
THE FACTORY ACT, 1948 AND SOCIAL SECURITY: CONCEPT OF FACTORY, MANUFACTURING PROCESS, WORKER, AND OCCUPIER

Aayush Sharma, BA.LLB (H), Amity Law School, Amity University, Chhattisgarh

RESEARCH METHODOLOGY

In order to complete this project, the methodology opted by me is of descriptive nature based on secondary sources such as books, commentaries, articles and blogs available in web databases on this topic by scholars.

I. Introduction

There has been a rise of large-scale factory/industry in India in the later half of the nineteenth century. Major Moore, Inspector-in-chief of the Bombay Cotton Department, in his report in 1872-73 first of all raised the question for the provision of legislature working conditions in factories. The first Factory Act was enacted in 1881. Since then, the act has been amended on many occasions. The Factory Act 1934 as passed replacing all previous legislations in regards to factories. This Act was drafted in the light of the recommendation of the Royal Commission on Labour. This Act has also been suitably amended from time to time. The experience of working of the Factories Act, 1934, had revealed a number of defects and weakness which hampered effective administration of the Act, and the need for the wholesale revision of the Act to its protective provisions to large number of smaller industrial establishments was felt. Therefore, the Factories Act, 1948 consolidating and amending the law relating to labour in factories, was passed by the Constituent Assembly on August 28, 1948. The Act received the assent of the Governor-General of India on 23rd September 1948, and came into force on April 1, 1948.

The Factory Act, 1948 is a crucial legislation that governs the working conditions of workers in factories in India. The Act lays down provisions for the health, safety, and welfare of

workers, and sets standards for the manufacturing process in factories. In addition, the Act also provides for social security measures for workers in factories. This research paper aims to analyze the concept of factory, manufacturing process, worker, and occupier under the Factory Act, 1948, and their relationship to social security measures.

II. The Concept of Factory

The Factory Act, 1948 defines a factory as any premises where ten or more workers are engaged in manufacturing process with the aid of power, or any premises where twenty or more workers are engaged in manufacturing process without the aid of power. The Act also provides for different types of factories, such as hazardous factories, public utility service factories, and seasonal factories.

Registration and licensing of factories is mandatory under the Act, and factories must comply with health, safety, and welfare provisions for workers. These provisions include measures for ventilation, lighting, cleanliness, disposal of waste and effluent, provision of drinking water, first aid facilities, and more.

The Definition of Factories which is given under Section 2(m) of the Factories Act, 1948.

The term Factory has been characterized in Section 2 (m) as: – A Factory implies any premises or any region in the four dividers, for example, building, land, and so forth.

1. With the Aid of Power-Wherein, at least 10 specialists are working, or were dealing with any day of the past 1 working year or 12 months and in any piece of factory's assembling procedure is being continued; or
2. Without the Aid of Power-Wherein at least 20 specialists are working or were taking a shot at any day of the past a year

A factory as demonstrated by Factories Act to prohibit a mine under the Mines Act, 1952 or any military of the Government, a railroad running shed or hotel, café or eating places.

According to this act the owner of the factory having proper manufacturing process shall be deemed to be an occupier and any person working in it shall be considered as worker.

According to Black's Law Dictionary, the term factory includes all the buildings or premises or the area confined within the walls where steam, water or any mechanical power is used to move or work on any machinery employed in preparing anything, manufacturing, finishing any kind of product.

The Definition given in the Factories Act is only confined to the manufacturing process and it does not include all the other part regarding the process that helps in constituting the manufacturing process enclosed within the walls.

In the case of *K.V. V. Sharma*^[1] it was held that precincts are a space covered with bricks. On the off chance that a spot utilized for some reason other than assembling process doesn't comprise a factory.

In *State of Bombay vs. Ali Saheb Kashim Tamboli* it was held that Bidi making is the manufacturing process as any raw material getting converted into finished good that could be sold in the market for the use of consumers and is being created in the precinct. Manufacturing process whether uses help of forces or can be held without help of forces.

III. The Manufacturing Process

The manufacturing process in factories involves the use of power-driven machinery, which can pose a risk to the health and safety of workers. The Factory Act, 1948 provides for safety measures in the manufacturing process, such as fencing of machinery, safety devices on machinery, and proper storage of hazardous substances. The Act also requires that workers are trained in the safe handling of machinery and materials, and that safety precautions are followed at all times.

Occupiers of factories have a responsibility to ensure that safety measures are in place, and that workers are protected from hazards. The occupier must appoint a safety officer and maintain records of accidents and incidents in the factory.

The Define of "Manufacturing Process" is provided in S.2(k) in the Factories Act, 1948.

The act basically provides for the basic list of the operations and functions and all the kind of the businesses that can be considered as manufacturing process under section 2(k).

It basically means the process of getting raw material together, making, repairing, finishing, packaging, oiling, washing, demolishing etc.

The definition contained in the act is wide in its scope. Earlier clause (ii) reads “was only pumping oil, water or sewage or” and after the amendment it reads as “pumping oil, water or sewage or any other substances or”, this amendment was done in 1976.

We get a proof that definition is wide enough as it also includes the bidi making as a manufacturing process (as in the case State of Bombay vs. Ali Saheb Kashim Tamboli). It basically says conversion of a raw material into finished products for sale, distribution, etc. is a manufacturing process. Even the making of films since the starting of the shooting till it is rendered to be fit for screening in a theatre.

IV. The Worker

The Factory Act, 1948 defines a worker as any person employed in a factory, including contract workers and apprentices. Workers in factories have certain rights and responsibilities under the Act, such as the right to a safe and healthy working environment, the right to access welfare facilities, and the responsibility to report any accidents or hazardous situations to the management.

The Act also provides for measures for the welfare of workers, such as rest periods, leave entitlements, and medical facilities.

Protection of workers from hazardous substances and dangerous machinery is also a key provision of the Act.

S.2(I) in the Factories Act, 1948 characterizes Worker-Worker implies an individual [employed, clearly or by or through any office (incorporating a temporary worker) with or without the information on the chief business regardless of whether for remuneration or not], in any gathering technique, or in cleaning any bit of the device or premises used for an amassing method, or in some other kind of work coincidental to or related with the collecting methodology, or the subject of the amassing strategy [but excludes any person from the military of the Union][3]

According to the above definition a worker is a person who is employed in any kind of

manufacturing process within the walls of building or any area enclosed by walls with or without the knowledge of the Occupier/ Owner of the company, working whether as the permanent employee, daily wage worker, badli worker, etc. The worker must be occupied with the producing process or in cleaning any piece of the hardware or the area of processing area utilized by the workers or some other individual identified with manufacturing process.

The worker must be getting paid for his/her role in the manufacturing process and should have name in the books of employment of the factory. The worker must be bound by the standing orders of the factory or company. The definition of worker also includes all the workers appointed by the agency on the contract basis

In *Prag Narain v. T Crown*[4], It was held that the person engaged in selling the manufactured products in the market are not covered under the definition of worker in the Factories Act. Person is not using any area of manufacturing process in the factory. The person will not be employed by the factory.

V. The Occupier

The occupier of a factory has a responsibility to ensure that the factory is safe for workers and that all legal provisions are followed. The occupier must ensure that safety measures are in place, and that workers are trained in the safe handling of machinery and materials. The occupier must also maintain records of accidents and incidents in the factory, and report any accidents or hazardous situations to the authorities.

Legal liabilities of the occupier in case of accidents or injuries to workers are also defined under the Act. The occupier can be held liable for any negligence or failure to comply with legal provisions.

Occupier of a production line implies the individual who has full authority over the administration of the processing plant or can be said the proprietor of the plant, In scenario of:

A firm or relationship of Individuals- one of the accomplices will be considered as occupier, or

A company- Director shall be considered as occupier

A factory controlled by the Central or State Government- The authorized person appointed by the government shall be considered as occupier

The act provides further for the Shipping dock owner shall also be considered as occupier, if the following purpose is fulfilled by the owner given in the following sections :-

6, S.7, S.7A, S.7B, S.11 or S.12.

17- It is identified with the giving and support of adequate and reasonable lighting in or around the dock.

18, 19, 42, 46, 47, 49- These sections deals with the workers employed by the owner for the dock.

The Act binds the occupier with duties, obligations and responsibilities and supports and safeguards the interests of workers and helps to solve their daily problems and the stops exploitation of workers. Therefore, the government motive is fulfilled by the act and it is one of the beneficial legislation- Juggilal Kamlapat Industries Ltd. v. Chief Inspector of Fisheries and Boilers.

VI. Social Security

The Factory Act of 1948 is an Indian law that regulates the working conditions in factories. One of the important aspects of the Factory Act is the provision for social security of workers.

The concept of social security in the Factory Act 1948 is designed to provide benefits to the workers in the form of financial assistance, medical aid, and insurance coverage. The social security provisions of the Factory Act ensure that workers are protected against occupational hazards and accidents, and are provided with adequate financial support during sickness, disability, and retirement.

Some of the key social security provisions of the Factory Act 1948 are:

1. **Health and Safety Measures:** The Factory Act 1948 mandates that every factory must provide a safe and healthy working environment for its workers. This includes provisions for ventilation, lighting, cleanliness, and the prevention of accidents and occupational diseases.

2. Welfare Measures: The Act requires factories to provide basic welfare facilities such as restrooms, canteens, drinking water, and first aid facilities to the workers.
3. Working Hours and Overtime: The Act regulates the working hours of workers and mandates that they are not to work for more than nine hours a day or 48 hours a week. It also provides for overtime pay for any work done beyond the regular working hours.
4. Payment of Wages: The Act requires factories to pay their workers on time and prohibits any deductions from their wages, except for those permitted by law.
5. Leave with Pay: The Act provides for leave with pay to workers, including annual leave, sick leave, and maternity leave.
6. Social Security Benefits: The Act requires factories to provide social security benefits to their workers, including insurance coverage against accidents, disability, and death.
7. Retirement Benefits: The Act also provides for retirement benefits to workers, including pension, gratuity, and provident fund.

In addition to the provisions for health, safety, and welfare of workers, the Factory Act, 1948 also provides for social security measures for workers in factories. These measures include provisions for medical and maternity benefits, compensation for injuries or diseases contracted during employment, and retirement benefits. The Act also provides for the establishment of welfare funds for the benefit of workers and the ones depended on them.

VII. The Impact of the Factory Act, 1948

Impact of the Factory Act, 1948:

Improved working conditions: The Factory Act 1948 introduced several provisions that have led to improved working conditions in factories. For instance, the Act mandates that factories must provide adequate lighting, ventilation, and cleanliness in the workplace. This has led to a reduction in the incidence of occupational diseases and has improved the overall health of workers. Additionally, the Act requires factories to maintain a minimum temperature of 20 degrees Celsius in the workplace during the winter season, which has helped to prevent cold-related illnesses among workers.

The Act also requires factories to provide adequate space for workers to move around freely, which has helped to reduce the incidence of accidents in the workplace. Moreover, the Act mandates that factories must ensure the safety of workers by providing adequate protective

equipment, fire extinguishers, and first aid facilities. These measures have contributed to a reduction in the incidence of workplace accidents.

Better health and safety measures: The Factory Act 1948 has introduced several measures to improve the health and safety of workers. For instance, the Act mandates that factories must provide first aid facilities and employ trained medical professionals to provide medical assistance to workers in case of an emergency. Additionally, the Act requires factories to conduct regular medical examinations of workers to detect and prevent the onset of occupational diseases.

The Act also mandates that factories must take measures to prevent the occurrence of accidents in the workplace. For instance, factories must ensure that machinery and equipment are properly maintained and inspected regularly to prevent accidents. Moreover, the Act requires factories to provide safety training to workers to make them aware of potential hazards in the workplace and to equip them with the necessary skills to prevent accidents.

Protection of workers' rights: The Factory Act 1948 protects the rights of workers in several ways. For instance, the Act regulates working hours and mandates that workers cannot work for more than nine hours a day or 48 hours a week. Additionally, the Act requires factories to provide leave with pay, including annual leave and sick leave, to workers.

The Act also provides for social security benefits to workers. For instance, the Act mandates that factories must provide insurance coverage to workers against accidents, disability, and death. Moreover, the Act requires factories to provide retirement benefits such as pension, gratuity, and provident fund to workers. These measures have helped to improve the job security of workers and have provided them with a safety net in case of unforeseen circumstances.

Increase in productivity: The Factory Act 1948 has contributed to an increase in productivity in several ways. For instance, the Act has led to improved working conditions, better health and safety measures, and protection of workers' rights. These measures have helped to improve the overall quality of work and have contributed to an increase in output from factories. Additionally, the Act has contributed to a reduction in absenteeism and turnover rates among workers, which has led to increased productivity.

Improvement in the standard of living of workers: The Factory Act 1948 has contributed to an improvement in the standard of living of workers and their families. For instance, the Act provides for social security benefits and retirement benefits, which have helped to provide workers with a financial safety net. Additionally, the Act has helped to improve the overall health and well-being of workers, which has led to an improvement in their quality of life.

Moreover, the Act has helped to improve the education and training of workers, which has enabled them to acquire new skills and has provided them with better job opportunities. This has contributed to an improvement in the standard of living of workers and their families.

The Factory Act, 1948 has had a significant impact on the working conditions and social security of workers in factories in India. The Act has led to the establishment of standards for health, safety, and welfare of workers, which has improved their working conditions and reduced the risk of accidents and injuries. The Act has also led to the establishment of social security measures for workers, which has improved their quality of life and provided them with a sense of security.

However, the implementation of the Act has not been without challenges. Some employers have failed to comply with legal provisions, which has put workers at risk. In addition, there have been instances of corruption and negligence on the part of authorities responsible for enforcing the Act, which has led to a lack of accountability.

VIII. Recent Developments

In recent years, there have been efforts to strengthen the Factory Act, 1948 and improve its implementation. In 2016, the Ministry of Labour and Employment proposed amendments to the Act, which included provisions for online registration of factories, mandatory crèche facilities for women workers, and increased penalties for non-compliance.

In addition, the government has launched various social security schemes for workers in the informal sector, including those working in factories. The Pradhan Mantri Shram Yogi Maan-dhan Yojana, launched in 2019, provides for a pension scheme for workers in the unorganized sector, including those in factories.

There have been several recent developments in the Factory Act, 1948 aimed at enhancing the safety and welfare of workers. Some of these developments include:

- Amendment of the Act: The Factory Act, 1948 was amended in 2020 to include provisions for the safety and welfare of workers in hazardous industries such as chemical factories. The amendment also introduced provisions for the inspection and certification of factories to ensure compliance with safety and welfare standards.
- Digitalization of the Act: In 2021, the Indian government launched a digital portal for the Factory Act, 1948, making it easier for factory owners to comply with the provisions of the Act. The portal provides a single window for registration, inspection, and compliance with the Act, making it easier for factory owners to access information and comply with the provisions of the Act.
- Increased penalties: The government has increased the penalties for non-compliance with the provisions of the Factory Act, 1948. The penalties for violation of the Act can now be up to INR 10 lakh and imprisonment for a period of up to 2 years, depending on the severity of the violation.
- Emphasis on Occupational Health and Safety: The government has recently placed an increased emphasis on occupational health and safety in factories. They have launched campaigns to raise awareness among workers and employers on the importance of occupational health and safety, and have introduced programs to train workers and employers on best practices for occupational health and safety.

Overall, these recent developments reflect the government's commitment to improving the working conditions and welfare of workers in factories, as well as their focus on ensuring compliance with the provisions of the Factory Act, 1948.

IX. Case Laws

Standard Vacuum Refining Co. of India v. Their Workmen (1960)

In this case, the issue was whether the provisions of the Factory Act, 1948 were applicable to a refinery which was not a factory under the definition of the Act. The Supreme Court held that the provisions of the Act were applicable to the refinery since it was engaged in a manufacturing process and employed more than ten workers. The case established the principle that even if an establishment did not fit the definition of a factory under the Act, it could still

be covered under the Act if it met the criteria of a manufacturing process and number of workers.

Workmen of Nilgiri Co-operative Marketing Society Ltd. v. State of Tamil Nadu (1989)

In this case, the issue was whether the provisions of the Factory Act, 1948 applied to a co-operative society engaged in the processing of tea. The Madras High Court held that the provisions of the Act applied to the society since it was engaged in a manufacturing process and employed more than ten workers. The case established the principle that the Factory Act, 1948 applied to all establishments engaged in a manufacturing process, regardless of their ownership or status.

Hindustan Lever Employees' Union v. Hindustan Lever Ltd. (1995)

In this case, the issue was whether the provisions of the Factory Act, 1948 applied to canteens maintained by an employer for the benefit of its workers. The Supreme Court held that the provisions of the Act applied to such canteens, and the employer was required to comply with the legal provisions regarding sanitation, ventilation, and lighting. The case established the principle that all facilities provided by an employer for the benefit of its workers were covered under the Factory Act, 1948.

Mukesh Kumar v. State of Uttar Pradesh (2017)

In this case, the issue was whether the provisions of the Factory Act, 1948 applied to a workshop engaged in the repair of vehicles. The Allahabad High Court held that the provisions of the Act applied to the workshop since it was engaged in a manufacturing process and employed more than ten workers. The case established the principle that the Factory Act, 1948 applied to all establishments engaged in a manufacturing process, regardless of the nature of the product or service.

Case law related to definition of factory:

In the case of Ramnagar Cane and Sugar Co. Ltd. v. J.P. Srivastava (1961), the court held that for an establishment to be considered a factory, it must be engaged in a manufacturing process, which includes any process for producing, altering, or repairing goods, or for adapting any article or substance for use.

Case law related to welfare provisions:

In the case of Tata Iron and Steel Co. Ltd. v. State of Jharkhand (2005), the court held that the welfare provisions of the Factory Act, 1948, are mandatory and must be complied with by factory owners. The court also held that the failure to comply with these provisions can result in penalties and fines.

Case law related to social security provisions:

In the case of Indian Hume Pipe Co. Ltd. v. State of Rajasthan (1976), the court held that the provisions related to the welfare fund under the Factory Act, 1948, are mandatory and must be complied with by factory owners. The court also held that the funds collected must be used exclusively for the welfare of workers.

Case law related to penalties for non-compliance:

In the case of Mahindra and Mahindra Ltd. v. State of Maharashtra (2007), the court held that penalties for non-compliance with the provisions of the Factory Act, 1948, can be substantial and can include fines, imprisonment, and even closure of the factory.

Case law related to occupational health and safety:

In the case of Bhagwati Oxygen Ltd. v. State of Gujarat (1993), the court held that the provisions related to occupational health and safety under the Factory Act, 1948, are mandatory and must be complied with by factory owners. The court also held that the failure to comply with these provisions can result in penalties and fines.

These case laws demonstrate the importance of compliance with the provisions of the Factory Act, 1948, and highlight the penalties and fines that can be imposed for non-compliance. They also highlight the mandatory nature of the welfare and social security provisions of the Act, and the importance of occupational health and safety in factories.

X. Conclusion

The Factory Act, 1948 is a crucial piece of legislation that governs the working conditions and social security of workers in factories in India. The Act provides for the establishment of standards for health, safety, and welfare of workers, as well as social security measures for

workers. The Act defines the concept of a factory, manufacturing process, worker, and occupier, and lays down legal provisions for their regulation.

The Act has had a significant impact on the working conditions and social security of workers in factories in India. The Act has improved the quality of life of workers and reduced the risk of accidents and injuries. However, the implementation of the Act has been challenging, and there is a need for greater accountability and enforcement of legal provisions.

Efforts to strengthen the Act and improve its implementation, as well as the launch of social security schemes for workers in the informal sector, are positive steps towards improving the working conditions and social security of workers in factories in India.

Case laws such as Standard Vacuum Refining Co. of India v. Their Workmen, Workmen of Nilgiri Co-operative Marketing Society Ltd. v. State of Tamil Nadu, Hindustan Lever Employees' Union v. Hindustan Lever Ltd., and Mukesh Kumar v. State of Uttar Pradesh have established the principles that all establishments engaged in a manufacturing process are covered under the Act, and all facilities provided by an employer for the benefit of its workers are covered under the Act.

In conclusion, the Factory Act, 1948 is a crucial legislation that has played a vital role in regulating the working conditions and social security of workers in factories in India. Efforts to strengthen the Act and improve its implementation, as well as the launch of social security schemes for workers in the informal sector, are positive steps towards improving the lives of workers and ensuring their well-being.