

**THE INTERSECTIONAL OPPRESSION OF DALIT WOMEN MANUAL**  
**SCAVENGERS: A CRITIQUE OF THE LEGISLATIVE AND JUDICIAL**  
**DISCOURSE**

A

DISSERTATION

*Submitted to*

National Law School of India University, Bengaluru

*in partial fulfillment of the requirements*

*For the award of degree*

of

Master of Laws (LL.M.)

*By*

Saharsh Chitransh

M23071

*Under the guidance of*

Dr. Aniket Nandan

Assistant Professor (NLSIU)



**NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU**

**2023 - 2024**

**THE INTERSECTIONAL OPPRESSION OF DALIT  
WOMEN MANUAL SCAVENGERS: A CRITIQUE OF  
THE LEGISLATIVE AND JUDICIAL DISCOURSE**

**SAHARSH CHITRANSH**

**NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU**

**2023 - 2024**

## **DECLARATION**

*I, **Saharsh Chitransh**, do hereby declare that this dissertation titled 'The Intersectional Oppression of Dalit Women Manual Scavengers: A Critique of the Legislative and Judicial Discourse' is the outcome of bona fide research undertaken by me in partial fulfillment of the Degree of Master of Laws (LL.M.) for the academic year 2023-24, at the National Law School of India University (NLSIU), Bangalore, under the guidance and supervision of **Dr. Aniket Nandan**. I declare that this dissertation is my own original work and all sources used have been properly acknowledged and cited. I further declare that I have not used any generative artificial intelligence (AI) and AI-assisted technologies in the writing process.*

*I also declare that this work has not been submitted either in part or in whole for any Degree or Diploma at any other university.*

*Sign -*

Saharsh Chitransh

Date: 30-04-2024

Bengaluru

ID No. – M23071

*This page is intentionally left blank.*

## CERTIFICATE

*This is to certify that this dissertation titled 'The Intersectional Oppression of Dalit Women Manual Scavengers: A Critique of the Legislative and Judicial Discourse', submitted by **Saharsh Chitransh** (ID No: M23071) at the National Law School of India University, Bangalore, in partial fulfillment of the Degree of Master of Laws (LL.M.) for the academic year 2023-24, was undertaken under my supervision.*

*Signature of the Supervisor \_\_\_\_\_*

*Name of the Supervisor: **Dr. Aniket Nandan (Assistant Professor, NLSIU)***

*Date: 30-04-2024*

*Bengaluru*

## ACKNOWLEDGEMENT

I would like to express my sincere gratitude to my supervisor ***Dr. Aniket Nandan (Assistant Professor, NLSIU)***, whose unwavering support and belief in me have been essential in completing this dissertation. ***Dr. Nandan's*** expertise, valuable feedback, and guidance have not only influenced this research but also contributed significantly to my growth as a researcher. His meticulous approach, ability to pinpoint gaps in my understanding and encouragement to pursue new ideas have greatly enhanced the quality of my work.

I also want to express my sincere gratitude to the ***library staff*** for their invaluable support in granting access to essential resources and fostering a conducive research environment. Their diligent work in curating and organizing a comprehensive collection has greatly enhanced the quality of my research.

# The Intersectional Oppression of Dalit Women Manual Scavengers: A Critique of the Legislative and Judicial Discourse

\*Saharsh Chitransh

## INTRODUCTION

Despite efforts made by legislators to abolish manual excrement removal and promote societal inclusion through laws such as the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, and the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 the actual experiences of Dalit women involved in this labour paint a grim picture. The legal and judicial discussions surrounding manual scavenging have largely neglected to address the specific needs and intersectional experiences of Dalit women, perpetuating their marginalization and denial of basic human dignity. This study aims to conduct a comprehensive critique of the legal and judicial discourse concerning the issue of intersectional discrimination among Dalit Women Manual Scavengers. Using a critical intersectional perspective, this research seeks to highlight the shortcomings of existing legal frameworks, policies, and judicial interpretations in addressing the complex and interconnected forms of oppression faced by these women. It is not difficult to understand that individuals with overlapping identities, such as being elderly, disabled, LGBTQ+, female, Dalit, and Muslim, may face various forms of disadvantage, with these identities potentially exacerbating the challenges experienced by individuals. The reality that some of the most marginalized are those with multiple identities that compound their disadvantage is not a surprising revelation. What is perplexing is that this evident understanding may have been overlooked by discrimination law. **How has discrimination law disregarded those who are disadvantaged due to their multiple identities?** Drawing inspiration from these central questions, this study aims to comprehend and address this counterintuitive limitation that excludes those severely disadvantaged by multiple identities from the protection of discrimination law by studying the intersectional issues of caste and gender in the domain of manual scavenging. The study is positioned within the realm of intersectionality theory, which elucidates the disadvantage experienced by individuals based on multiple personal characteristics or identities such as race, caste, religion, gender, sex, sexual orientation, disability, age, and more, within the domain of discrimination law. Through this study, I intend to contribute to the ongoing debate on

intersectionality in two significant ways. *Firstly*, the research moves beyond the discussion of intersectionality from its original context in the United States, where it pertained to the condition of Black women defined by race and sex and extends it to speak comparatively in the other context of Dalit woman engaged in manual scavenging in India. *Secondly*, it creatively articulates 'the intersectional question' within the framework of discrimination law comprehensively. While intersectionality has been extensively developed in social, political, and identity theory, and has been examined in relation to specific discrimination law issues (with particular focus on 'grounds' of discrimination), the critical significance of this project lies in translating the concerns of the theory within the general scheme of discrimination law and utilising it to effectively redress the problems faced by Dalit woman manual scavengers. The central aim of this thesis is to understand and respond to the conceptual limitation in discrimination law in imagining discrimination beyond 'single axis' claims and to develop a normative account of 'intersectional discrimination.' Two simultaneous inquiries contribute to this central aim: ***Firstly, how has discrimination law and the current scholarship on Dalit Feminism responded to intersectionality in addressing claims based on multiple identities especially in the domain of manual scavenging where majority of the workforce happens to be that of Dalit women? Secondly, how can discrimination law be recalibrated to realize intersectional claims of Dalit woman manual scavengers?*** While pursuing these lines of inquiry, this study will make several unique contributions: first, delineating and defending the core of intersectionality theory; secondly, translating it into the framework of Dalit activism.

The study will utilize Kimberly Crenshaw's groundbreaking theory of intersectionality as a central analytical framework. This integrated theoretical approach will provide a nuanced understanding of the intersecting axes of caste, gender, class, and other systems of oppression that shape the lived experiences of Dalit women manual scavengers. Through this critical examination, the study aims to highlight deficiencies within legislative and judicial discussions, revealing how they neglect to recognize and tackle the intersecting nature of discrimination and marginalization experienced by Dalit women involved in manual scavenging. **Part I** of the study addresses the problem's background and critically analyzes existing scholarship on Dalit Women, intersectionality, and the various forms of discrimination encountered by women in manual scavenging. Drawing from the works of prominent feminist and Dalit scholars, this section engages in a dialogic exploration of the intersecting axes of oppression – caste, gender, class, among others – shaping the lived realities of Dalit women manual scavengers.

In **Part II**, efforts are made to address gaps and shortcomings within current scholarship. This section proposes a comprehensive theoretical framework that integrates Kimberly Crenshaw's



intersectionality theory with the contemporary challenges faced by Dalit woman manual scavengers. Crenshaw's theory serves as the central analytical tool, emphasizing the importance of understanding how different forms of discrimination and marginalization intersect and compound, creating unique experiences and obstacles for individuals with multiple marginalized identities.

**Part III** of the study offers a gendered critique of the Legislative Framework Surrounding Manual Scavengers. Building on the theoretical groundwork laid in the previous section, the study undertakes a critical gendered analysis of the legislative framework concerning manual scavenging in India. This critique evaluates the extent to which the current legislative framework acknowledges and addresses the intersectional dimensions of discrimination experienced by Dalit women manual scavengers.

In **Part IV**, a critique of the judicial discourse surrounding manual scavenging is developed. This section examines two landmark court cases, focusing particularly on the gendered aspects of these rulings. The analysis investigates how the judicial discourse recognizes and confronts the intersectional nature of discrimination faced by Dalit women manual scavengers.

Finally, the study synthesizes the findings and insights gathered throughout the research, offering a comprehensive evaluation of the challenges and deficiencies within the existing legislative and judicial discourse on intersectional discrimination among Dalit Women Manual Scavengers. Recommendations encompass legal and policy reforms, as well as broader social and cultural interventions aimed at dismantling the interconnected systems of caste, gender, and class-based marginalization inherent in the practice of manual scavenging.

## **BACKGROUND**

To better understand the multidimensional nature of the discrimination faced by Dalit women manual scavengers, it is imperative to engage with the existing scholarship that has grappled with this complex issue. *Uma Chakravarti* begins the discussion by delving into the historical underpinnings of the oppression faced by Dalit women. She argues that to fully understand the plight of Dalit women, one must trace the origins of practices like manual scavenging back to the rigid caste system that has long governed Indian society.<sup>1</sup> By highlighting the historical continuity of this oppression, Chakravarti emphasizes the need to confront the deeply entrenched biases within Indian society.<sup>2</sup> To break free from this cycle of oppression, Chakravarti suggests that we must not only address the immediate manifestations of discrimination but also confront the historical legacies that have shaped the socio-economic landscape of India.<sup>3</sup>

*Nivedita Menon* delves into the complexity of the struggles faced by Dalit women in India in her various works. At the heart of Menon's argument lies the framework of intersectionality and critical feminist theory which she employs to analyse power dynamics, patriarchy, and gender inequality within Dalit communities and in broader Indian society.<sup>4</sup> On the constant marginalisation of Dalit Women sanitation workers, Menon contends that the practice of discrimination is not just a random occurrence but rather a symptom of the deep-seated biases present in Indian society.<sup>5</sup>

Menon also talks about how the economic exploitation of marginalized communities exacerbates the situation. Dalit women, already burdened by the constraints of caste and gender, are further marginalized by their socio-economic status.<sup>6</sup> They are denied access to education, healthcare, and employment opportunities, trapping them in a cycle of poverty and dependency. To truly empower Dalit women, as Menon argues in her writings, society must challenge the deeply

---

<sup>1</sup> Uma Chakravarti, 'Bringing Gender into History: Women, Property and Reproduction' in Kumkum Roy (ed), *The Power of Gender and the Gender of Power: Explorations in Early Indian History* (Oxford University Press 2010).

<sup>2</sup> Uma Chakravarti, *Thinking about Caste: An Autobiographical Journey in Caste and Gender in Contemporary India* (Routledge 2018) 23.

<sup>3</sup> Uma Chakravarti, 'Conceptualising Brahmanical Patriarchy in Early India: Gender, Caste, Class and State' (1993) 28 *Economic and Political Weekly* 579.

<sup>4</sup> Nivedita Menon, 'Sexuality, Caste, Governmentality: Contests over 'Gender' in India' (2009) 91 *Feminist Review* 94.

<sup>5</sup> Nivedita Menon, 'Is feminism about 'women'? A critical view on intersectionality from India' (2015) *Economic and Political Weekly* 37.

<sup>6</sup> Nivedita Menon, *Recovering Subversion: Feminist Politics beyond the Law* (University of Illinois Press 2004) 295, 299.

ingrained prejudices embedded within the caste system. This requires not only legislative measures but also a shift in cultural attitudes towards caste-based discrimination.<sup>7</sup>

While *Chakravarti* and *Menon* both recognize the intersecting nature of caste, gender, and class-based discrimination, they approach the issue from different angles. Menon focuses on the contemporary manifestations of oppression, emphasizing the need to address caste-based discrimination in the present context.<sup>8</sup> In contrast, Chakravarti delves into the historical roots of oppression, highlighting the continuity of discrimination over centuries. One potential conflict between their viewpoints arises from the emphasis on historical versus contemporary analyses. Menon's focus on present-day realities may overlook the enduring impact of historical injustices on Dalit women's lives. On the other hand, Chakravarti's historical perspective may downplay the urgency of addressing immediate manifestations of oppression faced by Dalit women manual scavengers.<sup>9</sup> Perhaps, to reconcile their conflicting viewpoints, it is essential to adopt an approach that recognizes the interconnected nature of caste, gender, and class-based discrimination.<sup>10</sup> This approach would involve addressing both the immediate manifestations of oppression faced by Dalit women manual scavengers and the historical legacies that perpetuate their marginalization.<sup>11</sup>

**Kalpana Kannabiran** responds to the discourse by adopting a similar approach as mentioned above with a critical examination of the role of the law in perpetuating and legitimizing the suffering of Dalit Women.<sup>12</sup> Kannabiran's central argument revolves around the inadequacy of the law in addressing the complex intersectionality of caste, gender, and class-based discrimination.<sup>13</sup> She argues that the legal framework has historically treated these forms of discrimination as separate and distinct issues, failing to recognize their interconnected and mutually reinforcing nature.<sup>14</sup> **Bezwada Wilson**, a well-respected social activist and the driving force behind the Safai Karmachari Andolan (Manual Scavengers' Movement), provides a crucial grassroots viewpoint to this aspect. Drawing from his extensive experience in advocating for the eradication of manual scavenging and uplifting Dalit communities, Wilson's perspective

---

<sup>7</sup> Nivedita Menon, 'State/Gender/Community: Citizenship in Contemporary India' (1998) 33 *Economic and Political Weekly* PE3.

<sup>8</sup> Sunaina Arya, 'Dalit or Brahmanical Patriarchy? Rethinking Indian feminism' (2020) 1(1) *CASTE: A Global Journal on Social Exclusion* 217.

<sup>9</sup> Radhika Govinda, 'The Politics of the Marginalised: Dalits and Women's Activism in India' (2006) 14(2) *Gender and Development* 181.

<sup>10</sup> Radhika Govinda, 'Interrogating Intersectionality: Dalit women, Western classrooms, and the Politics of Feminist Knowledge Production' (2022) 23(2) *Journal of International Women's Studies* 72.

<sup>11</sup> *Ibid.*

<sup>12</sup> Kalpana Kannabiran, 'Sociology of Caste and the Crooked Mirror: Recovering BR Ambedkar's Legacy' (2009) *Economic and Political Weekly* 35.

<sup>13</sup> Kalpana Kannabiran, 'Caste and Gender' in *Handbook on Economics of Discrimination and Affirmative Action* (Singapore: Springer Nature Singapore, 2023) 17.

<sup>14</sup> *Ibid.*

challenges the prevalent belief that legal and policy measures alone can effectively combat the deep-rooted issue of manual scavenging.<sup>15</sup> He contends that a comprehensive and transformative approach necessitates the active involvement and leadership of Dalit communities themselves, enabling them to confront systemic oppression and assert their inherent rights and dignity.<sup>16</sup>

**Ratna Kapur** further builds upon the critique presented by Kannabiran and Wilson. Kapur asserts that the failure of the law to effectively combat manual scavenging is deeply rooted in its inability to confront the intersectional nature of oppression faced by Dalit women.<sup>17</sup> She argues that the legal system often treats discrimination based on caste, gender, and class as isolated issues, failing to grasp their interconnected and mutually reinforcing dynamics.<sup>18</sup> Kapur's core contention revolves around the necessity for a transformative approach to law and policy that acknowledges and addresses the complex realities of Dalit women's experiences. She emphasizes that legal reforms alone are insufficient in eradicating manual scavenging unless accompanied by efforts to challenge entrenched societal attitudes and structural inequalities.<sup>19</sup> On a deeper reflection of Ratna Kapur's accounts, it becomes evident that the failure of the law to recognize the intersectionality of oppression contributes to the perpetuation of manual scavenging.

**Flavia Agnes** introduces Ambedkarite thought of entrenched caste structures and the discourse on 'legal pluralism' while speaking on the conditions of Dalit women in India.<sup>20</sup> Like Kapur and Kannabiran, Agnes also builds upon this critique by highlighting how caste-based discrimination intersects with gender, resulting in unique forms of oppression experienced by Dalit women.<sup>21</sup> She argues that addressing the marginalization of Dalit women requires dismantling not only gender hierarchies but also caste-based inequalities.<sup>22</sup> Ambedkar, himself a legal scholar, recognized the significance of legal reforms in achieving social justice. Agnes echoes this emphasis on legal advocacy and reform. Her legal activism seeks to bridge the gap between legal principles and the lived realities of Dalit women, promoting greater access to justice and rights.<sup>23</sup> Given India's diverse legal landscape, which includes both formal legal systems and customary practices, Agnes's work often explores the complexities of legal pluralism. Perhaps the most

---

<sup>15</sup> Gita Ramaswamy, *India Stinking* (Navayana Publishing 2012).

<sup>16</sup> Bezwada Wilson and Bhasha Singh, 'The Long march to Eliminate Manual Scavenging' (2016) India Exclusion Report, Centre for Equity Studies, 298, 319.

<sup>17</sup> Ratna Kapur, 'Who Draws the Line? Feminist Reflections on Speech and Censorship' (1996) 31 Economic and Political Weekly WS15.

<sup>18</sup> Ratna Kapur and Brenda Cossman, 'Communalising Gender/Engendering Community: Women, Legal Discourse and Saffron Agenda' (1993) 28 Economic and Political Weekly WS35.

<sup>19</sup> Ratna Kapur, 'On Gender, Alterity and Human Rights: Freedom in a Fishbowl' (2019) 122 Feminist Review 167.

<sup>20</sup> Flavia Agnes, *Law, and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 2012).

<sup>21</sup> Flavia Agnes, 'Law and Women of Age: A Short Note' (1999) 34 Economic and Political Weekly WS51.

<sup>22</sup> Flavia Agnes, 'Law, Ideology and Female Sexuality: Gender Neutrality in Rape Law' (2002) 37 Economic and Political Weekly 844.

<sup>23</sup> Flavia Agnes, 'Women's Movement within a Secular Framework: Redefining the Agenda' (1994) 29 Economic and Political Weekly 1123.

striking aspect of her engagement with legal pluralism in the context of Dalit women's rights encompasses her critique of the tendency in formal legal systems to disregard or marginalize customary laws.<sup>24</sup>

**Mary E John** injects a critical perspective into the ongoing dialogue, shedding light on the inherent limitations of mainstream feminist discourse in adequately addressing the unique experiences and struggles of Dalit women. John's central argument revolves around the complicity of the mainstream feminist movement in perpetuating the marginalization of Dalit women.<sup>25</sup> She contends that by neglecting to recognize and confront the intersectional nature of oppression, mainstream feminism has inadvertently contributed to the plight of Dalit women's voices and experiences.<sup>26</sup> According to John, a truly transformative feminist discourse must cater to the perspectives of Dalit women, acknowledging the unique forms of oppression they endure because of the convergence of caste, gender, and class-based marginalization.<sup>27</sup> She believes that the dominant feminist discourse, shaped predominantly by upper-caste and middle-class perspectives, tends to prioritize issues that resonate with these groups, thereby sidelining the concerns of Dalit women.<sup>28</sup> **Meena Gopal**, on the other hand, emphasizes the pivotal role of state policies and interventions in either perpetuating or challenging the oppression of Dalit women.<sup>29</sup> She asserts that while well-meaning, many state initiatives have fallen short of addressing the root causes of manual scavenging, often adopting a top-down, paternalistic approach that sidelines the voices and lived experiences of Dalit women.<sup>30</sup> To address these challenges, Meena advocates for the development of comprehensive policy frameworks that center the voices and experiences of Dalit women. This includes conducting gender-sensitive assessments of existing policies and programs, incorporating intersectional perspectives into policy formulation, and establishing mechanisms for the meaningful participation of Dalit women in governance structures.<sup>31</sup>

In this context, perhaps the most profound account of Dalit writings come from the Subaltern studies and Dalit Feminism pioneer, **Sharmila Rege**. Diverging substantially from the views of Dey, Kannabiran, Menon, and Agnes, that categorize Dalit women's marginalisation as more of a

---

<sup>24</sup> Flavia Agnes, 'Maintenance for Women Rhetoric of Equality' (1992) 27 Economic and Political Weekly 2233.

<sup>25</sup> Mary E John, 'Women in Power? Gender, Caste, and the Politics of Local Urban Governance' (2007) 42(39) Economic and Political Weekly 3986.

<sup>26</sup> Mary E John, 'Gender and Development in India, 1970s-1990s: Some reflections on the constitutive role of contexts' (1996) Economic and Political Weekly 3071.

<sup>27</sup> Mary E John, Ravinder Kaur, Rajni Paliwala, and Saraswati Raju, 'Dispensing with Daughters: Technology, Society, Economy in North India' (2009) 44(15) Economic and Political Weekly.

<sup>28</sup> Mary E John, 'Intersectionality: Rejection or Critical Dialogue?' (2015) 50(33) Economic and Political Weekly 72.

<sup>29</sup> Meena Gopal, 'Struggles around Gender: Some Clarifications' (2015) 50(33) Economic and Political Weekly 76.

<sup>30</sup> Meena Gopal, 'Ruptures and Reproduction in Caste/Gender/Labour' (2013) 48(18) Economic and Political Weekly 91.

<sup>31</sup> Ibid.

policy intervention failure, Sharmila's work is characterized by a sharp critique of Brahminical patriarchy, which refers to the intersection of caste-based hierarchies with patriarchal structures.<sup>32</sup> She argues that Dalit women face multiple forms of oppression stemming from both caste-based discrimination, gender-based violence and inequality perpetuated by Brahminical patriarchy.<sup>33</sup> Rege's analysis highlights the need to dismantle these intersecting systems of oppression to achieve true social justice.<sup>34</sup>

**Gopal Guru** responds to the discourse by challenging the prevalent portrayal of Dalit women as mere victims. Instead, he emphasizes the agency and resilience of Dalit women, highlighting their historical resistance against oppressive structures.<sup>35</sup> Guru's main argument revolves around the need to acknowledge both the intersectional oppression faced by Dalit women and their remarkable strength and courage in confronting these challenges.<sup>36</sup> He asserts that Dalit women have played pivotal roles in social movements and struggles, actively challenging the entrenched systems of caste, patriarchy, and economic exploitation despite facing immense personal risks and sacrifices.<sup>37</sup>

**Sukhadeo Thorat** adds light on the economic aspects of Dalit women's oppression. He contends that the practice of manual scavenging is closely tied to the economic marginalization experienced by Dalit communities, perpetuating a cycle of poverty and exploitation.<sup>38</sup> Thorat's main argument revolves around the idea that understanding manual scavenging requires considering not just caste or gender discrimination but also the broader economic context.<sup>39</sup> This view of Thorat is in tandem with **the 'Statistical Discrimination Model' developed by Kenneth Arrow and Edmund Phelps.**<sup>40</sup> **Ruth Manorama** draws from her own lived experiences and extensive advocacy against caste-based discrimination and gender oppression. Her central argument challenges the prevailing notion that manual scavenging is a legitimate form of labour, contending instead that it represents one of the most degrading and

---

<sup>32</sup> Rege, Sharmila, 'Feminist Pedagogy and Sociology for Emancipation in India' (1995) 44(2) Sociological Bulletin 223.

<sup>33</sup> Sharmila Rege, *Sociology of Gender: The Challenge of Feminist Sociological Thought* (Sage India Publishers 2003).

<sup>34</sup> Sharmila Rege, Devika J, Kalpana Kannabiran, Mary E John, Padmini Swaminathan and Samita Sen, 'Intersections of Gender and Caste' (2013) 48(18) Economic and Political Weekly 35.

<sup>35</sup> Gopal Guru, 'LABOURING INTELLECTUALS: The Conceptual World of Dalit Women' (2012) 39(3/4) India International Centre Quarterly 54.

<sup>36</sup> Gopal Guru, 'Dalit Movement in Mainstream Sociology' (1993) 28(14) Economic and Political Weekly 570.

<sup>37</sup> Guru, Gopal, 'Dalits from Margin to Margin' (2000) 27(2) India International Centre Quarterly 111.

<sup>38</sup> Sukhadeo Thorat and Katherine S. Newman, 'Caste and Economic Discrimination: Causes, Consequences and Remedies' (2007) 42(41) Economic and Political Weekly 4121.

<sup>39</sup> Sukhadeo Thorat and Paul Attewell, 'The Legacy of Social Exclusion: A Correspondence Study of Job Discrimination in India' (2007) 42(41) Economic and Political Weekly 4141.

<sup>40</sup> Sukhadeo Thorat 'Paying the Social Debt' (2006) 41(24) Economic and Political Weekly 2432.

dehumanizing forms of oppression faced by Dalit women.<sup>41</sup> Manorama's writings directly challenge the perspectives of those who seek to justify or normalize manual scavenging as a means of livelihood or employment. She firmly asserts that such rationalizations undermine the inherent dignity and humanity of Dalit women, perpetuating the oppressive systems that have marginalized them for generations.<sup>42</sup>

A supportive response to Manorama comes from *Gayatri Chakravorty Spivak*, who offers a critical examination of the role of representation and voice in maintaining the marginalization of Dalit women. Her central argument challenges the prevailing methods of representation that often silence or distort the real-life experiences of marginalized communities, thereby perpetuating their invisibility and continued oppression.<sup>43</sup> By highlighting the voices of Dalit women themselves, Spivak argues for a more ethical and inclusive approach to representation that respects their autonomy and agency.

### **THEORETICAL FRAMEWORK FOR INTERSECTIONAL DISCRIMINATION**

The interactive inquiry in the previous section highlights that the subjugation faced by Dalit women manual scavengers encompasses various dimensions which cannot be comprehended through a singular perspective of oppression. It arises from the intersection of multiple factors such as caste, gender, class, and other overlapping forms of marginalization, which collectively influence the realities experienced by these women, exposing them to diverse manifestations of discrimination and exploitation.<sup>44</sup> While these scholarly writings have made invaluable contributions to understanding the intersectional oppression faced by Dalit women, there are notable gaps and limitations in addressing the specific challenges faced by women engaged in manual scavenging. Many scholars have focused on broader issues of Dalit or gender oppression without explicitly examining the unique intersections of caste, gender, and labour in the context of manual scavenging. The literature often fails to capture the nuanced experiences and challenges faced by Dalit women who perform this dehumanizing labour, overlooking the specific forms of discrimination and exploitation they endure.<sup>45</sup> To address these gaps and

---

<sup>41</sup> Ruth Manorama, 'Dalit women: The downtrodden among the downtrodden' in *Women's Studies in India: A Reader* (2008) 445.

<sup>42</sup> D.N. Pathak, 'Making Sense—With Ruth Manorama, A Dalit Feminist Activist' (2016) 1(1) *Antyajaa: Indian Journal of Women and Social Change* 101.

<sup>43</sup> Gayatri Chakravorty Spivak, 'Feminism 2000: One Step Beyond?' (2000) *Feminist Review*, 64 113.

<sup>44</sup> For an overview of different versions of equality and non-discrimination, see Patrick Shin, 'Is There a Unitary Concept of Discrimination?' in Deborah Hellman and Sophia R Moreau (eds), *Philosophical Foundations of Discrimination Law* (OUP 2013).

<sup>45</sup> Tina Khanna and Madhumita Das, 'Why Gender Matters in the Solution towards Safe Sanitation? Reflections from Rural India' (2015) 11(10) *Global Public Health*.

limitations, this study proposes a theoretical framework that integrates **Kimberly Crenshaw's Intersectionality theory** which though not in its fullest extent, but as I intend to prove, for a limited scope, can be applied in the Indian landscape. Through this section, my attempt is to analyze an integrated approach that provides a more comprehensive and nuanced understanding of the interlocking systems of oppression that shape the lived experiences of Dalit women manual scavengers.

In the context of Dalit women manual scavengers, this theory highlights the importance of recognizing the intersection of caste, gender, and class-based oppressions, which cannot be adequately addressed through a single-axis approach. By integrating this theory, the attempt is to gain a more holistic understanding of the multidimensional nature of the oppression faced by Dalit women manual scavengers which can aid the policymakers and the courts in developing strategies that address the various forms of domination.

### **Crenshaw's Intersectionality-**

The call to acknowledge and address such disadvantage predates the emergence of the term 'intersectionality' by at least a century. However, the term gained widespread recognition and significance when Kimberlé Williams Crenshaw introduced it in 1989.<sup>46</sup> Crenshaw's primary focus was on integrating intersectionality into discrimination law to acknowledge that Black women face discrimination based on both race and sex. She pointed out that the prevailing approach to discrimination, which considers it along a 'single categorical axis'<sup>47</sup>, hinders our ability to address the intersecting disadvantages experienced by Black women in discrimination law.<sup>48</sup> Despite more than a quarter-century passing since Crenshaw's work, discrimination law has not fully embraced intersectionality, continuing to adhere to the dominant conception that overlooks the complexities of intersecting forms of discrimination. This chapter attempts to extend Crenshaw's theory of intersectionality in the context of Dalit Woman sanitation workers in India. The aim is to outline and uphold the normative core of the theory, offering a conceptual framework for comprehending structural oppression and disadvantage beyond its original context. A significant criticism of intersectionality theory questions whether it holds any normative significance outside of its original context within Black feminism in the United

---

<sup>46</sup> Kimberlé W Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) UCLF 139.

<sup>47</sup> Ibid 140.

<sup>48</sup> Ibid 150.



States.<sup>49</sup> This section aims to address this issue by examining the shared challenges faced by Black feminists in the United States and Dalit feminists in India. A thorough analysis of Crenshaw's works proves while there may be differences in context and the absence of the term 'intersectionality' in prevalent Dalit feminist discourse, the shared language and explanations used by both Black women and Dalit women to articulate their positions of disadvantage reveal common conceptual foundations. They both aim to delineate the unique aspects of their experiences as Dalit women or Black women, as well as the similarities they share with Dalit men and upper-caste women, and Black men and white women. This common conceptual objective thus goes beyond contextual limitations and offers a solid epistemic pathway to comprehend the intersectional disadvantage faced on multiple fronts like caste, class, gender, etc.

As Black feminism and Dalit feminism emerged around the same period, there was limited opportunity for them to exchange ideas across continents initially.<sup>50</sup> However, by the 1980s, their comparable agendas offered a valuable starting point for applying intersectionality theory to different contexts. Three key theoretical parallels between the movements are crucial in affirming the broader applicability of intersectionality's normative core. *Firstly*, both Dalit and Black feminists diverged from mainstream feminist movements when they realized that a blanket category of "women" failed to adequately address the experiences of women who were also Dalit or Black.<sup>51</sup> Their dissatisfaction with both caste and race movements on one side, and dominant feminist movements on the other, is encapsulated in their similar slogans: "All Men are Black, All Women are White" and "All Dalits are male and all women savarna."<sup>52</sup> This divergence stemmed from the recognition that women's subordination couldn't solely be attributed to gender; other identities such as race and caste also played significant roles, creating both shared and unique experiences for women.<sup>53</sup> Their collective demand was to reframe the understanding of gender subordination and rewrite feminist theory from the perspective of those facing multiple forms of disadvantage. Consequently, like Black feminists, Dalit feminists also advocated for an epistemological shift in feminist theory, aiming to place their experiences in feminist discourse at the forefront.<sup>54</sup> Their requests align in the sense that feminists are urged not

---

<sup>49</sup> Sarah Hannett, 'Equality at the Intersections: The Legislative and Judicial Failure to Tackle Multiple Discrimination' (2003) 23 OJLS 65.

<sup>50</sup> Davina Cooper, Didi Herman, Emily Grabham and Jane Krishnadas (eds), *Intersectionality and Beyond: Law, Power, and the Politics of Location* (Routledge-Cavendish 2009).

<sup>51</sup> Pranjali Bandhu, 'Dalit Women's Cry for Liberation: My Rights are Rising Like the Sun, Will You Deny This Sunrise?' in Anupama Rao (ed), *Gender and Caste: Issues in Contemporary Indian Feminism* (Kali for Women 2005) 76.

<sup>52</sup> Sharmila Rege, 'Dalit Women Talk Differently: A Critique of "Difference" and towards a Dalit Feminist Standpoint Position' (1998) 33(44) EPW 39, 42.

<sup>53</sup> Ibid.

<sup>54</sup> Gabriel Dietrich, 'Dalit Movement and Women's Movements' in Anupama Rao (ed), *Gender and Caste: Issues in Contemporary Indian Feminism* (Kali for Women 2005) 76.

to represent themselves as Dalit (or Black) women, but rather to transform into Dalit feminists, or to elevate Black women from the ‘margin’ to the ‘centre.’<sup>55</sup>

*Secondly*, Both Dalit and Black feminists also refute the portrayal of themselves as mere “victims” They aim to reconstruct their identities as strong and resilient individuals, transcending their societal roles as mothers, wives, labourers, or slaves. Additionally, they seek to be recognized as complete beings, rather than being fragmented into separate and isolated categories based on their race, gender, or socioeconomic status. This objective aligns closely with the development of intersectionality theory, which emphasizes the importance of maintaining the integrity of one's identity.<sup>56</sup> As discussed further in the subsequent chapter, the insistence on recognizing individuals and their identities as whole entities is crucial in applying intersectionality to discrimination law. The theoretical similarities between Black and Dalit feminists suggest that the concept of intersectionality is universal. It highlights that people experience disadvantage based on their various intersecting identities. This common ground indicates the potential to expand the intersectionality framework to comprehend the challenges linked to people's multiple identities more broadly in discrimination law, including disability, sexual orientation, age, religion, and others. Figure 1 given below depicts the condition of Dalit Woman Manual Scavengers in India. It explains the ‘single-axis’ discrimination model of Crenshaw in context of Dalit Woman Manual Scavengers in the form of a Venn Diagram.

---

<sup>55</sup> Bell Hooks, *Feminist Theory: From Margin to Centre* (South End Press 1984).

<sup>56</sup> Murray Wesson, ‘Discrimination Law and Social Rights: Intersections and Possibilities’ (2007) 13 *Juridica International* 74, 81.

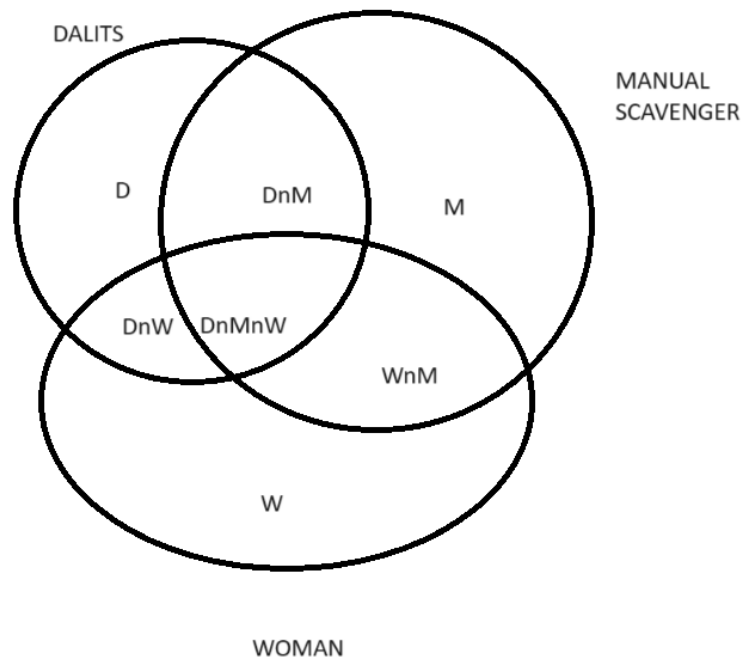


Figure 1: Discrimination Against Dalit Woman Manual Scavengers

The three spheres depict the group identities of being Dalit, Manual Scavenger, and Women. When they overlap, the pattern 'DnMnW' represents the situation of Dalit women manual scavengers specifically. However, they also share disadvantage with Dalit men [D-(DnW)] and upper-caste women [W-(DnW)]. Therefore, the most comprehensive and accurate way to understand the situation of poor Dalit women as per Crenshaw's intersectionality framework is to consider the Venn diagram as a whole (DuMuW), which acknowledges both unique and shared patterns of group disadvantage based on gender, caste, and class.<sup>57</sup> The Venn diagram illustrates the inadequacy of understanding categories in isolation and thus highlights the usefulness of mapping the intersections between identities. This conceptual framework aids in unravelling the substantive explanations of disadvantage attached to the positions of those who are disadvantaged by multiple identities.<sup>58</sup> Intersectionality theory, understood as a Venn diagram, supports the explanatory accounts of Dalit feminists in their efforts to juxtapose gender against other structural inequalities. Each instance of intersectionality entails explanations of the distinct and shared patterns of group disadvantage, which will be highly specific to the identities involved and the context in which they arise. These explanations will inevitably be influenced by

<sup>57</sup> Shreya Atrey, 'Realising Intersectionality in Discrimination Law' (PhD thesis, University of Oxford, 2015).

<sup>58</sup> Ibid 39.

supporting works in sociology, anthropology, political theory, economics, law, etc., which provide evidence of the qualitative nature of intersectional disadvantage.<sup>59</sup>

Analyzing the Venn diagram also clarifies that the pattern representing unique and shared qualities is to be identified as spheres of intersecting groups facing structural disadvantage. This framing is adapted from O'Regan J's statement in *Brink*<sup>60</sup>, which acknowledged that 'discrimination against people who are members of disfavoured groups can lead to patterns of group disadvantage and harm' and thus, the purpose of the non-discrimination guarantee is to address 'systematic patterns of discrimination on grounds.'<sup>61</sup> O'Regan J's statement is fitting for the context of intersectionality because it emphasizes three key aspects in addition to intersectionality's own message of 'unique and shared' qualities: (i) the concept of pattern; (ii) the focus on groups based on grounds; and (iii) the emphasis on disadvantage.<sup>62</sup> The concept behind the pattern is that it connotes historical and enduring motifs of systematic disadvantage, which have been entrenched over time and will continue to cause considerable harm.<sup>63</sup> Additionally, the focus is on groups (such as women, disabled individuals, Blacks, Dalits, etc.) defined by grounds (gender, disability, caste, sexual orientation, etc.) of discrimination rather than individual qualities (such as character, strength, morality, etc.), because the body of discrimination law is particularly concerned with the harm perpetuated (against individuals or groups) based on group identities.<sup>64</sup> Finally, the emphasis on disadvantage is to understand the kind of harm or wrong that is perpetuated along group identities, that which is persisting, pervasive, and substantial. Thus, the focus is on groups that are significantly more disadvantaged than other groups defined by a particular ground, and that disadvantage has existed for an appreciable length of time and spans a wide sphere of human activity.<sup>65</sup> Such a focus would enable us to distinguish between the specific problems faced by Dalit women manual scavengers from those of the general nature pervading the entire practice. The emphasis on these three elements (patterns, groups based on grounds, and relative disadvantage) is mirrored in the case of intersectional discrimination<sup>66</sup>, where the demand is to trace the nature of disadvantage at the

---

<sup>59</sup> King DK, 'Multiple Jeopardy, Multiple Consciousness: The Context of a Black Feminist Ideology' (1988) 14 Signs 42.

<sup>60</sup> This formulation is inspired by Justice Kate O'Regan's formulation in *Brink v Kitshoff* NO 1996 (4). SA 197 (CC)

<sup>61</sup> Ibid 24.

<sup>62</sup> Ibid 26.

<sup>63</sup> Ibid 32.

<sup>64</sup> Kate O'Regan, 'Undoing Humiliation, Fostering Equal Citizenship: Human Dignity in South Africa's Sexual Orientation Equality Jurisprudence' (2013) 37 NYURLSC 307, 308–309.

<sup>65</sup> Tarunabh Khaitan, "*A Theory of Discrimination Law*" (OUP 2015) 35–38; Iris Marion Young, "*Justice and the Politics of Difference*" (PUP 1990) 43, 45.

<sup>66</sup> Sandra Fredman 'An Intersectional Approach to Discrimination Addressing Multiple Grounds in Human Rights Claims' (2001) Discussion paper of the OHRC

intersections (unique and shared patterns) of group identities (group disadvantage) defined by grounds of discrimination.<sup>67</sup> This chief formulation encapsulates the key insights of intersectionality in discrimination law and thus represents the defining motif of the category of intersectional discrimination. Intersectionality, therefore, plays a limited but significant role in providing the conceptual framework for understanding the explanations of disadvantage experienced by individuals with multiple identities.<sup>68</sup> This contribution cannot be underestimated, yet it also should not be exaggerated. It is crucial to comprehend the central normative insight of intersectionality and to proceed by complementing it with other tools.<sup>69</sup>

### **HOW HAS THE LEGISLATIVE FRAMEWORK FAILED?**

Since the adoption of India's Constitution in 1950, the practice of untouchability, rooted in the ideas of purity and pollution, has been deemed unconstitutional under article 17. Manual scavenging, deeply linked to caste, presents an intersectional aspect, with 95% of manual scavengers being Dalits, among whom 99% are Dalit women.<sup>70</sup> According to the 2011 Census of India, there are approximately 2.6 million insanitary latrines, which are toilets necessitating manual cleaning of human excreta<sup>71</sup>, highlighting the ongoing sanitation crisis in the country. These figures become even more alarming when viewed in the context that a significant number of the global population lives in India (around 17 per cent).<sup>72</sup>

The postcolonial legislative interventions have seen four laws prohibiting manual scavenging, of which two are special enactments prohibiting the practice of manual scavenging: Protection of Civil Rights (PCR) Act 1977<sup>73</sup>; Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 (Atrocities Amendment Act 2016); The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (MS 1993 Act) and The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (MS 2013 Act).<sup>74</sup> These legislations

---

<[http://www.ohrc.on.ca/sites/default/files/attachments/An\\_intersectional\\_approach\\_to\\_discrimination%3A\\_Addressing\\_multiple\\_grounds\\_in\\_human\\_rights\\_claims.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/An_intersectional_approach_to_discrimination%3A_Addressing_multiple_grounds_in_human_rights_claims.pdf)> accessed 14 December 2023.

<sup>67</sup> Esther Ngan-Ling Chow, *Analyzing Gender, Intersectionality, and Multiple Inequalities: Global, Transnational and Local Contexts* (Emerald 2011).

<sup>68</sup> Nira Yuval-Davis, 'Intersectionality and Feminist Politics' (2006) 13 *EJWS* 193, 197–204.

<sup>69</sup> Joan W Scott, 'Deconstructing Equality-Versus-Difference: Or the Uses of Poststructuralist Theory for Feminism' (1988) 14 *Feminist Studies* 33, 37.

<sup>70</sup> D. Pasic, 'Manual Scavenging' (2021) International Dalit Solidarity Network.

<sup>71</sup> *Census of India, Office of the Registrar General & Census Commissioner, India: Availability and Type of Latrine Facility* (Government of India 2011) <https://censusindia.gov.in/census.website/data/census-tables> accessed 20th January 2024.

<sup>72</sup> J Burke, 'Census Reveals that 17% of the World is Indian' *The Guardian* (31 March 2011) [www.theguardian.com/world/2011/mar/31/census-17-percent-world-Indian](http://www.theguardian.com/world/2011/mar/31/census-17-percent-world-Indian) accessed 20th January 2024.

<sup>73</sup> In 1955, the Protection of Civil Rights Act called for the abolition of scavenging or sweeping on grounds of untouchability. This was revised in 1977 for a stricter implementation.

<sup>74</sup> Asang Wankhede, 'The legal defect in the conditional prohibition of manual scavenging in India' (2021) *Contemporary Voice of Dalit* 24-28.

provide for a detailed framework for the prohibition of the act of manual scavenging and the protection and rehabilitation of manual scavengers. As my main critique is towards the provisions of the MS 2013 Act, I will restrict my discussion to only the latter.

Under the MS 2013 Act, both hazardous cleaning and the employment of manual scavengers are banned only if municipal workers and manual scavengers are not provided with protective gear, equipment, and devices.<sup>75</sup> This problem was finally addressed by the government in the MS Act (Amendment Bill) 2020 which aims to prohibit any person, with or without protective gear, from manually entering a septic tank or sewer for cleaning by classifying it as a ‘hazardous activity’.<sup>76</sup> Additionally, the definition of Manual Scavenger now encompasses individuals engaged in various forms of employment, including regular, contract, private, casual, or daily wage basis.

But there is still a definitional flaw within the provisions. The definition needs expansion beyond solely manually removing human excreta to encompass the manual handling of solid and liquid waste at various stages such as collection, segregation, storage, transportation, transfer, processing, and disposal. This categorization should be approached from a waste management standpoint rather than the specific type of waste scavenged, ultimately benefiting manual scavengers. The Act even after the undergoing an Amendment in 2020 still doesn't provide separate rules for men and women in the unorganized labour sector. This aligns with the concept of “inside and outside” which suggests that legal knowledge is shaped by those within the law, leaving those outside unable to fit their experiences into such laws.<sup>77</sup> For instance, the Penal Code, 1860, doesn't cover all instances of rape against transgender individuals, neglecting protection for the LGBTQ community against rape.

*Terri Elliot* uses the analogy of a “flight of stairs” leading to a doorway to illustrate different perspectives on understanding law. This “flight of steps” could offer access to some but act as a barrier for others, such as those in wheelchairs.<sup>78</sup> It essentially represents the “view from below” of legislation, where only those at the bottom of the hierarchy can see the oppressions, lacking epistemic privilege. This highlights the Act's failure to address the needs of this specific group requiring special social and legal attention. Female manual scavengers face compounded discrimination due to gender, receiving lower wages than males, encountering sexual harassment

---

<sup>75</sup> Ibid.

<sup>76</sup> The Ministry of Social Justice and Empowerment, The Bill, 2020, S. 2(1)(d) [http://socialjustice.nic.in/writereaddata/UploadFile/AAP\\_SRMS\\_2020\\_2021.pdf](http://socialjustice.nic.in/writereaddata/UploadFile/AAP_SRMS_2020_2021.pdf) accessed 28 December 2023.

<sup>77</sup> Roger Cotterrell, ‘Why Must Legal Ideas Be Interpreted Sociologically?’ (1998) 25(2) *Journal of Law and Society* 171, 192.

<sup>78</sup> Terri Elliott, “Making Strange What Had Appeared Familiar”, *The Monist* 77:4 (1994), 424, 433.

demands from contractors, and facing safety risks during work hours.<sup>79</sup> The unregulated and unorganized nature of the manual scavenging sector exacerbates these issues for female workers. While various legislations recognize women as a distinct group and provide specific regulations, such as the Equal Remuneration Act, 1976, and the Minimum Wages Act, 1948, the laws on manual scavenging lack provisions specifically addressing the unique needs of female workers.<sup>80</sup> Women employees are vulnerable to safety concerns, hygiene issues, and sexual harassment at the workplace, which the Act fails to adequately address.<sup>81</sup> Additionally, the Act neglects to cover medical expenses for female employees, despite the physical strain they endure, often resulting in uterus removal surgeries.<sup>82</sup> The Act's rehabilitation measures, such as one-time cash assistance (Section 13(1)(a)) and skill development training (Section 13(1)(b)), fail to acknowledge the intersectional nature of the economic marginalization and lack of opportunities faced by Dalit women.

### **Lack of Provisions for Addressing Health Hazards and Occupational Risks**

The Act remains conspicuously silent on the severe health hazards and occupational risks faced by manual scavengers, particularly Dalit women. None of the provisions of the 2013 Act or even the Amendment Bill of 2020 talk about any kind of preventive mechanism to avoid health hazards, let alone placing separate sections catering to additional and often fatal, health hazards which women manual scavengers expose themselves to the hazardous nature of manual scavenging, which exposes workers to toxic gases, infectious diseases, and hazardous working conditions, poses grave threats to their physical and mental well-being. According to the Human Rights Watch Report (2014)- More than 57% females engaged in the activity of scavenging have compulsorily go through a hysterectomy (removal of uterus).<sup>83</sup>

### **Lack of Meaningful Participation and Representation of Dalit Women**

Another significant limitation of the Act is its failure to ensure the meaningful participation and representation of Dalit women manual scavengers in the development and implementation of

---

<sup>79</sup> Shirley Lennon, 'Fear and Anger: Perceptions of Risks Related to Sexual Violence Against Women Linked to Water and Sanitation in Delhi, India' (SHARE Briefing Note 2011).

<sup>80</sup> UN HABITAT, 'Navigating Gender: in Development of Water and Sanitation in Urban Areas—A Rapid Gender Assessment of the Cities of Bhopal, Gwalior, Indore and Jabalpur in Madhya Pradesh' (UN HABITAT 2006).

<sup>81</sup> WSSCC and SHARE, 'Sanitation Vulnerabilities, 'Women's Stresses and Struggles for Violence Free Sanitation' (WSSCC and SHARE, Research Briefing Note 2015) [https://web-archive.ishtm.ac.uk/www.sharesearch.org//file/1969/Vulnerabilities.pdf](https://web.archive.ishtm.ac.uk/www.sharesearch.org//file/1969/Vulnerabilities.pdf) accessed on 13th February 2024.

<sup>82</sup> KC Sahoo, 'Sanitation-related Psychosocial Stress: A Grounded Theory Study of Women. Across the Life-course in Odisha, India' (2015) 139 Social Science and Medicine 80, 86.

<sup>83</sup> Human Rights Watch (2014): "Cleaning Human Waste: Manual Scavenging, Caste, and Discrimination in India," Human Rights Watch Report, 2014, <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india> last accessed 10th December 2023.

policies and programs aimed at their rehabilitation and empowerment. This top-down approach perpetuates the invisibilization of their voices, experiences, and agency, undermining the effectiveness and legitimacy of the Act's interventions. Bezwada Wilson's critique of the limitations of legal and policy interventions that fail to involve the active participation and leadership of Dalit communities is particularly relevant here. He argues that a truly transformative approach must empower Dalit communities, including Dalit women, to challenge the systemic oppression they face and demand their inherent rights and dignity.

In conclusion, this gendered critique of The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 has revealed significant shortcomings in its ability to cater to the specific needs and intersectional oppression faced by Dalit women engaged in manual scavenging. From definitional limitations and inadequate provisions for rehabilitation to the lack of measures addressing gender-based violence, health hazards, and social exclusion, the Act fails to acknowledge and address the multidimensional nature of the discrimination and marginalization experienced by Dalit women manual scavengers. Perhaps most crucially, the Act's failure to incorporate an intersectional lens and ensure the meaningful participation and representation of Dalit women themselves perpetuates a fragmented and top-down approach that overlooks the lived realities and agency of these women.

### **HOW JUDICIAL INTERVENTIONS HAVE FAILED?**

Despite the presence of a legal framework that criminalizes the employment of manual scavengers and provides for loans and opportunities for alternative livelihoods, the combination of caste, neoliberalism, and outsourcing has resulted in minimal tangible change, at least according to the prevailing scholarly consensus.<sup>84</sup> *Koonan* observes that “right holders often need to take pro-active steps to get the laws implemented”<sup>85</sup> *Mander* mourns that the State must be “pressed and pushed by community organisations.”<sup>86</sup> As per *Eckert*, NGOs have emerged as central players in the “constellation of actors involved in adjudication” in urban India.<sup>87</sup> Nevertheless, while community organizations and registered NGOs have continuously advocated and pressured the government, leading to short-term victories, such pressure seems to have made little difference in the long run. Although existing literature has addressed prominent litigation concerning non-enforcement and compensation, there is currently no data available on

---

<sup>84</sup> See Abhishek Gupta, ‘Manual Scavenging—A Case of Denied Rights’ (2016) SSRN Electronic Journal 36, 58.

<sup>85</sup> Sujith Koonan, ‘Manual Scavenging in India: State apathy, non-implementation of laws and resistance by the community’ Indian Law Review 1, 17.

<sup>86</sup> Harsh Mander, ‘Resource Handbook for Ending Manual Scavenging’ 25, 28 (2014) ILO.

<sup>87</sup> Julia Eckert, ‘From Subjects to Citizens: Legalism from Below and the Homogenisation of the Legal Sphere’ (2006), The Journal of Legal Pluralism and Unofficial Law, 38(53–54) 45, 75.



the comprehensive range of litigation on manual scavenging, which extensively discusses intersectional issues of caste, gender, and other forms of discrimination.<sup>88</sup>

In exploring the reasons behind the scarcity of litigation addressing intersectional challenges faced by Dalit women, **Alena Kahle's** thesis emerges as a pivotal scholarly contribution.<sup>89</sup> Her work stands out as a comprehensive account examining how the judicial discourse has responded to the issue of manual scavenging. In her thesis, she aptly highlights how litigation on Manual scavenging has consistently failed to even recognize the plight of woman manual scavengers- let alone the redressal of intersectional claims of Dalit women engaged in the activity.<sup>90</sup> Her experience is worth mentioning here. Kahle notes how she was surprised to find no details of criminal complaints or cases filed under 2013 Act.

Irked by this sheer dearth of information, she submitted requests under the Right to Information Act with the National Crime Record Bureau to provide the details. The Bureau responded that while it maintains this information for other issues, it does not do so for manual scavenging- ironically emphasizing, as Kahle remarks, that manual scavenging is “*invisibilised.*”<sup>91</sup> Even after 11 years of passing of 2013 Act, Kahle argues that there have been only 80 relevant cases at the Supreme Court and High Court level across all of India.<sup>92</sup> It is pertinent to note that this shocking statistic reflects a stark reality of how little has been achieved in terms of legal recourse and the protection of the rights of those engaged in manual scavenging- let alone the plight of Dalit women whose intersectional claims have been invisibilised to such an extent that it even seems “unreal” to the courts to view this problem anywhere beyond its traditional single-axis perception of “group identity issue.” Kahle provides an astounding statistic exploring the nature of the registered petitioner in 80 identified cases across India on manual scavenging and sanitation work.<sup>93</sup> The same has been reproduced below for a better analysis-

---

<sup>88</sup> Harsh Mander et al. ‘Implementation Review of the Prohibition of Employment of Manual Scavengers & Rehabilitation Act, 2013’ Report by Centre for Equity Studies (2020).

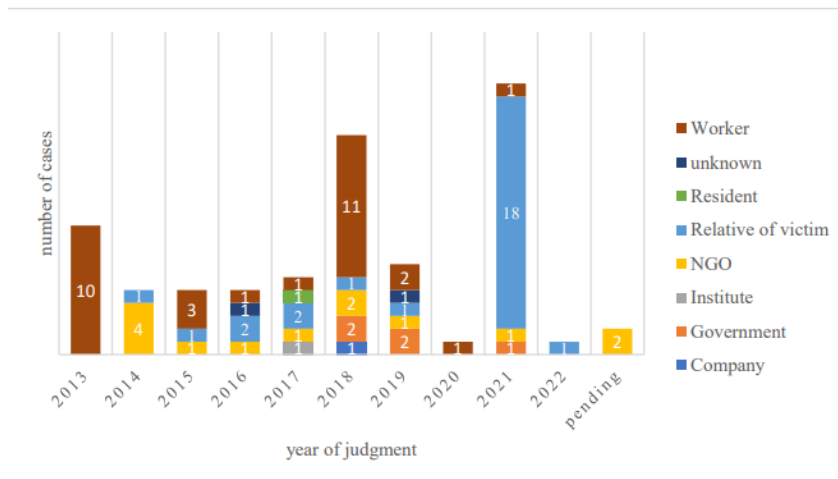
<sup>89</sup> Alena Kahle, ‘Of Legal Mobilisation and Active Citizenship: Examining NGO Litigation in India to eradicate Manual Scavenging’ (2022) A master’s thesis for Sociology of Law Dept. (Lund University).

<sup>90</sup> Ibid 16.

<sup>91</sup> Ibid 17.

<sup>92</sup> Ibid 20.

<sup>93</sup> Ibid 22.



(FIGURE 2- Reproduced from Alena Kahle, “Of Legal Mobilisation and Active Citizenship: Examining NGO Litigation in India to eradicate Manual Scavenging” (2022) A master’s thesis for Sociology of Law Dept. (Lund University), pp.15 “Figure 1”)

Upon a clear analysis of this statistic, it becomes profoundly distressing to note **that in none of the 80 litigations, which comprise the entirety of manual scavenging litigations across the country since 2013, the litigant is either a woman, Dalit, or both.** This observation highlights the minimal, or often non-existent, hopes that people from these communities have towards the court as an institution. Moreover, it's grievous to recognize how the courts have time and again ignored their voices. The absence of women and Dalits as petitioners in these cases highlights a systemic failure to address the plight of the most vulnerable groups affected by manual scavenging. Moreover, Kahle also analyses the subject-matter of these 80 litigations-

<b>Issue</b>	<b>Amount</b>
seeks response to application for regularisation through compassionate appointment	18
seeks payment of loan for rehabilitation	12
challenges order to do sanitation work as part of his job	9
seeks enforcement of relevant law in general	8
seeks registration of case/ charges against responsible persons	6
seeks payment of full compensation	6
seeks regularisation of daily wage/contractual employment	4
brings to attention sanitation system violative of MS Act	4
seeks release of information regarding recruitment of sanitation workers under RTI	3
challenges denial of formal employment as sanitation worker	2
seeks payment of compensation and appointment on compassionate grounds	1
orders resident who hired deceased manual scavenger to pay compensation	1
seeks release of funds to end manual scavenging	1
seeks preference in regularisation process for sanitation workers	1

seeks compassionate employment as sanitation worker	1
challenges dismissal from sanitation work	1
seeks payment of interest on delayed compensation	1
unclear	1
<b>Total</b>	<b>80</b>

(FIGURE 3- Reproduced from Alena Kahle, “Of Legal Mobilisation and Active Citizenship: Examining NGO Litigation in India to eradicate Manual Scavenging” (2022) A master’s thesis for Sociology of Law Dept. (Lund University), pp.16 “Table 1”)

As shown in Figure 3 above, among the total of 80 identified cases, some directly sought regularization or the payment of loans, while others simply requested a response or preference in an application. Cases filed by NGOs primarily aimed to obtain the release of information and funds to implement the 2013 Act. **It is striking to note that none of the subject matters revolve around the plight to woman manual scavengers** and the even a remote discussion of their intersectional discrimination issues seems like a distant reality. The absence of cases directly addressing the challenges faced by Dalit women engaged in manual scavenging is a glaring gap. This absence underscores the systemic failure to address the specific vulnerabilities and discriminations faced by this marginalized group. The lack of legal action on behalf of Dalit

women indicates a broader issue of access to justice and the failure of the legal system to address the intersectional discrimination they experience. This observation highlights the urgent need for more inclusive and proactive legal strategies to tackle the deep-rooted problems faced by Dalit women involved in manual scavenging. The legal system must be more responsive to the intersectional issues of caste and gender that Dalit women encounter. Failure to address these issues perpetuates the marginalization and suffering of an already vulnerable group. The situation doesn't seem to be better off even in 2024 as various high courts have time and again lamented the fact that there have been **zero convictions under the Act even after a decade of its passing.**<sup>94</sup>

### **Why have the courts failed to address the needs of Dalit Women?**

As already discussed in the background, Dalit women had already initiated challenges concerning their status in comparison to Dalit men. For instance, they had long advocated for marriages without priests, widow remarriage, and the elimination of dowry.<sup>95</sup> Moreover, in the private sphere, although Dalit women were responsible for managing the household much like upper-caste women, they were neither revered in their homes nor hesitant to retaliate against domestic abuse by their husbands.<sup>96</sup> They were subjected to mistreatment by upper-caste female employers or household heads and were also sexually exploited by upper-caste men. In this regard, **middle-class upper-caste Hindu women did not share the realities of oppression with Dalit women; instead, they contributed to the exploitation of their Dalit sisters.**<sup>97</sup> Their concerns have never been legally ripe to be pursued constitutionally through the non-discrimination guarantee under Article 15. A closer examination of two strategic factors reveals why the law never became the focal point in Dalit women's struggles. *First*, Dalit women did not fully align with the 'status' issues raised in the women's movement since the 1970s. These issues were pursued as demands for law reform, leading Dalit feminists to become increasingly sceptical of the legal route, which had previously neglected or contributed to their subordination. Matters such as dowry, domestic violence, divorce, and property rights led to the enactment of laws and amendments that did not address the realities of Dalit women's lives.<sup>98</sup> For instance,

---

<sup>94</sup> <https://www.livelaw.in/high-court/karnataka-high-court/karnataka-high-court-manual-scavenging-cases-convictin-rate-sc-st-prevention-of-atrocities-act-246177> accessed on 18th December 2023.

<sup>95</sup> Supriya Akerkar, 'Theory and Practice of Women's Movement in India: A Discourse Analysis' (1996) 30(17) EPW 2, 12.

<sup>96</sup> DS Jamdhadhe, 'The Subaltern Writings in India: An Overview of Dalit Literature' *The Criterion-An International Journal in English* (2014) 5(3).

<sup>97</sup> Sharmila Rege, 'Dalit Women Talk Differently: A Critique of "Difference and Towards a Dalit Feminist Standpoint Position' (1998) 33(44) EPW 39, 42.

<sup>98</sup> The Dowry Prohibition Act 1961, which prohibits the giving or taking of dowry, the Protection of Women from Domestic Violence Act of 2005, an act aimed at providing "more effective protection of the rights of women

Dalits had long been opposing upper-caste practices like child marriage and dowry.<sup>99</sup> New laws, such as the statute relating to domestic violence, failed to address the exploitation of Dalit women as domestic workers—an issue lying at the fringes of both private and public spheres and at the core of the physical abuse suffered by Dalit women.<sup>100</sup> Furthermore, the distressing issue of sexual violence against Dalit women was often reduced to simply an issue of gender-based violence without considering the caste dimension.<sup>101</sup> These instances expose the partiality of the Indian judiciary and legal feminists in recognizing Dalit women’s issues as a concern involving both gender and caste, which is intersectionality. However, while these factors (in addition to the slow progress in the development of discrimination jurisprudence under Article 15(1) of the Constitution) might have hindered a test case of intersectional discrimination, they contributed to the advancement of intersectional reasoning in Dalit feminist literature.

Despite ample existing criticism of the executive and legislative, the fact that the SCI deemed the enactment of the 2013 Act sufficient to end the ongoing mandamus on the public interest litigation before it appears to be largely overlooked in existing literature. In fact, the only criticism of the SCI relates to its engagement with the previous Act on manual scavenging of 1993, where Permutt argues, for instance, that the Court “has passively relied on the States to implement policies to eliminate manual scavenging, without any accompanying active enforcement action”.<sup>102</sup> Other criticism of the judiciary is even older, and not specific to the SCI; Mandal<sup>103</sup>, for instance, shows that judicial actors in the 1960s explicitly justified manual scavenging. It is perplexing that the Supreme Court of India would consider a law with gaps as the ultimate resolution of a public interest litigation. Despite implementing “forward-thinking measures” through temporary orders, the final ruling of the Supreme Court in the significant *Safai Karamchari Andolan* case is disheartening because it does not recognize the shortcomings of the 2013 Act, thus continuing the issue of manual scavenging rather than resolving it. As we

---

guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto”; the Marriage Laws (Amendment) Act of 1976, which amends the Hindu Marriage Act of 1955 and extends divorce and judicial separation provisions to Hindus; the Hindu Succession (Amendment) Act of 2005, which modifies the Hindu Succession Act of 1956 and grants daughters equal rights with sons in the family property.

<sup>99</sup> Sharmila Rege, ‘Real Feminism and Dalit Women: Scripts of Denial and Accusation’ (2000) *Economic and Political Weekly* 492, 495.

<sup>100</sup> Sujata Gadkar-Wilcox, ‘Intersectionality and the Under-Enforcement of Domestic Violence Laws in India’ (2012) 15 *UPJLSC* 455, 472, 473. It is pertinent to note that Protection of Women from Domestic Violence Act of 2005, aimed at addressing domestic violence, does not cover the issue of violence against domestic workers or women employed in informal labour such as manual scavenging.

<sup>101</sup> See Supreme Court’s decision in *Tukaram v State of Maharashtra* [1979] AIR [185] (SCI); *Vishaka v State of Rajasthan* [1997] AIR [3011] (SCI).

<sup>102</sup> S.D. Permutt, ‘The Manual Scavenging Problem: A case for the Supreme Court of India Note’ (2012) *Cardozo Journal of International and Comparative Law*, Vol. 20, No. 1 272, 312.

<sup>103</sup> Saptarishi Mandal, ‘Through the Lens of Pollution: Manual Scavenging and the legal discourse’ *Contemporary Voice of Dalit* (2008).

understand it, the SCI has discussed the principle of human dignity broadly in three ways: manual scavenging and human dignity; untouchability and human dignity; right to life and human dignity. To date, only two cases by the SCI have concerned relevant questions of law pertaining to manual scavenging: *The Public Interest Litigation in Safai Karmachari Andolan (SKA) vs. Union of India*, filed in 2003, and the case filed against the *Delhi Jal Board (DJB)*<sup>104</sup> in 2011. In both the SKA and the DJB case, the issue at hand was the non-implementation of laws prohibiting manual scavenging and compensation for sewer deaths. In both, the SCI invoked human dignity sporadically, and even then, merely emblematically. SCI observes that sewer workers are compelled to engage in manual cleaning due to persistent poverty and a lack of alternative livelihood options. The court argues that poverty is the primary force driving individuals to undertake such hazardous work, which often puts their lives at risk. This perspective contrasts with our earlier conclusions regarding the role of caste (Para 3 and 20). Regarding the nature of sewage work, the SCI acknowledges its inherent dangers to life. This emphasis on the hazardous and life-threatening aspects of the job highlights the broader limitations of the judicial discussion in SKA, which focuses solely on dry latrines and overlooks sewer work. Additionally, the SCI in DJB contends that the hazardous nature of the work imposes a clear obligation to ensure justice-

*“In this scenario, the Courts are not only entitled but are under constitutional obligation to take cognizance of the issues relating to the lives of the people who are forced to undertake jobs which are hazardous and dangerous to life.”*<sup>105</sup> (Para 32)

The acknowledgment of its constitutional duty is central to my criticism of the SCI's failure to utilize human dignity as a fundamental right in addressing the persistence of manual scavenging. In DJB, the SCI briefly discusses the importance of human dignity. It asserts that it is the constitutional responsibility of all branches of the state—the legislature, executive, and judiciary—to “safeguard the rights of every citizen and individual and ensure that everyone can live with dignity.” Additionally, in paragraph 27, it reaffirms that the interpretation of the right to life in Indian law is broad and “includes the right to live with dignity, free from exploitation.” While the SCI in both DJB and SKA references relevant legal precedents, including recognizing human dignity as an inherent right, it does not fully integrate this understanding into its decisions. The main problem here is that both the judicial and legislative systems fail to recognize the harmful

---

<sup>104</sup> *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers* [2011] [8] SCC [568].

<sup>105</sup> *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers* [2011] [8] SCC [568].

impact of the legal prohibition and safety measures on manual scavenging, which is essentially allowed by law as the 2013 Act only partially prohibits manual scavenging. At this juncture it is important to point out that even the **Amendment bill that completely (not partially) bans the practice also doesn't come to the rescue as the Parliament has already claimed recently that the bill will not be enforced.**<sup>106</sup> The Supreme Court's approval of the 2013 Act in the Safai Karamchari Andolan case highlights the failure of judicial discourse not just in scrutinizing legislative changes critically but also in seeing these changes as the ultimate solution to ending the practice. Regarding the 2013 Act, the Supreme Court in the Safai Karamchari Andolan case remarked:

*“For over a decade, this Court issued various directions and sought for compliance from all the States and Union Territories. Due to effective intervention and directions of this Court, the Government of India brought an Act called “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013” for abolition of this evil and for the welfare of manual scavengers. The Act got the assent of the President on 18.09.2013. The enactment of the aforesaid Act, in no way, neither dilutes the constitutional mandate of Article 17 nor does it condone the inaction on the part of Union and State Governments under the 1993 Act. What the 2013 Act does in addition is to expressly acknowledge Article 17 and Article 21 rights of the persons engaged in sewage cleaning and cleaning tanks as well persons cleaning human excreta on railway tracks.”*<sup>107</sup> (Para 11)

The SCI here explicitly claims two things: First, that the 2013 Act was brought in force for the “abolition” of manual scavenging and the “welfare” of the manual scavengers. Second, that the 2013 Act does not dilute the constitutional mandate of Article 17, which prohibits untouchability, and acknowledges the right against untouchability and social exclusion and right to life with human dignity. **This finding of the SCI remains unchallenged and unreviewed in judicial discourse and academic writings on manual scavenging in India.** The criticism highlighted above presents a clear direction for advocating the unconstitutionality of both manual scavenging itself and the 2013 Act, which I believe the Supreme Court must pursue to progress towards its elimination. The core argument against the constitutionality of manual scavenging is to contest its acceptability in any form. In summary, I provide four reasons for this

---

<sup>106</sup> <https://theprint.in/india/governance/no-plan-to-amend-manual-scavenging-law-govt-says-6-months-after-announcing-new-bill/627186/> accessed on 17<sup>th</sup> March 2024.

<sup>107</sup> *Safai Karamchari Andolan v Union of India* [2014] [11] SCC [224].

argument, based on the comprehensive literature review and case law examination mentioned earlier-

1. Manual scavenging cannot be made dignified even with definitional changes. Simply introducing a barrier between scavengers and waste does not eliminate social exclusion, which persists due to ideas of purity and pollution.
2. Ensuring the physical safety and health of sanitation workers does not fully uphold human dignity.
3. According to the fundamental right discourse, any practice that contributes to untouchability or other forms of social exclusion is unconstitutional.
4. Constitutional discussions on the right to life impose a duty on courts to safeguard the human dignity of all individuals. Courts should facilitate actions that allow individuals to genuinely experience their right to dignity.
5. Constitutional courts are mandated to review practices and laws that infringe upon the fundamental rights of Dalit women manual scavengers through an intersectional examination of issues as advocated above.



## CONCLUSION

This study is motivated by a commitment to prioritize the most marginalized individuals when shaping our approaches and policies. Recognizing that discrimination law also aims to address the hardships faced by those severely disadvantaged due to their social status or identities, this thesis investigates why individuals with multiple identities often receive limited protection under discrimination law. This central inquiry guides the effort to incorporate intersectionality into discrimination law. Drawing on the fundamental principles of intersectionality theory, which seeks to comprehend the compounded and intricate nature of disadvantage stemming from multiple identities, the objective is to establish a category of intersectional discrimination within the framework of discrimination law. As demonstrated in the research, the journey towards achieving this goal is lengthy. It requires conceptual and doctrinal adjustments across the entire spectrum of discrimination law practice. It becomes evident that each fundamental tool and principle of discrimination law must be reevaluated through the lens of intersectionality. This project focuses on defining the target of intersectional discrimination and outlining the essential, albeit incomplete, steps needed for this endeavor. It establishes and defends the core concepts of intersectionality theory by examining its origins in Black feminism in the United States and extending its applicability to Dalit feminism in India. This extension aims to affirm the enduring relevance of the theory in elucidating the nature of disadvantage associated with multiple identities more broadly.

Part I and II mapped a background of the existing literature on Dalit Feminism and delineated as to how the core of the idea echoes in the plight of Dalit woman manual scavengers. The attempt here was to highlight research gaps in the current scholarship dealing with Dalit Feminism and reconcile it with the theoretical framework of “intersectionality” to initiate a better assessment of discrimination claims among Dalit Woman Manual Scavengers. This reconciliation was attempted in Part III of the study that highlighted the theoretical underpinnings of intersectionality and analysed how the framework responds in the Indian scenario, particularly in the case of Dalit woman sanitation workers. The results deemed satisfactory in the sense that it entails new learnings for policy framers and the Judiciary. The “invisibilisation” of intersectional issues concerning Dalit woman engaged in manual scavenging is highlighted in the critique of Part V of the study which discusses the upsetting response of the legislature and judiciary towards the plight of Dalit Woman Scavengers. With the help of relevant statistics, this section underscored the sheer absence of issues related to Dalit women taking the centre stage in any of the manual scavenging adjudications across forums. The section showed how out of the 80 cases that have been adjudicated by judicial forums so far, **none of**

**them even remotely mention the problems faced by our Dalit sanitation sisters on a daily basis.** This “**invisibilisation**” is also reflected in litigations, **where again none of the petitioners or intervenors have ever been women.** To what extent has this reluctance impacted the lives of Dalit woman manual scavengers demands further research, but it is certain that the current legislative and judicial discourse has remained **utterly silent** towards the multifarious discrimination issues faced by our Dalit Woman Sanitation workers.

By grounding intersectionality as a theoretical lens, this study seeks to make an attempt to **at least initiate a discourse on the specific and often exacerbated problems faced by these workers.** It has argued how adopting an intersectional framework to first identify the **distinct nature of problems faced by Dalit woman engaged in manual scavenging** and then **gradually eradicate the practice as a whole** unlike the partial prohibition fostered by the 2013 Act. Alongside this conceptual shift, it's essential to adjust certain elements of discrimination legislation to effectively address intersectionality. These adjustments involve redefining how we perceive intersectional injustices, expanding the parameters for recognizing similar grounds, redefining indirect discrimination boundaries to accommodate intersectional complaints, reconsidering the connection between impact and justification analysis, acknowledging the expressive aspects of intersectional complaints, determining the level of scrutiny or review standard, and allocating the burden of proof between the plaintiff and the defendant. Further in the study, I asserted that a comprehensive understanding of discrimination should encompass a wide array of intersectional harms such as stereotyping, prejudice, exclusion, marginalization, exploitation, and demeaning actions. Similarly, having expansive criteria for recognizing analogous grounds is crucial for accommodating intersectional claims in manual scavenging, rather than being constrained by linear assessments like immutability and fundamental choice. Judges must be receptive and perceptive in identifying instances of indirect intersectional discrimination whenever they adjudicate a case involving manual scavenging, acknowledging its various forms—whether it affects only intersectional claimants, both single-ground and intersectional claimants, or different grounds indirectly affecting intersectional claimants.

I emphasized that the focus of discrimination inquiries should be on the impact experienced by the claimant, and justification analyses should not detract from this focus, even when considering justifications alongside. Additionally, a higher standard of review, such as proportionality, rather than mere rationality or reasonableness, is necessary when determining claims of intersectional discrimination faced by women sanitation workers. Considering the expressive dimensions of discrimination—what it communicates about the claimants—is also crucial in thoroughly addressing intersectional claims. This list of core principles is not exhaustive, and each would

benefit from further exploration in future research as the legal doctrine on intersectionality evolves. The central argument running through the study asserts that effectively addressing intersectionality within discrimination law necessitates a comprehensive approach that encompasses all facets of discrimination law, both conceptually and doctrinally. This is because the prevailing notion of discrimination, as outlined by Crenshaw, primarily focuses on single-axis discrimination and does not fully align with the concept of intersectionality. Therefore, the initial and crucial step in this process involves broadening the normative scope of discrimination law by recognizing a category of intersectional discrimination.

Though the context in which the study was set remained within the confines of issues faced by Dalit women manual scavengers, the normative contribution of this study can be applied broadly to any context to dismantle claims of discrimination based on multiple grounds. The doctrinal aspect highlighted in Part III demonstrates, through examples and figures, how this normative understanding can be translated into the language of discrimination law in India. Dalit women in India represent one of the most vulnerable and marginalized groups, facing compounded vulnerability due to caste, gender, and class factors, as extensively documented in historical, anthropological, and feminist literature, as discussed in Part I. The slow progress in the development of Indian discrimination law means that the potential for an intersectional claim on their behalf remains largely aspirational. However, if India were to address discrimination against Dalit women within the framework of discrimination law, this study attempts to lay the groundwork for redefining discrimination law to accommodate intersectional discrimination through conceptual and doctrinal adjustments. The specifics of a successful intersectional discrimination claim will vary depending on the legal context. Hence, the overarching analysis provided in this study, extrapolated from the specific context of Dalit women sanitation workers, offers a framework for future endeavours aimed at realizing intersectionality within discrimination law across different jurisdictions.

## BIBLIOGRAPHY

### Books

- 1) Agnes Flavia, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 2012)
- 2) Bell Hooks *Feminist Theory: From Margin to Centre* (South End Press 1984)
- 3) Black, M. and Fawcett, B. *The Last Taboo: Opening the Door on the Global Sanitation Crisis* (Earthscan, 2008)
- 4) Butler, Judith *Bodies That Matter: On the Discursive Limits of "Sex"* (Routledge 1993)
- 5) Esther Ngan-Ling Chow *Analyzing Gender, Intersectionality, and Multiple Inequalities: Global, Transnational and Local Contexts* (Emerald 2011)
- 6) Davina Cooper, Didi Herman, Emily Grabham and Jane Krishnadas (eds), *Intersectionality and Beyond: Law, Power, and the Politics of Location* (Routledge-Cavendish 2009)
- 7) Fredman, Sandra *Discrimination Law* (2nd edn OUP 2010)
- 8) Galanter, Marc *Competing Inequalities: Law and the Backward Classes in India* (OUP, 1984)
- 9) Gedalof, Irene *Against Purity: Rethinking Identity with Indian and Western Feminisms* (Taylor and Francis 1999)
- 10) Gloria T Hull, Patricia Bell Scott and Barbara Smith (eds). *All the Women Are White, All the Blacks Are Men but Some of Us Are Brave* (Feminist Press 1982)
- 11) Grzanka, Patrick R (ed). *Intersectionality: A Foundations and Frontiers Reader* (Westview 2014)
- 12) Hervey, Tamara K. and Kenner, Jeff (eds). *Economic and Social Rights under the EU Charter of Fundamental Rights* (Hart 2003)
- 13) Hellman, Deborah and Moreau, Sophia R (eds). *Philosophical Foundations of Discrimination Law* (OUP 2013)
- 14) Hellman, Deborah *When is Discrimination Wrong?* (HUP 2008)
- 15) Hooks, Bell *Feminist Theory: From Margin to Centre* (South End Press 1984)

- 16) Hull, Gloria T, Scott, Patricia Bell, and Smith, Barbara (eds). *All the Women Are White, All the Blacks Are Men but Some of Us Are Brave* (Feminist Press 1982)
- 17) Khaitan, Tarunabh *A Theory of Discrimination Law* (OUP 2015)
- 18) Menon, Nivedita *Recovering Subversion: Feminist Politics beyond the Law* (University of Illinois Press 2004)
- 19) Nussbaum, Martha *Women and Human Development* (CUP 2001)
- 20) Ramaswamy, Gita *India Stinking* (Navayana Publishing 2012)
- 21) Rao, Anupama (ed). *Gender and Caste: Issues in Contemporary Indian Feminism* (Kali for Women 2005)
- 22) Rawls, John *A Theory of Justice* (1st edn, OUP 1971)
- 23) Rege, Sharmila *Sociology of Gender: The Challenge of Feminist Sociological Thought* (Sage India Publishers 2003)
- 24) Roy, Kumkum (ed). *The Power of Gender and the Gender of Power: Explorations in Early Indian History* (Oxford University Press 2010)
- 25) Sangari, Kumkum and Vaid, Sudesh (eds). *Recasting Women: Essays in Indian Colonial History* (Rutgers University Press 1990)
- 26) Sen, Amartya. *Development as Freedom*. (OUP, 1999)
- 27) Spelman, Elizabeth *Inessential Woman: Problems of Exclusion in Feminist Thought* (Women's Press 1990)
- 28) Whitzman, C. et al (eds) *Building Inclusive Cities: Women's Safety and the Right to the Cities* (Routledge 2013)
- 29) Young, Iris Marion *Justice and the Politics of Difference* (PUP, 1990)

## Journal Articles

- 1) Uma Chakravarti, 'Conceptualising Brahmanical Patriarchy in Early India: Gender, Caste, Class and State' (1993) 28 Economic and Political Weekly 579.
- 2) Nivedita Menon, 'Sexuality, Caste, Governmentality: Contests over 'Gender' in India' (2009) 91 Feminist Review 94.
- 3) Nivedita Menon, 'Is feminism about 'women?' A critical view on intersectionality from India' (2015) Economic and Political Weekly 37.
- 4) Nivedita Menon, *Recovering Subversion: Feminist Politics beyond the Law* (University of Illinois Press 2004) 295, 299.
- 5) Nivedita Menon, 'State/Gender/Community: Citizenship in Contemporary India' (1998) 33 Economic and Political Weekly PE3.
- 6) Sunaina Arya, 'Dalit or Brahmanical Patriarchy? Rethinking Indian feminism' (2020) 1(1) CASTE: A Global Journal on Social Exclusion 217.
- 7) Radhika Govinda, 'The Politics of the Marginalised: Dalits and Women's Activism in India' (2006) 14(2) Gender and Development 181.
- 8) Radhika Govinda, 'Interrogating Intersectionality: Dalit women, Western classrooms, and the Politics of Feminist Knowledge Production' (2022) 23(2) Journal of International Women's Studies 72.
- 9) Kalpana Kannabiran, 'Sociology of Caste and the Crooked Mirror: Recovering BR Ambedkar's Legacy' (2009) Economic and Political Weekly 35.
- 10) Kalpana Kannabiran, 'Caste and Gender' in *Handbook on Economics of Discrimination and Affirmative Action* (Singapore: Springer Nature Singapore, 2023) 17.

- 11) Bezwada Wilson and Bhasha Singh, 'The Long march to Eliminate Manual Scavenging' (2016) India Exclusion Report, Centre for Equity Studies, 298, 319.
- 12) Ratna Kapur, 'Who Draws the Line? Feminist Reflections on Speech and Censorship' (1996) 31 Economic and Political Weekly WS15.
- 13) Ratna Kapur and Brenda Cossman, 'Communalising Gender/Engendering Community: Women, Legal Discourse and Saffron Agenda' (1993) 28 Economic and Political Weekly WS35.
- 14) Ratna Kapur, 'On Gender, Alterity and Human Rights: Freedom in a Fishbowl' (2019) 122 Feminist Review 167.
- 15) Flavia Agnes, 'Law and Women of Age: A Short Note' (1999) 34 Economic and Political Weekly WS51.
- 16) Flavia Agnes, 'Law, Ideology and Female Sexuality: Gender Neutrality in Rape Law' (2002) 37 Economic and Political Weekly 844.
- 17) Flavia Agnes, 'Women's Movement within a Secular Framework: Redefining the Agenda' (1994) 29 Economic and Political Weekly 1123.
- 18) Flavia Agnes, 'Maintenance for Women Rhetoric of Equality' (1992) 27 Economic and Political Weekly 2233.
- 19) Mary E John, 'Women in Power? Gender, Caste, and the Politics of Local Urban Governance' (2007) 42(39) Economic and Political Weekly 3986.
- 20) Mary E John, 'Gender and Development in India, 1970s-1990s: Some reflections on the constitutive role of contexts' (1996) Economic and Political Weekly 3071.
- 21) Mary E John, Ravinder Kaur, Rajni Palriwala, and Saraswati Raju, 'Dispensing with Daughters: Technology, Society, Economy in North India' (2009) 44(15) Economic and Political Weekly.
- 22) Mary E John, 'Intersectionality: Rejection or Critical Dialogue?' (2015) 50(33) Economic and Political Weekly 72.

- 23) Meena Gopal, 'Struggles around Gender: Some Clarifications' (2015) 50(33) Economic and Political Weekly 76.
- 24) Meena Gopal, 'Ruptures and Reproduction in Caste/Gender/Labour' (2013) 48(18) Economic and Political Weekly 91.
- 25) Rege, Sharmila, 'Feminist Pedagogy and Sociology for Emancipation in India' (1995) 44(2) Sociological Bulletin 223.
- 26) Sharmila Rege, Devika J, Kalpana Kannabiran, Mary E John, Padmini Swaminathan and Samita Sen, 'Intersections of Gender and Caste' (2013) 48(18) Economic and Political Weekly 35.
- 27) Gopal Guru, 'LABOURING INTELLECTUALS: The Conceptual World of Dalit Women' (2012) 39(3/4) India International Centre Quarterly 54.
- 28) Gopal Guru, 'Dalit Movement in Mainstream Sociology' (1993) 28(14) Economic and Political Weekly 570.
- 29) Guru, Gopal, 'Dalits from Margin to Margin' (2000) 27(2) India International Centre Quarterly 111.
- 30) Sukhadeo Thorat and Katherine S. Newman, 'Caste and Economic Discrimination: Causes, Consequences and Remedies' (2007) 42(41) Economic and Political Weekly 4121.
- 31) Sukhadeo Thorat and Paul Attewell, 'The Legacy of Social Exclusion: A Correspondence Study of Job Discrimination in India' (2007) 42(41) Economic and Political Weekly 4141.
- 32) Sukhadeo Thorat 'Paying the Social Debt' (2006) 41(24) Economic and Political Weekly 2432.
- 33) Ruth Manorama, 'Dalit women: The downtrodden among the downtrodden' in *Women's Studies in India: A Reader* (2008) 445
- 34) D.N. Pathak, 'Making Sense—With Ruth Manorama, A Dalit Feminist Activist' (2016) 1(1) Antyajaa: Indian Journal of Women and Social Change 101.



- 35) Gayatri Chakravorty Spivak, 'Feminism 2000: One Step Beyond?' (2000) *Feminist Review*, 64 113.
- 36) Patrick Shin, 'Is There a Unitary Concept of Discrimination?' in Deborah Hellman and Sophia R Moreau (eds), *Philosophical Foundations of Discrimination Law* (OUP 2013).
- 37) Tina Khanna and Madhumita Das, 'Why Gender Matters in the Solution towards Safe Sanitation? Reflections from Rural India' (2015) 11(10) *Global Public Health*.
- 38) Kimberlé W Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) *UCLF* 139.
- 39) Sarah Hannett, 'Equality at the Intersections: The Legislative and Judicial Failure to Tackle Multiple Discrimination' (2003) 23 *OJLS* 65.
- 40) Pranjali Bandhu, 'Dalit Women's Cry for Liberation: My Rights are Rising Like the Sun, Will You Deny This Sunrise?' in Anupama Rao (ed), *Gender and Caste: Issues in Contemporary Indian Feminism* (Kali for Women 2005) 76.
- 41) Sharmila Rege, 'Dalit Women Talk Differently: A Critique of "Difference" and towards a Dalit Feminist Standpoint Position' (1998) 33(44) *EPW* 39, 42.
- 42) Gabriel Dietrich, 'Dalit Movement and Women's Movements' in Anupama Rao (ed), *Gender and Caste: Issues in Contemporary Indian Feminism* (Kali for Women 2005) 76
- 43) Murray Wesson, 'Discrimination Law and Social Rights: Intersections and Possibilities' (2007) 13 *Juridica International* 74, 81.
- 44) Shreya Atrey, 'Realising Intersectionality in Discrimination Law' (PhD thesis, University of Oxford, 2015).
- 45) King DK, 'Multiple Jeopardy, Multiple Consciousness: The Context of a Black Feminist Ideology' (1988) 14 *Signs* 42.

- 46) Kate O'Regan, 'Undoing Humiliation, Fostering Equal Citizenship: Human Dignity in South Africa's Sexual Orientation Equality Jurisprudence' (2013) 37 NYURLSC 307, 308–309
- 47) Sandra Fredman 'An Intersectional Approach to Discrimination Addressing Multiple Grounds in Human Rights Claims' (2001) Discussion paper of the OHRC
- 48) Nira Yuval-Davis, 'Intersectionality and Feminist Politics' (2006) 13 EJWS 193, 197–204.
- 49) Joan W Scott, 'Deconstructing Equality-Versus-Difference: Or the Uses of Poststructuralist Theory for Feminism' (1988) 14 Feminist Studies 33, 37.
- 50) D. Pasic, 'Manual Scavenging' (2021) International Dalit Solidarity Network.
- 51) J Burke, 'Census Reveals that 17% of the World is Indian' The Guardian (31 March 2011)
- 52) Asang Wankhede, 'The legal defect in the conditional prohibition of manual scavenging in India' (2021) Contemporary Voice of Dalit 24-28.
- 53) Roger Cotterrell, 'Why Must Legal Ideas Be Interpreted Sociologically?' (1998) 25(2) Journal of Law and Society 171, 192.
- 54) Terri Elliott, "Making Strange What Had Appeared Familiar", The Monist 77:4 (1994), 424, 433.
- 55) Shirley Lennon, 'Fear and Anger: Perceptions of Risks Related to Sexual Violence Against Women Linked to Water and Sanitation in Delhi, India' (SHARE Briefing Note 2011).
- 56) KC Sahoo, 'Sanitation-related Psychosocial Stress: A Grounded Theory Study of Women. Across the Life-course in Odisha, India' (2015) 139 Social Science and Medicine 80, 86
- 57) Abhishek Gupta, 'Manual Scavenging—A Case of Denied Rights' (2016) SSRN Electronic Journal 36, 58.

- 58) Sujith Koonan, 'Manual Scavenging in India: State apathy, non-implementation of laws and resistance by the community' *Indian Law Review* 1, 17.
- 59) Harsh Mander, 'Resource Handbook for Ending Manual Scavenging' 25, 28 (2014) ILO.
- 60) Julia Eckert, 'From Subjects to Citizens: Legalism from Below and the Homogenisation of the Legal Sphere' (2006), *The Journal of Legal Pluralism and Unofficial Law*, 38(53–54) 45, 75.
- 61) Harsh Mander et al. 'Implementation Review of the Prohibition of Employment of Manual Scavengers & Rehabilitation Act, 2013' Report by Centre for Equity Studies (2020).
- 62) Alena Kahle, 'Of Legal Mobilisation and Active Citizenship: Examining NGO Litigation in India to eradicate Manual Scavenging' (2022) A master's thesis for Sociology of Law Dept. (Lund University).
- 63) Supriya Akerkar, 'Theory and Practice of Women's Movement in India: A Discourse Analysis' (1996) 30(17) *EPW* 2, 12.
- 64) DS Jamdhadhe, 'The Subaltern Writings in India: An Overview of Dalit Literature' *The Criterion-An International Journal in English* (2014) 5(3).
- 65) Sharmila Rege, 'Dalit Women Talk Differently: A Critique of "Difference and Towards a Dalit Feminist Standpoint Position' (1998) 33(44) *EPW* 39, 42.
- 66) Sharmila Rege, 'Real Feminism and Dalit Women: Scripts of Denial and Accusation' (2000) *Economic and Political Weekly* 492, 495.
- 67) Sujata Gadkar-Wilcox, 'Intersectionality and the Under-Enforcement of Domestic Violence Laws in India' (2012) 15 *UPJLSC* 455, 472, 473.
- 68) S.D. Permutt, 'The Manual Scavenging Problem: A case for the Supreme Court of India Note' (2012) *Cardozo Journal of International and Comparative Law*, Vol. 20, No. 1 272, 312.

- 69) Saptarishi Mandal, 'Through the Lens of Pollution: Manual Scavenging and the legal discourse' Contemporary Voice of Dalit (2008).

### **Websites, Links and Reports**

- 1) <https://theprint.in/india/governance/no-plan-to-amend-manual-scavenging-law-govt-says-6-months-after-announcing-new-bill/627186/>
- 2) <https://www.livelaw.in/high-court/karnataka-high-court/karnataka-high-court-manual-scavenging-cases-convictin-rate-sc-st-prevention-of-atrocities-act-246177>
- 3) WSSCC and SHARE, 'Sanitation Vulnerabilities, 'Women's Stresses and Struggles for Violence Free Sanitation' (WSSCC and SHARE, Research Briefing Note 2015)-  
<https://web.archive.lshrm.ac.uk/www.sharesearch.org//file/1969/Vulnerabilities.pdf>
- 4) Human Rights Watch (2014): "Cleaning Human Waste: Manual Scavenging, Caste, and Discrimination in India," Human Rights Watch Report, 2014,  
<https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>
- 5) The Ministry of Social Justice and Empowerment, The Bill, 2020, S. 2(1)(d)  
[http://socialjustice.nic.in/writereaddata/UploadFile/AAP\\_SRMS\\_2020\\_2021.pdf](http://socialjustice.nic.in/writereaddata/UploadFile/AAP_SRMS_2020_2021.pdf)
- 6) J Burke, 'Census Reveals that 17% of the World is Indian' The Guardian (31 March 2011) [www.theguardian.com/world/2011/mar/31/census-17-percent-world-Indian](http://www.theguardian.com/world/2011/mar/31/census-17-percent-world-Indian)
- 7) *Census of India, Office of the Registrar General & Census Commissioner, India: Availability and Type of Latrine Facility* (Government of India 2011)  
<https://censusindia.gov.in/census.website/data/census-tables>
- 8) Discussion paper of the OHRC-  
[http://www.ohrc.on.ca/sites/default/files/attachments/An\\_intersectional\\_approach\\_to\\_discrimination%3A\\_Addressing\\_multiple\\_grounds\\_in\\_human\\_rights\\_claims.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/An_intersectional_approach_to_discrimination%3A_Addressing_multiple_grounds_in_human_rights_claims.pdf)

## **Statutes and Legislations**

- 1) Constitution of India, 1950
- 2) Protection of Civil Rights Act, 1955  
Protection of Civil Rights Act, 1977
- 3) Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989
- 4) The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993
- 5) The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013
- 6) The Dowry Prohibition Act 1961
- 7) Domestic Violence Act of 2005
- 8) Marriage Laws (Amendment) Act of 1976
- 9) Hindu Marriage Act of 1955
- 10) Hindu Succession Act of 1956

## **Case Laws**

- 1) *Safai Karamchhari Andolan v Union of India* [2014] [11] SCC [224].
- 2) *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers* [2011] [8] SCC [568].
- 3) *Tukaram v State of Maharashtra* [1979] AIR [185] (SCI).
- 4) *Vishaka v State of Rajasthan* [1997] AIR [3011] (SCI).