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Legal Aspects of Occupational Health and Safety: Ensuring Worker Well-Being

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ABSTRACT

The legal regimes related to occupational health and safety of workers or employees at the workplace has undergone tremendous metamorphosis over the years. It is the aim of occupational health and safety studies to build a safe and healthy occupational environment for the workers. Occupational health deals with all aspects of health at the workplace, and started with the industrial revolution in the 17th and 18th Centuries. This dissertation aims at examining the legal aspects of occupational health and safety of workers at the workplace and the challenges affecting its effectiveness in Nigeria. The objectives of the research are to examine the adequacy of legal and institutional frameworks relating to occupational health and safety of workers, analyze the effectiveness or otherwise of the management of industries and occupation health and safety professional in enthroning a good occupational health and safety practice of workers at the workplace, the extent of compliance with existing statutes on the subject and the lessons to be learnt from other jurisdiction. The doctrinal research methodology was adopted in this dissertation, relying on primary and secondary sources of research materials. It was found that the legal and institutional frameworks relating to the roles of the employer in ensuring the occupational health and safety of workers in Nigeria are inadequate, as no statute makes provisions for occupational health issues caused by cardiovascular issues occurring to workers working remotely. Also, no single legislation provides for the preventive measures to be put at the workplace against occupational injuries, diseases and death on the one hand, whilst also providing for compensation or benefits to the employee in the event of such occupational injuries, diseases or death. In conclusion, this dissertation has examined the issues of occupational health and safety of workers at the workplace and ways to bring about the well-being of workers. In doing this, the researcher discussed the meaning of occupation, health and safety, employee and employer, and the duties of an employer in providing safe occupational health and safety environment for the employee. It is the recommendation of the research that, a single and all-encompassing legislation be enacted and also statutes making provisions for injuries caused by cardiovascular issues be enacted in favour of employees working remotely especially for professionals.

Keywords: Legal Regimes, Occupational Health, Safety of Workers, Employees Workplace, Undergone, Tremendous Metamorphosis,

INTRODUCTION

The law relating to the health and safety of the employee whilst engaged in his work has undergone several metamorphosis in years. It is the intendment of occupational health and safety to take care of the complete and wholistic health and safety of workers at the workplace. Occupational Health and Safety aims at building a safe and healthy occupational environment for the workers. The ultimate state of physical, mental, and social well-being for employees across all professions is known as occupational

health, which is the area of medicine that addresses all aspects of health and safety at work and places a strong emphasis on primary hazard prevention. Taken as a whole, occupational health and safety laws, standards, and initiatives seek to improve working conditions for employees as well as for their families, coworkers, clients, and other stakeholders.

The World Health Organization (WHO) characterises health as a condition of whole mental, bodily, and social well-being rather than only the absence of illness or disability. In 1950, the Joint Committee of International Labour Organization (ILO) / World Health Organization (WHO) on occupational Health, at its first sessions, released a joint statement defining occupational Health. It was again amended at the twelfth session in 1995. According to the definition, occupational health is primarily concerned with three goals: (a) maintaining employees' health and ability to work; (b) improving the workplace and tasks to make them safer and healthier; and (c) developing work organisations and cultures in a way that supports employees' health, fosters positive social climates, facilitates smooth operations, and may increase productivity.

The impact of the toxins, gases and metals was weighty on the psychological, physical and social health of the workers. The possibility of becoming sick or having an accident at work is a health hazard. Biological hazards, or biological substances that endanger the health of humans and other living things, are one form of occupational hazard. It is caused by disease due to infectious virus, bacteria, toxins or other micro-organisms. (ii) Chemical Hazards which is caused by unhealthy and unprotected exposures to harmful chemicals in the workplace. (iii) Physical Hazards which are those physical and visible agents that cause harm with or without contacts. For example, where a worker gets stabbed by a sharp object at the workplace or gets burnt, cut or any kind of injury on his body or skin, or where a worker falls from height not safe for the worker. (iv) Psychological Hazards which are caused by the mental pressure a worker has to go through in his/her career, such as low wages, long working hours, halt of promotion or other job benefits, workplace violence, stress, or even fear of losing a job, and (v) Ergonomic Hazards, consist of strenuous lifting, violent, repetitive motions, and uncomfortable postures brought on by incorrect work practices and badly constructed workstations and equipment. These workplace risks have an impact on musculoskeletal problems, which can have an impact on the body's nerves, muscles, and supporting framework.

Occupational health and safety programs are helping to reduce the effect of health hazards in the workplace. The goals of an organization's organizational health and safety programs are: (i) to identify workplace dangers and analyse the risk related to them; (ii) to plan the building and management program to lower the risk connected with the hazards; and (iii) to inform every employee about the hazards, the risk evaluation, and the necessary safety precautions. An occupational health and safety program combines the efforts of administration, management, staff, and medical experts into a proactive program that encourages a safety-conscious work environment.

The workers' safety at work is generally guaranteed by the imposition of certain duties on the employer. These duties may be imposed by contract, common law, and or statutes. However, before the intervention of statutes, the issue of health and safety of the employee at work was regulated under the common law. In common law, an employer is under the duty to take reasonable care of an employee and others who may come into contact with him or her in the course of the employment. Apart from the express duties and liabilities which may be imposed on an employer by accordance with the terms of the employment contract, employers are required by law to provide reasonable care for their employees while they are on the job.

Statement of the Problem

The law relating to the occupational health and safety of the worker at work in Nigeria has been enshrined in certain statutes like the Factories Act 2004 and the Employees' Compensation Act 2010. These laws had been beautifully laid for the benefits of the worker. However, a major problem encountered in the industries in Nigeria and some other jurisdiction is the effective implementation of these laws. Most companies, especially private companies treat the provisions of these statutes lukewarmly and do not adhere to the provisions of these statutes.

Another problem is that these statutes are not all encompassing. The Factories Act 2004, is a preventive statute. It prevents accidents at work by either totally eliminating them or drastically lowering their frequency. It fails to make provisions for compensation to the worker in the event of an accident occurring. The Employees' Compensation Act 2010 is a compensatory statute. It makes provision for the compensation or settlement of an employee or a worker who sustained harm while on the job. If a worker can demonstrate that his employer's carelessness caused the harm, he may be able to sue the employer for damages. The Employees' Compensation Act is not a preventive statute, as it does not concern itself with prevention of accidents at the work place.

Research Questions

This dissertation sets the following pertinent questions:

- i. To what extent are the legal and institutional frame works relating to occupational health and safety of workers at the workplace effective in actualizing the well-being of workers in Nigeria adequate?
- ii. To what extent are the management of industries and occupational health and safety professionals effective in enthroneing a good occupational health and safety practice of the worker at the workplace in Nigeria?
- iii. To what extent is compliance with the existing statutes on occupational health and safety of workers at the workplace mandatory in Nigeria?
- iv. What are the lessons to be learnt from other jurisdictions towards strengthening the roles of the occupational health and safety of workers at the workplace in Nigeria.

Aims and Objectives of the Study

The major aim of this dissertation is to examine the legal aspects of occupational health and safety of workers at the workplace and the challenges affecting its effectiveness in Nigeria.

The objectives of this study are as follows;

- i. To examine the adequacy or otherwise of legal and institutional frameworks relating to occupational health and safety of workers at the workplace, in actualizing the well-being of workers in Nigeria.
- ii. To analyze the effectiveness or otherwise of the management of companies and occupational health and safety professionals in enthroneing a good occupational health and safety practice of workers at the workplace in Nigeria.
- iii. To examine the extent of compliance with existing statutes on occupational health and safety of workers at the workplace in Nigeria.
- iv. To analyze the lessons to be learnt from other jurisdictions towards strengthening the roles of the occupational health and safety of workers at the workplace in Nigeria.

RESEARCH METHODOLOGY

In the academic sphere, there are different research methodologies available to researchers. However, it the dissertation topic that influences the choice of research methodology adopted for each research work. The following types of research methodologies are available for researchers to adopt for their research works, the doctrinal research method, empirical research method, analytical research method, descriptive research method, fundamental research method, applied research method, conceptual, historical, qualitative, quantitative and comparative research methodologies, amongst other research methodologies. The empirical research method involves research based on experience or observation. The doctrinal research approach involves applying logic to analyse statute provisions and cases in order to grasp legal theories. It emphasises examining legal ideas, norms, and principles. Descriptive research is a research method which describes the characteristics or attributes of a population or phenomenon being studied. Analytical research is a type of research that involves critical thinking skills and the evaluation of facts and information relative to the research being conducted while fundamental research is one undertaken mainly for the purpose of acquiring fresh understanding of the fundamental causes of occurrences and observable facts, but without any immediate goal or practical application.

CONCEPTUAL FRAMEWORK

Occupation: Occupation is defined as an activity or pursuit in which a person is engaged; especially, a person's usual or principal work or business. It is a personal regular work or profession, job or principal activity. It is person's main activity or job which he engages in to earn a living, support himself and contribute to society. Occupation is a person's role in society and can be job, business, employment or profession. K Ann Evans defined occupation as the active manage, or doing, of an individual involved in goal-directed, personally fulfilling, and socially acceptable activity. Occupation is very vital to the life of an individual, as it provides a sense of purpose, identity and fulfillment to the life of the individual. Most occupation fall under three categories primary, secondary and tertiary occupations. Primary occupation includes activities like agriculture and animal husbandry. Secondary occupation includes activities like manufacturing, building and construction industries. While tertiary occupation includes activities like banking, insurance, trade and communication, medical profession and lawyers etc. Tertiary occupation deals with the service sectors, as it provides useful services for the primary and secondary sections. Occupation can also be split into the following, services sectors (e.g. health, education, legal profession), manufacturing service (e.g. production and construction), creative section (e.g. Arts and Design), skilled trades (e.g. plumbers and welders) and unskilled labour (e.g. manual labour, house maids).

Health: Being sound or entire in one's body, mind, or spirit is the condition of being in health. It is the absence of suffering or illness. The World Health Organization (WHO) defined health as a state of whole health—not just the absence of illness or disability—that encompasses mental, emotional, and social well-being. An important implication of this definition is that mental health is more than just the absence of mental disorder. It include the overall sense of wellbeing, physical, mental, and social wellness are all factors of health. Health, this has to do with everyone's physical and mental health at work (including contractors, workers, and visitors), as well as their safety from illnesses or injuries. Health encompasses various aspects of the life of an individual, such as physical health, mental health, social health, environmental health and spiritual health.

Safety: Applied to the goal of achieving a state where the danger of damage has been removed or reduced to a tolerable degree, safety is related to working conditions. It is state in which one is free from danger or situations that can cause harm or injury to person, or damage to equipment. Safety must be ensured if the wellbeing of the individual, the business and the nation must be sustained for the achievement of planned goals. A practical approach to the question of safety is to view it as control of accident. It describes the condition of not being harmed, in danger, or at risk of suffering harm, damage, or loss. When risks and circumstances that might cause material, psychological, or bodily harm are minimised, people's health and well-being as well as the health of the community are protected.

Workers/employee: A worker is someone who puts in effort to achieve a goal, particularly someone who is hired to complete tasks for another. A worker is someone who offers to labour for someone else in exchange for payment, whether or not they are really employed by that person at that particular moment. An employee is an individual who works for another person (the employer) under the terms of an explicit or implicit employment contract, which gives the employer the authority to oversee the specifics of the worker's performance. In labour law, there is a fundamental distinction drawn between employments which represent dependent or subordinated labour relationships, and those which are independent. This distinction in practical terms takes the form of the classification of the entire workforce either as, 'employees' on the one hand, or 'self-employed (independent contractors)' on the other hand. The workers involved in self-employed or independent labour relations are conceptually referred to as independent contractors under contract for service. Some labour statues have used the terms 'Worker' or employee interchangeably without necessarily making any distinction between those workers under a contract for service and those under a contract of service or dependent labour relationships. Some of these statutes are; Section 91(1) of the Labour Act 2004; Section 54(1) of the Trade Union Act 2004; Section 48(1) of the Trade Disputes Act 2004; Section 73 of the Employees' Compensation Act 2010.

Employer: An employer is a person who, either explicitly or implicitly through a contract of hiring, supervises, pays, or manages an employee. Prof. Worugji has defined an employer as anybody who hires

or engages labour or the services of another person or person under a contract of service. Any individual, corporate entity, federal, state, local, or government agency that has signed a contract to hire another individual as an employee or trainee is considered an employer.

LEGAL AND INSTITUTIONAL FRAMEWORKS

National Legal Framework: The national legal framework providing for compliance to the safeguard of the occupational health and safety of workers at the workplace and to ensure the wellbeing of workers are; the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), Nigeria National Policy on Occupational Safety and Health 2020, Labour Act 2004, Factories Act 2004, Employees' Compensation Act 2010, National Industrial Court (NIC) Act 2006, Nigerian Social Insurance Trust Fund (NSITF) Act 1993, National Health Insurance Scheme LFN 2004. These are the major legislations on Occupational Health and Safety of workers at the workplace.

Constitution of the Federal Republic of Nigeria 1999 (as amended).

The constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) is the supreme law of the Land from which all other laws draw virtue and legitimacy from. It is the ground norm, the fons et origo of all law in Nigeria. The supremacy of the constitution cuts across individuals and corporations for it to attain the purpose of promoting good government, governance and welfare of the people for which it was enacted to guide and direct.

The Constitution of the Federal Republic of Nigeria (CFRN) 1999 makes Plethora of provisions on the welfare of the people of Nigeria, though it has been said to be non-justiciable. These provision are contained in Chapter 2 of the CFRN 1999 (as amended) The non-justiciability of the constitution does not however derogate from its provisions, and the provisions therein are instructive on the primary motivation behind advancing the government assistance of the people. To this end, it is the obligations of all organs of government and specialists in whatever office, position or status, to conform, to adhere to and implement the guidelines in Chapter 2 of the Federal Republic of Nigeria's 1999 Constitution.

Chapter 2 of the CFRN 1999 has made provision for certain objectives of the government, include goals related to politics, the economy, society, education, the environment, and so forth. All governmental bodies, as well as those in charge of the legislative, executive, or judicial branches of government, have an obligation to adhere to, uphold, and implement the provisions of Chapter 2 of the Constitution. The Federal Republic of Nigeria is going to be a state founded on social equity and democratic principles, and The main goals of governance should be the safety and well-being of the populace. The concepts of justice, equality, and freedom form the basis of the Nigerian state's social structure. The sanctity of the human being should be acknowledged, and human dignity shall be preserved and improved, in the interest of the social order, and it is forbidden to use natural or human resources in any way for purposes other than the welfare of the community.

The Nigerian government will focus its policies on making sure that there are sufficient facilities for leisure, social, religious, and cultural activities, and that working conditions are fair and humane; every employee's health, safety, and wellbeing are protected and never jeopardised or mistreated; and that everybody has access to sufficient healthcare and amenities included labourers. Many provisions on the subject of safety at work and employee health protection have been made in sections 33 and 34 of the Federal Republic of Nigeria 1999 Constitution, which is an indirect means of upholding the fundamental human rights to life and dignity. Everyone in Nigeria has the right to life, and no one may be purposefully deprived of it unless it is necessary to carry out a court's sentence for a crime for which they have been proven guilty.

The government's legislative branch is endowed with the authority to enact laws under the Constitution. The National Assembly for the Federation, which will be made up of the Senate and the House of Representatives, would have legislative authority over the Federal Republic of Nigeria. The Exclusive Legislative list, as outlined in portion I of the Second Schedule to the Constitution, gives the National Assembly the authority to enact laws for the peace, order, and good governance of the Federation or any portion of it. Some of the laws made by the legislature touching on the occupational health and safety of

workers at the workplace are the Labor Act 2004, Employees Compensation Act 2010, Pensions Reform act 2014, and so on. The Constitution also made provisions for state legislatures to make laws.

The Constitution vested the powers to implement the laws made by the legislatures on the executive arm of government. It is the duty and responsibility of the executives to guarantee adherence to the numerous laws and rules on safety and health at work by both employers and employees to eliminate or at least reduce and manage occupational accidents, injuries and diseases.

The Constitution of the Federal Republic of Nigeria 1999 (as amended), also vests the judicial powers on the various courts in Nigeria. Thus, it is the duty and responsibility of the courts to give interpretations to the provisions of the various labour statues enacted by the legislature, and also to interpret in one way or another where there are allegations of breach of duties by an employer, as to whether or not the employer is liable for the alleged breach. The Public Modern Court of Nigeria (NICN) will have and practice locale to the avoidance of some other court in Common matters and causes connecting with or associated with any work, business, worker's guilds, modern relations and matters emerging from working environment, the states of administration, including wellbeing, security, government assistance of work, representative, laborer and matters accidental thereto or associated therewith. In civil cases and matters pertaining to, connected to, or arising from the Factories Act, Trade Dispute Act, Labour Act, Employees Compensation Act, or any other Act or Law relating to labour, employment, labour relations, or the workplace, or any other enactment replacing the Acts or Laws, the National Industrial Court shall have and exercise authority to the exclusion of any other court.

Labour Act 1971 (Cap L1 LFN 2004)

The Labour Act 1971 (Cap L1 LFN 2004) is the main piece of law that governs employment in Nigeria. It specifies the fundamental conditions of employment and has a narrow application because it solely covers workers. The Act regulates the working connections between employers and workers. The primary objectives of the Labour Act 1971 (Cap L1 LFN 2004) are to promote fair labour practices, establish minimum employment standards, protect workers' rights, regulate the terms and conditions of employment, and so on.

Every employee who signs a contract is required to have a medical examination performed by a licensed physician at the employer's expense. If an employer violates the Labour Act by mistreating or neglecting a worker they have hired, they will be found guilty of an offence and face a maximum fine of ₦500, a maximum sentence of one year in jail, or both. If a woman presents a medical certificate from a licensed physician stating that confinement will likely occur within six weeks, she will have the right to leave her job in any public or private industrial, commercial, or branch thereof, as well as any agricultural commitment, It is forbidden for a woman to work for six weeks after being confined; If she had been working for her employer continuously for six months or longer immediately before her absence and she misses work in accordance with paragraphs (a) or (b) of this subsection, she will receive at least 50% of her wages back if she hadn't missed work; and, must, in any event, be granted a half-hour twice a day throughout her working hours if she is breastfeeding her kid.

No woman shall labour at night in any industrial enterprise, whether public or private, or in any of its subordinate industries, or in any agricultural enterprise. However, this is not applicable to women working as nurses, in any kind of public or commercial industry, in any type of agriculture, or to women in positions of responsibility in management who do not typically perform manual labour; no lady will be utilized on underground work in any mine. However, this doesn't matter to ladies standing firm on footholds of the executives who don't perform difficult work; or ladies utilized in wellbeing and government assistance administrations; or ladies who in course of their examinations spend a time of preparing in underground pieces of a mine; or whatever other ladies who may periodically need to enter the underground pieces of a dig for the motivations behind a non-manual occupation. The Labour Act 2004 likewise made arrangements denying the work of youthful people during the evening or around evening time. These and others are a portion of the manners in which the Work Act 2004 safeguards the word related wellbeing and security of laborers at work.

Factories Act 1987 (Cap F1 LFN 2004)

The Factories Act 1987 (Cap F1 LFN 2004) is the main legislation for statutory health, safety and welfare of employees at work. It is the general and more central legislation for the protection of health, safety and welfare of the workers at work generally. It is the law concerning employment in factories. Factories as described under Section 87 of the Act are covered by the Factories Act. Unless the premises in which persons are employed can be brought within the meaning of factory as defined by the Act, such premises are outside the scope of the Act and the employees working in such premises are not protected under the Act.

The Act aims to avoid accidents in the sector by either fully stopping or drastically lowering their frequency. In the case of *Stone v Hygarth*, Lord Pearson puts the point succinctly thus:

the Act --- should be regarded as a beneficial rather than a penal statute. Its object is to secure proper working conditions for persons to do manual labour in certain operations and the penalties for failures to provide such conditions are merely incidental to that object.

The overall aim of the Act is to prevent injuries at work, reduce risks, and to guarantee the general welfare of employees at work. The Act deals generally with the health, safety and welfare of workers at work. It imposes certain duties on employers to ensure the health, safety and welfare of their employees. It also imposes some duties on the workers to support compliance with the provisions of the Act. It further created offences and penalties to strengthen compliance and implementations of the Act. The Act also established administrative mechanisms for the implementation and enforcement of the duties provided under the Act.

The Factories Act 2004 is divided into eleven (11) Parts consisting of 89 sections. Part I deals with registration of factories, registration procedure, and processes. Part II deals with general provisions relating to health and sanitation situations of factories. This part includes issues such as Cleanliness, Overcrowding, Ventilation, Lighting, Drainage of Floors, Sanitary Conveniences, and the duties of inspectors as to the sanitary defects.

Part III deals with general safety obligations and standards required for the safety of the worker in the course of work. It includes general safety guidelines for employees using machinery and other equipment. This part of the Act demands that certain kinds of machinery must be securely fenced, such as each flywheel straightforwardly associated with a central player, and each moving piece of a main player, all aspects of transmission apparatus, and each perilous piece of any apparatus. Provisions are also made for power-driven machinery, unfenced machinery, and so on.

Part IV deals with the general standards and obligations for the welfare of a worker at work. This part includes issues such as the supply of drinking water, washing facilities, accommodation for clothing, and first aid facilities. Part V deals with special provisions and regulations relating to the health, safety and general welfare of a worker at work. This part includes issues like the removal of dust or fumes to prevent inhalation, prohibitions of meals in certain dangerous and poisonous places or substances, protective clothing and appliances, protection of eyes in certain processes. Part VI deals with the requirement of all notification and investigation of work mishaps and modern illnesses. Part VII deals with extraordinary applications, expansions, and incidental arrangements. Part VIII deals with general registers, obligations of people utilized in the processing plant, and preclusion of allowances from compensation. Part IX deals with the administration of Act, appointments, and powers of inspectors. Part X deals with offenses and penalties for offences under the Act and legal proceedings. And, Part XI covers general application.

Employee's Compensation Act 2010

The Employee's Compensation Act (ECA) No. 13, 2010 was enacted or passed into law on the 17th day of December, 2010. The Act repealed the Workmen's Compensation Act, Cap W6, Laws of the Federation of Nigeria (LFN) 2004. It is a legislation designed to ensure that the Nigerian workers are adequately protected with regards to compensation whenever accidents or diseases occur at the workplace while they are still in paid employment. It is indeed a comprehensive legislation that promotes occupational safety and health at work for employees and it also enhances their productivity, work

motivation and satisfaction. The Act has extensive measures for compensating workers who are injured in an accident at work or during the course of their job, or who have occupational disorders.

The primary or cardinal objective as stipulated in establishing guidelines for the distribution of compensation, the Explanatory Memorandum of the Employee's Compensation Act of 2010 aims to offer social security and insurance to injured workers and/or their families. All employers and workers in the Federal Republic of Nigeria's governmental and private sectors are covered by the Act. This implies that all labour employers have a duty to make contributions to the Compensation Fund created in accordance with the Act. This clause complements the convention of the International Labour Organisation (ILO), it mandates that all workers, whether in the public or private sectors, be protected by national legislation on workplace injuries.

The Employee's Compensation Act (ECA) 2010 is divided into nine (9) parts (Parts I – IX), consisting of 74 sections and two (2) schedules. The list of occupational illnesses is found in the First Schedule, and the percentages of incapacity for the Compensation are displayed in the Second Schedule. Part I deals with issues like the objectives, scope and exemptions of the Act. The Act does not apply to any member of the armed forces. Part II focusses on the claims filing process. This consists of issues like employee's notification of injuries, employer's duty to disclose employee illnesses or accidents and the application of compensation respectively. Part III of the Act sets out the compensable wounds. This arrangements with pay to workers for wounds, mental stress, occupational diseases, hearing impairment, compensation for injuries occurring outside the normal workplace, and limitation of actions. It also makes provision for non-waiver of compensation, prohibition of contribution by employees, non-assignability of contribution, and vocational rehabilitation.

Part IV of the Employee's Compensation Act 2010 deals with the quantum and scale of compensation. This comprises of compensation to an employee in fatal cases, permanent total disability, permanent partial disability, temporary total disability and temporary partial disability. It also made provision for health care and disability support, the duty of accredited medical practitioners and other specialists, and retirement benefits of an injured worker under the Pensions Reform Act 2014.

Part V of the Act provides for the powers and functions of the Nigerian Social Insurance Trust Fund (NSITF) Management Board for the scheme. Part VI deals with sources of fund for the NSITF scheme, and it consists of employer's contribution to the fund and assessment, and other related provisions. Part VII deals with the management and control of the Compensation Fund. That is, the financial provision. Issues here are the establishment of the Compensation Fund, Management of the Fund expenditures of the Funds, Annual Estimates, Accounts and Audits, and Annual Reports. Part VIII deals with the establishment and functions of the Investment Committee. Part IX of the Act deals with the miscellaneous provisions. Each business is to make a base month to month commitment of 1.0% of the all out regularly scheduled finance into the Asset.

National Health Insurance Authority Act 2022

National Health Insurance Authority Act NO. 17 2022 (NHIA) was enacted or passed into law by the Nigerian National Assembly on 19th May, 2022. The NHIA replaces the Public Medical coverage Plan Demonstration of 1999, which neglected to enlist over 10% of the populace. The NHIA tries to advance, manage and incorporate medical coverage plans. This Act makes health insurance compulsory for all Nigerians and legal residents in the country. Some of the key features of the NHIA are that it repeals the National Health Insurance Scheme's Act Cap N42 2004 and transforms the National Health Insurance Scheme (NHIS) into National Health Insurance Authority (NHIA), it provides free healthcare services funded by the government and its partners to indigent citizens, creates a Council to guide the operations of the National Health Insurance Authority, mandates the creation of state health insurance agencies in all states in Nigeria and so on.

The objectives of the Act are to advance, direct and coordinate health care coverage plots, improve and bridle private area support in the arrangement of medical care administrations, and to do such different things that will help the Expert in accomplishing Widespread Wellbeing Inclusion to all Nigerians.

The NHIA is divided into ten (10) parts (Parts I – X), comprising of 60 Sections and a schedule. Part I deals with the foundation of the National Health Insurance Authority. This consists of issues like the objects of the Authority, functions of the Authority, the Governing Council, tenure of office, Functions and powers of the Council, meetings of Council and so on. Part II deals with types of health Insurance Scheme. It comprises of issues like Health insurance or Contributory Scheme, mandatory participation in health insurance, qualification for application accreditation and license, fees for insurance of license, and so on.

Part III of the NHIA deals with execution of essential medical services arrangement store, and establishment and sources of the vulnerable groups fund. Part IV deals with contributions under the scheme. This consists of issues like the payment of contribution, and registration of employers and employees. Part V deals with health maintenance organization, mutual health associations and third-party administrators. This consists of issues like accreditation and functions of health maintenance organizations and mutual health associations, third party administrators and so on. Part VI deals with staff of the Authority. This consists of issues like the Directors-General and other staff of the Authority, and foundation of workplaces in states and the Federal Capital territory, Abuja.

Part VII deals with the financials provisions consisting of issues like establishment of Fund for the Authority, power to accept gifts, annual accounts, annual reports, and exemption from tax. Part VIII deals with intercession, placation and discretion. Part IX deals with offences, Penalties and legal proceedings. It comprises of issues like offences and penalties, powers to sanction, limitation of action, services of documents, and indemnity of officers. Part X deals with miscellaneous provisions.

National Policy on Occupational Safety and Health 2020

The Federal Executive Council (FEC) approved the National policy on Occupational Safety and Health of Nigeria 2020 in 2020. The policy outlines the government's strategy for accomplishing a number of goals, including a National Development Philosophy that aims to create a united, independent, and egalitarian economy by minimising the causes and effects of workplace hazards as much as is reasonably practicable. The policy is divided into eleven (11) Articles and three Annexures. The objective of the approach is to work with progress of work related security and wellbeing execution by giving the structure to participative work related wellbeing and wellbeing assurance of laborers remembering the most weak gatherings for all areas of financial exercises. The goals of the strategy incorporate making of an overall system to improve working circumstances and the work space, to keep mishaps and takeoffs from wellbeing emerging out of or throughout work, and to guarantee the arrangement of work related security and wellbeing administrations to laborers in all areas of monetary movement. The work related wellbeing and wellbeing strategy applies to all Nigerian work environments including formal and casual areas.

The policy also makes provision for the establishment of a Statutory Authority, which shall be the Federal Ministry of Labour and Productivity, duties of the Federal Ministry of Health, duties of employers, duties of workers, duties of manufacturers, duties of transporters, duties of health and safety committees, and role of the media. The policy also provides for the various strategies through which the various provisions of the legislation will be attained, collaboration, monitoring and evaluation, research and development, and policy review. Annex I deals with the power of the Honourable Minister of Labour and Productivity. Annex II deals with existing legal instruments and Annex III deals with other related regulations.

Pension Reform Act 2014

Pensions is a regular installment payment to persons who have disengaged from service either by attaining a mandatory retirement age, by putting in the maximum number of years of service that can be put into the service of the organization or by requesting to be voluntarily retired and in some cases being compulsorily retired by the organization. It is a social security and welfare package.

The Pension Reform Act (PRA) 2014 is a social security and welfare Federal Legislation that regulates pension affairs in Nigeria. It is an Act that takes away the Pension Reform Act No. 2 of 2004 and replaces it with the Pension Reform Act of 2014, which keeps the uniform contributory pension plan in place for Nigeria's public and private sectors governed and regulated. The goals of the Benefits Change Act 2014 are to lay out a uniform arrangement of rules, guidelines and norms for the organization and installment

of retirement benefits for the public help of the League, the Public administrations of the Bureaucratic Capital Region (FCT), the Public assistance of the State Government, the Public Assistance of the Neighborhood Government Committees and the Confidential Areas; The arrangements of the Benefits Change Act 2014 applies to any work in the Public Administrations of the League, the Bureaucratic Capital Domain, States, Nearby Government Committees and the Confidential Areas.

The Pension Reform Act 2014 is divided into Fifteen (15) Parts (Parts I – XV), comprising of 121 sections and a schedule. Part I deals with the objectives and application of the Act. Part II deals with the establishment of a Contributory Pension Scheme, pace of commitment to the plan, exception of specific people from the plan, and supervision of retirement benefits of employees exempted from the scheme. Part III of the PRA 2014 deals with retirement benefits. This comprises of issues such as death of an employee, missing employees, and exemption from taxes Part IV deals with Retirement Saving Account (RSA).

Part V deals with the National Pension Commission (PENCOM). It comprises issues like establishment of the National Pension Commission, Objectives of the Commission, Governing Board of the Commission, tenure of office of Members of the Commission, cessation of office and emoluments. Part VI deals with the functions and powers of the Commission. Part VII deals with the management and staff of the Commission. This consists of issues like appointment and tenure of the Director-General and Commissioners of the Commission, Secretary and legal adviser, other staff of the Commission, and Executive Committee of the Commission. Part VIII deals with provisions of the Act such as funds of the Commission, Expenditure of the Commission, annual estimates, accounts and audit, annual report, power to borrow, and power to accept gift. Part IX deals with the transitional provisions for the Public Sector. Part X deals with the transitional Provisions for private sector. Part XI deals with Pension Fund Administrators (PFA) and Pension Fund Custodians (PFC). Part XII deals with investment of Pension Funds. Part XIII deals with supervision and examination. Part XIV deals with offences, penalties and enforcement powers of the Act. Part XV deals with the miscellaneous provisions of the Act.

Nigerian Social Insurance Trust Fund Act No. 88 1992

The Nigeria Social Insurance Trust Fund (NSITF) Act No. 88 1992 is a Social Security and welfare legislation that established the Nigeria Social Insurance Trust Fund, a body that provides compensation to insured employees in case of work-related diseases, disability, injuries, or death. This holds when the accident or demise happens in the workplace or outside it.

The NSITF Act 1993 is made up of Nine (9) Parts (Parts I – IX) comprising of 45 Sections. Part I deals with the establishment and composition of the Nigerian Social Insurance Trust Fund (NSITF), Management Board, Membership of the Board, Tenure of office, Functions of the Board and cessation of membership.

Part II deals with Management of the Fund and Staff of the Board, comprising of issues like appointment of the Managing Director and Executive Directors, removal from office of the Managing Director and Executive Director, and appointment of Secretary and other staff members. Part III deals with Coverage and exemption and Part IV deals with Contributions. Part V deals with benefits. Part VI deals with Inspectors and powers of entry. Part VII deals with penalties and legal proceedings. Part VIII deals with the Financial provisions, which consists of issues like the estimates, expenses to be paid out of the fund, Investment of Funds, Accounts and Audit, and Annual Report. Part IX deals with the miscellaneous Provisions.

National Industrial Court Act No. 1 2006

The National Industry Court (NIC) Act No. 1 2006 is a federal legislation which established the National Industrial Court of Nigeria (NICN) and vested on the court the exclusive prerogative to handle or entertain all labour, employment and industrial relation matters to the exclusion of any other court in Nigeria. The Act is divided into six (6) Part (Parts I – VI) comprising of 55 Sections. Part I deals with the constitution of the National Industrial Court, which consists of issues like establishment of the National Industrial Court of Nigeria (NICN), appointment of the President and Judges of the Court tenure of office, salaries and allowance, and seal of the Court. Part II deals with jurisdiction and law, while Part III deals

with sitting and distribution of Business of the Court, Part IV deals with general Provisions as to trial and procedure. Part V provides for the power of the president of the National Industrial Court of Nigeria (NICN) to make Rules of Court, and Part VI deals with the Miscellaneous provisions.

Regional Legal Framework

As it concern the West African Region, there are laws governing the operations of occupational health and safety of workers as the workplace, and these laws operate as persuasive forces, and have over time, proved to be efficient in modeling the structure and operations of occupational health and safety of workers at the workplace. An examples of regional legislation is the African Charter on Human and Peoples' Rights, and is very relevant to this dissertation topic.

African Charter on Human and Peoples' Right 1981

Although it was passed in June 1981, the African Charter on Human and Peoples' Rights (ACHPR) didn't go into effect until October 21, 1986. It is a regional tool for human rights intended to advance and defend fundamental liberties and human rights throughout Africa. The ACHPR 1981 is divided into Sixty-Eight (68) articles some of which touch on the protection of the occupational health and safety of workers at the work place.

An expansion of the right to life is the workplace's occupational health and safety. People are untouchable. Every individual has the right to be treated with dignity and to have their life respected. Nobody's rights may be taken away from them without cause. Every person has the right to have his or her legal position recognised and to have the intrinsic dignity of a human being respected. It is forbidden to use any kind of force or dehumanise someone in any way, including slavery, the slave trade, torture, and harsh, inhumane, or humiliating punishment or treatment. Also, every person has the right to work in fair and comfortable circumstances and to be compensated equally for equivalent labour. Each and every person must have the right to the highest possible condition of bodily and mental well-being, according to these regional instruments. State signatories to the Charter shall take the required actions to safeguard the health of their citizens, including employees, and to guarantee that they get medical care when ill.

Foreign Legal Framework

Foreign laws like the Health and Safety at Work Act No. 37 1974 of the United Kingdom, Workmen's Compensation Act 1987 of Ghana, and the Factories Act 1948 of India will be examined as they relate to this dissertation.

Health and Safety at Work Act 1974 of the United Kingdom

The Health and Safety at work Act (HASAWA) No. 37 1974 of the United Kingdom (UK) is the primary legislation covering occupational health and safety in the United Kingdom. The Act made provision for the establishment of two bodies corporate, the Health and Safety Commission and the Health and Safety Executives. This is similar to the National Health Insurance Authority Act 2022 of Nigeria, which established an Authority for similar purpose. The UK's HASAWA 1974 required employers to ensure employees' health, safety, and welfare while also safeguarding non-employees from hazards to their health or safety resulting from or related to their work-related activities. The Executive has the power to establish sufficient arrangements for the application of the applicable statutory requirements. When at work, an employee has an obligation to take reasonable precautions for his own health and safety as well as the health and safety of anybody else who could be impacted by his actions or inactions.

OCCUPATIONAL HEALTH AND SAFETY: ENSURING WORKER WELL-BEING

The study of the occupational health and safety of workers at the workplace cannot be overemphasized. Despite this study and the enactment of various legislations on the subject matter, there still exists a plethora of industrial conflicts and disputes between employers and employees. It is therefore expedient that research on this area of the law is made, as it is being done by the researcher, in order to identify the extant legislations regulating the occupational health and safety of workers at the workplace, identify the lapses or defects of those legislations and proffer solution on how to improve the legislations and also to improve the well-being and occupational health and safety of workers and the work place.

The International Law Organization (ILO) Constitution, Conventions and Recommendation have remained emphatic on the need to guarantee the health and safety of workers at the work. Similarly, the Federal Republic of Nigeria (CFRN) 1999 (as amended) Constitution is very clear that the Nigerian State must focus its policies on making sure that everyone employed has their health, safety, and welfare protected and not mistreated. Other legislations which provides wider specific areas of protection to prevent injuries and guarantee the safety and health of workers at work include the Factories Act 2004 which imposes several duties on an employer for the health, safety and welfare of workers at work; the Employee's Compensation Act 2010 which provides for several levels and scale of Compensation in the event of fatality, injuries leading to permanent total and partial disabilities and temporary total and partial disabilities, and the Pension Reform Act 2014 which regulates various payments to be made to a pensioner whether in the Public or private sector of employments.

General Health Provisions in Factories

The Factories Act 1987 (Cap F1 LFN 2004) makes provisions regulating the general health of workers in factories on the following areas:

Cleanliness: Every factory must maintain a clean environment free from sanitary conveniences, drains, and other annoyances. Every day, dirt must be cleared from floors, seats, and hallways. Workroom floors need to be well cleaned, preferably with a wash once a week.

Overcrowding: A factory cannot be so packed with workers that it endangers their health or is hazardous to their well-being while operations are underway. A factory is presumed to be overcrowded if at any given time the number of persons employed in a workroom is such that there is less than 400 cubic feet of air-space.

Ventilation: Appropriate and efficient measures must be taken to ensure that every workroom has enough ventilation through the flow of fresh air, and for making any fumes, dust, and other contaminants that may be produced during the course of work harmless, to the extent that is practically possible.

Lighting: All areas of a factory where people are working or passing through must have effective lighting arrangements, whether they come from artificial or natural sources. Additionally, the workshop is lit by all of the skylights and glass windows or workrooms must, so far as is reasonably practicable, be kept clean on both sides, except that they may be white washed or shaded in order to avoid glare.

Drainage of Floors: In the event that a procedure is conducted that causes the factory's workroom floor to get so wet that drainage is possible, efficient methods for draining the wet must be established and maintained.

Sanitary conveniences: The workers at the factory must have access to adequate and acceptable sanitary facilities. It is important to maintain the cleanliness of the facilities and make efficient arrangements for lighting them. When workers at a manufacturing are both male and female, separate accommodation for the two sexes must be provided, except they are members of the same family.

General safety provisions in factories

The Factories Act 2004 demands that certain kinds of machinery must be securely fenced. They are:

- a. All flywheels that are directly attached to prime movers and all of their moving components.
- b. Every part of a transmission machine.
- c. Every dangerous part of any machine.

By the provisions of the Factories Act 2004, Prime movers and transmission machinery must be securely fenced even if they are not dangerous, while other machinery must be fenced only in-so-far-as they are dangerous. In *John Summers and Sons Ltd v Eros*, the thumb of a fitter was injured when it came into contact with a revolving grindstone. The upper part of the machine was guarded and there was a tool rest at the bottom, but a portion of the stone was unguarded. The employer was held liable as the impracticability was not an excuses.

The duty to fence applies only to machinery which is being used in the factory as part of its productive equipment and not to machinery which is either made in the factory or which has been sent there for repair. In *Parvin v Machine Company Ltd*, an employee of seventeen years old was injured while cleaning

a dough break made in the factory of his employer. It was held that as the machine had not been manufactured in the factory, the duty to fence did not apply.

For the safety of workers on the premises, the Factories Act 2004 requires that certain machinery used in the work must be fenced and securely safeguarded while in motion or use. This includes prime movers, gearbox gear and all other potentially hazardous components of any apparatus not listed above. Fencing for the purpose of the Factories Act 2004 means the erection of a fence or guard. This duty is absolute. Thus, if a machine cannot be securely fenced while in motion or in use for the work process, it cannot be used for work in the factory. Besides, all fencing and other safety measures installed in accordance with the fencing regulations must be of a substantial nature, kept in good repair, and positioned when the areas that need to be fenced off or protected are moving or being used. This is important to keep the workers out of physical contact with the machine while in motion or use and to safeguard the workers against all reasonable danger. In all instances, the assessment of compliance with the safety standards set out under the Factories Act must take cognizance of the nature of the exposure necessary for the maintenance of the system generally. A person engaged for such purpose must be a male of not less than eighteen (18) years. Such a person must be properly trained and acquainted with the danger of moving machinery arising in connection with such processes and equipped accordingly for such work.

CONCLUSION

This study has examined the issues of occupational health and safety of workers at the workplace and ways to bring about the well-being of workers. In doing this, the researcher has successfully discussed the meaning of occupation as an activity or pursuit in which a person is engaged; especially a person's usual or principal work or business; Health is a condition of whole physical, mental, and social well-being rather than just the lack of illness or disability. The researcher has also defined safety as a state in which a person is free from danger or situation that can cause harm or injury to person or damage to equipment. The researcher went further to identify some duties of the employer at the workplace by ensuring the provision of a safe place of work, a safe system of work, safe plant and equipment, training and supervision and competency staff so on. The researcher also highlighted on the difference between a worker who is engaged in a contract of services and a worker in a contract for service.

Also discussed by the researcher is the pension administration and benefits in Nigeria. Here, the researcher defined pension as a regular installment payment to persons who have disengaged from services either by attaining a mandatory retirement age, by putting in the maximum number of years of service that can be put into the service of the organization or by requesting to be voluntarily retired and in some cases being compulsorily retired by the organization. The researcher went further to state that the pension administration in Nigeria is regulated by the Pension Reform Act 2014, which created the Contributory Pension Scheme, requiring an organization's employees and employers to jointly contribute to the Retirement Savings Account opened in the employee's name. The employer was required to contribute at least 10% of the employee's total monthly salary, and the employee was required to contribute at least 8% of the employee's total salary to the employee's retirement savings account. The researcher also covered the roles of Pension Fund Administrators and Pension Fund and assets are held by the Pension Fund Custodian which shall be licensed by the Pension Commission. The researcher also made a comparative analysis between the occupational health and safety legal regimes of Nigeria, and those of Ghana and India, stating that though there are some differences, between these statutes, but the provisions of the regulating statutes are identical in major areas due to the colonial history of all these countries.

RECOMMENDATIONS

The current or extant legal frameworks on occupational health and safety of workers at the workplace is quite limited and not all-encompassing, as so single legislation provides for the prevention of occupational injuries, death and diseases, while at the same time providing for the various compensations to be paid to workers or their dependants in the event of injury, death or diseases affecting or happening

to a worker. As can be gleaned from the study, many lapses are present in the various legislations touching on occupational health and safety.

For these reasons, the following recommendations are made:

- i. Enactment of a single legislation that provides for both preventive mechanisms and compensation mechanisms on the occupational health and safety of workers at the workplace.
- ii. Enactment of a legislation that makes copious provisions on occupational death, injuries or diseases to workers, not occurring at the workplace, but outside the workplace, due to work activities such as cardiovascular diseases like diabetes, hypertension and prostate enlargement or cancer, occurring as a result of the sedentary nature of most professional workers such as lawyers, lecturers and so on, in the post-covid-19 era, where most works are remotely performed, and not performed at the workplace.
- iii. Amendment of the Pension Reform Act 2014 to reduce the amount of contribution to be made by an employer into the retirement savings account of an employee to at least 18 percent where such an employee chooses or elects to make the contribution alone, so as to encourage employers to make the full contributions alone.

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