional vagueness that reduces scope of identification of beneficiaries:** The term manual scavenging is understood in a limited fashion by different actors. While it used to only involve manual cleaning of dry latrines earlier, it later included several other category of workers who are involved in handling human excreta directly. Though the new definition is a marked improvement on the earlier, but it does not clearly differentiate between various categories of workers and their work related challenges and support requirements. Such restricted definition has bearing in proper identification of prospective beneficiaries who could avail the education, skilling, or scholarship. While it may appear that the current definition is more oriented towards people who handle human waste manually from insanitary latrines, our experience suggest that they are also not benefitted by this, suggesting that these definitional gaps are acting against all types of manual scavengers.
- 2) **Under-identification of beneficiaries:** As per the law, the survey to identify beneficiaries was to be conducted *only if* the local authorities have “reason to believe” that there are manual scavengers in the area. Such discretion, due to the design flaw in the act, has also led to under-identification of beneficiaries for both skilling and education along with other benefits of the Act.
- 3) **The skilling program cannot be a mindless act; neither is it worth if in the name of skilling only some tick-boxing is done.** For example, in one of the locations, few women received training on food processing which proved to be useless for them as there was no food processing unit in the area and they were unable to create a sustainable income from this training as no funds were given to them after the training to start businesses. And then again, in Delhi the local administration started a skilling program to train manual scavengers in “house-keeping” which ends up being just a change in nomenclature as they largely remain in the same cleaning profession.

B. Were there flaws in implementation of the Act?

- 1) As per a Right to Information response received, the NSKFDC informed that 25,808 persons were skilled from 2013-2019 in the four states of UP, Jharkhand, MP and Bihar. However, none of the manual scavengers whom we met in the four field sites reported that they received any skill development training under the SRMS scheme.
- 2) In an RTI response received from NSKFDC, in which details about the education loans to be provided to children of manual scavengers were asked, it shows that in all four of our

field States, UP, Bihar, Jharkhand and MP, the number of people who have benefited from these loans is zero.

- 3) Researchers filed several RTI's to which government officials did not respond. Later, when an inspection as per RTI Act was held, researchers could not find a single document pertaining to pre-matric scholarships in five urban local body offices.

C. Was there active bias from government functionaries?

Dr Shaileshkumar Darokar, assistant professor with 'TISS' Centre for Study of Social Exclusion and Inclusive Policies, points to *"the callous apathy by the government, administration and politicians, towards the protection and welfare of scavengers who are largely Dalits and belong to the lowest ranks in the Indian society."*

A woman who belonged to the community in one of the towns said that, when they visited local authorities, "we are being mentally harassed to the extent that we feel grossly underconfident to even ask simple questions about our own rights from the officials. The effect of this spills over on our children too."

- 1) In a context where awareness about the scheme is low, owing to lack of education, the apathy within a large number of officials in the administration (probably as many of them belong to upper caste, or those who believe in caste hierarchy), further complicates the possibility of proper implementation.
- 2) The dominant bias amongst most officials that the work of manual scavenging ought to be the work of the Dalits following the caste systems creates a barrier in the way of spirited implementation of the clauses of the act, including proper publicity of the act including the surveys to enumerate beneficiaries, schemes for the rehabilitation of people and the key benefits of such schemes.
- 3) We got enough references from our field wherein kids of manual scavenging communities were reported to be shamed and taunted as "*bhangī*" or unclean in school by peers and ill-treated even by teachers belonging to the 'upper' castes. At places we were told that they were made to clean the school toilets or were served mid-day meals separately. In such contexts, the active bias of the administrative officials further diminishes the abilities of these communities to overcome the barriers.

4. Recommendations

If we recognize what is stated by the Act itself, that the manual scavengers are victims of historical injustice, we must also act on what it means and intends to address. It means that an entire community is condemned to this and *only* this work inter-generationally, with no other way of imagining their lives and aspirations. Acting on this would entail that the efforts for their upliftment are also sustained and even an intergenerational one. Simply “freeing” them from their current engagement of manual scavenging would not mean much, unless commensurate efforts are put to undoing the intergenerational injustice on these communities, historically. Our recommendations in order to address these hard realities are the following;

- 1) Make it mandatory for all concerned authorities to take necessary measures to expand the pool of beneficiaries, by way of removing the discretion that they have about identifying people engaged in manual scavenging and mandating it as their duty to enlist all those persons and their families in specific professions that constitutes manual scavenging. Towards this, it is also important to address the definitional and procedural issues that have led to either under-identification or conflicting numbers.
- 2) Active bias or apathy must be brought to account by means of building a robust mechanism to countercheck failures of implementation, including orientation of the officials about the primacy of achieving the essence of this law. This should also extend to making non-implementation by administrative officials punishable. Similarly, incentives may be introduced for finding and supporting all beneficiaries in a given setting.
- 3) The identification of all eligible/ out of school children of people currently or previously engaged in any form of manual scavenging, their enrolment in schools and ensuring scholarship to all of them should be done on an annual basis through appropriate mechanisms including civil society and community level organisations. Such support should not be stopped despite the rehabilitation of their parents. Such educational scholarships for the children of these families should be continued for at least 2-3 generations. The scholarship amounts need to be revised to a decent amount too, that helps the families to support these students well.
- 4) The nature and details of skill development should be finalised in consultation with respectable civil society organizations, NGOs and campaigns focussed on Dalit issues, post a clear assessment of what specific skillsets are required and viable at the specific localities and communities. The trainers should be from a background that understands the caste-based stigma and oppression, and in a position to build the motivation and resolve of the trainees.
- 5) A special sub-committee needs to be constituted at all districts monitor drop-outs of kids from families of manual scavengers from educational programs and institutions, which should be able to recommend counter-measures for the caste-influenced or discriminatory attitude of school authorities or teachers, wherever such behaviours are found. Again, the lead officials for such committees needs to be belonging to similar backgrounds so that they can understand these issues, with sufficient authorities for refer such cases for necessary penal action.



Strengthening the Implementation of PEMSR Act, 2013: Policy Brief 1

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Authored by: Harsh Mander, Sagar Kumbhare, Anirban Bhattacharya, Mihika Chanchani

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