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Judicial Clarification on Retrospective Compensation: A Critical and Analytical Study of the Balram Singh Judgment

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Abstract

Manual scavenging and hazardous sewer and septic-tank cleaning represent not merely occupational hazards but a continuing constitutional failure to secure equality, dignity, and safe conditions of work to historically marginalised communities. Against this background, the Supreme Court of India's decision in Dr. Balram Singh v. Union of India (2023), together with its subsequent clarification in 2026, assumes considerable constitutional significance. The Court enhanced compensation for deaths occurring during hazardous sewer and septic-tank cleaning from ₹10 lakh to ₹30 lakh and subsequently clarified that the enhanced amount would apply to claims that remained unpaid as of the date of the 2023 judgment, irrespective of the date of death.

This paper critically analyses whether retrospective application of enhanced compensation represents a principled extension of constitutional remedies or an instance of judicial reconstruction of an inadequately implemented statutory regime. It argues that the significance of Balram Singh lies not simply in increasing the monetary quantum, but in transforming compensation from a welfare-oriented payment into a remedy linked to the violation of fundamental rights. The retrospective clarification further challenges the legitimacy of temporal distinctions between similarly situated victims and advances a substantive conception of equality.

However, the judgment also exposes important limitations. Compensation remains fundamentally remedial rather than preventive; financial relief cannot, by itself, eliminate the institutional, administrative, and caste-based structures that reproduce hazardous sanitation work. Questions concerning identification of victims, proof of employment, responsibility of contractors and public officials, criminal prosecution, rehabilitation, and enforcement remain inadequately resolved. The paper therefore contends that Balram Singh should be understood as an important constitutional intervention, but not as a complete solution. Its transformative

potential depends upon whether judicial recognition is translated into effective administrative enforcement, mechanisation, accountability, rehabilitation, and dismantling of caste-based occupational exclusion.

Keywords: Manual scavenging; retrospective compensation; human dignity; State accountability; substantive equality

1. Introduction

Manual scavenging and hazardous sewer cleaning occupy a particularly troubling position within Indian constitutional law. They persist despite an express legislative prohibition and despite repeated judicial interventions intended to eliminate the practice. The continuing occurrence of deaths in sewers and septic tanks therefore raises a question more fundamental than the quantum of compensation: why does a legally prohibited and constitutionally suspect form of labour continue to exist at all?

The Supreme Court's judgment in Dr. Balram Singh v. Union of India (20 October 2023) and its subsequent clarification in January 2026 must be examined against this broader contradiction between legal prohibition and social reality. The original framework of compensation had become increasingly difficult to justify when viewed against the constitutional value placed upon human dignity and the economic and social consequences of the loss of life of sanitation workers. The 2023 decision consequently enhanced compensation from ₹10 lakh to ₹30 lakh. The 2026 clarification addressed the temporal question that followed: whether families, whose claims remained unpaid, although the deaths had occurred before the 2023 judgment, should receive the enhanced amount.

The Court answered this question affirmatively. At one level, the clarification appears straightforward: similarly situated families should not receive substantially different relief merely because their claims arose on different dates. At another level, however, the decision raises difficult questions concerning judicial power, temporal application of remedies, administrative liability, and the relationship between compensation and constitutional rights.

The central issue is therefore not merely whether ₹30 Lakh is an adequate amount. The deeper question is what the Court is attempting to remedy through compensation. If the payment is understood merely as financial assistance, retrospective enhancement may appear to alter the legal consequences of a past event. If, however, compensation is understood as a constitutional remedy for an ongoing violation of dignity and equality, the distinction between the date of death and the date on which relief is actually provided becomes considerably less persuasive.

This paper accordingly approaches Balram Singh not as an isolated compensation judgment but as part of the continuing constitutional struggle against manual scavenging. It evaluates the doctrinal justification for retrospective compensation while examining whether judicially enhanced monetary relief can produce meaningful structural change.

1.1 Objectives

The principal objectives of this study are:

1. To examine the evolution of judicial directions concerning compensation for sewer and septic-tank deaths culminating in Balram Singh and its 2026 clarification.
2. To analyse the constitutional foundations of enhanced and retrospective compensation under Articles 14, 17 and 21.
3. To examine whether retrospective application strengthens the principle of substantive equality or creates tensions concerning temporal application of judicial remedies.
4. To critically assess State liability, contractor responsibility, criminal accountability, and evidentiary barriers.
5. To evaluate whether compensation can operate as an effective constitutional remedy without corresponding preventive and rehabilitative measures.
6. To propose a broader framework for eliminating the structural conditions that sustains manual scavenging.

1.2 Research Questions

1. How does Balram Singh reconceptualise compensation for sewer deaths as a constitutional remedy rather than merely a welfare measure?
2. Is retrospective application of enhanced compensation constitutionally justified under the principle of substantive equality?
3. Does the judgment adequately address the distinction between compensating victims and preventing future deaths?
4. To what extent does primary State liability promote accountability where hazardous work is performed through private contractors?
5. What institutional and evidentiary barriers may prevent the judgment from benefiting all eligible victims?
6. Can judicial intervention effectively address the caste-based social structures underlying manual scavenging without sustained legislative and administrative action?

2. Literature Review

The literature concerning manual scavenging demonstrates a persistent tension between normative prohibition and empirical persistence. Earlier judicial and scholarly interventions primarily concentrated on prohibition, identification, rehabilitation, and enforcement. The decision in Safai Karamchari Andolan v. Union of India (2014) represented a major development by recognising that statutory prohibition alone had not eliminated the practice and by directing measures concerning surveys, rehabilitation, and prosecution.

The subsequent discourse has increasingly shifted toward State accountability and constitutional remedies. This shift is significant because it changes the conceptual question from whether the State has enacted sufficient legislation to whether the State has actually discharged its constitutional responsibility.

Post-2013 scholarship and judicial developments have nevertheless exposed an implementation deficit. The existence of a comprehensive statutory framework does not necessarily ensure its effective enforcement. Weak identification mechanisms, inadequate rehabilitation, limited prosecution, and continued dependence upon hazardous manual labour demonstrate the gap between formal legality and substantive transformation.

The Balram Singh judgment addresses one component of this gap by revising the compensation quantum. Its significance, however, should not be overstated. An increase in compensation may strengthen the remedial consequences of a violation, but it does not necessarily increase the probability of prevention. The 2026 clarification adds a further dimension by extending the enhanced compensation to unpaid historical claims. This raises a relatively under-examined question: can retrospectivity function as an instrument of substantive equality where the underlying violation has already occurred but the State's remedial obligation remains outstanding?

This paper argues that it can, but only within limits. Retrospective compensation addresses unequal remedial treatment; it does not automatically resolve unequal exposure to hazardous work.

3. Constitutional Foundations

The constitutional basis of Balram Singh is particularly important because it determines the character of compensation.

3.1 Article 21: From Survival to Dignity

Article 21 has been interpreted expansively to protect not merely physical existence but the right to live with dignity. In the context of hazardous sewer cleaning, this principle acquires special

force. A sanitation worker who enters a sewer without adequate protection is exposed to a foreseeable and potentially fatal risk. The constitutional question is consequently not limited to whether death occurred; it concerns whether the State permitted a form of labour incompatible with the constitutional conception of dignified life.

The enhancement of compensation can therefore be understood as recognition that the earlier amount did not adequately reflect the seriousness of the constitutional injury. Nevertheless, an important analytical distinction must be maintained: monetary valuation of a constitutional right is not equivalent to valuation of human life itself. Compensation is a legal mechanism for providing redress; it cannot convert dignity into a market price.

3.2 Article 14: The Problem of Temporal Classification

The retrospective clarification raises a significant Article 14 question. If two families are similarly situated because both lost a family member in hazardous sewer cleaning and both remain entitled to compensation, can the date of death legitimately determine the amount received?

A rigid temporal approach could justify different compensation on the basis that the earlier violation occurred when ₹10 lakh was the established amount. Yet this reasoning becomes problematic where the State has not actually discharged its remedial obligation. The 2026 clarification therefore shifts attention from the date of the injury to the date on which the State fulfils its obligation to provide compensation.

This is a significant move toward substantive equality. Nevertheless, it also raises a broader judicial-policy concern: if every subsequent enhancement of constitutional compensation automatically applied to all historical claims, the distinction between prospective and retrospective judicial remedies could become unstable. The strength of the Balram Singh approach therefore lies particularly in the fact that the clarification concerns unpaid claims, rather than treating every previously settled claim as automatically reopenable.

3.3 Article 17 and Caste-Based Occupational Exclusion

Article 17 adds a dimension that distinguishes manual scavenging from an ordinary occupational-safety dispute. The practice has historically been associated with caste-based exclusion and the assignment of degrading sanitation work to particular communities.

The constitutional challenge is therefore twofold. First, the State must prevent unsafe and prohibited labour. Second, it must confront the social structure that makes particular communities disproportionately vulnerable to such labour.

Judicial recognition of the Article 17 dimension is normatively important, but its practical effect depends upon enforcement outside the courtroom. Constitutional condemnation cannot, by itself, dismantle occupational segregation. The persistence of manual scavenging despite decades of prohibition illustrates precisely this limitation.

4. International Human Rights Framework

International human rights instruments provide an additional normative framework supporting the principles underlying Balram Singh. The Universal Declaration of Human Rights affirms human dignity, the right to life, and just and favourable conditions of work. The ICCPR protects life and prohibits cruel, inhuman, or degrading treatment, while the ICESCR recognises safe and healthy working conditions.

These instruments reinforce the proposition that hazardous work cannot be treated solely as an economic transaction between worker and employer. However, they do not prescribe a particular monetary quantum of compensation. Their relevance is therefore primarily interpretive: they strengthen the understanding that State obligations extend beyond formal prohibition toward effective protection and remedies.

The international framework also exposes a limitation in a compensation-centred approach. Human rights obligations are not exhausted when compensation is paid after death. The stronger obligation is preventive creating conditions in which workers are not required to choose between livelihood and exposure to lethal hazards.

5. Statutory Framework and the Enforcement Paradox

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 establishes a comprehensive legal framework prohibiting manual scavenging and hazardous cleaning, while providing for identification, rehabilitation, protective measures, and penal consequences.

The existence of this statutory framework creates an important paradox: the persistence of sewer deaths cannot simply be attributed to legislative absence. The more difficult problem is implementation.

This distinction is central to assessing Balram Singh. Judicial enhancement of compensation strengthens the consequences of State failure, but it does not necessarily strengthen the mechanisms that prevent the failure from occurring.

The question therefore becomes whether the legal system is sufficiently oriented toward deterrence. If the predictable consequence of an unsafe sewer death is primarily payment of compensation from public funds, there is a risk that compensation becomes a cost of

administrative failure rather than an instrument of prevention. The State's ability to recover amounts from negligent contractors may address this concern to some extent, but effective deterrence ultimately depends upon investigation, prosecution, regulatory enforcement, and institutional responsibility.

6. Judicial Approach in Balram Singh

In Dr. Balram Singh v. Union of India (20 October 2023), the Supreme Court enhanced compensation from ₹10 lakh to ₹30 lakh and emphasised the State's responsibility in cases involving deaths in sewers and septic tanks.

The judgment is significant for at least three reasons.

First, the Court rejected the idea that compensation should remain frozen at an amount established decades earlier. This recognises that the adequacy of a constitutional remedy cannot be evaluated entirely through historical standards.

Second, the Court's approach to State liability challenges the attempt to transfer responsibility entirely to private contractors. Where the State permits or fails to prevent hazardous sanitation work, outsourcing cannot necessarily become a mechanism for outsourcing constitutional responsibility.

Third, the rejection of the argument that workers entered sewers "voluntarily" has considerable analytical importance. Formal consent is problematic where economic vulnerability leaves workers with severely constrained choices. The concept of voluntariness must therefore be distinguished from meaningful autonomy.

6.1 The 2026 Clarification and Retrospectively

The 2026 clarification extends the enhanced ₹30 lakh compensation to cases where compensation remained unpaid as of the date of the 2023 judgment, irrespective of the date of death.

The strongest justification for this approach lies in substantive equality. Families awaiting compensation are similarly situated in relation to the State's continuing remedial obligation. Denying them the enhanced amount merely because the death occurred earlier would create a classification based upon chronology rather than the nature of the constitutional injury.

The clarification also exposes an important conceptual distinction between retrospective creation of liability and retrospective enhancement of an outstanding remedy. The latter is easier to justify where the State has not yet discharged its remedial obligation.

Nevertheless, the Court's approach should not be understood as eliminating all temporal questions. A settled and fully paid claim stands on a different footing from an unpaid claim. The distinction suggests that retrospectivity in Balram Singh is most defensible as a mechanism for ensuring equality among pending claimants, rather than as an unlimited power to reopen historical settlements.

7. Critical Analysis

7.1 Compensation as a Constitutional Remedy

One of the most significant contributions of Balram Singh is the movement away from viewing compensation as discretionary welfare assistance. The judgment places compensation within the framework of constitutional rights.

This is important because welfare payments and constitutional remedies operate on different normative premises. Welfare may be treated as assistance provided according to policy; constitutional compensation responds to a violation of an enforceable right.

However, the transformation also creates an accountability question. If compensation is a consequence of a fundamental-rights violation, who ultimately bears the cost of that violation? Primary State liability ensures that bereaved families do not have to litigate against contractors before obtaining relief, but public payment should not become a substitute for identifying and punishing those responsible.

7.2 The Strength and Limitation of Retrospectivity

The retrospective clarification is arguably the most analytically significant feature of the later judicial intervention. It prevents historical claims from becoming permanently undervalued simply because administrative processes were delayed.

At the same time, retrospectivity must be carefully bounded. Judicial remedies require predictability, particularly where financial liabilities have already been conclusively settled. The distinction between pending and settled claims therefore provides an important limiting principle.

The decision can consequently be defended not as an unrestricted retrospective alteration of legal consequences but as an attempt to ensure equal treatment of similarly situated unpaid claimants.

7.3 Prevention versus Compensation

The greatest limitation of the judgment is structural. Compensation operates after harm has occurred. Manual scavenging, however, requires a preventive response.

The critical question should therefore be: what institutional incentives change after compensation is enhanced from ₹10 lakh to ₹30 lakh?

If mechanisation remains inadequate, inspections remain weak, hazardous work continues through contractors, and criminal prosecution remains rare, the enhanced compensation may improve the position of victims' families without significantly changing the conditions that produce deaths.

Thus, the judgment should be understood as necessary but insufficient. Its remedial strength cannot be equated with transformative capacity.

7.4 Contractor Liability and State Accountability

The insistence upon State responsibility is justified because contracting out sanitation services should not permit the State to contract out its constitutional duties.

Yet primary State liability also creates a possible accountability dilemma. If the State pays compensation immediately and subsequently attempts recovery from contractors, the effectiveness of the second stage becomes crucial. Without transparent recovery mechanisms and prosecution, the immediate payment may unintentionally weaken deterrence.

A meaningful accountability framework should therefore connect three consequences:

Compensation to the victim recovery from the responsible entity criminal and administrative consequences for unlawful conduct.

Without the latter two elements, compensation risks functioning principally as restitution rather than deterrence.

7.5 Evidentiary Barriers

Retrospective compensation is also vulnerable to an evidentiary problem. Families of workers engaged through informal arrangements may lack employment records, contracts, or official documentation establishing the circumstances of death.
This produces a troubling possibility: the people most vulnerable to exploitation may also be the least capable of proving the legal facts necessary to obtain compensation.
A rights-based approach must therefore consider whether conventional evidentiary expectations are appropriate for this category of claims. Otherwise, formal entitlement may coexist with practical exclusion.

7.6 Rehabilitation and the Limits of Monetary Justice

Compensation cannot substitute for rehabilitation. The death of a sanitation worker may remove the principal income source of a household, while surviving family members may remain trapped within the same occupational and social structures.

The statutory framework's emphasis on rehabilitation is consequently not secondary to compensation. It is integral to breaking the cycle.

The deeper problem is that rehabilitation must be understood as socio-economic transformation rather than merely payment of a one-time benefit. Education, alternative livelihoods, housing, social security, and protection from occupational discrimination are necessary if families are to avoid reproducing the same conditions of vulnerability.

7.7 The Caste Question

Perhaps the most difficult limitation is that judicial remedies operate within institutions that cannot independently transform caste relations.

Recognising manual scavenging as connected with Article 17 is constitutionally significant because it identifies the practice as more than unsafe labour. Yet legal recognition does not automatically dismantle caste-based occupational segregation.

The continued existence of manual scavenging despite statutory prohibition suggests that the practice is sustained by social and economic structures extending beyond the immediate employer-worker relationship. Accordingly, an effective constitutional strategy must combine legal prohibition with social transformation.

8. Conclusion

The Balram Singh jurisprudence represents an important development in Indian constitutional law because it reframes compensation for sewer and septic-tank deaths as a matter of constitutional accountability rather than merely administrative benevolence. The enhancement of compensation to ₹30 lakh acknowledges that a decades-old compensation standard cannot indefinitely remain detached from contemporary understandings of dignity and the value of constitutional rights.

The 2026 clarification strengthens this approach by extending the enhanced compensation to unpaid claims irrespective of the date of death. Its strongest constitutional justification lies in substantive equality: where the State has not yet discharged its remedial obligation, similarly situated families should not be treated differently merely because of the historical date on which the underlying death occurred.

Yet the judgment should not be regarded as the culmination of the constitutional struggle against manual scavenging. Its principal weakness is inherent in the nature of compensation itself. Compensation repairs, but it does not necessarily prevent. It can alleviate economic consequences without eliminating the institutional conditions that expose workers to lethal hazards.

The transformative success of Balram Singh must therefore be measured not only by the number of families receiving ₹30 lakh but by whether fewer workers are required to enter sewers and septic tanks in the future. That requires effective implementation of the 2013 Act, rapid mechanisation, reliable identification of hazardous work, meaningful criminal prosecution, accountability of public authorities and private contractors, accessible evidentiary mechanisms, and comprehensive rehabilitation.

Ultimately, the constitutional promise embodied in Articles 14, 17 and 21 demands more than compensation after death. It demands a social and institutional order in which no worker is compelled by poverty, caste, contractual vulnerability, or administrative failure to undertake work that the law itself has declared impermissible. Balram Singh is therefore best understood as an important remedial milestone, but its ultimate constitutional significance will depend upon whether it becomes a catalyst for prevention and structural change rather than merely a more generous response to recurring deaths.

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