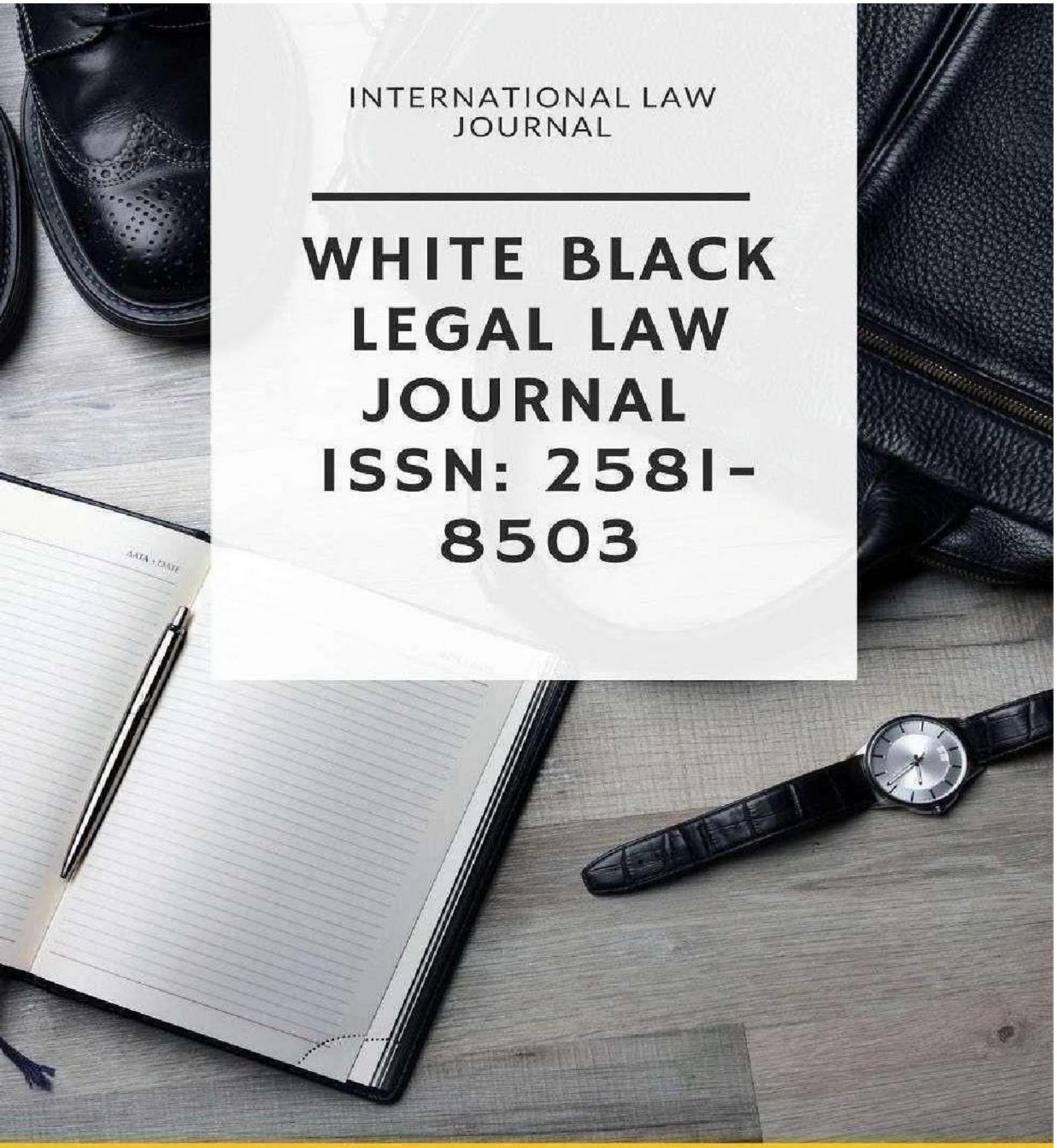


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"MANUAL SCAVENGING, CONTRACTUALISATION AND SEWER DEATHS: REASSESSING LABOUR PROTECTION POLICIES FOR SANITATION WORKERS IN INDIA"

AUTHORED BY - MOHD SHAHRAN

"For ours is a battle not for wealth or for power. It is a battle for freedom. It is the battle of reclamation of human personality."

- Dr. B. R. Ambedkar

Abstract

Indian law prohibits the engagement of any person for the hazardous cleaning of sewers and septic tanks, and the Supreme Court treats unsafe sanitation work as a violation of dignity and of the guarantee against forced labour. Yet figures placed before Parliament record 498 deaths in sewer and septic-tank cleaning between January 2019 and June 2026. It argues that the central difficulty is the attribution of responsibility. Sanitation work is increasingly outsourced, and the law governing it is split between a prohibition statute, the contract-labour regime of the Occupational Safety, Health and Working Conditions Code, 2020, and executive schemes. This split allows public authorities to treat worker safety as the contractor's contractual duty, narrows rehabilitation through the separation of "manual scavenging" from "hazardous cleaning", and lets compensation displace prosecution. Through *Delhi Jal Board*, *Safai Karamchari Andolan* and *Balram Singh*, the paper shows that the courts already treat the public authority's safety duty as non-delegable, and recommends that this principle be given statutory form.

Keywords: Manual scavenging; Hazardous cleaning; Sewer deaths; Contractualisation; Principal employer; Article 23; OSH Code, 2020; NAMASTE

Research Questions

1. How does Indian law distinguish manual scavenging from hazardous cleaning, and with what consequences for sanitation workers?

2. Does the contractualisation of sewer work fragment legal responsibility among public authorities, principal employers and contractors?
3. How far have the Supreme Court and the High Courts re-allocated that responsibility?
4. Do the NAMASTE scheme and the labour codes in force since 21 November 2025 close the gap between formal and actual protection?

Research Methodology

This research adopts a doctrinal and analytical methodology. Primary sources include the Constitution, the 2013 Act and Rules, the Contract Labour (Regulation and Abolition) Act, 1970, the Occupational Safety, Health and Working Conditions Code, 2020, and judgments of the Supreme Court and High Courts. Empirical material is drawn from affidavits recorded in *Balram Singh* and from replies to parliamentary questions. Secondary sources include books, journal articles and reports of international organisations.

1. Introduction

"The human beings who are employed for doing the work in the sewers cannot be treated as mechanical robots."

- Justice G.S. Singhvi

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (hereinafter "the 2013 Act") forbids any person, local authority or agency from engaging anyone, "either directly or indirectly", for the hazardous cleaning of a sewer or septic tank.[1] Yet in August 2026 the Union government informed the Lok Sabha that 498 persons had died while cleaning sewers and septic tanks between 1 January 2019 and 30 June 2026, while maintaining that no death had been reported due to "manual scavenging".[2]

The two statements are consistent in law, because the statute treats latrine cleaning and sewer cleaning as different activities. But they point to a deeper problem. The worker who dies in a manhole is often engaged by a contractor, or a sub-contractor, for work that a municipality or water board is itself responsible for. After a death, each actor points to another. In *Delhi Jal Board* v. *National Campaign for Dignity and Rights of Sewerage and Allied Workers*,[3] the Supreme Court noted that neither law-makers nor implementing agencies had created any

[1] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, s. 7.
[2] Ministry of Social Justice and Empowerment (Government of India), "Lok Sabha Unstarred Question", answered on Aug. 4, 2026.
[3] (2011) 8 SCC 568.

mechanism to protect workers engaged through contractors for inherently hazardous public work.

This paper treats manual scavenging, contractualisation and sewer deaths as connected legal questions. It does not assume that outsourcing is unlawful. It asks whether outsourcing changes who is treated as responsible.

2. Objectives of the Study

The present study aims to:

1. Examine the statutory distinction between manual scavenging and hazardous cleaning.
2. Analyse how contractualisation affects responsibility for safety, compensation and rehabilitation.
3. Evaluate the judicial response to sewer deaths and outsourced sanitation work.
4. Assess the NAMASTE scheme and the labour codes as instruments of protection.
5. Suggest reforms that fix responsibility before a death rather than after it.

3. Review of Literature

Several studies have documented the persistence of manual scavenging in India. Human Rights Watch, in its report *"Cleaning Human Waste"*, establishes the caste character of the practice and the failure of the 1993 prohibition.[4] Bhasha Singh in *Unseen: The Truth about India's Manual Scavengers*[5] and Gita Ramaswamy in *India Stinking*[6] give detailed accounts of the lives of manual scavengers and of official denial.

A joint assessment by the World Bank, ILO, WaterAid and WHO, *Health, Safety and Dignity of Sanitation Workers*, frames sanitation work as a problem of occupational health and safety.[7] More recently, Devesh Khatarker, in his article *"Of Sanitation Labour, Obsolete Technologies and Civilisation in India"*, links the denial of basic labour rights in Mumbai to the outsourcing of municipal sanitation to private agencies.[8]

Legal writing has concentrated on the 2013 Act, surveys and compensation. The review thus reveals a gap: less attention has been paid to the interface between the 2013 Act and contract-

[4] Human Rights Watch, "Cleaning Human Waste": "Manual Scavenging," Caste, and Discrimination in India" 6 (2014).
[5] Bhasha Singh, *Unseen: The Truth about India's Manual Scavengers* 10 (Penguin Books, New Delhi, 2014).
[6] Gita Ramaswamy, *India Stinking: Manual Scavengers in Andhra Pradesh and Their Work* 12 (Navayana, Pondicherry, 2005).
[7] World Bank, ILO, WaterAid and WHO, "Health, Safety and Dignity of Sanitation Workers: An Initial Assessment" (World Bank, Washington DC, 2019).
[8] Devesh Khatarker, "Of Sanitation Labour, Obsolete Technologies and Civilisation in India" 55 *Social Change* 352 (2025).

labour law, that is, to the question of who the "employer" is when hazardous cleaning is done through a contractor for a public body. This paper addresses that gap.

4. Manual Scavenging and Hazardous Cleaning: The Conceptual Framework

The 2013 Act defines a "manual scavenger" as a person engaged "by an individual or a local authority or an agency or a contractor" to handle human excreta in an insanitary latrine, open drain, pit or railway track, whether on a regular or contract basis.[9] Sewer work falls under a separate heading. "Hazardous cleaning" means the manual cleaning of a sewer or septic tank "without the employer fulfilling his obligations" to provide protective gear and cleaning devices and to ensure safety precautions.[10] The Act defines "agency" to include a contractor,[11] but it does not define "employer". This omission becomes important once the work is outsourced.

The separation has two consequences. First, statutory rehabilitation is tied to the survey list of manual scavengers and does not reach hazardous cleaners. In *Dr. Balram Singh* v. *Union of India*,[12] the Supreme Court acknowledged this gap but declined to decide whether it violates Article 14, as the provisions had not been challenged. Second, the official claim of no "manual scavenging" deaths is accurate only because sewer deaths are counted under the other heading. Neither category is caste-neutral. Parliament has treated compelled scavenging as a practice of untouchability,[13] and in *Balram Singh* the Court held hazardous cleaning to be a manifestation of untouchability abolished by Article 17. Fieldwork in Mumbai shows that the link between caste and sanitation labour remains intact, though in less direct forms.[14] Contractualisation therefore operates on workers whose bargaining power is already limited.

5. Constitutional and Statutory Framework

5.1 Constitutional foundations

Article 17 abolishes untouchability.[15] Article 21 has been read in *Bandhua Mukti Morcha* v. *Union of India*[16] to include the right to live with dignity, free from exploitation. Article 23

[9] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, s. 2(1)(g).
[10] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, s. 2(1)(d).
[11] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, s. 2(1)(a).
[12] 2023 SCC Online SC 1386.
[13] The Protection of Civil Rights Act, 1955, s. 7A.
[14] *Supra* note 8 at 352.
[15] The Constitution of India, art. 17.
[16] (1984) 3 SCC 161.

prohibits begar and "other similar forms of forced labour".[17] In *People's Union for Democratic Rights* v. *Union of India*,[18] the Court held that labour extracted under economic compulsion is forced labour even where the worker has formally agreed to it. *Balram Singh* extended this reasoning to safety: employing hazardous cleaners without minimum protective gear and cleaning devices amounts to forced labour, so the defence that a worker entered the sewer "voluntarily" cannot stand.[19] Articles 39(e) and 42, which direct the State to protect the health of workers and to secure just and humane conditions of work, supply the policy direction.[20]

5.2 The 2013 Act and Rules

The 1993 Act addressed only dry latrines[21] the 2013 Act brought sewers and septic tanks within the statute. Section 7 bars engagement for hazardous cleaning, and s. 9 punishes a first contravention with imprisonment of up to two years or a fine of up to two lakh rupees, and later contraventions with up to five years or five lakh rupees.[22] Offences are cognizable and non-bailable, and s. 33 obliges every local authority to use appropriate technology to eliminate manual handling.[23] Under the Rules, manual sewer entry is permitted only in exceptional situations and otherwise with the reasoned written approval of the local authority's chief executive.[24] Two provisions weaken this design: s. 10 bars cognizance unless a complaint is made within three months, and s. 34 protects government officers acting in good faith.[25]

5.3 Contract-labour law: from the 1970 Act to the OSH Code

Under the Contract Labour (Regulation and Abolition) Act, 1970, the principal employer was liable for amenities and wages that the contractor failed to provide.[26] In *Steel Authority of India Ltd.* v. *National Union Waterfront Workers*,[27] however, the Constitution Bench held that abolition of contract labour does not lead to automatic absorption. The 1970 Act has now been subsumed in the Occupational Safety, Health and Working Conditions Code, 2020, made effective from 21 November 2025.[28] The principal employer remains responsible for welfare

[17] The Constitution of India, art. 23.
[18] (1982) 3 SCC 235.
[19] *Dr. Balram Singh* v. *Union of India*, 2023 SCC Online SC 1386.
[20] The Constitution of India, arts. 39(e), 42.
[21] The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.
[22] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, s. 9.
[23] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, ss. 22, 33.
[24] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013, r. 3.
[25] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, ss. 10, 34.
[26] The Contract Labour (Regulation and Abolition) Act, 1970, ss. 20, 21.
[27] (2001) 7 SCC 1.
[28] Ministry of Labour and Employment, Government of India, Press Release (Nov. 21, 2025).

facilities and unpaid wages,[29] and s. 57 prohibits contract labour in "core activities", subject to exceptions including work "ordinarily done through contractor".[30] Sanitation is excluded from the definition of core activity, but only "if the establishment is not set up for such activity".[31] For a sewerage board, sewer cleaning is arguably a core activity. Yet the "ordinarily done through contractor" exception is easily met wherever outsourcing is routine, so the provision may end up validating the very practice it appears to restrict.

6. Contractualisation and Fragmented Responsibility

Outsourcing does not remove legal responsibility. It spreads the tasks of keeping a worker safe across actors who each control only part of the risk. The scale is significant: Cantonment Boards alone engaged 4,478 permanent and 9,897 outsourced safai karamcharis,[32] and in the Delhi sewer-workers litigation it was recorded that 30 of 36 deaths of Delhi Jal Board sewer workers since 2002 were of contract workers.[33]

Table 1: Allocation of safety obligations in outsourced sewer work

Obligation	**Legal source**	**Where it falls once work is outsourced**
Mechanise cleaning	2013 Act, s. 33; Rules, r. 3	Local authority, which alone procures machines
Permit manual entry	Rules, r. 3	Chief executive of the local authority
Provide gear and devices	2013 Act, s. 2(1)(d); Rules, rr. 4–5	"Employer" (undefined); shifted to the contractor by tender
On-site precautions and supervision	Rules, rr. 6–8	Contractor's supervisor
Wages and welfare	OSH Code, ss. 53, 55	Contractor first; principal employer on default
Compensation	*Balram Singh*	Union, State or Union Territory
Prosecution	2013 Act, ss. 7, 9, 10, 19	Police, complainant, District Magistrate

The decisions that most determine risk, whether a machine is used and whether anyone enters,

[29] The Occupational Safety, Health and Working Conditions Code, 2020, ss. 53, 55.
[30] The Occupational Safety, Health and Working Conditions Code, 2020, s. 57.
[31] The Occupational Safety, Health and Working Conditions Code, 2020, s. 2(1)(p).
[32] *Dr. Balram Singh* v. *Union of India*, 2023 SCC Online SC 1386.
[33] *National Campaign for Dignity and Rights of Sewerage and Allied Workers* v. *Municipal Corporation of Delhi*, W.P. (C) No. 5232 of 2007 (Del HC).

remain with the local authority. The duties at the manhole pass to the contractor, who cannot use machines the authority never bought. In *Delhi Jal Board*, both the Board and the Delhi Development Authority told the High Court that safety equipment was the contractor's duty under the contract.[34]

The consequences for the worker are concrete. *First*, identifying the employer becomes the first legal hurdle. The Board's affidavit about who had engaged one victim was found to be misleading, and the Delhi Development Authority first denied and later conceded that a contractor had been engaged.[35] *Second*, protective gear falls between the parties: workers had asked the contractor's official for safety equipment and oxygen masks without result, and the Board conceded that it had supplied none.[36] *Third*, compensation is the area where the courts have reduced fragmentation, since *Balram Singh* makes the amount payable by the Union, State or Union Territory without proof of who the employer was.[37] Yet the amount still depends on the forum: the Delhi High Court in *Rekha* v. *Government of NCT of Delhi*[38] applied ₹30 lakh, whereas the Madras High Court in *C. Kannaiyan* v. *Deputy Commissioner of Labour*[39] directed ₹10 lakh. *Fourth*, access to remedies narrows. Civil courts are barred and the complaint window is three months;[40] employee's compensation presupposes an identifiable employer;[41] and the contract-labour provisions of the OSH Code apply only where fifty or more contract workers are engaged.[42] Small contractors and private households may fall outside labour law entirely.

Contractualisation is not unlawful in itself. The difficulty arises when outsourcing shifts onto a contractor duties that the statute places on the authority, such as mechanisation under s. 33. Section 7 is drafted broadly enough to meet this: an authority whose contractor sends a worker into a sewer without gear has engaged that worker "indirectly". The labour-law alternative, having the contract declared a sham, exists but is slow. In *Municipal Corporation of Greater Mumbai* v. *Kachara Vahtuk Shramik Sangh*,[43] the Bombay High Court upheld such a finding for about 2,700 garbage workers only after more than a decade of litigation.

[34] *Delhi Jal Board* v. *National Campaign for Dignity and Rights of Sewerage and Allied Workers*, (2011) 8 SCC 568.
[35] *Delhi Jal Board* v. *National Campaign for Dignity and Rights of Sewerage and Allied Workers*, (2011) 8 SCC 568.
[36] *Ibid.*
[37] *Dr. Balram Singh* v. *Union of India*, 2023 SCC Online SC 1386.
[38] 2024 SCC OnLine Del 3683.
[39] W.P. No. 2339 of 2010 (Mad HC, decided on Dec. 17, 2025).
[40] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, ss. 10 and 35.
[41] The Code on Social Security, 2020.
[42] *Supra* note 29, ss. 53, 55.
[43] 2017 (1) ABR 599.

7. Role of the Judiciary

The courts have responded in three stages. In *Delhi Jal Board*, the Supreme Court rejected the plea that the contract made the contractor alone responsible. It held that the State and its instrumentalities cannot absolve themselves of responsibility for the safety of sewer workers, that they and "the contractors engaged by them" are under a constitutional obligation, and that the argument of "choice and contractual freedom" was not available to them.[44] The Board was ordered to pay additional compensation, with liberty to recover it from the contractor, and to make the safety directions part of every future sewer contract.[45] The model is *pay first, recover later*.

In *Safai Karamchari Andolan* v. *Union of India*,[46] the Court directed payment of ₹10 lakh for every sewer death since 1993 and recorded that entering sewer lines without safety gear should be made a crime even in emergencies. Its focus, however, was compensation rather than prevention.

Balram Singh went further. It raised compensation to ₹30 lakh, set minimum amounts of ₹10 lakh and ₹20 lakh for disability, directed that outsourced sewer work must not require anyone to enter a sewer "for any purpose whatsoever", and called for accountability "especially wherever sewer deaths occur in the course of contractual or 'outsourced' work", through cancellation of contracts, monetary liability and a model contract providing for blacklisting.[47] In January 2026 the Court clarified that unpaid or undetermined claims, even for earlier deaths, attract ₹30 lakh.[48]

The courts have thus treated the authority's duty as non-delegable, but mainly through remedial directions rather than through an interpretation of s. 7. Cancellation and blacklisting discipline the contractor, not the authority that never procured the machines. The model contract, framed with reference to the repealed 1970 Act, must now be aligned with the OSH Code.

8. Sewer Deaths and the Enforcement Gap

Successive replies to the Lok Sabha give different figures for the same years, and the later figures are consistently higher.

[44] *Delhi Jal Board* v. *National Campaign for Dignity and Rights of Sewerage and Allied Workers,* (2011) 8 SCC 568.
[45] *Ibid.*
[46] (2014) 11 SCC 244.
[47] *Dr. Balram Singh* v. *Union of India*, 2023 SCC Online SC 1386.
[48] *Dr. Balram Singh* v. *Union of India*, W.P. (C) No. 324 of 2020, order dated Jan. 20, 2026 (SC).

Table 2: Reported sewer and septic-tank deaths in successive Lok Sabha replies

Year	Reply of July 2022[49]	Reply of December 2022[50]	Reply of August 2026[51]
2019	116	117	132
2020	19	19	34
2021	36	49	62
2022	17 (part year)	48 (part year)	88

The August 2026 reply adds 65 deaths in 2023, 54 in 2024, 47 in 2025 and 16 in January–June 2026. Deaths are often recorded late; the National Commission for Safai Karamcharis learnt of several 2022–23 deaths only through newspaper reports.[52] Official figures are therefore a minimum, and an uncounted death is usually an uncompensated one.

Compensation is paid in most recorded cases, but prosecution is rare. The Ministry reported 1,035 deaths since 1993 and compensation to 948 families.[53] For deaths after 2013, it reported 663 deaths, compensation in 631 cases and FIRs in 648. Yet apart from Karnataka and Delhi, no State had reported any prosecution under the 2013 Act. The legal design explains this pattern. Prosecution under s. 7 requires tracing the chain of engagement within the three-month window of s. 10, while compensation is payable by the State without identifying the employer. The remedy that needs attribution is the one that fails. Mechanisation is also missing: several towns, including Chittoor, Kollam and Gangtok, reported no machines at all.

9. Labour Protection Policies: A Critical Reassessment

The main executive response is the National Action for Mechanised Sanitation Ecosystem (NAMASTE), a joint scheme of the Ministries of Social Justice and Empowerment and of Housing and Urban Affairs, presented to the Supreme Court as covering urban local bodies up to 2025–26.[54] By September 2025 the government reported 88,448 sewer and septic-tank workers validated, 83,901 PPE kits delivered and 65,805 beneficiaries covered by health

[49] Ministry of Social Justice and Empowerment (Government of India), "Lok Sabha Unstarred Question", answered on July 26, 2022.
[50] Ministry of Social Justice and Empowerment (Government of India), "Lok Sabha Unstarred Question", answered on Dec. 13, 2022.
[51] Ministry of Social Justice and Empowerment (Government of India), "Lok Sabha Unstarred Question", answered on Aug. 4, 2026
[52] *Dr. Balram Singh* v. *Union of India*, 2023 SCC Online SC 1386.
[53] *Ibid.*
[54] *Dr. Balram Singh* v. *Union of India*, W.P. (C) No. 324 of 2020, order dated Jan. 20, 2026 (SC).

insurance;[55] by August 2026, 89,915 workers had been validated.[56]

These are real gains for the workers they reach, but three concerns remain. *First*, the scheme aims to ensure that "only trained workers" clean sewers and septic tanks,[57] which accepts manual entry as normal, while the Rules and *Balram Singh* treat entry as the exception. *Second*, protection follows profiling: a casual worker hired by a contractor or a household for a single job may never be profiled. *Third*, a scheme creates no enforceable claim against any employer. The labour codes help in some respects. The OSH Code makes the principal employer answerable for welfare facilities, including health and safety measures, and for unpaid wages.[58] But the Code was not designed for sewer work. Its numerical threshold, the presumption that sanitation is non-core, and the "ordinarily done through contractor" exception all remain, and it contains no sanitation-specific duty to mechanise.

10. Self Analysis

The study shows that the legal framework for sanitation workers is not weak in its norms. The 2013 Act prohibits indirect engagement, the Constitution treats unsafe sanitation work as forced labour, and the Supreme Court has refused to let a contract shield a public authority. The weakness lies in attribution. Responsibility is clear when a family claims compensation, because the State pays; it becomes unclear when the question is who should have prevented the death.

Contractualisation is the main reason for this. It places the decisions that create risk with the authority and the duties that manage risk with the contractor, and the law does not say clearly that both are the "employer". The result is a system that compensates reliably but rarely prosecutes, and that equips workers to enter sewers instead of ensuring that they need not enter at all. Formal protection has grown since 2013; actual protection depends on whether a death is counted and a claim pursued.

[55] Ministry of Social Justice and Empowerment, Government of India, "NAMASTE Scheme" (Press Note, Sept. 2025).
[56] Ministry of Social Justice and Empowerment (Government of India), "Lok Sabha Unstarred Question", answered on Aug. 4, 2026.
[57] Ministry of Social Justice and Empowerment (Government of India), "Lok Sabha Unstarred Question", answered on Dec. 13, 2022.
[58] Ministry of Labour and Employment (Government of India), "Occupational Safety, Health and Working Conditions (OSH) Code, 2020" (Press Release, Nov. 2025).

11. Recommendations

1. **Define the employer:** Amend ss. 2(1)(d) and 7 of the 2013 Act so that a public body and every contractor in the chain are jointly and severally liable, with recovery between themselves.
2. **Extend rehabilitation:** Bring sewer and septic-tank workers and the families of victims within Chapter IV of the 2013 Act.
3. **Repair the procedure:** Extend the three-month limit in s. 10 for offences involving death, and require the District Magistrate to ensure prosecution in every sewer death.
4. **Use procurement:** Align the model contract with the OSH Code and bar sewer contracts that do not specify mechanised equipment.
5. **Clarify the OSH Code:** Treat sewer maintenance as a core activity of sewerage authorities under s. 57.
6. **Improve data:** Build a public, case-level record of each death, its contractor chain, prosecution and compensation.
7. **Reach beyond municipalities:** Extend NAMASTE-type coverage to rural areas and private premises.

12. Conclusion

The study answers its research questions as follows. *First*, the 2013 Act's separation of manual scavenging from hazardous cleaning excludes sewer workers from statutory rehabilitation and allows official claims of no manual-scavenging deaths to coexist with hundreds of sewer deaths. *Second*, contractualisation fragments responsibility by placing duties with actors who cannot perform them. *Third*, the courts have rejected the contract as a defence and treated unsafe work as forced labour, but through directions that depend on continuing supervision. *Fourth*, NAMASTE and the labour codes help the workers they reach but create no non-delegable statutory duty on the public body.

The gap between formal and actual protection is therefore a gap of attribution: the State pays after a death, but no one is made to answer before it. Giving statutory form to the courts' principle of non-delegable responsibility is the most direct way to close that gap.

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