

Compliance with Occupational Safety and Health Regulations in Nigeria's Public Regulatory Entity: A Call for Attention

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Abstract- The amelioration of the deplorable state of occupational safety and health (OSH) in Nigeria should flow from upstream to downstream. This short communication reports on some preliminary results of an ongoing research project in which workplace observations and interviews were conducted on 10 staff out of 48 staff of the Federal Ministry of Labour and Productivity Inspectorate Division in Nigeria, the custodian of OSH. Results show that they fail to comply with some OSH regulations that they should enforce, thus establishing the upstream decay of enforcement and compliance with OSH regulations in Nigeria

Index Terms- Compliance, Enforcement, Nigeria, Occupational safety and health.

I. INTRODUCTION

The protection of health, safety and welfare of people in the workplace, and people that may be indirectly affected by the activities in the workplace- occupational safety and health (OSH) should be contingent on healthy legal instruments (Akpan, 2013), which require optimum compliance (Umeokafor et al., 2014). Sadly, it is poor in Nigeria (*ibid*; Idubor & Oisamoje, 2013), and fuels the deplorable state of OSH in Nigeria (Idubor & Oisamoje, 2013; Umeokafor et al., 2013, 2014; Okojie, 2010; Okolie & Okoye, 2012). On the contrary, compliance with OSH regulations is not the silver bullet to the improvement of OSH, as organisational culture and enforcement can also improve OSH (Umeokafor et al., 2013). However, there is consensus that compliance with OSH regulations cannot be isolated in the improvement of OSH (Umeokafor et al., 2014). If this is the case, that explains the novel findings of an on-going research project, which inform this short communication. In that the Nigerian Federal Ministry of Labour and Productivity Inspectorate Division (FMLPID)- the body empowered by the Factories Act F1 LFN 2004 to enforce OSH in Nigeria fails to comply with OSH legislation, which it should enforce, hence things fall apart as per OSH system. As such, this short communication with the overarching aim of demonstrating the status quo of the FMLPID in terms of compliance and enforcement of OSH legislation, calls for urgent attention in the upstream regulatory sector of OSH in Nigeria. Being the first of its kind, this study presents and discusses the true picture of OSH

and its enforcement as per the FMLPID in Nigeria, which are novel findings of the aforementioned study.

II. METHODS

This short communication is informed by an on-going research project, which aims at developing a framework for the enforcement of OSH regulations in Nigeria. In the study, 10 staff out of the 48 staff of the FMLPID who have been working with the FMLPID prior to the recruitment of new staff in 2013 participated in the semi-structured face-to-face interviews. The sample was made up of top management staff, controllers and field officers both at state and head office levels. The interviews were recorded, transcribed and analysed; workplace observations were also conducted and field notes taken.

III. RESULTS AND DISCUSSION

During the workplace observations, the interviewers/observers found some obvious violation of the Factories Act F1 LFN 2004, which the FMLPID enforces. It specifies in article 28 paragraph 3 that safe access to workplaces should be provided. Sadly, at the entrance of one of the offices of the FMLPID, live electric extension cables which are used as sources of electric power were lying across the door of the ministry coupled with uneven carpet at the entrance, hence posing a risk of trip or fall. This is not best practice and suggests inadequate health and safety management and neglect. An organisation like the FMLPID should conform to best practices; they should set examples and champion OSH promotion. The question as to why the FMLPID is lagging behind in compliance with OSH regulations to such degree remains unexplained. However, lack of safety culture, lack of implementation culture (Umeokafor et al., 2014), cultural dimension (Okolie & Okoye, 2012), 'the Nigerian factor' (Idubor & Oisamoje, 2013) may be the answers, or that the FMLPID do not see OSH as a duty owed to employees as Akpan (2011) recommends. Be it as it may, the findings demonstrate the upstream to downstream health and safety system failure in Nigeria.

In like fashion, during the interviews, two respondents mentioned that they have not been provided with personal protective equipment (PPE) that should be used during field inspections. One of the respondents expanded:

‘...In fact, how can you enforce the use of PPE whereas you the inspector is not wearing any?’

Analytically, the above situation constitutes a violation of article 47 and 48 of the Factories Act F1 LFN 2004, and hampers enforcement. However, the FMLPID may argue to be technically exempted in the definition of premises (Factories Act F1 LFN 2004, article 87 paragraph 7), whereas they should aim at attaining best practice and optimum OSH. Furthermore, all the respondents complained of lack of training as a major hindrance to the work; some claimed to have been advised to train themselves by the senior management, due to lack of funds. This is despite their academic backgrounds, which are outside of health and safety. In particular one respondent stated:

‘Since I joined the ministry in (censored by authors to avoid identifying respondent), I have not been trained. I use my brain to work’.

The role of trainings in promoting health and safety is echoed by (Adenuga et al., 2007; Akpan, 2011; Idubor & Osiamoje, 2013; ILO, 2001; Occupational Safety and Health Convention, 1981 (No.155)), how much more its role in health and safety enforcement (Umeokafor et al., 2014) and in attaining best practice. Failure to provide training is also a violation of the article 23 of the Factories Act F1 LFN 2004, which specifies training of workers. The implications of these when factored in is not only a loss of confidence in the entire OSH regulatory system, but also a denial of social duties and justice, and a suggestion of incompetent enforcement officers.

During the interviews, it was observed that the display screen equipment (e.g., keyboards, mouse, display screen, furniture and environment) at the FMLPID was inadequate, hence fails to demonstrate best practice. This also violates article 10 paragraph 1 of the Factories Act F1 LFN 2004, which requires the provision of adequate lighting (work environment), but does not cover keyboards *inter alia*. Other findings include but not limited to only the Director of the FMLPID being able to shut down a workplace violating OSH laws (i.e., issue prohibition notices). According to the respondents, they are instructed to report any workplace violating the Factories Act of 2004 to the Director of FMLPID, who will visit the workplace and take necessary actions. This is irrespective of the distance of the workplace to the head office (i.e., the Director’s office) and the extent of violation of OSH laws. This is not best practice; it contravenes article 38 of the Factories Act F1 LFN 2004, which empowers inspectors to issue prohibition notices where need be. However, it can be argued that this may be to avoid abuse of power by the field inspectors, but this should not be in contravention of OSH laws or at the detriment of OSH.

Granted that the FMLPID may argue that the existing OSH legislation technically excludes their workplace in the definition of its premises as seen in article 87 paragraph 7 of the Factories Act F1 LFN 2004, it should be noted that FMLPID acknowledges the limitations of the Factories Act F1 LFN 2004 and supposedly compliments it with international standards. As a result, their operations should be based on best practices, hence aiming at achieving OSH. Nevertheless, a call for attention especially from the international community, reporting findings of this nature and demonstrating the level of decay in the OSH

system and its enforcement in Nigeria is worth more than an academic publication.

IV. IMPLICATIONS

One of the implications of the non-exemplary actions of the FMLPID is already evident above, as they will find it difficult to enforce OSH regulations, which they oversee e.g., provision of PPE. The FMLPID also registers losses of huge amount of supposed revenues from fines and penalties, provision of trainings to workplaces, selling of OSH material *inter alia*. There are other cost implications that compound the problematic state of OSH in Nigeria e.g., loss of materials and investment. In addition to the evidence for prosecuting offenders being lost due to the bureaucracy in shutting down a violating workplace, lives and properties are also at risk and even lost.

V. PROPOSALS

Both compliance with OSH regulations and exemplary leadership have been demonstrated as vital in OSH improvement (Umeokafor et al., 2013; Umeokafor et al., 2014). The role of the upstream sector in the management of activities in business can attest to this, hence adequate attention to OSH regulatory system at public entity level is crucial. In order to achieve optimum OSH, the FMLPID should conform to best practices irrespective of the limitations of the Factories Act F1 LFN 2004; it will help to address key issues highlighted in this paper and those uncovered. Also, the Labour, Safety, Health and Welfare Bill of 2012, which will repeal the Factories Act F1 LFN 2004 should signed into law.

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