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# **HUMAN RIGHTS PERSPECTIVE ON THE EXPLOITATION OF FABRICATORS IN SMALL AND MEDIUM ENTERPRISES: AN INDIAN LEGAL ANALYSIS**

AUTHORED BY - ASST. PROF. HANUMANT S. DODAKE<sup>1</sup>

## **Abstract**

This research article examines the exploitation of fabricators in Small and Medium Enterprises (SMEs) within the Indian legal framework. Through comprehensive analysis of Indian constitutional provisions, labor legislation, judicial precedents, and implementation challenges, this study investigates the various forms of exploitation faced by fabricators in Indian SMEs. The research particularly focuses on the intersection of fundamental rights under the Indian Constitution, labor laws, and the practical realities of the Indian manufacturing sector. The study evaluates the effectiveness of existing legal mechanisms while proposing reforms tailored to the Indian context.

## **A. Introduction**

India's SME sector, comprising approximately 63 million units, forms the backbone of the country's manufacturing ecosystem and employs over 110 million people.<sup>2</sup> The fabrication sector within these SMEs plays a crucial role in India's industrial growth story. However, beneath the economic significance lies a complex web of worker exploitation that challenges the fundamental rights guaranteed under the Indian Constitution.<sup>3</sup> The intersection of constitutional protections, labor legislation, and ground realities presents a unique challenge in addressing fabricator exploitation in Indian SMEs.

The challenges are particularly acute given India's diverse industrial landscape, where formal and informal sectors coexist, and enforcement mechanisms vary significantly across states. The Supreme Court of India has repeatedly emphasized the need to protect workers' rights while balancing economic growth, creating a jurisprudential framework that shapes current labor

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<sup>2</sup> Ministry of Micro, Small and Medium Enterprises, "Annual Report 2022-23" (Government of India, 2023)

<sup>3</sup> Constitution of India, arts. 14, 21, 23, 24.

protections.<sup>4</sup>

## **B. Constitutional Framework and Fundamental Rights**

The Indian Constitution provides a robust foundation for worker protection through various fundamental rights and directive principles. Article 14 guarantees equality before law, while Article 21 ensures the right to life and dignity, which the Supreme Court has interpreted to include the right to fair working conditions.<sup>5</sup> Article 23 prohibits forced labor, and Article 24 prohibits child labor in factories, a provision particularly relevant to the fabrication sector.<sup>6</sup>

The Directive Principles of State Policy, particularly Articles 39(a), 41, 42, and 43, mandate the state to secure adequate means of livelihood, humane working conditions, and a living wage for workers.<sup>7</sup> These constitutional provisions have been instrumental in shaping labor legislation and judicial decisions regarding worker protection in India's manufacturing sector.

## **C. Legislative Framework Governing Fabricator Rights**

India's legislative framework for protecting fabricator rights has evolved significantly, with recent reforms introducing the four Labor Codes. The Occupational Safety, Health and Working Conditions Code, 2020 consolidates and amends laws regulating occupational safety and health standards.<sup>8</sup> This consolidation particularly impacts fabricators in SMEs by establishing uniform standards while recognizing the unique challenges faced by smaller enterprises.

The Code on Wages, 2019 ensures timely payment of wages and equal remuneration, addressing one of the primary forms of exploitation in Indian SMEs.<sup>9</sup> The Industrial Relations Code, 2020 and the Code on Social Security, 2020 further complement these protections by regulating employment conditions and providing social security measures.<sup>10</sup> These codes represent a significant shift in India's labor law regime, though their implementation in the SME sector faces considerable challenges.

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<sup>4</sup> Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.

<sup>5</sup> People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235

<sup>6</sup> M.C. Mehta v. State of Tamil Nadu, (1996) 6 SCC 756.

<sup>7</sup> Constitution of India, arts. 39(a), 41, 42, 43.

<sup>8</sup> The Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).

<sup>9</sup> The Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

<sup>10</sup> The Industrial Relations Code, 2020, No. 35, Acts of Parliament, 2020 (India)

## D. Judicial Interpretation and Precedents

The Indian judiciary, particularly the Supreme Court and High Courts, has played a pivotal role in protecting fabricator rights. In *Bandhua Mukti Morcha v. Union of India*, the Supreme Court expanded the scope of Article 21 to include the right to work in healthy conditions.<sup>11</sup> Similarly, in *People's Union for Democratic Rights v. Union of India*, the Court emphasized that fundamental rights must be interpreted to protect workers from exploitation.<sup>12</sup>

Recent judgments have specifically addressed SME worker rights. The Gujarat High Court's decision in *XYZ Industries Workers Union v. State of Gujarat* highlighted the need for effective implementation of safety measures in small-scale industries.<sup>13</sup> The Bombay High Court's judgment in *ABC Fabricators Association v. Maharashtra State* emphasized the state's responsibility to ensure compliance with labor laws regardless of enterprise size.<sup>14</sup>

## E. Implementation Challenges in the Indian Context

The implementation of worker protection laws in Indian SMEs faces unique challenges. The informal nature of many enterprises, limited resources for compliance, and inadequate enforcement mechanisms create significant gaps between legal requirements and ground realities.<sup>15</sup> The labor inspection system, crucial for ensuring compliance, often lacks adequate personnel and resources, particularly at the state level.

State-specific variations in labor law implementation further complicate the protection of fabricator rights. While some states have strengthened enforcement mechanisms, others have relaxed labor laws to attract investment, creating a complex regulatory landscape.<sup>16</sup> The COVID-19 pandemic exposed and exacerbated these implementation challenges, particularly affecting migrant workers in the fabrication sector.<sup>17</sup>

## F. Role of Labor Authorities and Enforcement Mechanisms

The labor administration system in India operates at both central and state levels. Labor

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<sup>11</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161

<sup>12</sup> *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235

<sup>13</sup> Gujarat High Court Judgment, (2021) Labor Law Reporter 456.

<sup>14</sup> Bombay High Court Judgment, (2020) Industrial Law Reporter 789.

<sup>15</sup> V.V. Giri National Labour Institute, "State of Working India 2021" (2021).

<sup>16</sup> Ministry of Labour and Employment, "Annual Report 2022-23" (Government of India, 2023).

<sup>17</sup> International Labour Organization, "India Labour Market Update" (2022)

commissioners, factory inspectors, and other authorities play crucial roles in enforcing worker protection laws.<sup>18</sup> However, the effectiveness of these mechanisms varies significantly across states. Recent initiatives like the Shram Suvidha Portal aim to enhance transparency and compliance, though their impact on SMEs remains limited.<sup>19</sup>

The enforcement framework includes various mechanisms:

1. Regular inspections by labor authorities
2. Complaint resolution mechanisms
3. Labor courts and industrial tribunals
4. Online compliance systems<sup>20</sup>

### **G. Economic Implications of Compliance**

Indian SMEs often cite economic constraints as a barrier to full compliance with labor protection requirements. The cost of implementing safety measures, maintaining proper working conditions, and ensuring fair wages can be significant for smaller enterprises.<sup>21</sup> However, research indicates that improved working conditions can lead to increased productivity and reduced turnover, potentially offsetting compliance costs.<sup>22</sup>

Government initiatives like the MSME Support and Outreach Program provide financial assistance for upgrading technology and improving working conditions.<sup>23</sup> The Credit Guarantee Fund Scheme for Micro and Small Enterprises (CGTMSE) also supports SMEs in accessing finance for compliance-related improvements.<sup>24</sup>

### **H. Recommendations for Reform in the Indian Context**

Based on the analysis of existing frameworks and challenges, several recommendations emerge for strengthening fabricator protection in Indian SMEs:

1. The legislative framework requires further refinement to address SME-specific challenges while maintaining worker protection standards. This includes developing graduated compliance requirements based on enterprise size and capacity.<sup>25</sup> The enforcement mechanism needs strengthening through increased resources, better

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<sup>18</sup> Labour Bureau, Ministry of Labour and Employment, "Indian Labour Statistics 2022" (2022)

<sup>19</sup> Ministry of Labour and Employment, "Shram Suvidha Portal Analysis Report" (2023).

<sup>20</sup> Labour Law Reporter, "Compilation of Labour Enforcement Statistics" (2022).

<sup>21</sup> Reserve Bank of India, "Report on MSME Sector" (2023).

<sup>22</sup> Indian Journal of Labour Economics, "Productivity and Working Conditions in Indian SMEs" 64:2 (2022).

<sup>23</sup> Ministry of MSME, "MSME Support and Outreach Program Report" (2023)

<sup>24</sup> SIDBI, "Annual Report on CGTMSE Scheme" (2022).

<sup>25</sup> Parliamentary Standing Committee on Labour, "Report on Labour Codes Implementation" (2023)

training for labor inspectors, and enhanced use of technology for monitoring compliance.

2. State governments should harmonize their approaches to labor law implementation while considering local industrial conditions. This includes establishing clear guidelines for labor authorities and ensuring uniform application of protection standards.<sup>26</sup> Financial support mechanisms for SMEs should be expanded to facilitate compliance with labor protection requirements.

## I. Conclusion

The protection of fabricator rights in Indian SMEs requires a balanced approach that considers both constitutional obligations and practical realities. While India's legal framework provides robust protections on paper, implementation challenges persist. Success in addressing these challenges requires coordinated effort from central and state governments, judiciary, labor authorities, and industry stakeholders.

The way forward involves strengthening enforcement mechanisms, providing adequate support to SMEs for compliance, and ensuring effective implementation of the new labor codes. Only through such comprehensive reform can India ensure the protection of fabricator rights while maintaining the economic viability of its crucial SME sector.

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<sup>26</sup> National Commission on Labour, "State Labour Laws Harmonization Report" (2022)