Breaking Ground for Effective Regulation of Occupational Health and Safety In Nigeria

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Outline of Presentation

- Background – Where are we coming from?
- Issues and Challenges impeding the effective regulation of OH&S in Nigeria
- Overview of the Occupational Safety and Health Bill passed in 2012
- Way Forward
- Action plan for stakeholders
At the end of this presentation, participants will walk away with:

✓ Indebt understanding of **real issues and challenges** impeding the effective regulation of occupational health and safety in Nigeria

✓ An overview of the **Occupational Safety and Health Bill** passed in 2012 and how it can transform workplace health and safety management in Nigeria

✓ **Action plan for stakeholders** in revolutionizing workplace health and safety in Nigeria

✓ Proposed **5 essential building blocks** of sound national safety and health setup
A personal experience...

- Few years ago, Bello, a graduate in one of Nigeria’s commercial cities got employed as a technician in a factory after some years of job-hunting. Typical of employment euphoria in Nigeria, the first thing that came to his mind was earning money to take care of a long list of things, leaving workplace health and safety a last thing to worry about.

- “The factory has nothing to offer in terms of health and safety anyway, but God will always protect me” – this was his response when asked about how safe and healthy the factory was.

- Within weeks on resuming work, Bello was involved in an industrial accident with no effort in accident documentation, data gathering or investigation. All communication in response to the accident were just verbal discussions. “The safety manager has been in the factory just to fulfill all righteousness with really no involvement in work planning and monitoring” – his response when asked how the safety department responded to the accident.

- This industrial accident was not reported neither did any compensation paid to the injured person.
Added to this…

• There are several glossed over industrial explosions in major Nigerian cities that fatally injured several workers. There have been countless industrial accidents with no proper official investigations and consequence management.

• Another area of concern is the issue of exposing workers to hazardous dusts and vapours in most factories and construction worksites in the country without exposure monitoring and sufficient control measures.

• Going beyond factories, employees in other workplace types experience this lack of health and safety accountability by their respective employers.
Where are we coming from? (Cont’d)

Putting a human face...

In all these glossed over industrial accidents, there are people behind those numbers
Where are we coming from? (Cont’d)

And then…. a legislative milestone.

The 7th National Assembly in 2012 passed a bill on Occupational Safety and Health that was meant to repeal and re-enact the Factory Act Cap. F1 L.F.N 2004 and establish a national body that would make regulations to improve workplace health and safety practices in Nigeria. Immediately after this legislative milestone, there was great anticipation that the poor safety records and perpetual safety negligence in most of our workplaces will begin to turn around.
Where are we coming from? (Cont’d)

But sadly...

This hasn’t been the case as the bill is yet to become a law that will drive the needed improvements in occupational health, safety and welfare. As we continue to wait for the big bang response to occupational safety, the heart-breaking reality is that there is a very long queue of Nigerian workers waiting to be disabled or fatally injured in our abysmal workplaces.

What then is the future of the average Nigerian worker? And what part is Government and employers playing to secure his/her health, safety and wellbeing in the workplace?

Even the Nigerian constitution in section 17 sub-section (3) (c) stipulates that the State shall direct its policy towards ensuring that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused. How then is this constitutional provision being enforced?
Poor enforcement of the Factory Act and inadequacies in its provisions

- A legislation largely modeled on old colonial statute of the same name
- The Factories Inspectorate under the Ministry of Labour and Productivity saddled with the statutory responsibility of enforcing the factories act has 39 inspectors to cover 5,888 registered factories, based on statistics obtained in 2006. This gives a ratio of about 1 inspector to 151 factories, and there has been no significant improvement to this ratio as at today—this is overwhelmingly too much for the inspectors to handle
- Most factories (or workplaces) still operate on the 1990 factories act provisions which do not commensurate with modern day realities
- The good news now is that some of the apparent limitations of the act has been corrected through a new bill (Occupational Safety and Health Bill 2012) passed by the National Assembly in 2012
- The position of some literatures is that health and safety in Nigeria is a good practice among employers - employers that currently have well-established OH&S programmes are either in the oil and gas sector or are obligated to have them as a result of their business relationship with international companies or trade bodies in line with “industry standards”
Issues and Challenges (Cont’d)

Delay in signing the Occupational Safety & Health Bill 2012 into law

• Now, cutting excitement on the good news, the Occupational Safety and Health Bill is still awaiting the president’s assent. This implies a delay in having a robust occupational health and safety legislation, leaving us with no other option than to cope with monumental losses (personnel, asset/economic) being incurred on a daily basis in our workplaces.

• The delay in signing the bill into law has been attributed to due diligence being taken in ensuring the provisions of the bill is comprehensive enough and beneficial to the country.

• The question here is how long will the due diligence take? Or is the consequence of signing a perceived incomprehensive bill into law (which can be amended anyway) comparable to the lives and productivity even economic opportunities being lost on a daily basis?
Legislative Issues Concerning Compensations for Occupational Accidents

- Under the repealed Workmen Compensation Act Cap. W6 L.F.N, 2004, an injured person shall be paid compensation if it has been proven that the cause of the accident is not due to worker’s negligence or willful violation of safety rules.

- But under the new Employee’s Compensation Act 2011 (ECA 2011) which establishes the National Social Insurance Trust Fund (NSITF), an injured person shall be paid compensation upon his/her employer sending formal accident notification and necessary accident documentations to the NSITF board and NCOSH within 7 days of occurrence of injury whether or not the injury was due to employee’s negligence.

- There is a problem with this requirement stipulated in ECA 2011 – NCOSH is non-existent due to delay in signing the Occupational Health, Safety and Welfare Bill into law. So where will the accident notifications go to? Will they go to Factories Inspectorate, going by the provisions of the Factory Act?

- This removes the legal liability to pay compensations due to industrial accidents from employers and insurers.
Overview of the OS&H Bill passed in 2012

- The bill is applicable to all workplaces in Nigeria, formal and informal sectors
- With this bill, it will be a legal requirement for employers of labour to provide preventive mechanisms and measures for occupational safety and health with emphasis in elimination of workplace hazards and prevention of injuries and accidents.
- The bill seeks to repeal and re-enact the Factories Act, Cap. F1 L.F.N 2004 and establish the National Council for Occupational Safety and Health and Other Related Matters (NCOSH) which will be charged with the responsibility of enforcing Occupational Safety and Health legislation and make regulations to improve workplace health and safety practices in Nigeria.
- Establishes legal obligations/duties of employers, employees and other persons
- Provides for the registration of workplaces by NCOSH
- The bill also seeks the establishment of National Institute of Occupational Safety and Health (NIOSH) to develop and establish recommended occupational safety and health standards and conduct research for the development of criteria for new occupational safety and health standards.
- OS&H provisions in specific workplaces, major hazard installations, oil & gas operations, agricultural activities, construction activities, mining activities, electricity and transportation/dock works
Way Forward

1. Comprehensive Occupational Safety and Health Legislation and Regulations

2. Recognize the Building Blocks of a Sound National Safety and Health setup

3. Exploit the Economic Opportunities of Effective Occupational Health and Safety Regulation in Nigeria
Way Forward (Cont’d)

1. Comprehensive Occupational Safety and Health Legislation and Regulations

• One of the required actions has been taken – passing Occupational Safety and Health Bill in 2012. But the ultimate presidential assent is still pending which still leaves us in the dark. There have been monumental losses incurred over the years and it is time we enforced proper occupational safety and health management in workplaces – A robust legislation to secure not only the safety, health and welfare of all persons at work but other persons who may be at risk as a result of activities at work.

• A comprehensive occupational safety and health legislation and relevant regulations with appropriate consequence management would be a core basis (key business case) for improved occupational safety and health management in workplaces – especially legal and cost implications of not putting adequate safety and health programmes in place (which is more expensive and inconveniencing than investing in protective measures).
2. Recognize the Building Blocks of a Sound National Safety and Health setup

For the intents and objectives of the Occupational Safety and Health bill to be fully realized, we need to recognize the 5 building blocks of an effective National Occupational Safety and Health setup and their unique roles:

- **National Qualification & Certification Board**
  *Qualifications/certification management*

- **National Professional Body**
  *Professional recognition and development*

- **National Research Institute**
  *Supporting the regulatory body, play an advisory role in providing relevant data on which OS&H standards would be developed*

- **Standard Organization, Trade Bodies & Other Government Agencies**
  *Collaborate with NIOSH, ISPoN in developing non-regulatory guidelines, standards, recommended practices, notices etc. on safety and health management in different trades/industries*

- **National Regulatory Body**
  *Formulation and enforcement of occupational safety and health regulations*
3. Exploit the Economic Opportunities of Effective OS&H Regulation in Nigeria

• We do not need a rocket scientist to tell us that fixing our problems (i.e. setting up proper legislations, regulations and processes to address key national issues) will create new markets in the service sector, increase gross domestic products and ultimately generate more employment opportunities

• Create new frontiers in occupational safety and health services, generate employment opportunities and increase revenue for the Government through paid services, taxes and fines

• Increased budget on OS&H management as a result of increased legal occupational safety and health obligations on employers – expand market size

• This development would also create new career interest for young Nigerians and our tertiary institutions would then offer diplomas and degree programmes in occupational safety and health management – the value chain is limitless
# Action Plan for Stakeholders

## Government
- Expedite assent of OS&H bill 2012
- Set the tone by committing to turn around workplace health & safety management in Nigeria – and demonstrating that commitment
- Work with professional body to establish independent OS&H Qualification/Certification body
- Establish and enforce OS&H regulations

## Standard Organization, Trade Bodies & Other Government Agencies
- Organize forums, summits, symposium on workplace health & safety
- Collaborate with NIOSH & ISPoN to develop non-regulatory guidelines, standards, recommended practices, notices etc. on safety and health management

## National Professional Body - ISPoN
- Chart the course of Government’s decisions on OS&H through targeted engagement and advocacy programmes
- Collaborate with other stakeholders to develop local resources
- Develop a charter and mechanisms on how the 5 building blocks would be integrated for accelerated development in national safety and health management

## Professionals
- Actively participate in various health & safety programmes and contribute to the development of local resources
- Research, Research and Research
We cannot continue to expose our workers to the obvious unmitigated occupational risks while there are clear actions that can be taken by both the government and other stakeholders to reduce these exposures.

Legislative/regulatory inadequacies, poor enforcement, lack of political will and deficient national setup in occupational health and safety have stunted our national growth in many ways.

It is therefore rational that the assent of the Occupational Safety and Health Bill 2012 together with the setup and integration of all the building blocks of a National occupational safety and health management would be a win-win for all stakeholders – protect every worker from dangers and at the same time create endless economic opportunities for the country.

We should thus seize the opportunities highlighted in this literature to develop local capacity in revolutionizing workplace health and safety management in Nigeria.
Questions & Comments
THANK YOU