

Framework for Occupational Health and Safety in Nigeria: The Implication for the Trade Union Movement

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Abstract

The rate of the industrial accidents and the general lethargy of the employers to respond to the issues of safety and health in workplaces are becoming a growing concern in Nigeria. The policy framework targeted towards reducing the rate of industrial accidents through preventive measures as well as to create awareness on the rights of victims of industrial accidents need be strengthened. Most importantly, is the faulty implementation and regulation of the legal framework governing issues of safety in workplaces that needed to be reviewed. This study takes a critical look at role of trade unions in combating these critical issues threatening the lives of average workers in Nigeria and suggests that the trade unions and other workers' organizations should continue to display courage and solidarity in the protection of the worker' rights and welfare. All stakeholders must be mobilized for concerted efforts against unpopular government policies that tend protect the employers at the expense of the lives of the workers.

Keywords: Protection, Industrial Accidents, Workplace, Trade Unions, Worker 'Rights, occupational Health.

INTRODUCTION

One of the functions of trade unions is the welfare of its members. Safety and health are constituents of welfare because health is wealth. A healthy worker is a productive worker and an asset to the organization. An unhealthy worker constitutes a liability which infringes on the marginal profit of the organization, due to low productive and marginal input in the overall process of production. Trade unions have been fighting for the improvement of working conditions as one of their top priorities, these include; a decrease in work-related accidents in the industrialized world, the improvement of work methods and recognition of the human factor in industries.

However, the zest for trade unions to promote better working conditions is decreasing due to declining membership, globalization and other factors that are threatening the power and strength of the trade unions. Consequently, work-related accidents and diseases continue to be a serious problem in both developed and developing countries including Nigeria. The ILO estimates that 250 million workers are involved in accidents every year and out of which 300,000 are killed. There are at least 335,000 fatal injuries caused by accidents at work. Putting accidents and diseases together, the global estimate of work-related deaths amounts to 1.1 million per year, and this according to ILO is grossly underestimated probably because of lack of comprehensive statistical data from many member states (International Labour Conference 87th Session 1999:37, ILO 274th session 1999:1). The economic losses are enormous and, in terms of shattered families and communities, the damage is incalculable.

That two million people die every year because of bad, and very often illegal, working conditions is a cause for concern and threat to the global labour force. For every fatal injury at work, some 2,000 non fatal injuries occur in hazardous sectors. As noted by (ILO Geneva, 2006, Barker 2006), the number of people around the world who die prematurely from ill health caused by their work is far greater still. In the construction sector alone, around one hundred thousand workers are killed in accidents on sites every year. That's one person every five minutes; workers are killed, injured and made sick whilst carrying out routine jobs. The hazards are well known and so are the prevention measures. The overwhelming majority of "accidents" are absolutely predictable and preventable. They are caused by failure to manage risks, or by straightforward negligence on the part of the employer. The employers go unchallenged because the trade union that should challenge this management's negligence is dwindling in terms membership and power, (Baker, 2006:7) commented that the widespread use of flexible employment practices seriously undermines trade union capacity to organise. Planning and coordination of health and safety, and compliance with laws is extremely low.

In Nigeria for example, greed and corruption is rife, bad management in various sectors is responsible for the deterioration of working and living conditions for millions of workers and their families. The major issue of concern is the governments' frequently permissive, passive attitude towards employers who ignore health and safety laws, even when their negligence leads to the death of a worker. Asian employers are mostly culpable as many Nigerian workers have lost part of their bodies while working without being adequately compensated. Above all the Nigeria Ministry of Labour and Productivity that should act as a regulator has been crippled by inefficiency, in adequate facilities and untrained workforce coupled with corruption which is synonymous with the Nigerian system.

The risk of death or injuries from fire hazards in the workplace, continue to raise concern, irrespective of the international standards to strengthening of legal and other supporting measures to improve workplace safety

and health in all countries, particularly in developing countries. In Nigeria, there is lack of comprehensive data in the area of occupational/ industrial hazards and this has become a great challenge given the atrociousness of industrial accidents which is undermining workers' productive effort in the organizations. These call for concerted efforts on the part of the stakeholders to put safe work practices in place towards realizing decent work programme. Safe work programmes underline the need for concrete action to prevent tragedies. Protection of workers' safety and health is a fundamental human right. There is need to reinforce measures to protect workers' lives from hazards in the workplace. This is a challenge for the trade unionists to take up the management so as to prevent ill health, injuries and deaths.

Many employers ignore the importance of managing health and safety, and the important contribution of workers' representatives. They see the management of health and safety as very expensive for the organization. For an average capitalist, it is profit before workers.

In Nigeria, there are legislations and guidelines on health and safety but employers do not comply with basic legislations to protect people at work. Barker (2006:7) observed that deregulation; subcontracting and informal contractual conditions make this situation even worse. Workers often have no choice – either they take a dirty and dangerous job, or they will have no job at all.

The Nigerian Scenario and Issue of Occupational Health

Nigerian workers across all sectors of the economy recently, have been subjected to accidents which range from minor to fatal, as some have lost their lives right in the line of duty, while some have lost vital organs, therefore rendered permanently incapacitated.

The issue of safety and health at workplace which once occupied a major place in the programmes and plans of the employers are now treated with levity. One such case was the fire incident that razed a plastic factory in Ikorodu, Lagos State in 2002 where many workers met their death at night because of the negligence of the Chinese owners of the company who locked the workers in the factory without provision for emergency exit. There are equally other unregistered companies using the incorporation as cover, many of them have worse cases involving health and safety of their workers. Nigeria joined the rest of the world on April 28, 2010 to mark, World Day for Safety and Health at work which is an international annual campaign, jointly agreed to by the International Labour Organisation, ILO, and Social Partners to promote safe, healthy and decent work annually on the exact date.

Workers work and earn wages, hence the event is part of the global strategy and health directed at advocacy, awareness, creation and boosting of the political policies for safety and health at work.

Ahiuma-Young (2012) commenting on safety and health development in Nigeria revealed that the a global estimate of 2.3 million occupational fatalities occur annually while nothing less than 100 occupational fatalities and some billions of capital losses have been recorded in Nigeria between April 28, 2009 and April, 2010. Not less than 200 cases of industrial accidents occur in the workplaces in Nigeria daily with an equally high rate of fatalities. Available statistics indicates that no fewer than 400 workers have lost their lives in the power sector between 2010 and 2012 while performing their official duties. In the maritime sector, also findings show that since the concessioning of the ports, over 100 cases of fatal industrial accidents have occurred with over ten deaths, numerous incapacitations and innumerable serious body injuries. Fajana (2012) estimated that at least 50 million Nigerians are at risk of occupational hazards. This group he pointed out includes about 3.2 million Nigerians and children who are involved in economic activities, (even as abused participants) in the labour market.

In the manufacturing sector, the frequency of fatal industrial accidents is very alarming. Many times, the managements collaborate with some union officials to conceal cases of industrial accidents and secretly negotiate compensation. The management simply pays out paltry sums as compensation to the families of victims in both deaths and permanent disabilities.

Some of the victims who have suffered major injuries like loss of their hands or legs are often dismissed after receiving tokens that the companies give out on "compassionate" ground. The Workman Compensation Act that is supposed to address issues of industrial accidents is inconsistent and lack implementation. The alarming rate of the industrial accidents and the general lethargy of the employers to reduce the rate of industrial accidents through preventive measures demand creation of awareness on the rights of victims of industrial accidents. Ahiuma-Young (2012) observed that the incidence of industrial accidents at the workplace in Nigeria and fatality rate as well as the inherent dangers posed to the socio-economic and political development of the country constitute a serious threat. He notes that the federal government has failed in enforcing industrial safety policies at the workplace and some of the trade unions pay less attention to the safety of their members. The employers have relegated issues of safety to the background in the country on the premise of the harsh economic environment. Most of the victims of workplace accidents preferred to suffer in silence, because they have been warned by their employers of severe consequences if they try to make any case with the organization.

Most of these companies operate in secluded areas with untraceable addresses and are abound in all part of the country. In Nigeria, it is no longer workers in the factory that are pruned to accident but those in the white

collar jobs are also increasingly exposed to job hazards, they may be unaware of the hazards because of the long gestation of such hazards and those in this category include workers in the financial sector, oil and gas as well as civil service.

However, Fajana (2012) posited that a properly-managed safety culture based on tested principles of workplace safety will produce employees who participate actively in training; these employees will be able to identify and alert one another and management to potential hazards. They develop effective control measures and feel a sense of responsibility for their safety and safety of others.

Accepting safety as a responsibility demonstrates a sincere concern for each employee; which establishes the foundation for an effective safety culture he opined.

Literature Review/ Theoretical Framework

The alarming rate of the industrial accidents and the general lethargy of the employers in addressing the issue safety and health in workplace is becoming a growing concern to the trade union movement in Nigeria. Coupled with this, is inadequate knowledge and information and by limited capacity to design and implement effective policies and programmes. Health at work constitutes one of the basic rights of the workers and reduction of the rate of industrial accidents through preventive measures as well as to create awareness on the rights of victims of industrial accidents. Health and safety at work are inseparable in practice, while security is an important component of safety because workplace cannot be healthy if it is not secured. Therefore the challenge of union leaders, government, employers and trade unions is how they can give to a worker protection from unsafe, unhealthy and unsecured workplace. Onuegbu (2011:3-4)

ILO (1999) also commenting on the alarming fatal, accident and disease figures suggests for a review of investment decisions which disregard of safety, health and environmental considerations.

According to International Labour Conference (ILO 1999:1), Safe work should be designed to respond to the need of protection of the vulnerable workers who are at the risk of exposure of various occupational hazards. The primary objectives of safety and health should be (a) to create worldwide awareness of the dimensions and consequences of work-related accidents, injuries and diseases; (b) to promote the goal of basic protection for all workers in conformity with international labour standards; and (c) to enhance the capacity of member states and industry to design and implement effective preventive and protective policies and programmes.

The conceptual approaches in the definition and interpretation of safety and health at work have been viewed by various scholars and institutions. The World Health Organisation (2009) defines healthy workplace as: "A state of complete physical, mental and social wellbeing, and not merely the absence of disease." This definitions of a healthy workplace is centred on the physical work environment (the realm of traditional occupational health and safety, dealing with physical, chemical, biological and ergonomic hazards), the scope includes health practice factors (lifestyle); psychosocial factors (work organization and workplace culture); and a link to the community; all of which can have a profound effect on employee health".

A safety workplace could also be defined and interpreted as "a workplace where everyone works together to achieve an agreed vision for the health and well-being of workers and the surrounding community. It provides all the members of the workforce with physical, psychological, social and organizational conditions that protect and promote health and safety. It enables managers and workers to increase control over their own health and to improve it, and to become more energetic, positive and contented."(WHO Regional Office for the Western Pacific 1999). Also, Lowe (2004:8) points out those workplaces that are free of recognized hazards, with health-promoting and sustaining policies, programmes, and practices; and employees with ready access to effective programmes and services that protect their health, safety, and well-being. However, Lowe differentiates between the concepts of a "healthy workplace" and a "healthy organization." He sees the term healthy workplace as emphasizing more the physical and mental well-being of employees, whereas a healthy organization has "...embedded employee health and well being into how the organization operates and goes about achieving its strategic goals. Grawitch et al (2009:123) opined that the definition of a healthy workplace depends on the messenger.

A healthy workplace is that which will not adversely affect physical, mental and social well-- being of the worker, while a safe work place is one where harm, damage, or loss to the workers and visitors are unlikely, Onuegbu(2010: 3). "A safe and healthy workplace is one, which will ensure that a worker returns home at least the way he left his home in terms of his physical, mental and social conditions. It also does not matter whether the factory or platform he works was attacked by gun men or whether an equipment failure led to the loss/injury or whether it was caused by the carelessness of his employer or even a co-worker or whether the clinic at the worksite lacked the necessary drugs, equipment or doctor. All that matters is that the man or woman did not return home at least the way he/she left and/or that the workplace cannot reasonably be expected to guarantee that the man or woman return home the way she or he left", Onuegbu (2010: 3).

Occupational Health and Safety is an important issue for trade unions and should be given a prominent position in collective agreements and conditions of service. A healthy and safe environment is among the most valuable assets of workers, communities and countries. It also means that a healthy worker is an asset to the

employer; therefore, the provision of a healthy and safe environment is one goal that must be jointly pursued by the union and employer.

One of the historical expectation of the trade unions from its members is to embrace workplace health and safety as a fundamental responsibility which encompasses reduction in the number of accidents in the workplace, this could be achieved through lobbying for safety legislation and making workplace hazards more costly to employers by raising the tacit risk premia embedded in wages, *i.e.* compensating wage differentials. Unions also take direct action on the shop floor to make the workplace safer. Sidney and Beatrice Webb (1897) cited in Litwin, (2000). Also Litwin, (2000) notes that trade unions succeed in ameliorating workplace health and safety, but no attempt has been made to link specific workplace injury rates with a respective union presence. The finding shows that there is a cross-sectional link between trade unions and occupational injury rates, revealing that unions gravitate to accident-prone workplaces and react by reducing injury rates within these types of employment units.

Chen and Chan (2004;1,1242) also established that there is interactive relationship between a union's strong and consistent independent impact on the effectiveness and quality of the OHS system but some of the union's impact is also to be realized through an effective workers participation and employees' input in the protection of their own health and safety. They argued that the protection of workers' health and safety does not operate effectively unless enterprise-level unions and/or other organs that are supposed to represent employees are able to have inputs in an institutionalized manner, (Chen and Chan 2004)

The union provides daily services and promotes other activities for workers in between congresses; therefore, an effective union is vital to an active workers representative organization. The union on the other hand needs the veto and co-determination powers of the workers representative organizations to realize its legal functions, such as protecting workers against persistent OHS hazards.

Studies have shown that the trade union and workers representative organizations do have a significant impact on the protection of employees' health and safety but the employees in enterprises with ineffective trade unions and workers representative organizations are much more likely to report ineffectiveness or poor quality in the design, facilities, and implementation of their factory's OHS system. Since workers are directly involved in the labor process, they are the ones who are most affected by health and safety hazards. Especially in poor countries like Nigeria there are apt to be potential conflicts of interest between the workers and management over occupational health and safety (OHS) because management tends to equate taking protective measures with increases in costs of production. In such a situation, management is unlikely to invest resources in OHS unless regulated by an effective state or pressured by employees (Chen and Chan, 2004).

In Nigeria though there is legal framework for protection of a worker from health hazards in various industries but faulty regulatory institutions, inadequate infrastructure and poor implementation and inappropriate measure against profit seeking employer have left employees at the mercy of these capitalists. These workers have nobody to resort than their trade unions to protect their lives from the danger of occupational hazards.

Theoretical Considerations

Several theories have been used to analyse the impact of union in safety and health issues in the organizations for the purpose of this study

Firstly, the Unions theory provides an insight in the role of trade union in the management of OSH in organisations, Burton (2005:266) notes that the Proponents of the "old" institutional economics theory and other economist asserts that labour unions increase workers' knowledge about unsafe working conditions, enhance their ability to move to safer jobs, and increase their bargaining power with management regarding occupational health and safety. Unions can potentially improve work place safety by several methods (Burton and Chelius1997) in (Schmidle and Burton 2005:266).

Collective bargaining agreement may outlaw unsafe activities or at least explicitly required employers to pay a wage premium for unsafe work. If workers are injured, unions can help them obtain workers' compensation benefits, thereby increasing the financial incentives for employers to improve workplace health and safety. In addition, as discussed later, many unions participate in joint labour management efforts regarding occupational health and safety. The research literature indicates that unions have had a beneficial effect on workplace safety.

Several studies concluded that OSHA enforcement activity was greater in unionized firms, perhaps because union safety representatives have less fear of reprisal for requesting an OSHA inspection than non union workers have. Moore and Viscusi (1990) found that unionized workers receive larger compensating wage differentials for job risks than do unorganized workers, and other studies indicate that union members are more likely to receive workers' compensation benefits than are similar nonunion workers.

While unions are one source of information about workplace hazards, there are several other sources that may also provide external incentives to employers to improve workplace safety. Governments often publish information about workplace risk, or require the dissemination by others of such information. For example, the OSHA Hazard communication standard (a U.S regulation promulgated in 1983 requires manufacturers to label

hazardous substance and notify workers and customers of the risk; this information reputedly saves some 200 lives annually (Viscusi 1996).

Secondly, the Labour Market Theory and Neoclassical Economic Theory assumed that workers freely move among employers and know the risk of workplace accidents. Workers also are assumed to maximize utility not just pecuniary income. Since work injury result in loss of utility, in order to attract workers, hazardous employer pay higher wages than non hazardous employers. Assuming that there are no insurance to compensate employees for workplace accidents, wages in hazardous firm must include a compensating wage differentials equal to the expected cost of the workplace injuries. Hazardous employers have financial incentives to invest in safety in order to decrease accidents rates and the compensative wage differentials. The firm will make safety investment until the marginal expenditure on safety equal marginal reduction in the compensating wage differentials.

Neoclassical theory has been criticized by proponents of old institutional theory (Kauffman 1997, Dorman 1996 cited in Schmidle and Burton, 2005:264). These critics assert that neoclassical assumption of workers job mobility and knowledge about workplace risk are invalidated by imperfection in the labour market. Insufficient information about workplace hazards is particularly likely about workplace occupational disease as uncertain etiology. However, Burton insists that long latency period may cause workers to underestimate the risk associated with accepting easy prone jobs.

Some empirical evidences on labour market substantiate the neoclassical view point. The proportion of employees in various industries who consider their work dangerous is closely related to actual injury rates (Ehrenberg and Smith, 2000) and workers are more likely to quit once they learn about the adverse properties of the job such as higher than expected injury rates Viscusi (1993). Weil (1991:28) is of the position that unions can gather information about dangerous conditions more effectively than individual workers can. An important study of the role union's play in OSHA standards enforcement found that unionized workers are more likely to know about the health and safety risks in their workplaces than non-unionized workers, since on-the-job risk assessment is a common component of union health and safety programs.

Unions are commonly equipped to do this important fact finding or expose a company's inadequate training system to enforcement agencies. Unionized workers can speak out about dangerous conditions collectively, rather than individually, thereby decreasing the risk to an individual employee of being targeted by management as a troublemaker. In addition, the collective voice of the workers in the union carries more strength than that of a lone worker; increasing the likelihood the employer will honor the workers' request for compliance.

Where workers are union members, the intensity of an OSHA inspection is increased because the OSHA law gives every worker the right to accompany an OSHA inspector during a workplace tour. This points out the issues that may easily have been overlooked by the inspector. Un-unionized workers are far more likely to participate in the inspections.

A safer workplace can result when workers' rights to actively participate in OSHA inspections are promoted and protected, Weil (1991:28). The Neoclassical argument that workers understand the risk of hazard job but assume to maximize utility is narrow in perspective. The impact of globalization in labour market, economic situation and available jobs exert influence occupational choice of the individual workers in the developing economies like Nigeria. I argue that with the arrayed unemployed youths who are over 60 million in Nigeria, people are concerned with getting jobs to ensure minimum standard of living irrespective of job conditions, safety and security. Workers would avoid jobs where there are hazards when they have preference and alternatives to take care of the basic needs. As long as these basic needs are not met, an average worker will be willing to accept job for its pecuniary income, the same reasons constitute the underlining factors for the growth of non standard employment i.e casualization, contract labour, and domestic work and child labour in Nigeria.

Ehrenberg and smith (2000) suggest that workers are more likely to quit once they learn about the adverse properties of the job such as higher than expected injury rates is contentious. This may appropriate to an extent in the developed countries of the Western World following the evidences of Viscus (1993). The workers have alternatives and enjoy welfare supports from the state, but in the developing economies, that are destitute of facilities neither social support for the unemployed by any social institutions and the government, I also argue that no quantum of information and warning from trade union against safe and hazard conditions in the workplace will be effective because people will prefer to take any risk to earn pecuniary income to perishing in hunger. The labour market situation in developing economy is such that there are too many people chasing too few jobs.

The level of unemployment and poverty is unprecedented. Nigerians are seriously worried by the huge unprecedented job losses occasioned by global economic meltdown, power sector failures, inconsistent policy formulation and high cost of doing business, declining manufacturing sector, banking sector, petroleum and public sector reforms. These have led downsizing, rightsizing, redundancies and all kinds of restructuring. The responses to these reforms by employers have been irrational and inhuman and have threatened the confidence of workers and their job security. The fundamental outcome on the issue of health, safety and security at work is that the average worker is afraid to demand for his right to decent work and a safe and healthy working environment. Attempting to do so, might be met with harsh response such as termination and undue redundancies by the

employers and a long wait to obtain justice. As Onuegbu (2011:4) pointed out that "the truth is that even when the law is on your side, it could take some ten years for government officials and the courts to undo an employer's illegal punishment of a worker who exercises a safety and health right." This is more pathetic for non-unionised workers, casual workers and contract staff. In furtherance of my position, Union Theory and Labour Market Theory in its validity lacks universal consequences because of the absence of parity in the social structure and economic development of both development among committee of nations.

Safety and Health in Unionized and Un-unionized Environment

The principles of the unionized versus non-unionized arrangements has a strategic implication with an emphasis on how these differences affect occupational health services. Whether unionized or ununionised, each has its strengths and weaknesses depending upon the specific nature of the organization and its economic and political environment. Organisation where union or workers organization are not recognized, there be could workers representatives that take care of the issue of health and safety on behalf of the workers. Ideally in arrangements, effective policies and procedures to protect employee well-being should be in place. These should be based on a moral commitment that protecting employee well-being is a fundamental principle of doing business. On the pro and con of non-unionise and union Hagood (2010:1) spoke on the need to evaluate the interests of non-union vs. union employee(s) and their respectable rights, one should consider the positive and negative attributes of each environment. The importance of doing so can sway a person to ultimately join a union in the long run. It is pertinent to understand the different functions of a non-union and union environment, each has its own peculiar characteristics.

Non-union employees are not subject to an "open door" policy where the employer is allowed to listen to you then can do whatever they deem fit. This also allows for disciplinary action to be taken at any given time to fire a worker for any reason. The employer determines the workers' wages and health benefits. At the same time, non-union employees can choose to seek work elsewhere if dissatisfied. Hiring process and granting promotions are controlled by the employer's discretion. There's a hierarchy of how the workplace is run. There's also always a stricter allotted budget for a full-time worker where overtime often is discouraged or frowned upon. Often times, the wages are lower in comparison to unions.

In the industries, a joint union management initiative, which increased the involvement of safety representatives, led to a reduction in major and fatal injuries in the industry by a quarter over three years. Nichols (2000) observed that the weakest form of union determination occurs when management deals with health and safety matters without any form of worker consultation. Both (Reilly *et al.*, 1995) and (Weil, 1999) affirm that trade unions supplement the effectiveness of other institutions intended to make the workplace safer.

Besides being more committed to workers' welfare than management, unions have the capacity to improve industrial health and safety in ways that individual workers do not have at their disposal, namely through the union's power and resources to command greater knowledge of workplace risk (Nichols, 1997). Trade unions can also crack the public goods problem associated with research into health and safety that may typically be forgone due to the inappropriability of the resulting information.

Key Elements for Effective Trade Union Influence in Health and Safety Issues

Strong Membership

Recruiting workers into the unions and organizing the members around health and safety can help to build strong unions. Members are concerned about the health of themselves and their fellow workers. Many workers accept risks as part of the job; sometimes they are unaware of the hidden hazards and because of the absence of alternative job, they accept the conditions and ignore the danger of injuries or long term damage to health.

The trade union needs to build on the interest of our members along this line of health and safety and convince workers on the need for solidarity to achieve improvement on their working conditions.

With an informed, interested and involved membership, the union can be an effective vehicle for protecting their health and safety. It is essential that TU involve their members from the beginning in identifying hazards at work. They can do this in a variety of ways: through surveys; talking to members and taking note of their complaints; involving them when they inspect; discussing some of the hidden hazards with them and getting their views.

Collective Bargaining Agreements on Health and Safety

Legal standards on occupational health and safety are often very weak. Even where there is good legislation on paper, it can be a big problem to get it applied in practice.

TU can campaign for improved health and safety laws. Currently in Nigeria, occupational health and safety is given very little prominence in collective bargaining agreements. A much wider and detailed collective bargaining agreement can help us to achieve a lot in the workplace. A collective bargaining agreement on OHS could include the following: formation of safety committees, the rights and functions of a health and safety

representatives, the rights to specified information and training for workers, rights to inspect the workplace and consult with workers, right of all workers to refuse to undertake dangerous work, safety representatives' right to stop an activity in case of imminent danger, consulting government factory inspectors and union full time officers, time-off for representatives to participate in training and other union functions, safety policy, safe systems of work, prior agreement on work changes and the introduction of new substances and equipment, occupational health services, Special safety procedures for resolving problems.

Trade Union Safety Representatives

Trained trade union safety representatives make positive contributions to the prevention of injuries and ill-health. A recent survey by the British Trades Union Congress indicates that workplaces with such representatives have half the accident rate of comparable workplaces without them.

Trade union safety representatives are aware of the risks in the workplace, and can work closely with workers and management to assist with promoting a working environment where hazards are identified, removed or properly controlled before problems occur.

Selection of a health and safety representative should be the function of the TU representing the employees at that work place, or in consultation with employees who are not represented by the trade union. Where there is no trade union, employees select the health and safety representatives. Employer's reluctance to appoint health and safety representatives is another challenge toward realization of this goal in the organizations. In the event an employer is in non-compliance with the Code (i.e., refuses to appoint a health and safety representative), the health and safety officer initially attempts to meet with the employer to determine the reason for such noncompliance. If it is found that lack of knowledge of the legislation or misunderstanding of the rationale behind the legislation is the cause of the non-compliance, the health and safety officer offers counseling, which could include an explanation of the Code, with particular emphasis upon the benefits (both short and long-term) to be derived by the employer. These benefits could result in improvement of employee morale and could have a beneficial economic effect. It may be useful to explain that a health and safety representatives do not usurp the employer's responsibility for the management or conduct of the work.

Trade Union Education on Occupational Safety and Health

Health and safety education has become very imperative given heed to the number of industrial accidents among workers. Trade Union needs to embark on health education and information, this has become critical because workers on the need to wear personal protective devices to reduce their exposure to hazards.

It is noteworthy that in Nigeria most of the factory workers at the point of entry are not always trained or educated on the health hazard associated with the jobs and how to manage the risk (Bankole, 2011). As a result of this negligence, the factory workers often fall victims of preventable occupational health hazard. Perhaps if the workers had been exposed to regular health education programme, they will be able to manage the risks at workplace by taking preventive measures against the hazards. Educating workers also in traditional first aid training will contribute to reduce incidence of work place injuries and diseases.

International Labour Organisations' Standard on Safety and Health

Prevention of accidents and injury to health arising in the course of work can be by minimized, so far as is reasonably practicable. The causes of hazards inherent in the working environment have been a major concern to ILO. The standard specifies that occupational safety and health and the working environment must take cognizance of the following, as provided in article five (a) design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes); (b) relationships between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers; (c) training, including necessary further training, qualifications and motivations of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health;

ILO provides for clear-cut definition of the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice. In furtherance to the above the organization recommends in article seven that occupational safety and health and the working environment should be reviewed at appropriate intervals, either over-all or in respect of particular areas, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results.

The convention places a demand on the part of the state to take action in respect to the implementation of the standard for safe work within the framework of each member state's legislation. To this effect, Article 8; demands concerted effort with the representative organisations of employers and workers concerned, take such

steps as may be necessary to give effect to issues of safety and health in the organisation. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection, the enforcement system shall provide for adequate penalties for violations of the laws and regulations.

Article 11: a, b, c, address the issue of determination by professional, where the nature and degree of hazards so require, of conditions governing the design, procedures to be defined by the competent authorities; the determination of work processes and of substances and agents. The exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration. The convention requires that state should ensure that the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work; (f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

The measures towards promoting appropriate national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers is provided in article 14. This requires the establishment of a central body.

The Convention also places demands on the part of the employer because safe work requires the collaboration of the employers, management and the workers. There should be effective policies and programmes to guide the implementation of safe health, to this end Article 16 (1) provides that employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.

Employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements. There shall be arrangements at the level of the undertaking under which- (a) workers, in the course of performing their work, co-operate in the fulfillment by their employer of the obligations placed upon him; (b) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health; (c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets; (d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health; (e) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking; (f) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

Constitutional and Statutory Framework Occupational Health and Safety Legislations in Nigeria

The Constitution of the Federal Republic of Nigeria places demands on the state to direct its policy towards ensuring that "suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment and sick benefits are provided for all citizens". In furtherance of the social order, the Nigerian State has a duty to ensure that "conditions of work are just and humane and that there are adequate facilities for leisure..." while "the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused" (Section 17 (13) (b) and (c) of the 1979 Constitution) cited in Falana (2010).

Falana (2010) points out that "although the Fundamental Objectives and Directive Principles of State Policy contained in Chapter II of the Constitution are not enforceable or justifiable in any law court, it is the duty and the responsibility of all organs of government in Nigeria to observe and apply them. However, the right to the dignity of the person guaranteed under Section 31 of the Constitution includes the dignity of labour. Specifically, it is provided that "no person shall be held in slavery or servitude and no person shall be required to perform forced or compulsory labour".

Under the present Constitution of the Federal Republic of Nigeria, It is only the Federal Government that has enacted a Factories Act 1987, No. 16 which is still in force till today. The Factories Act: which provides for

the registration, etc. of factories; to provide for factory workers and a wider spectrum of workers and other professionals exposed to occupational hazards, but for whom no adequate provisions had been formerly made; to make adequate provisions regarding the safety of workers to which the Act applies and to impose penalties for any breach of its provisions."

The enactment imposes a number of requirements designed to cater for the safety and welfare of all persons who operate in any factory. This provision defines in 87(1). "Factory" means any premises in which or within which, or within the close or cartilage or precincts of which one person is, or more persons are, employed in any process for or incidental to any of the following purposes, namely:- (a) the making of any article or part of any article; or (b) the altering, preparing ornamenting, finishing, cleaning, or washing, or breaking-up or demolition of any article; Or (c) the adapting for sale of any article, being premises in which, or within the close curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain and over which the employer of the person or persons employed therein has the right of access or control. The expression "Factory" also includes the following premises in which ten or more persons are employed, that is to say;

In order to ensure that workers are not exposed to health hazards, the Act bans overcrowding and effluvia arise from any drain, sanitary convenience or nuisance from every factory. Adequate ventilation, suitable lightening and sanitary conveniences must be provided in every factory.

Employers are also required to provide adequate supply of drinking water, suitable washing facilities and accommodation for clothing kit worn during working hours. In every factory there shall be maintained and made readily accessible a first-aid-box or cupboard of the prescribed standard.

In addition to the above duties imposed on employers, the Minister of Labour is specifically empowered to make regulations for securing the welfare, health and safety dues to the circumstances or the nature of the work carried on in a factory. The Chief Inspector and other inspectors appointed under this Act shall have the power to enter, inspect and examine, by day or by night, any factory with a view to ensuring compliance with the provisions of the Factories Act.

Notwithstanding that the inspector may not be a legal practitioner, Section 71 empowers him to prosecute, conduct or defend before a Magistrate's Court any charge, information, complaint or other proceeding arising under the Act. A Magistrate's court may, at the instance of an inspector prohibit the use of that part of a factory until it is duly repaired or amended to meet the requirements of the law.

Workmen's Compensation in Nigeria, Implication for safety and health

This Act (Cap 470) Laws of the Federation of Nigeria, amended in 2010 provides for the payment of compensation to workmen for injuries suffered in the course of their employment. All workmen employed in the public or civil service of the Federation or of any state thereof, the Nigerian Police as well a private establishments are covered by the provisions of the Act. However, members of the armed forces, other than a person employed in a civilian capacity and any workman engaged in the public service outside the country and is not a Nigerian citizen are excluded from the provisions of the Act.

The law provides for three kinds of benefits in respect of industrial accidents. Firstly, there is provision for compensation for injuries of temporary nature. Secondly, the law provides for injuries leading to permanent incapacity. Thirdly, compensation is payable to dependant for the death of a worker. Employers are required to insure workers for risks arising from personal injury or incapacity caused by any occupational disease or industrial accident arising out of and in the course of employment.

However, where a worker sustains any injury in the course of his employment and he is incapacitated for not less than 3 days, his basic pay shall continue to be paid for a period of six months and thereafter if he is unable to resume duty, he shall be placed on half pay for the next three months and thereafter paid one-quarter of his monthly salary for the next succeeding 15 months. But where permanent incapacity results from any accident, the amount of compensation payable shall be a sum equal to 54 months earnings.

Where a workman has given notice of an accident, the employer shall arrange to have him medically examined and treated, either by a medical practitioner named by the employer or the workman. The costs of the medical treatment shall be wholly borne by the employer. Where death results from the injury, the amount of compensation equal to 44 months earnings of the deceased workman shall be payable to his dependants. The employer is required to report such death to a labour officer within seven days.

Mokikan,(2012:4) points out that safety in Nigeria's workplaces depends intricately on the formulation of home grown and appropriate policies as well as the adaptation of international best practices to all facets of safety in the country. He opined that also "Realities of Employee Compensation in the Workplace: Employers perspective said that the task of every employer is to attract motivate and retain good people and one of the strategies employed by employer to achieve that was through an effective employee compensation practice.

He observed that majority of the employers have been facing challenges in meeting up with the expectation of their workforce because of the harsh economic conditions in the country which they are forced to operate within. Accordingly, Mokikan (2012:4) suggests that organization must not only develop various means

of compensation, ranging from straight salary, straight commission, sales compensation, executive compensation, and other form of rewards all in the bid to get the best out of the workers. Compensation remains one of the most challenging aspects of HR function. This is because it is dynamic, more or less has a life of its own, and is central to the accomplishment of other organizational objectives. Any investment therefore aimed at discovering better and more effective way of managing it should not be considered a waste

Policy Implication: Abuse of Rule of Law and Factory Regulation in Nigeria

Occupational Health and Safety are important issues for trade unions and should be given a prominent position in collective agreements and conditions of service. A healthy and safe environment is among the most valuable assets for workers, communities and countries. It also means that a healthy worker is an asset to the employer; therefore, the provision of a healthy and safe environment is one goal that must be jointly pursued by the union and employer. The studies have shown that the presence of workplace trade union organisation has a dramatic influence in the enforcement of OHS regulation. The preventive services have also been shown to be enhanced by such local union presence. In addition, it has been argued that objective measurement of health and safety outcomes suggested links between rising levels of accidents and the declining influence of trade unions (Frick 1994, Nichols, Connor, Tasiran and Cam 2005:19). Poor working conditions of any type have the potential to impact negatively on the worker's health and safety.

Unhealthy or unsafe working conditions are not limited to factories, they can be found in the formal and informal sector, whether the workplace is indoors or outdoors. Poor working conditions can also affect the environment workers live in, since the working and living environments are the same for many workers. This means that occupational hazards can have harmful effects on workers, their families, and other people in the community, as well as on the physical environment around the workplace. The government must stop further abuse of her citizens; they must also guarantee their fundamental human rights as enshrined in the 1999 constitution of the Federal Republic of Nigeria. There must be checks on the working environment that are associated with gross abuse of the employees' right to health and safety especially in the factories operated by Asian investors.

It is apparently an attempt to secure the complete physical, mental and social well – being of workers in Nigeria that the Factory Act of 1958 (as amended in 1990) was enacted. The Factory Act stipulates that every factory must be kept in clean and sanitary conditions with adequate drain and sanitary conveniences. Accumulation of dirt and refuse must be removed daily and workroom floors washed at least once a week or kept clean by other suitable method.

Similarly, the Factory Act requires that all containers, vessels, sumps, structures or pits containing dangerous or poisonous liquids must be covered properly or securely fenced, with prominently displayed notices in English and Vernacular languages as to the nature of the danger. The Factory Act further states that persons employed or to be employed at any dangerous machine or process are to be fully instructed and trained, and made aware of the dangers. (Uvieghara, 2001; Bankole, 2008) cited (Akanji and Lawal, 2012:58). According to (Olatoye, 2011), the health status survey on respiratory disorders carried out on Miners and Quarry workers showed that many of them have low respiratory capacity than those in the administrative work, this could be attributed to accumulated effect of inhalation of repairable particles e.g. coal dusts, silica dusts etc. some of the workers with bad habits of smoking or sniffing also had low respiratory capacity. According to (The Nigerian Federal and State Ministries of Health Survey), workers in most of the companies visited were not provided with PPEs and where available the uses were not enforced thus workers were not using them. The federal and state health ministries must consistently undertake risk assessment survey of small and medium enterprise (SME) and also the implementation of the outcome of this exercise. Olatoye (2011)

In furtherance of the social order, the Nigerian State has a duty to ensure that "conditions of work are just and humane and that there are adequate facilities for leisure..." while "the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused" Due to inadequate implementation of ILO standards and Nigerian law (Factory Acts, Workmen Compensation Act etc) employers of labour and factory owners are able to get away with infringement of law. Also the reluctance of factory inspectors and other law enforcement agents to bring to book the erring employers has contributed to the breach of the provisions of safety protection laws with impunity. Perhaps much more serious is the fact that workers are not even aware that they have any legal rights to claim damages for compensation in respect of industrial accidents. The few workers who have had cause to take compensation cases to Court have had bitter experiences having regard to the high costs of litigation and prolonged delay associated with the administration of justice in Nigeria. As falana notes, that in some situation where courts sometimes award up to ten million naira as compensatory damages to any member of the bourgeois class for libelous publication, workers are awarded pittance under the Workmen's Compensation Act. The reason for this is not far-fetched, in the law of torts, the status of the plaintiff is of material relevance in any claim for damages. Trade Unions should ensure the existence of a minimum industry condition of service for workers irrespective of the nature of their contract, that every organisation providing contract labour have valid labour recruiter's license and that they must be committed to full adherence to the conditions in the labour recruiters

license.

Recommendations

Adequate training is needed among the workers, as most of the workforce especially the factory workers lack basic education. Pasting just information on the notice board containing information on the operating standard and procedures are not enough as many of them cannot read or write

Medical screening should be done periodically to ascertain the state of workers' health. Most of the occupational diseases gradually affect the health of the workers without them knowing, if this could be found earlier enough, a lot could be done to salvage the lives of workers,

Management commitment both to better health and safety performance and participative arrangements coupled with the provision for preventive OHS are strategies for ensuring the quality and efficiency of production

Support for workers' representation from trade unions in workplaces, especially in the provision of information and training, most non-unionise organizations leave the issue of occupational health exclusively to the management alone. Workers must be involved in the formulation and implementation of OSH policies.

Trade unions should compel their members to comply with OSH rules, understanding its importance to their life. The issues of OSH should be a collaborative efforts and a responsibility of all both the management and workers. Accidents and injuries must be reported the appropriate authority irrespective of the treat of the management.

The Federal Ministry of Labour should rise to their duty for periodic inspection of the work environment and Factories in Nigeria to ensure strict compliance of the factories to factories regulations and also pay appropriate compensation to the victims of occupational hazard.

Conclusion

Trade Unions should therefore endeavour to unionise all workers so as to enable them enforce their rights. It is important if they must continue to remain relevant. Fortunately section 40 of the 1999 Constitution of the Federal Republic of Nigeria, Extant Labour Laws, Article 10 of African Charter on Human and People Rights(Ratification and Enforcement Act) 1990 as well as various ILO conventions 87 and 98 guarantee the right of workers (including contract and agency staff) to join a trade union for their protection. Trade Unions should ensure that there should be existence of minimum industry condition of service for workers irrespective of the nature of their contract, that every organisation providing contract labour have valid labour recruiter's license. They must commit to full adherence of the conditions in the labour recruiters license.

Trade unions should continue to display courage and solidarity in the protection of the rights and welfare of Nigerian workers and in the mobilization of Nigerians against unpopular government policies. This is also in consonant with one of the most fundamental tenets of the trade union.

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