Do occupational health services really exist in Kenya?

A special focus on industry and other sectors

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History of occupational health services

The enactment of the Factories Act Cap 514 in 1951 saw the emergence of occupational safety and health in Kenya. The crafting of this legislation was prompted by the enactment of the Workers’ Compensation Act Cap 236 in 1948.

However, it was not until 1974 that the then Minister for Labour requested the International Labour Organisation during the 62nd International Labour Conference for assistance to strengthen factory inspection and in the establishment of specialized inspections. This culminated in the ILO/FINNIDA Project that commenced in 1978 that established specialized divisions, namely engineering, medical and hygiene in support of the general inspection and field services. This led to the recruitment and training of three medical officers, four nurses, four hygienists and the establishment of laboratory and work environment monitoring services. This was the first time that coherent occupational health services (OHS) were offered in Kenya.

Legal basis and financing

Although occupational health services are referred to in several statutes of Kenya such as the Public Health Act Cap 242, the Environmental Management and Coordination Act 1999, the Petroleum Act Cap 116, the Food, Drugs and Chemical Substances Act – Cap 354, the Factories Act Cap 514 is the primary Occupational Safety and Health Act. The Act has been revised several times in order to reflect not only developments in technology and knowledge but also to address new areas of coverage other than factories/industries. The last such amendment was in 1990 when the Act was amended to include among others:

- “Other places of work”
- List of occupational diseases
- Establishment of health and hygiene standards
- Reporting of occupational diseases
- Direct penalties for medical practitioners failing to report occupational diseases that they diagnose
- Pre-employment, periodic and post-employment medical examinations
- Research into causes of work-related diseases among others
With the introduction of “Other Places of Work”, occupational health services were by law extended to cover, in addition to factories, other workplaces, including agriculture and workplaces employing more than two persons, such as the informal sector. However, the provision of services in practice focused mainly on factories/industries and commercial agricultural farms. Over the years only minimal occupational health services have been offered to small enterprises and the informal sector due to limited resources and facilities that are made available through government funds. This is despite that the Factories and Other Places of Work Act 1990 provides for the establishment of a Fund to support occupational safety and health services through contributions from employers, but to date the Fund has not yet been established due to unsolved technicalities.

**Providers, functions and staffing**

The Directorate of Occupational Health and Safety Services under the Ministry of Labour and Human Resource Development currently has an authorized establishment of 239 occupational health and safety officers as shown in Table 1.

<table>
<thead>
<tr>
<th>Specialization</th>
<th>In-Post</th>
<th>Authorized Establishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupational Health and Safety/Engineers Hygienists</td>
<td>44</td>
<td>168</td>
</tr>
<tr>
<td>Occupational Health Physicians</td>
<td>7</td>
<td>21</td>
</tr>
<tr>
<td>Occupational Health Nurses</td>
<td>6</td>
<td>50</td>
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In addition to routine and specialized inspections, the Department provides medical surveillance and runs a workers' clinic that is supported with medical supplies by the Ministry of Health Medical Supplies Department. Patient referrals, where necessary, are made to the district, provincial and national public hospitals although these have no occupational health services per se. The clinic also provides HIV/AIDS prevention counselling services for workers.

The Department is also staffed with occupational hygienists who provide workplace environmental monitoring and teaming up with the engineers and other personnel provide advice on the prevention and control of workplace hazards. As seen from Table 1, only about 25% of the posts are filled and this poses a big challenge in the provision of occupational health services. Other challenges include poor coverage especially of the small enterprises and the informal sector that employ the majority of the workforce, recognition of occupational diseases, including traditional ones, and recognition of OHS as a primary business concern. Furthermore, workers have not done enough to supplement and promote activities for enhancing OHS. With the growing informal sector and the introduction of new technologies in vast agriculture new strategies are required in the provision of services if OHS have to make the desired impact.

In addition to the Ministry of Labour and Human Resource Development, the Ministry of Health has established an Occupational Health Division currently manned by one of-
ficer at the headquarters. The Unit, however, oversees the work of several nurses and public health officers who have graduated with a diploma in occupational health and safety for the Medical Training Center who are deployed countrywide within the Public Health Care system (PHC). The two ministries developed the programme.

Over the last decade, more and more larger enterprises have established in-house health services that cover OHS and some non-governmental Organizations such as African Medical Air Rescue Foundation (AMREF) also carry out activities in OHS especially in support of short-term training in occupational health.

**Unique features**

One of the unique features of the occupational health system in Kenya is that it places a penalty to medical practitioners who fail to report any occupational disease once they diagnose it to the Director of Occupational Health and Safety Services.

Many enterprises are outsourcing medical services to private healthcare providers and insurers who tend to ignore chronic diseases, cancers, HIV/AIDS and other diseases, such as musculoskeletal disorders, thus indirectly denying workers’ effective preventive and curative OHS.

**Coverage**

No actual studies have been carried out to show the extent of coverage in industries and other sectors. Inspection records, though available, may be misleading as the exact number of workplaces requiring the services is not exactly known especially with the sprawling informal sector. Due to the previous set-up of the OHS system, larger industries are better covered than small and medium-sized enterprises and other sectors.

**Planned changes**

1. **Legal and Financing**

A new Bill “Occupational Safety and Health Bill” was drafted in 2003 to replace the “Factories and Other Places of Work” and currently awaits parliamentary debate. This Bill is closely linked to the draft Bill on “Work Injury Benefits Act” that will also cover OSH financing, including rehabilitation, prevention and promotional activities among others. The Bill awaits parliamentary debate and once passed, both these two Acts will be implemented under the same management.

Another Bill that has already gone through the parliament and now await amendments prior to Presidential accent that will promote OHS is the “National Social Health Insurance Scheme” that aims at making health care accessible to all Kenyans, with those with higher incomes supporting the less privileged. Funding is expected to come from government as the main contributor at over 75% with the rest coming from the private sector. (Sessional Paper No. 2 of 2004).
2. Functions – Matching services to the needs and extension of coverage

Without a functional national policy and programme on occupational safety and health services that is fully supported by all stakeholders with adequate resources and facilities, the provision of effective OHS to all will continue to be constrained. A positive step is that OSH national profiles have been carried out and discussed in a tripartite sub-regional workshop during which priority areas for action were identified.

In order to increase the number of practitioners, intermediate courses in colleges and post-graduate courses at the University level such as are planned at Moi University will ultimately promote the profession though a lot needs to be done for industry and other sectors to absorb the graduates. A challenge exists to introduce training right from primary schools and to multi-skill healthcare workers within the entire PHC in order for them to provide effective first level services.

3. Capacity building and quality assurance

A major challenge exists to build the necessary capacity, not only for regulators, supervisory and advisory institutions but also for employers or workers. The Factories and Other Places of Work (Safety and Health Committee Rules) 2004.LN No. 31 is serving to improve the capacity of both workers and managers as it requires that those in safety committees must be trained by practitioners duly authorized by the Directorate of Occupational Health and Safety Services thereby ensuring quality and ethics in the profession.

Problems and needs for international assistance

Proper funding, recruitment of staff as per establishment, professional training for OHS practitioners and provision of adequate tools and equipment remain as some of the primary issues that hamper not only the coverage but also the impact of the OHS.

Kenya is currently working with other East African countries (Tanzania and Uganda) in the harmonization of OSH policy and legislation. Together with these countries, it aims to develop and launch a national OSH programme in line with the Global OSH Strategy adopted at the 91st International Labour Conference in collaboration with the social partners. The country requests for international assistance:

• To launch and implement the national OSH programme that will eventually be integrated into the national social and economic programmes
• To convene a tripartite meeting for the elaboration of the national plan of action in follow-up to the Ouagadougou AU Extra-ordinary Summit Declaration that targets among others the establishment, extension and enhancement of social safety-nets, including occupational safety, health and hygiene, in addition to programmes targeting the vulnerable groups especially in rural areas and the HIV/AIDS pandemic.
• For the creation of national TREE programmes with the technical assistance of the ILO/SKILLS with an eventual integration into the region
• To strengthen OSH information and research activities
• To discuss and develop a strategy for the implementation of OSH activities within the East Africa partner states of Kenya, Tanzania and Uganda
• To implement activities as contained in the WHO/ILO African Joint Effort (AJE)
• To promote ILO Conventions with a view to further the ratification and implementation.

References