Malaysia goes for tripartism on safety and health

A new emphasis on tripartism has helped to improve occupational health and safety in Malaysia. But there is still much to be done.

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In Malaysia, the traditional approach to providing safety and health at the workplace was based on the popular view that the government can avoid occupational hazards through enforcement of detailed regulations. However, this heavy reliance on government has now given way to a new strategy of promoting a tripartite approach to occupational safety and health in all sectors of the economy.

The responsibility for safety and health is placed at the enterprise level, where an effective and accountable internal system is developed in which management and workers and their organizations play a leading role, and self-regulation is encouraged, consistent with standards promulgated through laws and regulations by the government.

Occupational Safety and Health Act 1994

The Occupational Safety and Health Act came into force in February 1994. It covers all economic sectors, including the public services and statutory authorities, except those subjected to the Merchant Shipping Ordinance and the armed forces.

The Act and the accompanying regulations oblige employers to provide and maintain safe plant, work systems, workplaces and working environments. Employers are also required to provide information, instruction, training and supervision to enable employees to perform the work in a safe manner and without risks to health.

The systems and procedures focus on the following areas of concern:
• safety and health training
• safe systems of work
• environmental control
• safe workplaces
• machine guarding
• housekeeping
• safe plant and equipment
• noise control
• dust control
• safe use of toxic materials
• internal communication and participation
• utilization of safety committees
• fire safety and prevention
• medical facilities and welfare
• accident reporting and investigations
• emergency procedures and monitoring
• radiation safety.

It is the obligation of the employer to establish a Occupational Safety and Health Committee where there are more than 40 employees. The committee's main function is to review the measures and investigate any matters arising. There must always be consultation between the employer and the committee on safety and health matters. It is important to note that approximately 20% of the employers in the formal sector have less than 40 employees in their enterprise and, therefore, are exempted from this obligation.

A competent safety and health officer has to be appointed in industries which have been gazetted by the Minister. The safety and health officer's job is to ensure compliance with the Act and promote safe conduct of work. Medical surveillance is also mandatory in industries where work may pose risks to health of workers.

It is the duty of an employer to notify the nearest occupational safety and health office of any accident, dangerous occurrence, occupational poisoning or disease
which has occurred or is likely to occur at the workplace. Doctors are also required to report cases of occupational poisoning or occupational diseases.

The Act also provides for the establishment of the tripartite National Council for Occupational Safety and Health, which may carry out investigations on health and safety issues over a wide range of areas.

Breaches of the Act are punishable by fines, imprisonment or both.

**Three sectors at risk**

The three important sectors which incur high rates of accidents are manufacturing; trading; and agriculture, forestry and fishing. These three sectors contribute approximately 72% of the industrial accidents that are reported to the Social Security Organization. It is important to note that a large number of accidents do not enter the statistics because they occur in the small-scale enterprises and among workers who are in the informal sector of the economy.

The manufacturing sector is complex in its structure. The majority of the firms involved are in the small and medium-scale industries where the unionization of workers is low or absent. Further, some of these small-scale industries are family-owned businesses with family labour. Added to this are the home-based industrial activities which provide services to the larger manufacturing industries, e.g. assembly of components at home. It is impossible to expect the enforcement or compliance of standards of occupational safety and health at these kinds of work establishment.

In the trading sector, the number of accidents is also high - especially commuting accidents incurred by the workers in this sector. In these cases, occupational safety is not confined to the work premises but also applies to risks involved in commuting and traffic hazards.

In the plantation industry, industrial accidents are also relatively high. The Malaysian plantation industry is tree crop based. Oil palms, rubber, coconut, cocoa
and tea are all tree crops. Each crop has its peculiar hazards. Occupational safety and health standards in the plantation industries are poor compared with other sectors of the economy. Crop workers in particular are left to manage their safety on their own. For example, oil palm harvesters working in tall palm areas require appropriate protection from loose fruits and trash that can injure their eyes and heads. However, plantations have yet to take this seriously enough to provide workers with safety equipment that is practical and suited to the climatic conditions.

Similar situations exist with regard to workers handling pesticides and other field implements. It is assumed that plantation workers have an understanding of the safety and health aspects of their work, but the high incidence of accidents on the plantations shows the weakness of the system. Occupations have yet to be scientifically assessed by medical practitioners to determine the short-term and long-term health implications of each occupation. The obvious risks are, of course, well-known but the long-term implications still require in-depth research. This form of research is vital to establish appropriate preventive measures.

Fieldwork involving machinery and implements is also an important risk area in plantations. Transportation - and in field operations, machinery and appliances - is not inspected and certified safe and fit for use by any public authority. Transport equipment, for example, is not subject to Road Transport Department certification unless the vehicles use public road systems. The absence of such periodic evaluation and certification by competent authorities has meant that a great deal of unsafe equipment is still in use in the fields. The government must take this issue seriously.

One other important hazard for plantation workers is working with insecticides, herbicides and fungicides.

There is wide use of pesticides, herbicides and fungicides in all agricultural subsectors. The risks to workers from these chemical formulations are high. While there is a concerted effort to remind workers of the hazards involved, some are still negligent about taking care of themselves.
Employers who engage workers on a contract for services usually leave the responsibility of occupational safety and health to the contractors. The results of pesticides poisoning are in many cases seen only after a time lag. So the warning signs are delayed and the workers do not take the symptoms seriously. They prefer to opt for other work for a short while to recover and then return to their occupation with the chemicals.

Work in rubber factories, palm oil mills and other agricultural processing plants is relatively better organized, compared to field operations. The Occupational Safety and Health Act and the activities of the Department of Occupational Safety and Health have improved standards at these workplaces. However, there is need for further improvements, especially through education programmes and the training of workers to be safety-conscious.

**Social Security Organisation (SOCSO)**

The government has been concerned about relief for workers involved in industrial accidents. In order to provide a comprehensive social security safety net for workers, the government enacted the Employees' Social Security Act, 1969, and the Employees' Social Security (General) Regulations, 1971. SOCSO is managed by a Board of Directors with representatives from the government, employer organisations and trade unions. This tripartite representation builds a joint responsibility for caring for injured workers and promoting occupational health and safety.

The protection given by SOCSO covers medical care, cash benefits, provision of artificial aids and rehabilitation. SOCSO has ensured universal coverage of employees through the principle of co-operation with employees and employers.

The principal and immediate employer (this refers to an employer who has employed the employee directly to work for him) who employs one or more employees is required to register and contribute monthly for all employees. The principal employer is also liable to ensure that all employees employed by the immediate employer have been registered and their contributions have been paid.
Contributions are made for each eligible employee according to the rates specified under the Act. The employee's share of 0.5% of wages is paid for coverage under the invalidity pension scheme while the employer for the employment injury scheme pays 1.75% and the invalidity pension scheme. The rate of contribution is based on the monthly wage of the employee in accordance with 24 categories. Contributions should be made from the first month the employee is employed.

In the event that the employees have not been registered and the immediate employer cannot be located, the principal employer is liable under the Employees Social Security Act, 1969 for all contributions.

A worker employed under a contract of service or apprenticeship and who is an employee under the Act and earns a monthly wage of RM2,000 or less must compulsorily contribute to SOCSO.

There are two situations regarding employees who earn more than RM2,000 monthly. They are:

- Employees who have been previously registered and have contributed to SOCSO must compulsorily continue to contribute even if the present wage exceeds RM2,000 per month. These employees will be protected in line with the principle of "once covered always covered" to preserve their rights acquired under the Invalidity Pension Scheme.

- Employees who receive a monthly wage exceeding RM2,000 and who have not previously registered or paid contributions to SOCSO are given an option to be covered under the Act. Both the employer and employee have to consent to the coverage, by filling the necessary form.

All employees eligible for coverage under the Act must register and contribute to SOCSO irrespective of their employment status, whether it is permanent, temporary or casual in nature. However, certain categories of workers are exempted from
coverage, namely government employees, domestic servants, the self-employed and foreign workers (exempted since 1993).

All employees must be registered irrespective of their age. However, employees who exceed age 55 will continue to be protected if they continue to be employed after that age. Only the employer contributes to SOCSO for such employees.

This is a compulsory scheme. Employers must cover their employees even if they have other private insurance coverage for them. Employees are eligible to claim benefits from SOCSO and compensation under any private insurance policy in the event of an accident.

SOCSO provides protection to eligible employees through two schemes, the Employment Injury Insurance Scheme and the Invalidity Pension Scheme.

The schemes provide an employee with protection for:

- accidents that occur while travelling to or from work or in connection with work
- accidents that occur at the workplace, and which arise out of and in the course of employment
- diseases that result from exposure to various hazards at work.
- When an employee meets with an accident or suffers from any occupational disease, he or she is entitled to treatment at a SOCSO Panel Clinic or at any government hospital or clinic.

**Conclusion**

Standards of Occupational Safety and Health in Malaysia have improved over time. The Occupational Safety and Health Act and regulations are supported by other legislation specific to areas of concern e.g. the Factories and Machineries Act and the Pesticides Act.

The government has encouraged a tripartite approach to promoting occupational
safety and health at work. Trade unions and employer organizations play a key role in promoting safety and health education programmes for employers and workers.

The government has also established a National Institute of Occupational Safety and Health to promote education, research and development in this field, thus supporting the work of the Department of Occupational Safety and Health in the Ministry of Human Resources. In addition, non-governmental organizations such as the Society for Occupational Safety and Health also play an important role in increasing workers’ awareness.

Although there is effective support for the formal sector of the employment market, there is serious concern about workers in the informal sector who do not benefit from these programmes or SOCSO. The presence of a large number of immigrant workers, especially illegal immigrant workers, compounds the problems associated with occupational safety and health, as most immigrant workers are employed through contractors for labour services.

The government is actively pursuing research and development, but there is a need for greater flow of information between medical agencies, e.g. hospitals and clinics, and research establishments so that information on trends can be monitored for proactive intervention in order to prevent a deterioration of standards.

One particular deficit is the lack of any focus on the specific needs of women workers, especially in the plantation industry.

The challenge ahead is to further strengthen the tripartite role in raising standards of occupational safety and health, based on the principal that “prevention is better than cure”.