

The importance of an occupational safety and health legal framework and its progress in southern Africa

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Introduction

Mining and non-mining (or industrial) activities play pivotal roles in the economy of the African region; however, inadequate regulation of these industries to enforce occupational safety and health (OSH) standards expunges those economic benefits. The outbreak of COVID-19 added to the chronic nature of the OSH situation in Africa. The African Union has designated several institutions, statutes, protocols, charters, and agreements in many areas – except in the area of worker safety. Nevertheless, safety and health have been mentioned in some documents of the African Union, such as the African Charter

for Human and People's Rights,¹ the Ouagadougou Declaration,² and the African Road Safety Charter.³ These generic instruments broadly cover health, safety and security, which could be widely interpreted as general public health issues, safety, and security during conflicts. The limited OSH directives of the African Union are framed in generic policies, some of which are outlined in Table 1.

Why is an OSH regulatory framework so important?

The OSH regulatory framework is primarily a set of laws and rules that stipulates how certain businesses and/or workplaces should be safely

Table 1. Summary of African Union policy instruments*

Policy framework	Goals and targets/objectives
WHO African Region: Ouagadougou Declaration on Primary Health Care and Health Systems in Africa, 2008 ²	<ul style="list-style-type: none"> • Leadership and governance for health goal: to create and manage enabling environments for health development • Health service delivery: to ensure well-chosen, well-organised and well-implemented health services that put people at the centre • Human resources for health: have in place a well-managed, skilled, and motivated health workforce to deliver effective health services • Health financing: to foster the development of equitable, efficient, and sustainable national health financing to achieve national health goals • Health information systems: increasing access to quality and safe health technologies, including medical devices, laboratories, medicines (including traditional medicines), vaccines, procedures and systems • Community ownership and participation: attain effective community participation in health development • Partnerships for health development: improve harmonisation and alignment towards government-led policy and strategic recommendations • Research for health (refer to Algiers Declaration⁹)
African Union: Africa Mining Vision, 2009 ⁹	<ul style="list-style-type: none"> • To attain a "transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development" • A mining sector that harnesses the potential of artisanal and small-scale mining to stimulate local/national entrepreneurship, improve livelihoods, and advance integrated rural social and economic development • Ensure compliance of industry players with the highest standards of corporate governance, and environmental, social and material stewardship • To create a mining sector that is environmentally friendly, socially responsible, and appreciated by all stakeholders and surrounding communities • Environmental and social responsibility, gender justice, and women's rights
Africa Agenda 2063, 2015 ¹⁰	<ul style="list-style-type: none"> • A prosperous Africa, based on inclusive growth and sustainable development • An Integrated continent, politically united, based on the ideals of Pan Africanism and the vision of Africa's renaissance • An Africa of good governance, democracy, respect for human rights, justice and rule of law • A peaceful and secure Africa • An Africa with a strong cultural identity, common heritage, values and ethics • An Africa with people-driven development, especially relying on potential offered by its women and youth, and well-cared-for children • An Africa that is a strong, united and influential global player and partner
SADC Protocol on Employment and Labour, 2014 ¹¹	<ul style="list-style-type: none"> • Everyone has a right to improvement of their working and living conditions, decent work for all, social protection, occupational safety and health, healthcare, education, training, and skills development, etc. • Parties shall adopt instruments that will accommodate and promote the wellbeing of persons with disabilities, informal employment and rural workers, access and sharing of information, etc.
SADC Protocol on Mining, 1997 ¹²	<ul style="list-style-type: none"> • SADC member states shall promote the enhancement of technological capacity, promote common standards and certification schemes, small-scale mining, environmental protection, occupational safety and health, and information exchange, including research and development

*Not an exhaustive list of the generic OSH policy instruments in the African region

operated. The primary aim of the regulatory framework is to protect workers from any hazards that arise from the work they perform, and/or to preserve the health and safety of workers, visitors, the environment, and neighbouring communities, including the company properties. The OSH regulatory framework outlines the rights, duties and responsibilities of employers, contractors, government, regulatory bodies, supervisors, owners, and workers in their respective working environments. The framework comprises regulatory requirements, regulatory guidelines, and codes of practice.

Modern safety and occupational health morbidities and mortalities are exacerbated mainly by the inherent system of maximum production, profit and consumption.⁴ The system often disregards the fact that occupational safety and health is a fundamental human right, simply because businesses prioritise maximum profits at the expense of sound business practices, health and safety of workers, and human rights principles. This system of extreme production, profit and consumption has, for many years, thwarted the prevention efforts and, somehow, promoted the idea of treatment as the primary means to achieve a healthy workforce; even to the extent of promoting unscientific approaches as prevention methods for occupational lung diseases. For example, many industries in the region have provided milk, as a means to prevent the development of occupational lung diseases, to workers who are exposed to toxic mineral dust. It is also safe to say that poverty is a major contributing factor. A hungry individual will do anything to feed him-/herself and his/her family.

Occupational safety and health is a basic human right. These universal challenges and threats to the basic human rights of life and security of workers, posed by unsafe and unhealthy working environments, have been clearly articulated in international human rights instruments and International Labour Organization (ILO) standards. The ILO constitution preamble mentions "... the protection of the worker against sickness, disease and injury arising out of his employment". The preamble further states that "... failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries."⁵ There is a need to create or adopt a regional harmonised OSH prevention standard because challenges and diseases know no borders. According to the Universal Declaration of Human Rights, proclaimed in 1948, Article 3, "Everyone has the right to life, liberty, and security of person."⁶ The former UN secretary-general, Kofi Annan, once said that "Safe work is not only sound economic policy, it is a basic human right."⁷ Therefore, the promotion of the rights of workers to a safe and healthy working environment must be recognised as a fundamental human right.

Update on the current regional OSH policy development

The African Union Development Agency (AUDA-NEPAD), in partnership with the World Bank, Global Fund, Southern African Development Community (SADC) and partners, is developing three fundamental OSH guidelines, namely, the regional health risk assessment guidelines, the regional harmonised occupational health exposure limits guidelines, and the regional occupational health (medical surveillance) guidelines. The occupational health code of practice is almost complete; it is undergoing quality assurance and peer review, and will be published in mid-2021.

Conclusion

The sustainability of any developments in the region, including OSH or tuberculosis investments, can only be realised when there are comprehensive and sound OSH policies and guidelines, which can be implemented by employees, government, and employers. Speaking one language is important; therefore harmonisation of these key policy

instruments in the region is imperative. The African Union, its organs, and partners are currently collaborating to address this oversight in a quest to protect the African working population by eliminating accidents and incidents. The hypothesis is that a sound and healthy working population is an antidote to tonnes of problems plunging the continent into conflicts, poverty, and diseases.

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