

**PROTECTION OF THE WORKPLACE, OCCUPATIONAL HEALTH AND  
SAFETY OF THE NIGERIAN WORKERS:  
AN ANALYSIS OF LEGAL AND INSTITUTIONAL MECHANISMS**

By

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**Abstract**

*Most African countries particularly Nigeria were noted for poor occupational health and safety practices as inadequate attention were paid to this area. Despite the numerous developments in occupational health and safety practices in recent years, several occupational and safety issues still abound in most African countries, particularly in Nigeria. Thus, the dissertation aimed at examining the protection of the workplace, health and safety of the Nigeria worker. The specific objective of the dissertation is to examine the commitment for the establishment of a healthy and safe workplace and the integration of health and safety into all workplace activities by employers in Nigeria. It is also the objective of the dissertation to examine the compliance with applicable legal requirements of healthy and safe workplace in Nigeria. The dissertation adopted the doctrinal research methodology which is a library-oriented research. Thus, both primary and secondary sources of information were examined. It found that there is no proper education and training in the workplace on safety. It also found that workers are bereft of knowledge on the effective and efficient use of fire extinguishers. The dissertation concluded that there cannot be any effective occupational health and safety policies if both employers and employees fail to perform their respective responsibilities. It therefore recommended that the executive and other relevant agencies should enforce the Labour Act to ensure that workers are protected from all kinds of occupational hazards. It also recommended that management of workplaces should organize regular training, workshops, seminars on health and safety for staff, publish materials on safety and many other steps to inculcate safety consciousness in the minds of workers. It was further recommended that management of workplaces should take it a point to train staff in the effective and efficient use of fire extinguishers.*

**INTRODUCTION**

The Constitution of the Federal Republic of Nigeria ensures that the conditions of work of employees are just and humane.<sup>1</sup> It also ensures the

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<sup>1</sup> Constitution of the Federal Republic of Nigeria, 1999 (as amended), s 17.

safety and health of workers.<sup>2</sup> Development of occupational health and safety,<sup>3</sup> dates back in history when industrialisation was in crude form, un-mechanised system of farming was the major occupation and slave labour was in high demand.<sup>4</sup> Due to the harsh and poor working environment in this era, the accident and death rate was on the increase. This has been described in the following words:

*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.*<sup>5</sup>

Agricola and Ramazzine<sup>6</sup> were the early medical pioneers of Occupational Health and Safety (OHS) who initiated the idea of making the work environment safe and healthy in order to reduce the rate of accidents and ill health. However, health and safety law in the UK came as a result of agitation (industrial revolution) from the public over the health and safety standard in workplaces.

Development of occupational health in Nigeria followed the pattern in other developing countries. Originally, the main occupation was un-mechanised agriculture and animal husbandry. The workforces were mainly women and children. Payment for work was not known. Workers were exposed to many types of health hazards. Treatment then was not organised. Later, manufacturing including construction came into being. Several changes have occurred over the years with respect to the law relating to Occupational Health and Safety of employee engaged in his work wherein presently, specialist professional status is being given to

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<sup>2</sup> *Ibid.*

<sup>3</sup> E Iden, 'Occupational Health and Safety Management: A Copy of My Appeal Letter to ILO' S E Asogwa, *Guides to Occupational Health Practices* (Enugu: 4th Dimension Publishing Company 2007) 23.

<sup>4</sup> (n 3).

<sup>5</sup> C Ngwama, 'Framework for Occupational Health and Safety in Nigeria: The Implication for the Trade Union

Movement' [2016] (7) (11) *Journal of Economics and Sustainable Development*, 222.

<sup>6</sup> *Ibid.*

industrial health and safety. Thus, operators of industrial health and safety “must recognise it as such, and ensure that they are at least conversant with those aspect of it which affect them, and to which they are required to make a contribution”<sup>7</sup>

At common law, there was no precautionary measures provided for the establishment of necessary machinery for the prevention of any ugly occurrence at the workplace. This was largely due to the facts that common law looks at the injury for damages to follow. Thus, it contemplates a situation where injury has occurred to give the victim right to claim damages. There was no obligation placed on the employer to ensure that accident does not occur in the first instance. This became a major challenge to the health and safety of employee in the workplace. Thus, various statutes have to be enacted with obligations on the employer to take positive steps to ensure and promote the health and safety of workers in the workplace for which failure to so do will give the employee the right to damages without necessarily proving any injury. As according to Okene, quoting Emiola:

*The employer’s liability under statute places the worker in an advantageous position in that he (the worker) does not, in many cases, have to prove negligence on the part of the employer. It is enough if he can show that the statute imposes a duty on the employer. That the duty is owed to him, that a breach of it has been committed, and that the breach has caused damage.*<sup>8</sup>

Modern occupational health started because of colonisation and industrialisation by Britain.<sup>9</sup> The first occupational health services in Nigeria was introduced by the Medical Examination Board of Liverpool infirmary in 1789 with the main aim of caring for the health of British slave dealers from Africa to Britain.<sup>10</sup> However, after the abolition of slave trade, the Royal Niger Company of Britain increased its exploration and trading activities in Nigeria. The Company organized its own health

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<sup>7</sup> OVC Okene, *Labour Law and Industrial Relations in Nigeria* (4<sup>th</sup> edn, Faculty of Law, Rivers State University, 2019) 144.

<sup>8</sup> *Western Nigeria Trading Co. Ltd v Ajao* (1965) N.M.L.R 178; Okene (n 7).

<sup>9</sup> B O Ogbonna and Others, ‘Occupational Health Regulations in Nigeria: A Narrative Overview’ [2016] (1)(5) *Asian Journal of Medicine and Health* <[https://www.researchgate.net/publication/311425438\\_Occupational\\_Health\\_Regulations\\_in\\_Nigeria\\_A\\_Narrative\\_Overview](https://www.researchgate.net/publication/311425438_Occupational_Health_Regulations_in_Nigeria_A_Narrative_Overview)> accessed 10 September 2020.

<sup>10</sup> *Ibid.*

services that were later inherited by the United African Company.<sup>11</sup> During the British colonial rule, many of their soldiers were dying of malaria. This led Colonel Laggard to establish health services to take care of the health and welfare of soldiers and other colonial administrators. Later, during the Second World War, the Medical Corps was separated to cater for the military alone leading to the creation of Public Health Service which became the nucleus of the National Health Service.<sup>12</sup>

In Nigeria, almost all existing occupational health and safety regulations are imports from abroad. For example, the existing Factories Act, Cap F1, LFN, 2004 is an adaptation of the United Kingdom Factories Act of 1961. In addition, the Occupational Safety and Health Act of 1970 was originally an American regulation. The Control of Substances Hazardous to Health Regulations of 1988, the Personal Protective Equipment at Work Regulations of 1992, and the Management of Health and Safety at Work Regulations of 1999 are all British regulations and are also in force in European countries. The Manual Handling Operations Regulations of 1992 and the Construction, Design and Management Regulations of 2007 are also United Kingdom regulations. Apart from the Factories Act, which was enacted by the legislative arm of the Nigerian government, no other Occupational Health and Safety regulations that exist in European and other foreign countries have yet been domesticated in Nigeria.<sup>13</sup>

Like other laws, the Occupational Health and Safety Act and regulations is yet to gain wide acceptability among the citizenry in Nigeria.<sup>14</sup> The lack of health and safety professionals may be a contributory factor. Although, in the private sector, most of the multinational companies tend to have robust health and safety guidelines, but the implementation, compliance level and effectiveness is widely unknown due to lack of research in the area.

It is noteworthy to state that before 2005, it was estimated that two million men and women die each year as a result of occupational accidents and work-related illnesses or injuries.<sup>15</sup> There also are some 268 million non-

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

<sup>12</sup> (n11).

<sup>13</sup> G I Idoro, 'Health and Safety Management Efforts as Correlates of Performance in the Nigerian Construction Industry' [2010] (14) (4) *Journal of Civil Engineering and Management*; 277; S E Asogwa, *Guides to Occupational Health Practices* (Enugu: Snap Press Ltd. 2007) 8.

<sup>14</sup> J A Adeniyi, 'Occupational Health. A Fundamental Approach to Occupational Health' [2001] (46) (5) *Haytee Organisation*; 57.

<sup>15</sup> ILO, 'Facts on Safety at Work' <[www.ilo.org/safework](http://www.ilo.org/safework)> accessed 10 September 2020.

fatal workplace accidents resulting in an average of three lost workdays per casualty, as well as 160 million new cases of work-related illness.<sup>16</sup> Additionally, 8% of the global burden of disease from depression is currently attributed to occupational risks.<sup>17</sup> This data, collected by the International Labour Organization and the World Health Organization, only reflect the injuries and illnesses that occur in formal, registered workplaces. In many countries, a majority of workers are employed informally in factories and businesses, where there is no record of their work-related injuries or illnesses, let alone any programmes in place to prevent injuries or illnesses. Addressing this huge burden of disease, economic cost, and long-term loss of human resources from unhealthy workplaces is thus a formidable challenge for countries, economic sectors, and health policymakers and practitioners.

Thus, health and safety of workers in workplace have become a very great concern of civilized society in recent times. One of the paramount duties of every employer is the protection of the health and safety of workers at the workplace in accordance with the relevant laws governing the employer/employee relationship.<sup>18</sup>

Under the contract of employment, it is obligatory for the employer to provide safe system and place of work while taking necessary steps to ensure the safety of the workers. For example, it is the duty of the employer to ensure cleanliness in the factory, proper ventilation, lighting, drainage of floors, sanitary conveniences and above all ensure that the factory is not overcrowded during the work.<sup>19</sup>

Furthermore, employers are expected to ensure safety of worker from injury to their health and dangers of work from machinery and other working tools by providing safe workplace and appropriate working equipment which must comply with the conditions of health, safety and

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<sup>16</sup> ILO, 'Joint Press Release ILO/WHO Number of Work related Accidents and Illnesses Continues to Increase ILO and WHO Join in Call for Prevention Strategies' <[www.ilo.org/about-the-ilo/newsroom/newWCMS\\_005161/lang--en/index.htm](http://www.ilo.org/about-the-ilo/newsroom/newWCMS_005161/lang--en/index.htm)> accessed 10 September 2020.

<sup>17</sup> A Prüss-Ustün and C Corvalan, *WHO, Preventing Disease through Healthy Environments: Towards an Estimate of the environmental burden of disease* (WHO Publications, 2006a) <[https://www.researchgate.net/publication/237346974\\_Preventing\\_disease\\_through\\_healthy\\_environments\\_Towards\\_an\\_estimate\\_of\\_the\\_environmental\\_burden\\_of\\_disease](https://www.researchgate.net/publication/237346974_Preventing_disease_through_healthy_environments_Towards_an_estimate_of_the_environmental_burden_of_disease)> accessed 10 September 2020.

<sup>18</sup> Prüss-Ustün and Corvalan (n 17).

<sup>19</sup> (n 18)

occupational health; and which machines and working equipment must be installed and kept in safe conditions.<sup>20</sup>

Workers must not get involved in tasks that can cause injury or that are hazardous such as dangerous liquids and fumes, explosives, and inflammable dusts, gases, vapours and other substances. Workers must receive proper training and work under the supervisor who has thorough knowledge and experience of the machine.<sup>21</sup>

Employer must also provide and maintain an adequate supply of drinking water, washing facilities, first aid and a place for the workers to store their clothing. It is the duty of the employer to keep health and safety records and makes them available to the inspector, when required.<sup>22</sup>

Employees must also not willfully and without reasonable cause do anything likely to endanger themselves or any other person. They should use any means or appliance for securing health or safety provided for their use; and should not willfully interfere with or misuse any means, appliance, convenience or other item provided to secure health, safety or welfare in the factory. However, it is now commonplace that in many countries the quality, health, knowledge and safety requirements put in place now are more stringent as against the then lackadaisical attitude exhibited by employers of labour.<sup>23</sup>

In emerging economies, workplace health and safety has been overlooked in their industrial development policy and strategies. They are mostly focused on the production volume or profit undermining the latent effect of dissatisfactory working environment. In countries like Ethiopia for instance, there was no workplace health and safety related stringent policy standing alone for the manufacturing industries. When a policy is focused on the workplace health and safety, it then presupposes that there should be both rules of effective resource utilisation and safe workplace environment for employees where their health is considered and insured.<sup>24</sup>

Writing the forward to Nigeria Country Profile on Occupational Safety and Health 2016 by Federal Ministry of Labour and Employment, Chris N. Ngige (current Minister of Labour and Employment) stated that:

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<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> (n 21)

<sup>23</sup> Prüss-Ustün and Corvalan (n 17).

<sup>24</sup> (n 23)

*Occupational Safety and Health (OSH) does not only seek to secure the safety and health of persons at work but consequentially stimulates productivity in the business of the enterprise. He stated that it is therefore, necessary that the National Occupational Safety and Health System be visibly identified and coordinated for effective management and one of the means of achieving that is through the development of a National Occupational Safety and Health Profile. The current leadership of this nation is very much interested in the protection of the labour force and the revitalization of the economy for improved wellbeing of the generality of the people noting that this is why at this time, the Federal Ministry of Labour and Employment in collaboration with the International Labour Organization (ILO) took the step to develop a baseline National Occupational Safety and Health Profile to stimulate effective management of safety and health at work in Nigeria.*<sup>25</sup>

Notwithstanding, the Honourable Minister still believed that the systems approach to Occupational Safety and Health has been widely proven to be an effective strategy for achieving the sustainable safety and health management, leading to the development of a preventative Occupational Safety and Health culture and continuous improvement of the work environment. That the International Labour Organization's Convention 187 on Promotional Framework on Occupational Safety and Health provides the guidelines towards achieving these objectives. And finally, that a National Occupational Safety and Health Profile, as the starting point, brings about the identification of the relevant elements of the national Occupational Safety and Health system, their specific roles, capacities and achievements for effective synergy towards a sustainable national Occupational Safety and Health prevention programmes.<sup>26</sup>

### **Appraisal of The Protection of the Workplace, Health and Safety of the Nigerian Worker**

It can be argued that safety constitutes one of the essential human needs. Feeling safe at work ranks as a very important factor in job satisfaction. In

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<sup>25</sup> C O Illoh, *Nigeria Country Profile on Occupational Safety and Health* (Abuja: Federal Ministry of Labour and Employment Publications, 2016) 1.

<sup>26</sup> (n 25).

an attempt to satisfy this need, certain organizations incorporate into their policy thrusts, guaranteeing workers' safe work execution under a climate capable of enhancing the physical, mental, and emotional conditions. Organizational policy of this nature is often categorized under health and safety. Under work environment, Hall and Goodale<sup>27</sup> describe employee health as the absence of illness or disease resulting from the interaction of employee and the work environment. Safety means freedom from the occurrence or risk of injury or loss. Aswathappa<sup>28</sup> described industrial or employee safety as the protection of workers from the danger of industrial accidents. Safety can as well be referred to as the absence of injuries due to the interaction of the employee and the work environment. In a general perspective, safety means a condition of being safe from undergoing or causing hurt, injuries or loss. Hence, safety policies may encompass activities directed at either reducing or complete removal of hazardous conditions capable of causing bodily injuries. Safety policy, according to Aswathappa<sup>29</sup>, specifies the company's safety goals and designates the responsibilities and authority for their achievement.

According to him, such policy statement must emphatically declare four fundamental points- (i) the safety of employees and the public: (ii) safety taking precedence over expediency: (iii) every effort made to involve all managers, supervisors and employees in the development and implementation of safety procedures: (iv) safety legislation to be complied with. Occupational Safety and Health is an interdisciplinary area that entails protecting the health, safety and welfare of people in the workplace<sup>30</sup> and others that may be affected directly or indirectly by the activities at the workplace. In the organized private sector, trade unions as well as relevant government agencies monitor firms' compliance to safety policies, employee compensation laws and standards regarding health and safety of the employee and others in the work environment. The informal sector however lacks such degree of formal worker organization, thus making it a difficult case. In the developing nations

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<sup>27</sup> A Hall and S Goodale, 'International Perspectives on Diversity and Equal Treatment Policies and Practices', in C Brewster and W Mayrhofer (eds), *Handbook of Comparative Human Resource Management* (Cheltenham: Edward Elgar 2012) 393 – 415.

<sup>28</sup> O Aswathappa, 'Resisting State Violence against Trade Union' [2007] (5)(1) *Labour Law Review*, 47.

<sup>29</sup> *Ibid.*

<sup>30</sup> P O Kalejaiye, 'Occupational Health and Safety: Issues, Challenges and Compensation in Nigeria', [2013] (1) *Peak Journal of Public Health and Management*, 16-23.

where the informal economy represents a significant fraction of the overall employment, it is expected that the informal sector would be given greater considerations with regards to occupational health and safety.

Due to the nature and frequency of occupational injuries and diseases prevalent among workers in the informal sector and among small and medium enterprises,<sup>31</sup> it can be argued that increasing governmental and regulatory bodies' attention to the matters of occupational health and safety. It is therefore noted that the absence of legislative, administrative and technological provisions for the sector account for the volume of casualties recorded from year to year. In addition, the International Labour Organization sponsored study conducted and reported by Comaru and Werna<sup>32</sup> examined the health and safety related issues in informal sector enterprises and concludes by recommending safe practices that can enhance the health status of urban workers in the informal sector as this forms an important part of human capital formation and development. Dodo and others<sup>33</sup> asserted that the Health and Safety Management Plan should be aimed at promoting and maintaining the highest degree of physical, mental and social wellbeing of workers. prevention of departure from health among workers caused by their working conditions, the protection of workers in their employment from risks resulting from factors adverse to health, the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological capabilities. In another words the adaptation of work to man and of each man to his job should be the utmost are all aims any Health and Safety Management Plan. It can be argued that the key impetus to achieving a safe and healthy working environment is to ensure that health and safety issues are assessed, planned, organized, controlled, monitored, recorded, audited and reviewed in a systematic and holistic way. Recognizing and controlling workplace hazards is an essential tenet of maintain as safe working environment.

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<sup>31</sup> (n 30).

<sup>32</sup> S Comaru and D Werna, *Essential Employment Discrimination Law* (Bells Publication 2004) 50.

<sup>33</sup> P Dodo and Others, *The New Trends in Government- Labour Relations in the Downstream of the Oil and Gas Industry in Nigerian Fourth Republic* [2017] (5)(2) *International Journal of History and philosophical Research*, 20.

According to Hughes and Ferrett<sup>34</sup> on recognising and controlling workplace hazards, National Council of Occupational draw out Occupational Health and Safety Guidelines, 2001, in this guideline a job hazard is described as anything that can cause physical and mental injury at the workplace. The Guideline distinguishes between health and safety hazard. It states that safety hazard causes immediate injury, direct injury or trauma such as severed finger, crushed hand, broken nose and eye damage; while health hazard causes immediate illness (acute) or over a long period. It listed the followings as safety hazard: unguarded machinery, damaged plugs, outlets and wires, unbalanced walking surface, tripling hazard, falling objects, holes in the ceiling, blind spots (vehicles). Health hazards are chemicals (dusts, gases, vapours) which causes fire, burns, and explosions or affects the vital organs. Biological: (animals, insects, bacteria, and virus/blood) which may result in HIV, flu, hepatitis, tuberculosis, and rabies and so on. Physical hazards are noise, radiation, heat, cold, stress, repetitive motion which causes, deafness, burns, blood disorder, cancer, musculo - skeletal injury and heat stroke. Risk, is the likelihood of a substance, activity or process to cause harm. This can be reduced if hazards are controlled by good physical layout and conscientious management.<sup>35</sup> It is therefore imperative that to guarantee a safe working environment in any nation and work place; there has to be up to date workplace safety rules and regulation that is made known to all the parties in the workplace, adequately enforced and complied with by all and sundry. This therefore means that to ensure a safe working environment the employee, employer and government especially through her regulatory bodies has an important role to play.

The employer has been availed some defences in cases of industrial accidents. These defences are as follows:

1. **Contributory Negligence:** Here, the employer may argue that the employee is partly responsible for the accident which made him to sustain injury. In the words of the Supreme Court in *Evans v. Bakere*,<sup>36</sup> contributory negligence means that the party charged is primarily liable to what has eventually happened. In *Orekoya v. University of Ile and Another*,<sup>37</sup> the Court reduced by fifty percent

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<sup>34</sup> P Hughes and E Ferrett, *Introduction to Health and Safety in Construction* (Paris: Elsevier Butterworth, 1998) 67.

<sup>35</sup> (n 34).

<sup>36</sup> (1973) 3 SC 77 .

<sup>37</sup> (1972) HIF/3172 of 18/9/72 (Unreported).

damages awarded to a typist who scrambled to take a bus in the University Campus with an umbrella in his hand and thereby sustained injury resulting in deformity in one of his legs.

2. **Remoteness of Damage:** This defence can only avail the employer if the injury to the worker is not result of the employer's breach of statutory duty. In this case, the employer is not liable as he did not cause the injury. Thus, this defence is based on causation. In *Ginty v. Belmonth Building Supplies Ltd*,<sup>38</sup> the Plaintiff had been instructed not to work on asbestos roofs without using boards which were provided but kept in the stores nearby. The worker knew where the boards were kept, but in disregard of instructions, worked without them. He fell through an opening and injured himself and the Court held that he was solely to blame for his misfortune.
  
3. **Limitation of Action:** Here, Claimant is required to seek his remedy within a period of time allowed by law after which period an action is regarded as statute barred. Thus, this defence as a matter of law must be specifically pleaded otherwise it will be deemed to have been waived.  
The theory of limitation is hinged on two reasons. In this first place, it is contrary to public policy for a potential defendant to have litigation hanging over his head indefinitely. Second; an action that is instituted several years after an event had occurred is likely to fail due to the fact that the memories of reliable witnesses may fail them or the said witnesses may even die they come to court to give evidence.
  
4. ***Volenti Non Fit Injuria* (Consent):** This is a latin maxim which means that he who consents no harm is done. It applies to Common law duty only, not statutory duty. Consent is a defence which the employer may plead in order to mitigate a claim by the employee. By this principle, the employer argues that the employee voluntarily accepted the risk of injury when he entered the employment. The said defence can only avail the employer where the employment is known to be of a dangerous nature and the employee has also shown clearly for example for accepting danger

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<sup>38</sup> (1959) 3 ALL E.R 414.

money, that he was prepared to take the risk of injury upon himself. Thus, it is not enough for the employer to establish that the employee knew of the risk as long as he had not actually accepted it. Knowledge of the danger is not the same thing as consent. The worker voluntarily and freely agreed to run the risk. The case of *Smith v. Baker & Son*<sup>39</sup> is illustrative. Here, a worker was killed by a crane swinging above his head whilst he carried on his work. The defence of the employers was that the worker was aware of the danger and consented to it. The House of Lords discountenanced the argument and held that where knowledge of the risk was no proof that the worker impliedly agreed to run the risk.

It is noteworthy that this defence is not a defence to breach of statutory duty. The reason is that there can be no consent to a breach of statutory duty as the purpose of statutes containing safety provisions is to protect the very people who are employed in dangerous occupation.<sup>40</sup>

### **Challenges for Effective Protection of Nigerian Workplace and Workers**

An overview of related literature underscores various perspectives as to viewing managing challenges and narrowing it more especially to Nigeria work environment. The everyday Nigerian manager is compounded with enormous challenge that requires a strong will to work the next day. The realization of any institutional progress is closely linked to informed information that shape existing or would be environmental forces which defines the extent of managerial practice. This environment could be external and internal with their individual peculiarities. However, the proper marriage of the first and the later create the green light for any manager not minding the weight of the said challenge. Where the wave of globalization wind for best management practice and value for human co-existence with core interest on transparency and reduce corruption, accountability, stewardship, peace and collective drive for ethical values and integrity amongst practitioners and so on tend to sound ill-timed and therefore should not see the light in the formulation of our personal and collective policies. However though, the present administration is making frantic effort to reposition the lost glory by tackling neglected generational managerial decision that would have yielded a better working

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<sup>39</sup> (1965) A.C. 325.

<sup>40</sup> *Baddley v. Graville* (1887) 19 Q.B.D. 423.

environment. The choice for taking most of these unpopular economic and managerial decisions for the common good of our tomorrow is indeed a big challenge as visible in the last nationwide protest over the pump price of petrol. The big picture becomes the challenge for managing how to create a balance from the past system of approach to the modern rush for global recognition by placing a benchmark which in turn helps to strengthening the identified weakness within our institution and organization.

To critically examine the challenges of managing within the context of Nigeria working environment in retrospect, two environments as captured above comes to bear. These environments are external and internal. These are those environmental forces that have the controlling power domicile outside the hands of the manager and its influence on the overall managing process holds bound to the level of management perceptions and climate outside the organization given cognizance to envisage design projection. Among the scope of external environment that pose some level of challenge for managing are:

1. **Challenge of political interference:** Most Nigerian institution, organization and workforce has been so politicized that it takes only the divine hand of our creator to stand the chance of been recruited. However, there are still few organization and individuals that preach and practice the message of meritocracy and at such, some employee remains thankful for such gesture. The dilemma for most manager that are captured in this web of political selection, amongst pestilent issues they are that of positioning the manager to accept and manage personnel and employees that may not suit the specific criterion for the envisage job but must take responsibilities and account for their entire organizational activity. On the other hand, the sole appointment of external individual based on political association will pose a great deal of challenge for the employee and the internal factors within such system especially where such an appointee lacks the professional experience. Which is the story of most government owned institution in Nigeria.
2. **Challenge of inconsistent government policies:** The concise dictionary student edition defines policies as “a course of action; a program of actions adopted by individual, group, or government, or the set of principle in which they are based”. As alluded from the above a clear cut contrast interplays within the Nigerian work environment, as each government (local, state and federal) create

and introduce policies and regulations that produce dramatic effect on the overall work force which most times lacks the connection from the past to create the present and project for the future and thereby hampering the trend and transition of managerial activities to consider limited forecast which actually opposed and becomes the challenge for the process of strategic management that look at the future with the “big picture”. The challenge for managers for such inconsistency are considered as a shift of focus in the specific agenda of any established government, for instance a policy on tariff increase/decrease and/or import and export issues that has a multiplier impact and effect on the kind of management decision that should and will be formulated and practice bearing in mind the sensitivity of employees and customers. Issues also predominant are: a. No guarantee of employee policies, thereby causing unguided layoff of workers and downsizing. b. Inconsiderate government policies etc.

3. **Challenge of technological change:** These are environment that allows the creation of new ideas that transform into creative and innovative product and services which impact the technological advancement within a given system. Today’s managers are in the era of “Information Age” where the use of information translates into ideas which create and innovates inventions that position the human intellectual capital within the institution to be abreast with today’s technology. The challenge however, for managing becomes how to tailor such creative and innovative process in a hypercompetitive environment as ours with the level of our technological backwardness. The manager must be faced with the reality to understand that technology actually transcend the use of machine and portrays the actual work system as to current trend in human capacity training and development, customer satisfaction, design of formulated policy etc. A greater challenge also within the space of technology for managing is the proper allowance and the need and marriage of creative ideas and innovation within the work force as it is considered to be imperative in organizational survival. It can be argued that creativity and innovation demand a management culture that encourages the freest expression and the open exhibition of ideas. This actually can be viewed as a challenge to keep moving with the pace of global innovative demand.

4. **Challenge of social-cultural condition:** These are regarded as a distinct environmental/societal norm, tradition, values and preference that interplay within the said society which are most times not constant but subject to change given cognizance to the peculiarity of the area or zone within the country. The challenge of managing in such environment becomes tasking to consider in relation some form of social responsibility function as to the consideration of host community/ environmental norms, traditions, cultures in the creation and delivery of any business especially where existing business outfit or organization is introduced to a new norm and culture not envisage by the manager.
5. **Challenge of insecurity:** Insecurity almost sounds like a song that is in mind-eyes of almost every Nigerian today. So much that they cry out for help within our workplace has drastically water-down the passion for working not minding the amount of armed and security checkpoint in offices and institution. But an ideal secure society is that which its citizenry can work without the watch of security checkpoint but an internalized consciousness for individual freedom that transcend the movement of armed security agents. Let us restrict our discussion to our area of focus as the topic of Nigerian insecurity is tempting but remains an issue for another discuss. As for the level of challenge insecurity pose for managing is enormous as the level of most employee interest is not only on job enrichment but job security. Most working environment today are so hostile that managing becomes almost impossible where bomb blast is the order of the day, thereby making organization spend above the required procedure for specific, tasking and less productive activities owing almost to an incomplete secure working environment.

### **Policy On Occupational Safety and Health 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) 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 106 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.<sup>41</sup>

### **Lesson from India On Health and Safety in The Workplace**

In light of the focus on the manufacturing sector it is important to scrutinise the existing occupational health and safety provisions in Indian law and their implementation. This dissertation argues that the current disregard for workers' health and safety could prove costly in the long run, and any growth in manufacturing must entail a clear practicable system to ensure occupational health and safety for workers. While much of the growth in the Indian economy over the last few decades have been in the outsourcing of back-office operations from western companies, experts believe that manufacturing is the next growth sector. Just as one example, India is the world's largest small-car market. Chennai is the small-car hub for the region for several automobile companies and from here it exports cars, engines and components across the world. Suzuki, BMW, Hyundai and others similarly produce hundreds of thousands of cars and motorcycles in Chennai. Similar trends are foreseen in the pharmaceutical, other consumer and capital goods manufacturing sectors in the medium to long term. This rapid industrial growth is in conjunction with a population shift from rural to urban areas that has severely strained urban infrastructure.

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<sup>41</sup> E E Okafor and Bode-Okunade, *An Introduction to Industrial and Labour Relations* (Ibadan: Moonlight Publishers 2006) 98.

The rise of India as a manufacturing hub with a significant increase in industrial employment will have implications for occupational health that have not been considered with any degree of seriousness. In this commentary, there is a need to examine some aspects of the existing infrastructure for occupational health and safety in India – the adequacy of existing legal provisions, its coverage of the Indian workforce, its implementation, and the availability of trained personnel. We posit that the existing infrastructure does not meet the needs of an economy with the projected rates of growth, especially in the manufacturing, chemical, pharmaceutical, and commercial goods sectors. The dissertation proposes that the system undergo substantial change with significant labour law reforms, improved implementation of laws, investments in developing capacity, including trained personnel in a variety of relevant disciplines, and development of a culture of OHS consciousness among owners, employers, labour unions, workers and enforcement agencies.<sup>42</sup>

### **Lesson from South Africa On Health and Safety in The Workplace**

Prevention of accidents and injury to health arising in the course of work can be minimized. The cause of hazards inherent in the working environment has been a major concern to South Africa. The standard species that industrial safety and health and the working environment must take cognizance of the following (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, organization of 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.

The Factories Act of South Africa provides for clear-cut definition of the respective functions and responsibilities in respect of industrial safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character

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<sup>42</sup> P Onyeonoru and J Adesina, 'Trade Union in Nigeria since 1945' in C Phelan (ed.) *Trade Union Past, Present and Future* (Oxford: Peter Lang 2009) 110.

of such responsibilities and of national conditions and practice.<sup>43</sup> The Act provides that industrial safety and health and the working environment should be reviewed at appropriate intervals, either overall 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.<sup>44</sup>

The Factories Act of South Africa places a demand on the part of the state to take action with respect to the implementation of the standard for safe work within the framework of each member state's legislation. It also demands concerted effort with the representative organizations of employers and workers concerned, take such steps as may be necessary to give effect to issues of safety and health in the organization. The enforcement of laws and regulations concerning industrial 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.

The Factories Act of South Africa places demands on the part of the employer because safe work requires the collaboration of the employers, management and the workers.<sup>45</sup> It further recommends that there should be effective policies and programmes to guide the implementation of safe health and as such employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under the control are without risk to health when the appropriate measures of protection are taken. Employers are 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 are required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements. There ought to be arrangements at the level of the undertaking under which (a) workers, in the course of performing their work, cooperate in the fulfillment by their employer of the obligations placed upon him; (b) representatives of workers in the undertaking cooperate with the employer in the field of industrial safety and health; (c) representatives of workers in an undertaking are given adequate

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<sup>43</sup> Factories Act of South Africa, 2003, s 34.

<sup>44</sup> *Ibid*,

<sup>45</sup> Factories Act of South Africa, 2003, s 56.

information on measures taken by the employer to secure industrial safety and health and may consult their representative organizations about such information provided they do not disclose commercial secrets; (d) workers are in the undertaking are given appropriate training in industrial safety and health; (e) workers 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 industrial 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 work 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.

### **Conclusion**

There cannot be any effective occupational health and safety policies if both employers and employees fail to perform their respective responsibilities. The employer is supposed to file government accident reports, maintain records on health and safety issues, posting safety notices and legislative information, providing education and training on health and safety.

The employer is required to institute a safety committee to be in charge of all health and safety related issues. The safety committee is responsible for studying trends in accidents with the view to making suggestions for corrective actions, examining safety reports and making proposals for avoiding accidents, examining and discussing reports from safety representatives, making proposals for new or revised safety procedures. It also acts as a link between the organization and the enforcement agency (the health and safety inspectorate), monitoring and evaluating the organization's safety policies, and making proposals for changes, if necessary. The employee on the other hand is required to comply with all health and safety rules, knowing that the person ultimately responsible for his/her health and safety is himself/herself. Staff are required to wear protective clothing, use equipment and tools provided for their work, and report any contravention of the law by management. Also, the employee has the right to refuse unsafe work. Accidents are costly both to the affected worker and the organization. Therefore, every effort should be made in order to avoid them from happening at the work place.

## **Recommendations**

Based on the findings of the paper, the following recommendations were made:

- i. That management of workplaces should organize regular training, workshops, seminars on health and safety for staff, publish materials on safety and many other steps to inculcate safety consciousness in the minds of workers. Employees should be made to understand that safety and health practices are the responsibility of both management and staffs and this will go a long way to make the work area safe. Management should provide and maintain at the workplace, adequate plant and system of work that are safe and without risk to health.
- ii. That management of workplaces should take it a point to train staff in the effective and efficient use of fire extinguishers. This may call in the regular conduction of fire drills to ensure that employees are ready to deal with any fire outbreak. This is more important in areas where highly inflammable gases are used like the filling stations. Workers should be given enough insight of the risk and dangers inherent in their work at the work places. Through education some of these accidents could be minimized if not eradicated entirely. Jobs can also be designed in such a way as to remove all inherent potential dangers to make the work safe for employees. The provision of protective clothing and putting in place safety and health measures is not enough.
- iii. That management should put in place a regular monitoring team who will go around to check whether the employees really do put on their protective materials given to them before doing their duties and also observe in strict terms safety measures put in place in order to avoid any mishaps and accidents.
- iv. That the government should also institute monitoring teams that will go around periodically to check whether employers go by the regulations as provided in the Labour Act. The factory inspectorate of Nigeria should come up with a blueprint to be used as guide for the design of health and safety policies for industries, companies and other institutions.
- v. That there is a need to enforce the Labour Act to ensure that workers are protected from all kinds of occupational hazards.