

**MANUFACTURING COMPANIES' COMPLIANCE WITH THE
OCCUPATIONAL HEALTH AND WELFARE ACT 1997: THE CASE STUDY
OF UNIVERSAL INDUSTRIES LIMITED, LAHER BAKERY AND HISCO
LIMITED IN BLANTYRE**

**MASTER OF ARTS (HUMAN RESOURCES MANAGEMENT &
INDUSTRIAL RELATIONS) THESIS**

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**UNIVERSITY OF MALAWI
CHANCELLOR COLLEGE**

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By

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Submitted to the Department of Political and Administrative Studies, Faculty of
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Arts (Human Resources Management and Industrial Relations)

University of Malawi
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DECLARATION

I, the undersigned hereby declare that this thesis/dissertation is my own original work which has not been submitted to any other institution for similar purposes.

Full Legal Name

Signature

Date

DEDICATION

Thanks be to God Almighty for giving me life, good health and allowing me to reach this far.

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ABSTRACT

This study analyzed manufacturing industries' compliance with the occupational safety, health and welfare legislations in Blantyre city in Malawi. Contemporary studies have revealed that, in Malawi, there are no systematic studies in the manufacturing sectors' safety and health management system and this poses a huge obstacle to policy makers when it comes to accessing reliable information necessary for dealing with culprits of the violation of occupational safety, health and welfare legislations in the country (The Malawi OSH Profile 2009). This study was a deliberate attempt to bridge the alleged gap of limited information in the manufacturing sectors' health and safety management systems and, consequently, beef up the body of existing literature within the industrial relations discipline both in Malawi and beyond the national frontiers. The study targeted three manufacturing firms in Blantyre City namely; Universal Industries Limited, Laher Bakery and Hisco Limited. This study used a cross sectional design. Interviews and the use of archival sources such as company files and newspapers were the two main methods used for data collection. One of the limitations of this study was that it targeted only three manufacturing firms which makes it difficult to generalize the results with much certainty and precision. Empirical evidence of this study revealed that the three manufacturing industries in Malawi were not fully committed and dedicated to adhere to the OSH laws because their health and safety management systems were haphazardly planned and executed. If the government machinery through the Ministry of Labour does not put in place viable and sound strategies to arrest the problem at hand, we should anticipate increased cases of avoidable industrial incidents, injuries, diseases and fatalities in Malawi, let alone, an overwhelmingly growing number of employers who continue to cut corners when it comes to compliance with OSH legislations.

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LIST OF ABBREVIATIONS

HSA	HEALTH SURVEILLANCE ASSISTANT
ILO	INTERNATIONAL LABOUR ORGANIZATION
LTD	LIMITED
LRA	LABOUR RELATIONS ACT
MOL	MINISTRY OF LABOUR
MOSH	MALAWI OCCUPATIONAL SAFETY AND HEALTH
OSH	OCCUPATIONAL SAFETY AND HEALTH
OSHW	OCCUPATIONAL SAFETY, HEALTH & WELFARE
OSHMS	OCCUPATIONAL SAFETY, HEALTH MANAGEMENT SYSTEM
OSHR	OCCUPATIONAL SAFETY HEALTH REGULATIONS
PAHO	PAN AMERICAN HEALTH ORGANIZATION
UK	UNITED KINGDOM
UN	UNITED NATIONS
USA	UNITED STATES OF AMERICA
WHO	WORLD HEALTH ORGANIZATION

CHAPTER ONE

INTRODUCTION

This section of the study presents the background of the subject and gives an overview of the research problem. It also discusses the objectives of the study, justification of the study and the structure/ organization of the study.

1.1 Background of The Study

This study analyzes the state of manufacturing organizations compliance with the Occupational Safety Health and Welfare legislation in Malawi. A safe and healthy work environment can reduce operating costs and improve organizational effectiveness (Gaceri, 2015). Likewise, an investment in health and wellness improves worker commitment and performance (Mearn and Hope, 2005).

Notwithstanding the enactment and enforcement of the OSHW legislations and regulations, most countries in Africa including Malawi tend to cut corners and hence noncompliance with these safety and health standards (Malawi OSH Profile, 2009: Umeokar *et al.*, 2015). According to the Daily Times of 11 May (2011), in Malawi, there has been a growing tendency over most workplaces when it comes to disregarding workplace health and safety standards, and hence, high cases of avoidable accidents. Therefore, this study was carried out to explore the manner in which employers in manufacturing industries in Malawi complied with safety and health standards as stipulated by law.

1.2 Problem Statement

Despite a wide range of legal regulations, work continued to kill, maim and sickens tens of thousands of employees each year across the continent (Braton, 1999). According to Diugwu *et al.*, (2012) and Torrington *et al.*,(2008), this unacceptable state of affairs is mainly triggered by apathy and employers' procrastination to comply with the prescribed provisions of workplace legislations.

An increasingly growing number of industrial accidents and diseases in developed economies like the USA, UK and China can largely be attributed to lack of commitment and willingness on part of employers who do not adhere rigorously to the specifications of the safety and health provisions (Daily Times, 5 January 2010; Hoyle *et al.*,2008; Torrington *et al.*,2008).

In Sub Sahara African countries like Zambia, South Africa, Zimbabwe and Nigeria the level of compliance with OSH is regrettably minimal, appalling and annoying (Diugwu *et al.*, 2012; Idoro, 2011; Umeadi,2015). Malawi is no exception. Most workers in Malawi continue to get exposed to industrial, chemical and psychological hazards leading to loss of life and various degrees of injuries and diseases in the course of discharging their daily duties, and yet, very little efforts are made to combat such malpractices (Malawi OSH Profile, 2009; Malawi National OSHW Program, 2011-2016). Most workplaces in the democratic Malawi are not safe to work in, which results into the occurrence of avoidable accidents caused by employers' failure to live up to the dictates of the OSH provisions (The Daily Times of 11 May, 2010; Malawi OSH Profile, 2009). A typical example of employers' defiance to adhere to safety and health regulations resulted into the death of 3 people and the injury of 18 others following the collapse of Kips Restaurant on 17 May 2011 despite the fact that the building was earmarked for demolition long time ago but the owners procrastinated to do so (The Daily Times, 18 May, 2011).

Likewise, 11 employees at Universal Ltd were trapped inside a burning building for 30 minutes because their employer had locked them inside and removed the telephone from the building (The Nation, 19th January 2016). At Laher Bakery, employees who were locked inside a burning building managed to escape unhurt using the backdoor

window when fire erupted and burnt down to ashes the bakery building (The Daily Times, 30th December, 2015); employees at Hisco House Ltd managed to escape the hot blaze through the window when the building they were locked in at night by their employer caught fire (Daily Times, 11th May 2010).

The above trends raised questions as regards the applicability and effectiveness of the occupational safety, health and welfare Act 1997 in safeguarding employees against fatal incidents and injuries. To what extent were safety standards in manufacturing industries in Malawi being adhered to? What by law were the main safety standards in manufacturing industries in Malawi? How effective was the Ministry of Labour in enforcing health and safety legislations in manufacturing companies? What were the safety standards at Universal Industries Limited Laher Bakery and HISCO House Ltd? What factors affected adherence to the safety standards in manufacturing industries in Malawi? These among others were some of the critical questions which this study attempted to address.

1.3. Objectives of the Study

1.3.1 Main Objective

The overall objective of this research is to analyze manufacturing industries' compliance with the occupational, safety and health legislations in the city of Blantyre in Malawi.

1.3.2 Specific Objectives

1. To analyze the basic legal legislations that advocate for the minimum safety standards in the manufacturing industry in Malawi
2. To examine the safety standards practices at Universal Industries Limited, Laher Bakery and Hisco House
3. To assess the effectiveness of the Ministry of Labor in Malawi in ensuring compliance with the safety standards in manufacturing industries
4. To ascertain the factors that affect compliance to safety standards in manufacturing companies in Malawi.

1.4 Justification of the Study

Whilst findings of the studies on occupational safety and health in Southern African countries have revealed that most research studies on occupational safety and health had in the past been concentrated on the high risk sectors of the economy such as transport, forestry, electricity production, mining and construction (Loewenson, 1996); and suggested that, more and more future studies in this arena need to be directed towards these sectors because they are regarded as the worst affected by the frequent occurrence of occupational hazards, diseases and death, studies in South Africa and Botswana have presented contradictory findings. Contemporary studies have discovered that there are thousands of undetected or unreported cases of occupational accidents and diseases that occur in the manufacturing and other informal sectors of the economy similar to those found in the formal sectors in Southern Africa (Davies, 1993). The revelation of the fact that past studies on occupational safety and health had exclusively been concentrated on a selected few number of formal sectors other than the manufacturing sector yet there were thousands of undetected and unreported safety and health threats in this sector of the economy was probably a manifestation of the fact that, this sector of the economy had long been neglected or sidelined by researchers, a gap which this study attempted to bridge.

Additionally, the Malawi OSH Profile (2009) study showed that there have not been adequate and systematic studies in the occupational safety and health field which could provide policy makers with reliable information necessary for dealing with perpetrators of the violation of the safety and health laws in Malawi. If the problem of inadequate information in the safety and health discipline goes unchecked, more work-related accidents, injuries and death that could have been avoided should be anticipated to increase in the near future. Thus, this study was a deliberate attempt to bridge the alleged gap of limited information in the manufacturing sectors' health and safety and, consequently, beef up the body of existing literature within the industrial relations discipline both in Malawi and beyond the national frontiers.

Finally, the study will add to our understanding of the dynamics of OSH and the noncompliance by manufacturing companies- a situation that calls for strict enforcement of existing legislations.

1.5 Organization of the Study

The subsequent chapters of this study have been arranged as follows; Chapter one presents the introduction and background information, the problem statement, objectives and justification of the study. Chapter two discusses the literature review which includes the conceptual issues and theoretical framework of the study. Chapter three presents the methodology of the study which includes the study design, study approaches, population of the study, sample population, data collection methods and ethical consideration. On the other hand, chapter four presents the results and discussions of the study. Lastly, chapter five highlights the summary, conclusions and implications of the study.

CHAPTER TWO

LITERATURE REVIEW

This chapter starts by looking at the need to develop an OSH policy, conceptual issues and theoretical framework, the systems approach to the management of OSH and what a view. Besides, the study focuses on both the international and local legal instruments for the advancement and promotion of the occupational safety and health legislations. The last segment of the study highlights the role of Ministry of Labour in enforcing OSHW legislations and the factors that hinder the effective implementation of OSH legislations.

2.1 The Essence of Developing an OSHW Policy

According to Armstrong (2006), health and safety policies and programs are concerned with protecting employees and other people affected by what the company produces and does- against the hazards arising from their employment or their links with the company. This involves close and continuous surveillance of the methods and systems of work to avoid unnecessary occupational accidents, injuries and death.

Both the Malawian occupational safety and health Act 1997 and the ILO Convention No. 81 and 129 are clear when it comes to the essence of developing a sound and well-articulated safety and health policy and guideline at the workplace. Generally, the provisions of the health and safety legal framework expects each and every organization to develop its own guidelines that will help shape the manner in which the organization promotes and protects the welfare of its employees.

A good health and safety policy should be clearly written down and communicated to the social partners concerned. It provides an excellent analytical tool for effective evaluation of how the organization is committed to protecting and safeguarding its employees from occupational accidents and diseases. For Armstrong (2006), a good safety and health policy should involve three things; a declaration of the intent,

definition of means on how the intent will be realized and a statement of guidelines that should be followed by everyone concerned with the implementation of the policy. The significance of developing a health and safety workplace policy should not be overemphasized. A safe and health work environment can reduce operating costs and improve organizational effectiveness (Gaceri, 2015). An investment in health and wellness improves worker commitment and performance (Mearn and Hope, 2005). Increased and sustained levels of productivity often reflect the level of compliance to occupational safety and health regulations (Nzuve and Lawrence, 2002; Smallwood and Haup, 2007).

For the Health and Safety Executive (2004a), the successful implementation and execution of safety and health policies and programs within an organizational setting breeds higher productivity, lowers absences and labor turnover, reduces cases of accidents and litigation, satisfies clients' demands and improves staff morale. Hence, top management should construe health and wellness programs as part of investment rather than a cost (Robison, L& Clarke, J, 2007).

Similarly, Nzuve and Lawrence (2002), Smallwood and Haup (2007) both agree that increased and sustained level of productivity often reflects the level of compliance with occupational safety and health regulations. For argument sake, much as we appreciate the fact that there is a relative positive correlation between effective implementation of OSH policies and organizational productivity, it is imperative to understand that increases in organizational productivity could equally likely be explained using other variables rather than solely attributing it to the organization's capability to successfully and effectively implement OSH programs. If really, the implementation of good safety and health programs contributes to increase in organizational productivity and reduction in litigation cases, why is it that most organizations tend to cut corners or procrastinate when it comes to implementing health and safety policies within their working establishments? Does it really pay off? Could not the incidences of the national, regional and global occupational accidents and diseases as reported by ILO long been minimized? This is why we are arguing that, increases in organizational productivity should be explained using other determinants other than solely hinging it upon the capability of the firm to effectively implement its health and safety policies and programs.

2.2 Conceptual Framework and The Systems Approach to Management of OSHW Legislations

Conceptual framework identifies the concepts under the study and their relationship (Mugenda and Mugenda, 2003). In order to fully grasp the critical areas of this study, it is important to clarify important concepts of the study like rules and regulations, occupational safety and health legislations among others. Windapo (2013) views regulations as products of legal efforts designed to instill law and order in the society. They should be: properly enforced, unambiguous, updated as required (Anderson, 2007) and properly complied with if the purposes for design are to be achieved (Umeadi, 2014). On the other hand, Kalejaiye (2013) defines OSH as an interdisciplinary area mainly burdened with protecting the safety, health and welfare of people in the workplace and people that will be affected directly or indirectly by organizational activities.

According to Copper (2004), there are several internationally recognized theoretical frameworks, models and approaches designed to facilitate the management of the occupational safety and health systems at work. However, this study shall adopt the systems approach to the management of safety and health within the organizational setting for reasons illustrated in the subsequent paragraphs.

The systems approach to the management of safety and health is defined as a logical, stepwise method to decide what needs to be done, how best to do it, monitor progress toward the established goals, evaluate how well it is done and identify areas for improvement (ILO, 2011). The implementation of OSH systems' approach is thrice blessed; it is simple to use and easily understood; it is well-defined and provides an academically sound technique for analyzing the effectiveness of organizational health and safety programs (Leka and Cox, 2008:39; Morris, 2012). For Taderera (2012;11), the adoption of occupational health and safety management systems provides employers with a sound basis for systematic and continuous management and improvement of OHS plans, policies, programs and projects.

Notwithstanding the several advantages associated with the systems' approach to management of safety and health at the workplace, the report of (WHO/OGIEH 1996) has revealed its numerous setbacks. Firstly, if the production of documents and

records are not carefully controlled, it can defeat the purpose of the system due to too much paper work. Secondly, the focus on the human factor can be easily lost if the emphasis is more on the paperwork requirements of a formal OSHMS than people. Finally, it could be costly as it requires the involvement of physical, financial and human resources to accomplish intended objectives.

Despite the aforementioned shortcomings, the systems approach to the management of safety and health provides a good theoretical framework or model for successful management of organizational health and welfare programs (Braton, 1999; Taderera, 2012). Nevertheless, the management systems approach to OSH are not the universal remedy and organizations should analyze carefully their needs in relation to their means and tailor their OSHMS accordingly (Morris, 2012; ILO, 2011) and this can be done by scaling it down or making it less formal.

The diagram below demonstrates the steps of a systems approach to the management of safety and health at the workplace.

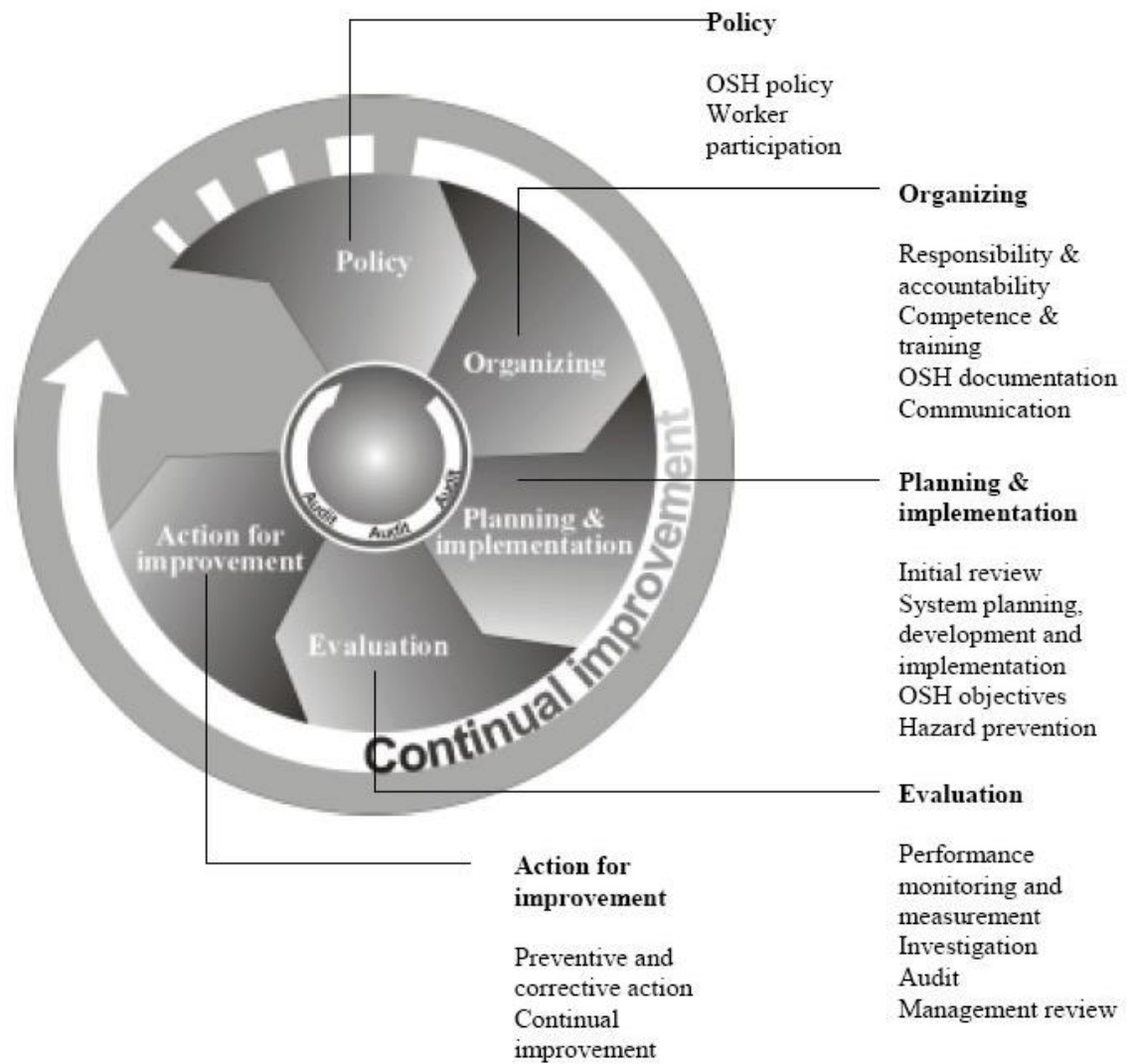


Figure 1: ILO management system (copied from Guidelines on occupational safety and health Management systems (ILO-OSH 2001))

2.2.1 Policy Stage

This is the first stage of the occupational safety and health systems approach. At this stage, the employer, in consultation with employees and safety representatives set out an OSH policy in writing (ILO-OSH 2001). The OSH policy should ideally be written in order to represent the foundation from which occupational safety and health goals and objectives, performance measures and other system components were derived (Allie 2008:45). In the same vein, it must provide more specific emphasis on worker participation, an essential element of the management system, which should be referred to in the policy statement (Hughes and Ferret, 2013:24).

2.2.2 Organizing Stage

This is the second phase of the systems' approach to the management of organizational OSH programs. It is at this stage where the employer should execute overall responsibility and accountability. Besides, the employer needs to provide leadership necessary for the OSH activities in the organization. It also establishes the structures and processes to ensure that the OSH is a line management responsibility which is known and acknowledged at all levels of the organization (Dames 1993).

2.2.3 Planning And Implementation

This phase starts with the review of the organization's existing OSH policies which serves as a baseline for both present and future OSH performance within the organization. It also reviews organizational plans to ensure that they are in line with the overall corporate goals upon which the OSH goals are hinged (Dames, 1993; ILO, 2001). OSH planning is necessary because it fosters an OSH management culture that supports compliance with national laws and regulations (ILO 2001:10).

2.2.4 Evaluation Stage

This stage of is also called performance monitoring and is used as a means of determining the extent to which OSH policy and objectives are being implemented and risks being controlled. This implies that the OSH set objectives are evaluated and then compared with the actual outcomes on the ground, and where possible identify the variances (Taderera, 2012; ILO, 2011).

2.2.5 Action For Improvement Stage

At this last stage, proper arrangements have to be put in place and being continuously maintained for preventive and corrective action resulting from OSH system performance monitoring and measurement. The deep rooted cause of non-compliance are exposed and rectified at this stage. According to Taderera (2012:110), the employer should establish and maintain arrangements for continuous improvement of the occupational health and safety management system. Proactive monitoring refers to monitoring and measuring health and safety performance of OSH planned activities and these may include compliance with program plans, implementation of operational controls, carrying out risk assessments, equipment inspection and health and safety communication, and evaluating the competence of employees (Health and Safety

Executive 2001:14).

2.3 National and International OSHW Legal Frameworks

There are several types of national and international OSH labour laws and regulatory provisions that guarantee the protection and promotion of both collective and individual workers' employment rights. The study first of all looks at the national OSH legislations and then discusses the international OSH rules and regulations.

In Malawi, there are a number of legal frameworks and statutory provisions that help in safeguarding collective and individual employment rights of the working people. The Malawi Constitution, Employment Act 2000, Labour Relations Act 1996 and Occupational Safety Health and Welfare Act 1997.

To begin with, the national constitution provides some basic legislations that helps to regulate and foster the occupational safety, health and welfare of the workforce within an organizational setting. For instance, S 19 (3) of the Malawi Constitution condemns in strongest terms any form of torture of any kind or cruelty, inhuman or degrading treatment or punishment. S (44) (1) (b and d) stipulates the absence of exceptions with regard to derogations, restrictions or limitations in as far as the prohibition of torture and cruel, inhuman or degrading treatment, the prohibition of slavery, slave trade and slave-like practices is concerned. Besides, S 27(3) of the Malawi constitution states that no person shall be subjected to forced labour, and S 31(1) advocates for the right to fair and safe labour practices and to fair remuneration.

To continue with, the Labour Relations Act (LRA) 1996 forms the second basic element of the local labour legislations. This Act advocates for the promotion and enhancement of workers' collective rights. It provides for sound labour relations through the protection and promotion of freedom of association, right to strike, right to form or join trade unions, collective bargaining rights and the advancement of amicable and expeditious settlement of industrial disputes. Most importantly, this Act empowers workers in Malawi to freely exercise their constitutional and collective rights to form and join trade unions as well as to strike. At its best, the Act sets up mechanisms for dispute settlement via the tripartite labour advisory council and the structures of the industrial court (Malawi OSH Profile, 2009; Labour Relations Act, 1996).

The OSHW Act is the third piece of local legal provision that helps to advance, promote and protect vulnerable employees from industrial accidents, diseases and injuries that might occur in the course of executing their daily organizational assignments. In Malawi, the Occupational Safety, Health and Welfare (OSHW) Act 1997 constitutes one of the five fundamental pillars that form Malawi's basic labor legislations (Malema, 2014).

The OSHW Act 1997 is a very seminal instrument in as far as protection and promotion of workers' rights through the reduction of the occurrences of fatal accidents and injuries arising from work is concerned (OSHW Act, 1997).

In Malawi, the OSHW Act 1997 came into being in 1996 after parliament proposed the bill and subsequently passed it to become a law in 1997.

Arguably, the OSHW Act 1997 sounds a very sharp warning as regards employers' conformity to fair and safe labour practices through provision of a safe and conducive working atmosphere for the protection and regulation of employees' welfare from fatal accidents and injuries in the course of performing their daily work. Page four of the OSHW Act explicitly depicts broad intention that the national assembly had with regard to this piece of labour legislation. The National assembly purposely enacted it to "make provision for the safety, health and welfare of persons employed therein; for the inspection of certain plant and machinery, and the prevention and regulation of accidents occurring to persons employed or authorized to go into workplaces; and to provide for matters concerned with or incidental to the foregoing" (OSHW Act, 1997).

Section 96 of the OSH Act makes mention of the eleven thematic areas namely; preliminary, registration and workplaces, duties and responsibilities, health and welfare, machinery safety, notification and investigation of accidents, dangerous occurrences and industrial diseases, records, administration; offences, penalties and legal proceedings and miscellaneous provisions. S 13 of the OSHW Act 1997 expounds the duties and responsibilities of an employer to ensure that at all times employees' safety, health and welfare at work is given supreme priority. For instance, S 13 (2) (a) proposes that employers should maintain plant and systems of work that is be free from any risk and which should promote the health of workers.

S 13 (2) (b, c, d and e) as part of the obligation of the employer to make special arrangements for ensuring safety and absence of risks to health at work, providing information, training, instruction and supervision to ensure safety and health at work for the workforce as well as the maintenance of the working environment for all employees to reduce the occurrence of work-related accidents, death and occupational diseases.

To ensure that employers abide by the set standards of OSHW Act in Malawi, S (13) (6) empowers employees to establish and nominate the safety representatives in conjunction with trade union representatives from among the employees within the organization. These safety representatives are by law mandated to ensure that all safety and precautionary measures are put in place by the employers to safeguard workers from occupational hazards, injuries and miserable deaths. These safety representatives are also responsible for monitoring and inspecting the conditions of the workplace and let alone consulting with the owners of business organizations to try as much as possible to expeditiously improve the conditions of service in order to minimize dangerous occurrences of injuries and occupational diseases at work. Employees are often advised to report any potential cause of an injury, accident and industrial diseases to the safety representatives apart from reporting the same to Labour officers. In addition, the Act allows these safety representatives to further establish safety representatives committee (s) where the findings of the prevalent working conditions are periodically reported, scrutinized and ultimately addressed. Section 18 explores employees' obligations vis-à-vis the same Act. Thus, employees working in various workplaces have a duty to take reasonable care of the safety and health for themselves and other people that may be affected by their actions. They are also expected to comply with all safety standards and requirements of the employers so long they do not pose a threat to their safety and health.

By extension, S 24 (1) states that the employer has the obligation to ensure the provision of effective and suitable provision for securing and maintaining free circulation of air in each workroom, adequate ventilation of the workroom and so forth. It also makes a provision to ensuring that the temperature of each workroom is kept at a minimum level for the safety and security of the lives of the workforce.

Sec 56 of the Act makes a provision for the prevention of fire by ensuring the

availability of adequate and suitable means of extinguishing fire like fire extinguishers including chemical fire extinguishers. S 57 specifies the need for ensuring that there are adequate means of escape like all the doors and windows that afford a way of exits in cases where fire has erupted. It expects employers to strive in ensuring that all means of escape in an event of fire are clearly marked and maintained and that it should be free from any obstruction. Besides, sub-section 4 of S (57) requires that any door of the workroom should be fixed in such a way that it is easily opened from the inside by persons working therein in case where fire has started.

In addition, S 65 makes a provision for the need to provide information and training to workers for them to be aware of potential health hazards within the working establishments. Consequently, this section requires that training should be provided to employees to ensure they are instructed of health hazards within the workplace. In addition, S 70 of the OSHW Act makes a provision for the establishment and safe keeping of a general register at the workplace which should among other things show the records of the occurrences of the accidents, injuries and occupational diseases to be submitted to the Director of this Act who falls under the Ministry of Labor for action.

On the other hand, there are numerous international legislations that regulates the field of OSH. To begin with, the 1948 UN Universal Declaration of Human Rights is one typical example of these international laws that prohibits against any form of cruelty, torture, inhuman and treatment of workers. For instance, Article 5 of the 1948 UN Universal Declaration of Human Rights maintains that “No one shall be subjected to torture or to cruel, inhuman and degrading treatment or punishment and Article 23(i) stipulates that “ Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”.

Besides, the International Labour Organization (ILO) is the second typical example of this international regulatory body responsible for safeguarding employees’ employment rights. Under the International Labour Organization’s (ILO) Conventions, trade unions enjoy rights like freedom of association, collective bargaining and the right to withhold labor. Alternatively, the ILO Convention of 2003 on Fundamental Rights at Work and International Labour Standard has a provision

that condemns any act of torture in strongest terms when it argued that “torture or inhuman treatment willfully causing great suffering or serious injury to the body or health constitutes a grave breach under the Third and Fourth Geneva Conventions.

2.4 The Role of Ministry of Labour in Enforcing the OSHW Act 1997

The Ministry of Labour in Malawi plays a leading role in the provision of labor administration services both at national and international level (Malema, 2014). These labour administration services range from labour inspection, labour protection and compensation and not forgetting the mediation role of resolving employer-employee misunderstandings.

For Dzimbiri (2008), the Ministry of Labour in Malawi works as an employment bureau, initiates and implements labour relations legislations, acts as a labour bureau and a grievance handling machinery where it works as a tripartite partner with both employers’ and employees representatives in resolving industrial disputes. In addition, the Ministry of Labour through district and regional labour officers handles employees’ grievances over terms and conditions of employment, unfair dismissals and compensations for injuries.

According MOL (2012) report on the notification and reporting of accidents, the Ministry of Labour through the Directorate of OSHW department and the Workers Compensation Division has a legal mandate of being directly involved in registering workers’ complaints and grievances.

In spite of the Ministry of Labor’s legal mandate to champion, administer and enforce the OSHW 1997 in Malawi, the ministry does not work in isolation when it comes to the implementation of the same. Other ministries such as the Ministry of Health, Ministry of Energy and Mining, Ministry of Justice among others are also involved in the implementation and enforcement of the same Act (Malawi OSH Profile, 2009; MOSH Program 2011-2016). The Ministry of Labour through District Labour Officers distributed throughout the country also take a pivotal role in registering complaints, grievances and acts of unfair treatment that employees face in the course of discharging their daily tasks. This calls for employees subjected to unjust treatment such as unfair dismissal, inhuman treatment, physical and sexual abuses among others to visit their various district labour offices to register their complaints. At times,

various District Labour Officers who are empowered by law have unlimited jurisdiction to visit various workplaces and do inspection services to ensure employers' compliance with the basic provisions of the labour law (OSHW 1997).

For implementation purposes, S 72 of the OSHW Act 1997 stipulates the need for the appointment of the Labor Inspectors to enforce the Act. The power and mandate conferred on the Labour inspectors enables them to inspect workplaces to ensure that employers adequately adhere to the minimum standards of the Act in question. During inspections, Labour Inspectors provide technical advice to employers on what needs to be done so that the safety, health and welfare of employees are fostered at workplace. Irrespective of the various roles the Ministry of labour plays in the implementation and enforcement of the OSHW Act in Malawi, there are numerous challenges that constrains the ministry's efforts to effectively execute its legal mandate.

According to Ludaka (1997; 13) the Ministry of Labour has since independence been constrained by several challenges which include inadequate financial, personnel and transportation services. In concordance, Dokali and Kanyongolo (1996; 49) argue that lack of adequate financial, transport and staff, constrains the Ministry of Labour to properly collect, collate, analyze and present data on the situation of labour and relevant statistics to international bodies.

2.5 Factors Affecting The Implementation of OSHW Legislations in Manufacturing Firms

There are numerous factors that affect organizational compliance with OSHW regulations and statutory provisions. According to Umeokafor (2013), there are several factors that promote noncompliance with OSH legislations in Africa and this include; beliefs, lack of commitment on part of safety and health institutions/ organs, reputation of the firm, inadequate funding, bribery and corruption, lack of awareness or improper medium for communication, perception of stakeholders in the industry, lack of adequate training on workplace issues, lack of management commitment among others. Other factors that affect compliance with OSHW regulations encompass; limited data on accidents, diseases arising from workplaces; fragmentation or overlap of the management and health programs, inadequate OSH training institutions, absence of information and proper documentation, weakened

stakeholder collaboration, inadequate financial and human resources, weak institutional policy and legislations, lack of ratification of international labour standards and limited research capacity (Malawi OSH Profile, 2009; Malawi MOL report, 2012).

To begin with, the first factor that affects compliance with OSH legislations is concerned with religious and superstition beliefs. According to Smallwood (2002), accidents and injuries in most working establishments including the construction sector occur because of a popular belief among organizational owners that accidents in workplaces are potentially inherently dangerous and inevitable hence, they use this as an excuse to cut corners when it comes to the compliance with the OSH legislations. For Idubor and Osiamoje (2013), superstitious beliefs affect to a great extent employers' level of compliance with occupational safety and health standards. This leads them to resort to fetish rituals to stop accidents rather than embarking on preventive and precautionary measures to mitigate unnecessary occurrence of industrial accidents. In summary, both superstitious and religious beliefs held by employers help in amplifying cases of non-compliance with occupational safety and health legislations in Africa.

Non-commitment of institutions and organs in the enforcement of OSH programs is the second challenge that contributes to non-compliance with occupational safety and health laws. For Nzuve and Lawrence (2012), the level of inspection and examination of workplaces determine the level of compliance with OSH regulations in Nairobi, Kenya. Idubor and Osiamoje (2013) noted that the weak legal structure, absence of law enforcement coupled with ill-characteristics of regulatory institutions and the lack of enforcement characterizes regulatory institutions in Nigeria.

Insufficient or inadequate funding is another potential determinant for non-compliance with safety and health regulations. The aspect of inadequate funding should be understood from both the organization as well as the OSH legal enforcing institutions' perspectives. We shall begin looking at it from the organization's point of view. .According to Diugwu (2012), lack of resources obscures or hinders the organization's capability to conform to occupational health and safety management rules and regulations. In agreement with the above, Oisamoje *et al.*,(2013) argues that

capital is required to provide adequate facilities in order to avoid organizations cutting corners when it comes to the implementation and enforcement of the OSH legislations. The challenge here is that, when a work establishment does not have adequate financial resources, it becomes difficult to mobilize funds for the procurement of occupational safety kits and protective equipment like gumboots, overalls, clamps, belts, gloves and so forth.

On the other hand, insufficient funding could affect the OSH enforcement bodies in its task to implement the same Act. Economic and financial constraints also affect the firms' capability to organize training programs that could equip workers with skills and knowledge for them to avoid or prevent the unnecessary occurrence of industrial incidences and diseases (Diugwu, 2012). For Umeokafor *et al* (2015), most enforcement bodies in the developing world lack the basic tools and amenities which need funds to promote OSH regulations, educate society, enforce the regulations and disseminate information. In Malawi, for instance, the Ministry of Labour which is responsible for the enforcement of the OSHW Act often finds itself stuck between a hard rock and a dry place when it comes to the issue of mobilizing funds to enable Labour officers to smoothly carry out the inspection services. This is why Ludaka (1997; 13) argues that the ministry of Labour in Malawi had since independence been constrained by inadequate personnel, financial and transport resources to adequately visit, inspect and fish out culprits that violate labour laws.

Lack of adequate training on workplace issues is another factor that affects organizational compliance with OSH legal instruments inadequate training is a hindrance to OSH regulations compliance (Adenuga 2007). Training and development may also include career development activities and employee counseling to help people make better choices about their careers and to achieve their desired goals (Cascio, 2006). According to Nzuve (2007), people should never be allowed to operate machines, appliances and equipment until they know how to operate them safely. The main argument here is that when workers are not properly trained and developed in the management of OSH, their level of understanding on safety issues remains low, and hence, the increase in levels of occurrence of occupational accidents and diseases.

Information and documentation is another challenge that affects effective compliance

with the provisions of OSH regulations. Research by Puplamp and Quartery found that lack of inadequate information hinders the compliance with OSH in Africa while Diugwu (2012) and Idubor and Osiamoje (2013) research discovered the same in Nigeria. The above findings are similar to the situation in Malawi where according to the OHS Profile (2009), the state of OSH information management systems in Malawi is largely fragmented and non-existent. The report further found that this situation is compounded by the fact that very few people report incidences of accidents and injuries to relevant authority.

In addition, bribery and corruption also leads to noncompliance with OSHW legal instruments. Where labour officers entrusted with the duty to enforce the OSHW legislations indulge into the vices of bribery and corrupt practices, the effective implementation, monitoring and enforcement of safety and health legislations becomes a challenge.

Stakeholders' collaboration is another factor that hinders organizational effort to adhere to the prescribed OSH laws. Weak coordination and collaboration among various organs that are entrusted with the responsibility to implement and enforce OSH legislations lead to poor enforcement of the OSH legislations in the country. The promotion of health and safe legislations is subject to abuse if stakeholders take a loaf stand when it comes to the enforcement of the same Act. In Malawi, for instance the report by OHS Profile (2009) expressed shock over little collaboration amongst various stakeholders that enforce and promote different national occupational safety and health legislations. Giving specific examples, the findings pointed out that the various ministries and departments that enforce the OSH regulations under the Ministry of Labour, mines department under Ministry of Energy, Environmental affairs and Natural Resources, preventive health services under the Ministry of Health, Malawi Bureau of Standards, all promote safety and health in their area of specialization. However, there is a challenge that most of the ministries involved in enforcing health and safety policies work in isolation rather than collectively.

Closely related to above, is the challenge of fragmentation or overlap of the management of safety and health programs. The problem on this is that apart from the Ministry of Labour which implements and enforces the OSHW Act in Malawi, for instance, there are other institutions and ministries that have Acts concerning the OSHW of workers (Malawi OSH Profile, 2009). A good example is the

Environmental Health in Ministry and the Mines department safety in mines. As a consequence, there is no proper cooperation and coordination amongst institutions and ministries when it comes to the enforcement of the Act in question in Malawi. This disunity of OSH law-enforcing organs creates tension which to great extent affect the effective implementation and enforcement of the OSHW regulations in Malawi.

Unemployment is another factor that poses a great threat to employers' non-compliance with the OSH provision (Umeokafor, 2015). When employers are aware of the fact that most people are desperate for employment, they may deliberately infringe their employment rights knowing that they will have nowhere to go. On the other hand, in times of high unemployment, workers sometimes allow to suffer in silence even if they notice that they have been wronged by their employers because of fear of reprisals.

CHAPTER THREE

METHODOLOGY

This section shades more light on the methods of data collection used, population of the study, sample, research approaches, data collection methods, and the statistical analysis and interpretation of the collected data.

3.1. Study Design

For purposes of collecting accurate, reliable and meaningful data, this research project employed a cross-sectional study whereby the institutions and individual respondents were approached and observed only once. The cross-section study was employed because it is ideal for studies that try to establish the prevalence of a phenomenon, situation, altitudes or a pertinent issue (Greener (2008; 36, Sammy, 2008). In addition, cross-section studies enable the researcher to collect accurate data using minimal time and resources compared to longitudinal study design where the study population is approached more than once. Cross section studies are extremely simple (Kumar, 2011). For Greener (2008; 36), most academic studies for qualification tend to be cross sectional as they are completed in a very limited time period. He further observed that in most cases longitudinal studies usually requires external funding to protract the period of research.

3.2 Research Approaches

The research method employed in this study was clearly qualitative, as in-depth interviews were conducted from a relatively small sample of the three manufacturing organizations. A qualitative approach enables a researcher to gain an extensive understanding of each case that was studied (Andersson, 2006), which is necessary for finding answers to this research problems. According to Greener (2008), qualitative research is ideal for studies that deal with a phenomenon which was similar to the study in question. In studying values, beliefs, understandings, perceptions and meanings, etc., qualitative study designs are appropriate as they provide immense

flexibility (Kumar, 2011). Besides, this qualitative research approach was employed because it enables the researcher to gain an in-depth insight of the problem being studied and find answers to the research problems (Sammy, 2008).

3.3 Population of the Study

This study's population focused on the three manufacturing firms' employees at Universal Industries Limited, Laher Bakery and Hisco Limited in Blantyre because according to the problem statement above, these workplaces were the ones that had been heavily affected by allegations of noncompliance with the safety and health legislations.

3.4 Sample of the Study

This study drew a purposeful sample of 75 respondents which included 3 Human Resource Managers, 3 Production and Operations Managers, 5 Organizational Trade Union Representatives, 60 production-line workers and night shift workers from all the three manufacturing firms being studied. From Blantyre Labour Office the study targeted 1 Labour Commissioner, 1 Director of Occupational Health and Safety and Welfare, 1 Regional Occupational Safety, Health and Welfare Officer and 1 Labour Officer. In total, the study targeted 75 respondents.

Whilst the Production and Operations Managers were approached because of their direct involvement in the supervision of manufacturing and production-line workers that are often exposed to safety and health risks and hazards, the Human Resources Managers were approached because they were directly responsible for the planning, implementation and execution of the labour law inclusive the OSHW 1997.

Similarly, trade unions representatives were targeted because they were directly involved in negotiating with management on behalf of their fellow employees on working conditions that affect the safety and health of staff. Not only this, these union representatives formed part and parcel of the company safety and health committee members who should be well acquainted with the policies that safeguard the health and welfare of employees at work than other ordinary employees.

Lastly, the members of staff in the Ministry of Labour like the Labour Commissioner,

the Director of Occupational safety, health and welfare, the Regional Occupational Safety, Health and Welfare Officer and the Labour Officers were approached because they were the ones entrusted with the task of ensuring effective planning, implementation and enforcement of the occupational safety, health and welfare Act 1997. In short, the respondents approached were quite helpful in as far as the provision of reliable information for assessing the level of manufacturing organizations' compliance with stipulated provisions of OSHW Act was concerned.

3.5 Data Collection Methods

In order to come up with detailed and satisfactory results of this research study, a blend of two sets of data collection methods were employed. The interview was the main means for collecting data. Both structured and unstructured questions were asked to the respondents. The use of interviews helped the researcher to reach a good number of respondents within a short period of time and collect detailed information for the study. It is also cheaper compared to a questionnaire which requires a lot of paper work (Greener, 2008; Sammy, 2008).

The second method used to collect data for this research was the use of desk research or archival sources such as newspapers, books, company files, prospectuses and newsletters. Besides, files, documents and annual reports compiled for submission to the International Labour organization (ILO) by the Ministry of Labour were fully scrutinized and analyzed in order to ascertain the level of employers' compliance with the occupational health and safety standards in manufacturing companies in Malawi.

3.6 Data Analysis

After data had been collected, the two qualitative data analysis approaches namely; content analysis and qualitative data software such as Alviro were successfully employed. Qualitative data analysis approaches such as Alviro was employed because it is easy to use and understand; it provides in depth meaning of data analyzed qualitatively and it is appropriate for social research (Greener, 2009). Alternatively, the content analysis technique was successfully employed and utilized. Content analysis is a methodology in research used in analyzing and understanding the content of collected text (Tharenou *et al.* 2007). This can be done systematically and objectively and by inference (Holsti, 1969 in Tharenou *et al.*, 2007).

According to Tharenou *et al.*, (2007), if content analysis is properly utilized it can produce fireworks and generate insights. The use of these two data analysis approaches helped to sum up, type and analyze the qualitative data obtained from interviews (views and perceptions, opinions etc.) using themes and sub-themes with the aid of qualitative data software. The theme and sub-theme grouping pattern were adopted, inducted and interpretive style were used to derive explanations of theme and sub-themes analyzed. Based on the available data, the content analysis was done and data presented.

3.7 Ethical Considerations

Babbie (2010:84) refers to ethics as the quality of research procedures seeking to ensure an adherence to professional, legal and social obligations to the research subjects. The exercise of data gathering, analysis and reporting of this study considered and put at heart ethical issues. Thus, to gain access to the manufacturing organizations, the researcher obtained a confirmation letter from PAS department that was subsequently submitted to relevant authorities of the three organizations under study.

Meanwhile, to do away with unethical dilemmas, before the commencement of data collection, the consent was sought from participants and respondents. They were properly assured of their confidentiality and privacy, stressing to them that the study findings would purely be used for academic purposes.

Seeking informed consent is probably the most common method in medical and social research (Bailey 1978:384). According to Kumar (2011), in every discipline it is considered unethical to collect information without the knowledge of participants, and their expressed willingness and informed consent. Seeking informed consent from respondents helps them to be aware of the type and purpose of the information sought, how they expect to participate and how will that directly or indirectly affect them (Kumar, 2011).

3.8 Limitations of the Study

The major limitation encountered in the process of data collection was the difficulty concerned with the generalization of research findings with much certainty and precision because of the smallness of the sample of the population studied. The study only targeted three manufacturing organizations in the city of Blantyre vis-a-vis the growing number of manufacturing firms in Malawi. The sample population was not big enough to represent all the manufacturing firms in Malawi making it difficult to generalize the findings. In spite of this challenge, the researcher managed to reach out and collect data from a lion's share of the target respondents which has enabled the process of data analysis and interpretation to be a true reflection of how the three manufacturing firms conform to the prescribed provisions of the occupational safety and health legislations. The problem of generalizing the study results obtained from a small sample could ably be addressed if the majority of target respondents have been adequately covered and interviewed (Andersson, 2006); and by carrying out more future researches in the initial field of study that was not adequately covered or exhausted (Gaceri, 2015). Therefore, this study needs to be complemented by further studies in order to explore further how other manufacturing companies in other parts of the country, Malawi are doing when it comes to compliance with the provisions of OSH Act.

CHAPTER FOUR

RESULTS AND DISCUSSIONS OF THE FINDINGS

4.1 Introduction

This section of the study presents the discussion of the aspects of organizational safety and health policy. This chapter will also compare health and safety practice with theory in order to derive the state of manufacturing industries' compliance with health and safety legislations.

4.2 Legal Framework for the Promotion of Occupational Safety and Health

Legislations

There are several international legal instruments that advocate for the promotion and enforcement of the Occupational Safety, Health and Welfare legislations in manufacturing companies in Malawi. According to the Labour Commissioner for the south (interview), the most prominent international labour provision that help to safeguard the safety and health of workers in manufacturing organizations is the 1947 ILO labour inspection convention No. 81. This provision of the labour inspection applies to both the industry and commercial sectors and remains the principal international reference for labour inspection services. This legislation has become one of the most widely ratified of all ILO Conventions (141 countries) and has served as a model for most national laws and regulations creating modern inspection systems.

The second international labour inspection instrument is the ILO article no. 129, and this safety and health legal framework focus on the agriculture sector of the economy (Labour Commissioner Interview). Both Convention No. 81 and 129 of the labour inspection define the functions, duties and responsibilities of labour inspection systems, requirements for the recruitment of staff, means of action for inspectors, enforcement powers and obligations of inspectors in relation to ethics and reporting on activities. They also make a provision for the reporting of accidents and diseases. The Labour Officer further noted that both the Labour Inspection Recommendation

1947 (No. 81) and the Malawian OSH Act (1997) gives further details of the information relating to welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors; legal provisions include arbitration awards and collective agreements upon which the force of law is conferred and which are enforceable by labour inspectors; to supply technical information, advice to employers and workers concerning the most effective means of proper adherence to legal provisions; and to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions included in annual reports and contains further guidance for collaboration between inspectors, employers and workers, mainly in the area of safety and health (Labour Inspector and Labour Commissioner interviews).

4.3 Local Legislations for the Promotion of Occupational Safety, Health and Welfare Legal Instruments

According to the Labour Commissioner Interview, the Occupational Safety, Health and Welfare (OSHW) Act 1997 constitutes one of the five fundamental pillars that form Malawi's basic labor legislations. The other four include; the Employment Act 2000, the Workers' Compensation Act 2000, Labor Relations Act 1996 and the Pension Act 2010.

4.3.1 The OSHW Act 1997

The OSHW Act is the main pillar that defines the practice and system of safety and health law in Malawi (Regional OSHW Officer Interview). It protects employees working in manufacturing firms from potential workplace hazards and dangers like accidents and diseases. This labour inspection legislation also advocate for employers' conformity to fair and safe labour practices through provision of a safe and decent working atmosphere for the protection and regulation of employees' welfare against fatal industrial accidents and injuries in the course of performing their daily work (OSH Profile, 2009).

4.4 The Occupational Safety, Health and Welfare Legal Standards of Manufacturing Organizations in Malawi

One of the objectives of this study was to assess the occupational safety and health standards of the manufacturing organizations in Malawi and, this part of the study reports on the same. A clear understanding of how these manufacturing organizations operationalize their safety and health policies and programs is of paramount importance. It helps us to appreciate the extent to which organizational health and safety policies and programs are in line with the national and international health and safety legal standards and requirements (Torrington *et al.*, (2008) Thus, each of the manufacturing organization's health and safety policies have been individually analyzed and discussed.

4.4.1 Occupational Health and Safety Practice at Universal Industries Limited

Established in 1957, Universal Industries Limited in Malawi has over 1500 employees and a diverse range of products (European Times, 2013). It is the priority of this manufacturing company to ensure that all its employees, customers and clients as well as the general public are protected from any threat including occupational accidents and diseases that might arise from the working environment (Universal Industries Ltd Strategic plan, 2010-2020). As such, the organization takes a proactive approach to combat issues ranging from pollution, global warming, deforestation, occupational accidents and diseases through proper waste management, increased public awareness, promotion of health and sanitation facilities and practices, and the creation of a conducive environment where all employees and stakeholders are protected from negative social and economic externalities (Universal Limited Strategic Plan, 2010-2020).

According to (Armstrong, 2006), all organization shall be committed to ensuring that its various business activities are consistent with the various national and international legal conventions and statutes to avoid conflict of interest. For Torrington *et al.*, (2008), the organization shall strive to ensure strict adherence to all readily available pieces of legal legislations and other pertinent legal instruments. To concur with the above, the Human Resources Manager pointed out that the manufacturing organization in question is making strides in ensuring that its human resources and

management practices, systems, policies and procedures are in tandem with the dictates of the basic labour laws of the country such as Labour Relations Act 1996, OSHW Act 1997, Workers Compensation Act 2000, Employment Act 2000 and the 2011 Pensions Act. He further observed that the manufacturing organization had in the past years been working without any workplace safety and health guideline or policy. “All issues of staff welfare and health were handled by a General Manager who lacked expertise in the planning and implementation of the various provisions of the labor laws inclusive the organizational OSHW policy”. Meanwhile, he was quick to point out that, the manufacturing organization’s operations have in the meantime improved for the better. The establishment of a fully-fledged HR department has significantly boosted the manufacturing firm’s level of compliance with the provisions of the labour law.

Coming to the issue of how the OSHW policy is administered, the manufacturing organization through its Production and Operations department is comprised of ten (10) Assistants Production Supervisors appointed from among the existing staff. Among them, there are five Supervisors who supervise employees working during the day and the remaining five do supervise night shift workers to ensure that they do not steal stock from the warehouse or at the production line assembly.

Meanwhile, these Assistants Production-line supervisors do not work in isolation. They work hand in hand with the Safety and Health Representatives along with the Safety and Health Committee members in promoting the safety, health and welfare of members of staff. The Human Resources Manager observed that, it is the tradition of the manufacturing firm to have manufacturing and production-line workers who encounter any health and safety related problem or threat to report their complaints to the Safety and Health Supervisors who also happen to be their fellow members of staff. “Upon receiving the complaints, these Safety and Health representatives forward workers’ grievances to the Safety and Health Committee that look into them and ensure that the problems are fixed within a short period of time. Consequently, the Safety and Health Committee takes up the matter to the Production and Operation Manager for final decision. Because of their close contact with the machine operators and production floor workers, the Safety and Health Supervisors are also entrusted with the responsibility of ensuring that the factory working environment is not hostile

but always safe and secure and ensuring timely reporting of both minor and major faults to the machine operator' (The Production and Operations Manager interview). They also ensure that the factory production plants are maintained on a regular basis so that they are in good condition; keeping bare electric wires covered at all times, ensuring that the factory premise is kept clean and tidy and that the factory temperature is relatively moderate. Besides, they also ensure that manufacturing department workers have adequate working tools and equipment such as gumboots, masks, overalls and grooves among others.

This Safety and Health Committee does meet on a regular basis and at the end of each year to review how far the implementation of the health and safety policy has been done. Alternatively, they are empowered to brainstorm and come up with solutions to safety and health problems workers face on a daily basis. According to the Human Resources Practitioner (interview), the success of the implementation of the occupational safety, health and welfare policies at Universal Industries is a collective responsibility of the safety and health representatives or Committee who work hand in hand with company Trade union representatives to ensuring that employees' safety and health needs are properly aligned, interwoven and feed into the strategic plan of the manufacturing organization.

To the contrary, the Production-line workers interviewed construed the health and safety supervisors' work as trivial and purely economic in nature rather than regulatory. They claimed that the major aim of the existence of the Safety and Health supervisors was to protect the company stock from being stolen instead of promoting workers welfare. Can one servant serve two masters? How would you expect people appointed by management to defend their economic interests and desires properly work in good faith to serve the interests of workers? (Production-line workers interview). The so called health and safety committee has never worked with us neither have they solicited our views to appreciate the various challenges that affect our work life" (Organizational Trade Union representative interview) Worse still, we do not get feedback when the health and safety committee meet at the end of the year to review the safety and health policy implementation opportunities and challenges met (Trade Union Representative and Production-line worker interviews).

4.4.2 Occupational Health and Safety Practice at Laher Bakery

Laher Bakery is one of the bread manufacturing firms in Malawi with a current workforce of about 90 including the General Manager, Production Supervisors, Assistant Personnel Officer, Accountants, Cashiers, Production line workers, Drivers, Security guards among others (Assistant Personnel Officer, interview). Just like other manufacturing industries in Malawi, the Bakery takes to heart matters pertaining the observance and adherence to the labor laws in the country including the occupational health and welfare Act 1997.

According to an Assistant Personnel Officer (interview) at Laher Bakery, the manufacturing organization has managed to develop and come up with a sound health and safety policy that help drive its various OSH activities. He further asserted that, the OSHW policy at Laher Bakery involves the following stages; policy; plan, implementation and review. The following of the steps in implementing the Health and Safety programs at Laher Bakery supports what Armstrong, (2006) and the ILO, (2011) recommend. According to Braton 2008), the alignment of organizational OSH policies with the prescribed steps of OSH legal provisions is a clear demonstration of the fact that, the organization lives up to the dictates of the minimum standards of the OSH provisions.

At the policy stage, the Bakery provides written guidelines that should be followed when the OSH policy is being implemented. It is a statement of the commitment of the organization with regard to the implementation of the safety and health legislations. The organization's mission statement reflects the manufacturing firms' mission, visions and strategic goals. The plan stage is where all stakeholders affected by the implementation of the health and safety legal provisions (workers' representatives, employers' representatives, organizational trade unions, the safety and health committee members) come together to a round table discussion to share their views, perceptions and opinions on how the organizational safety and health policy should be framed. The planning of such initiatives helps in ensuring that the safety and health policies are incorporated into the overall corporate objectives and the strategic intent of the bread manufacturing organization (The Assistant Personnel Officer interview).

The third stage is the actual implementation stage which ensures that the planned policy is executed. It is at this stage that the resources including material, financial and human are solicited and put into actual use. Having done this, the results, feedback and outcomes obtained are properly recorded and documented. The review is the last step of the implementation of the occupational safety, health and welfare policy. At this stage, the final outcomes and results are measured to see whether the initial plans and goals have been achieved or not. If the initial goals have been met, the OSH planning team receive recognition and rewards as part of motivation to reinforce good performance attained. On the contrary, when the outcomes fall far below the expected standard, the deficiencies are recorded and corrective measures taken to rectify the shortcomings.

Meanwhile, the study found a mixed reaction as regards the existence and operationalization of the safety and health policy. Despite management claims regarding the availability of the policy that directs the safety and health planning and implementation at Laher Bakery, employees interviewed expressed ignorance of the existence of any workplace policy that promotes their safety and health. “The proclamation by management that Laher Bakery has an existing OSH policy is a total lie and this assertion does not reflect the reality on the ground” (The production-line workers interviewee).

4.4.3 Occupational Health and Safety Practice at HISCO Industries Limited

Hisco Limited was founded in 1956 and was later incorporated in 1966. It offers a numerous assorted electrical and building materials across all the three regions in Malawi. It has a workforce of about 115 who work within its various departments. Hisco limited has got a magnificent structure in Blantyre City called Hisco House where manufactured commodities and various kinds of building materials are stored (Hisco house Newsletter, 2016).

This manufacturing firm performs a diverse kind of business operations and activities. Its various departments include accounting and banking, human resources and administration, production among others that work hand in hand to accomplish its corporate objectives, mission, goals, values and strategic vision.

The human resources department is now headed by the Human Resources Officer who is responsible for the planning, direction and implementation of the various labor laws of Malawi (The Human Resources Officer interview). When it comes to the issue of adherence to the occupational health, safety and welfare Act, the manufacturing firm has got a capable and well-motivated team that strive to ensure that all production and business operations are in tandem with the dictates of the OSHW law.

For implementation purposes of this safety and health Act, the organization has appointed 2 Health Surveillance Assistants (HSA), 2 Health and Safety Representatives that work along with the Safety and Health Committee and 3 Trade Union Representatives. Thus, the HSAs are responsible for ensuring that sanitation and safety procedures are followed to prevent avoidable occupational diseases and injuries. The Health and Safety Representatives do monitor the working conditions and advise both management and workers on the need to follow best practice in as far as the implementation of safety and health policy is concerned (Human Resource Officer interview). He further maintained that, the organizational Trade Union Representatives take a leading role in negotiating the terms and conditions of work with management on behalf of their fellow employees.

The Safety and Health Committee work harmoniously in ensuring that all complaints and grievances of workers are timely taken care of; and try as much as possible to resolve every health and safety controversy that has been brought to their attention of management by workers. They also offer advices and provide counseling services to promote the health and safety needs of staff (Human Resources Officer interview).

On the other hand, the study findings however found that the organization does not have a sound and well balanced guideline to drive the operations of the OSHW Act 1997 (Trade Union Representatives interview). The organization heavily relies upon the cooperation of the health and safety working team to ensure that occupational accidents and diseases are on average avoided and try as much as possible to minimize their occasional occurrence (Production-line supervisor interview).

For workers, it was a strange thing to them to learn about the existence of a workplace safety and health policy at their disposal. The majority of the respondents expressed

ignorance regarding the availability of the health and safety policy. Commenting on the same, the Human Resources Officer dismissed the employees' claims arguing that perhaps these other employees have little knowledge and understanding on how the occupational safety, health and welfare policy should be administered.

4.5 Factors that affect the Implementation of Occupational Safety and Health Legislations in the Manufacturing Industry in Malawi

Another objective of this study was to ascertain the factors that affect the adherence of the occupational safety, health and welfare legislations in manufacturing organizations in Malawi. The study findings has revealed several factors that affect the promotion and adherence to the safety, health and welfare regulations in manufacturing sector organizations in Malawi.

The diagram below exhibits the factors that affect the implementation and enforcement of OSH legislations in manufacturing firms in Malawi.

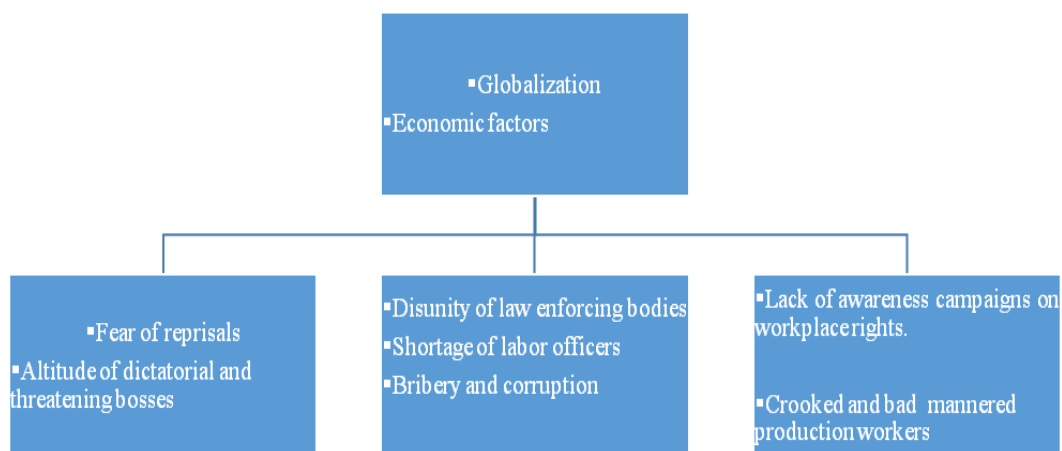


Figure 2: Factors that affect the implementation and enforcement of OSH legislations in manufacturing companies in Malawi; designed by the author

4.5.1 Globalization

According to the study findings, globalization was one of the factors that has to a greater extent compromised the promotion of safety, health and welfare legislations in the manufacturing sector of the economy in Malawi. Globalization refers to a

tendency of firms to extend their sales or manufacturing to new markets abroad (Dessler, 2006). Through globalization, the world is fast becoming one village. Globalization has heightened business competition and affected the way business organizations produce their goods and services. Firms are increasingly adopting technologies that should maximize their gain in the face of competition, and which at the same time compromise the safety, health, and welfare of workers including the OSHW Act 1997. They regard commitment to issues of safety, health, and welfare as a cost that would reduce a return on their investment (Trade union Representative Interview).

4.5.2 Economic Factors

According to the Production Manager interview at Universal Industries Limited, economic factors such as inflation, government deregulation and concern for productivity pose a big obstacle to the promotion of the occupational safety and health legal legislations in the manufacturing sector in Malawi. He further observed that, with inflation, the unnecessary rising of prices of goods and services, most organizations cough out a lot of money to buy raw materials that could have been used to improve workers' safety and health standards. He further noted that when the prices of agricultural commodities(agricultural commodities such as maize, pigeon peas, soya beans among others) go up, it becomes difficult to put in place facilities and structures that make the work place conducive yet staff expects good working conditions. Pressure to increase salaries and employees' benefits, making pension plans are other economic factors that receive much attention in most manufacturing organizations in Malawi, and hence, foregoing the opportunity cost of maintaining a safe and decent working environment (The Human Resource Officers and Production and Operations Manager interviews).

4.5.3 The Altitude of Threatening and Dictatorial Bosses

Another reason for non-adherence to safety and health regulations is concerned with dictatorial supervisors who threaten to fire employees who report the poor prevailing safety and health atmosphere they encounter in the course of discharging their duties to trade unionists or other relevant authorities such as the labour office (Trade Union Representatives and Production-line workers interviews). "Our immediate supervisors to whom we directly report intimidate us that all issues to do with our safety and

health should be dealt with using internal structures such as informing our immediate bosses rather than disclosing such confidential matters to outsiders”. Outsiders will not help address your safety and health problems. “When you report your work-related concerns to them just know that you are digging your own grave and paving your way out of this organization”. Those people cannot assist you. They will not employ you when you are sacked”,(Production-line employees’ interview).

4.5.4 Fear of Reprisals

Related to the above, another factor that affect the promotion of manufacturing organizations’ safety and health rules and regulations is the concern over high unemployment rate. Most Production-line workers approached argued that they usually suffer in silence because they do not want to lose their jobs. Most of production-line workers probed expressed their fear of reprisal once they attempt to lodge their numerous injustice and work-related grievances to the Labour Office or a Trade Unionist. The manufacturing and production-line workers interviewed at Universal Industries Limited gave a specific example of the ordeal of their fellow former night shift workers who lost their jobs a couple of years ago because of unnecessarily visiting the Labor office to report employers’ malpractices. “Since the last time our colleagues got dismissed, they never came back to work. “We are afraid that the punishment that was imposed to our colleagues might also come to us when our employer hear that we have visited and reported to the Labour office the poor working conditions that we come across with on a daily basis” (Production line-workers interviews at Universal Industries Limited).

4.5.5 Lack of Sensitization and Awareness Campaigns on what Constitute Employees’ Employment Rights

The blue-collar workers approached at Universal manufacturing company and Laher Bakery pointed to their ignorance as a major cause of concern for employers’ non-compliance to safety and health legislations. The manual and production flow workers asserted that in most organizations workers of their caliber are unskilled, uneducated and uninformed, and therefore, taking advantage of their ignorance of their workplace rights, employers further exploit them. They further maintained that “no one cares to disclose to them about their rightful employment rights and this subjects them to all sorts of workplace abuse and harassment by their employers”. Reminding them that one of the roles of organizational safety and health representatives is concerned with

sensitizing them about their employment rights, most of the interviewees said that they simply view these health and safety representatives as agents of employers put in place to further undermine their freedom and the enjoyment of their employment rights. On the other hand, another interviewee approached at Laher Bakery viewed the role of Labour Officers in safeguarding their employment rights as a non-starter because during her six years of service with her employer, officials from the Labour office only visited the organization only twice.

4.5.6 Disintegration and Disunity of Institutions that Enforce Safety and Health Legislations

The interview with the Trade Union Leader at Hisco Limited showed lack of unity and proper coordination of the activities of the institutions responsible for the implementation and administration of the health and safety policies and legislations. He gave the example of the institution that is responsible for sensitizing workers about their employment rights. Is this the function of Trade unions or a Labour officer? (Trade Union Representatives interviews). At times you wonder to hear the Labour Officer who happens to inspect the workplace that she will not dwell much on issues of workers' employment rights because Trade Unions Representatives are responsible for such issues (Production-line worker interview). Sadly, Trade Union leaders sometimes ignore certain clauses that talk about employment rights, arguing that Labour Officers are better placed to tackle such matters. This raises questions as regards the unity and oneness of these safety and health regulating organs.

Another indication of disunity and intolerance among the institutions responsible for the enforcement of the safety and health legislations is manifested by the Labour inspectors' unwillingness to be accompanied by union leaders during workplace visits (Trade Union Representative Interview). On the other hand, the Labour Officer contended that organizational trade unionist do not have a legal mandate to conduct labour inspections because they are not properly trained in this area of specialty. In addition, it was also disclosed that Labour inspectors sometimes do not hold consultations with union leaders before performing inspections in the organizations understudy. Not only this, Labour inspectors sometimes seem not to be interested in holding talks with union leaders to brief them about the prevalent industrial relations conditions of the organization inspected before leaving the undertaking (Trade Union Representatives interviews).

4.5.7 Bribery and Corruption of Safety and Health Enforcement Organs

The interview also revealed that bribery and corruption by Labour Officers and Trade Unionists pose a great setback in the management and enforcement of manufacturing firms' occupational safety and health legislations. The president of Universal Industries Limited workers union disclosed that there had been long standing issues concerned with the violation of the safety and health legislations by employers; poor working conditions, locking employees in the hot factory building at night, poor ventilation of the factory building and lack of protective garments that put the lives of production line workers at stake. But to his surprise, each and every time Labour Officers inspect the organization and meet workers representatives, these problems are brought to their attention. Sometimes workers visit these Labour Inspectors to their offices to tell them the inhumane working conditions prevalent at their workplace. Notwithstanding this, when Labour Officers pay a visit to the workplace, they promise workers that the employer will improve on the grey areas that have been pointed out. But once these inspectors return back to their offices, employers are not shaken to make an improvement. Lack of disciplinary action on part Labour Officers against employers who repeatedly violate the provisions of the OSH legislations is reason enough to conclude that employers bribe these Labour Inspectors (Production-line workers interview).

The findings also revealed that organizational trade unionists do not truly and genuinely represent their clients (workers) when they meet with management. In most cases, these trade unionists do not discuss employees' safety and health work-related grievances when they meet with employers' representatives. "The most painful thing is that before these unionists go out to meet with management representatives, workers make a position on what ought to change as regards the working conditions, but when they come out of the meeting, they create stories different to what we had agreed in the first place. We suspect foul play over such matters. We are certain that trade union representatives do not negotiate in good faith with employers' representatives"(Production-line workers interview).

The absence of stiffer punishment or penalties poses a great threat to the effective management and enforcement of the occupational safety, health and welfare systems (Safety and Health representative interview at Laher Bakery). Since employers in our country are fined only a small amount of money when they violate the provisions of

the OSH Act, they find it easier to dish out the fine than to comply with the available piece of labour law. “Had it been that the violators of the labour law face an instant punishment and the long arm of the law, this would have instilled fear to the would be offenders of the provisions of the OSHW law in the country” (Trade union Representative Interviews).

4.5.8 Shortage of Law Enforcers/ Labour Officers

On a separate interview with the Labour Officer, the problems that had in the past been negatively impacting the enforcement of the occupational health and safety Act 1997 in Malawi is concerned with the acute shortage of Labour Officers. He however admitted that he expects to see a change this year due to the recruitment and deployment of more than 10 additional Labour Officers in various districts throughout the country. He further asserted that the more the number of these Labour Officers, the frequent the inspection of working establishments and the higher the compliance of employers with the OSH Act.

4.5.9 Crooked and Bad Mannered Manufacturing and Production Line Workers

Another interesting point believed to have worsened the level of non-compliance with the safety and health legislations is concerned with unfaithful workers who steal the products of the company. The Operations and Production Manager (interview) at Universal Industries Limited lamented over the unbecoming behavior of production line workers more especially those that work during night hours to be a thorn in the flesh to the company's operations. These night shift production-line workers do steal manufactured products from the company and sell them to vendors. He further observed that the night shift workers often take advantage of the darkness when they are on duty to steal different kinds of manufactured products and sell them to vendors. This has sometimes made the organization to take tough steps of rocking them inside the manufacturing building at night. When asked why not finding other alternatives to deal with the thieves caught stealing company properties such as beefing up the security. The respondent argued that sometimes these night shift workers confide with the crooked factory supervisors to embezzle firm's manufactured products.

In conclusion, the above findings have revealed that the factors that affect the enforcement of the labour inspection law are partly instigated by employers, the

ineffectiveness of the labour inspection system as well as the employees themselves.

4.6 The Effectiveness of Ministry of Labour in Enforcing the OSHW Act 1997

The last objective of the study was concerned with analyzing the role of the Ministry of Labour in the enforcement of the OSHW legal provision. But the question is how the study is going to objectively analyze the effectiveness of the Ministry of Labour in enforcing the OSH legislations? According to the Director of OSHW for the South interview, an effective labour process should be determined by these three attributes; should be well funded, well-staffed and well organized. Therefore, this part of the study discusses the concept and nature of inspection services, its structural composition, types of inspection visits, the frequency of workplace visits, issues covered by labour inspection services, the manner in which the inspection process is conducted, types of sanctions imposed among others. It is believed that the systematic and comprehensive assessment of the processes of labour inspection activities, the frequency of the visits and the manner Labour Inspectors conduct themselves when inspecting the workplace will significantly help to determine the effectiveness of the Ministry of Labour in enforcing the Occupational safety, health and welfare legal provision in Malawi.

4.6.1 The Concept and Nature Of Labour Inspection

According to the Labour Commissioner for the South, Labour inspection refers to the public administration function that involves the investigation of the activities of the work processes, identification of potential risks and health hazards that could pose a threat to the welfare of workers, and, the generation of possible solutions to rectify work deficiencies. The primary aim of labour inspection services is to keep the concerned parties abreast with the necessity to observe and respect both the spirit and letter of the labour law.

4.6.2 Composition of the Ministry of Labour

The Ministry of Labour has a division called the Occupational Safety Directorate which is responsible for administering, monitoring, and enforcing the OSH Act. According to the Labour Commissioner for the south interview, the Ministry of Labour is currently divided into four departments: Administration, Labour Services, Occupational Safety and Health and Technical and Vocational Training. The Labour Services Department is divided into 5 sections, namely: The Inspectorate, Industrial

relations, Employment Services, Worker Compensation and Field Services. The Occupational Safety and Health Directorate is further divided into three sections, namely: Inspection Services, Industrial Hygiene, Information and Documentation. The Department of Labour Services – and within it, the General Labour Inspection Services – and the Safety and Health Inspectorate are entrusted with the tasks of promoting and enforcing the labour law.

The General Inspectorate, aside from the enforcement of labour legislation, also executes the labour relations activities; dealing with complaints, workers' compensation activities and the registration of trade unions. The General Inspectorate in the three regional labour offices and in 29 district labour offices, carries out the labour inspection services. The health and safety inspectors provide services to the districts from the Headquarters and the two regional offices (The Regional OSHW Officer interview).

4.6.3 Legal Powers Of Labour Inspectors

Article 81 and 129 of the ILO Labour inspection provision gives Labour inspectors unlimited jurisdiction to visit the workplace without begging permission from employers and start inspecting all aspects of the work activity. In Malawi, Section 73 -78 of the OSHW Act 1997 provide powers to Labour Inspectors of Occupational Safety Directorate with regard to the administration, monitoring, and enforcement of the Act. For example, section 73 (1a) stipulates that 'an Inspector for the purpose of administering, monitoring, and enforcing the provision of this Act, have power to enter, inspect and examine without prior notice, at all reasonable times a workplace, and every part thereof, when he has reasonable cause to believe that any person is employed therein'. Therefore, the unlimited legal powers conferred on the Labour inspectors enable them to inspect each and every workplace and ensure that employers adhere with the minimum provisions set out in the OSHW Act.

4.6.4 The Process of Labour Inspection

According to the Labour Officer interview, the labour inspection process follows the following steps;

To begin with, the labour inspection process is initiated by a Labour Officer who arrives at the workplace and then informs employers about their presence. This done, the Labour Officer issues his/her identity card or badge to employers or their

representatives confirming his eligibility and legitimacy to inspect the workplace. Besides, these inspectors may inform the workers' representatives about their arrival and purpose to inspect the workplace. Before inspection starts, these labour officers hold a brief meeting with both employers' and employees' representatives to ascertain how far the labour law is being observed and also how the prevailing working conditions help promote or obstruct the adherence to the OSHW legal provisions at the organizational level.

Then, Labour inspectors may decide to choose or not choose a member of the safety and health committee and the workers representatives to accompany him/ her to conduct the inspection services within the workplace. In most cases, these inspection services target the manufacturing firms' installations including plant and machinery especially those that present specific hazards, the layout of the workplace and the prevailing working conditions. They also target the sanitary arrangements of the workplace, organizational safety and health records are equally likely assessed as well as the way how goods and services are being manufactured or produced.

During inspections, Labour Inspectors provide technical advice to employers on what needs to be done so that safety, health and welfare of employees are promoted at the workplace. For example, they may advise an employer on how he/she can improve the ventilation of a workroom so that it is in line with section 24 (1) of the Act which stipulates that every workplace should have effective and suitable provision for securing and maintaining circulation of fresh air. Having concluded the inspection exercise, the Labour inspector informs employers in the presence of workers' representatives about his observations made and this is usually put in writing and kept in the organization's safety and health register and records for future reference.

When a Labour Inspector finds a potential health threat, they make a declaration of employers' violation to the precept of the labour law. He or she may issue both oral and verbal warning and consequently, give advice and guidance on the need to improve on the working condition as soon as possible. He/ she also warns employers on the possible sanctions to be inflicted on them should they not improve on the identified grey areas. When an employer has failed to improve the working condition *after being warned, the labour Officer does impose sanctions immediately. After*

leaving the workplace, they shortly make effort to revisit the workplace to see how far the required safety and health standards have been taken into consideration. But sometimes due to lack of transport to revisit and make a follow up to the organization in question, Labour inspectors may order employers to go to their office and present a report on how far they have improved the workplace arrangements identified during the first visit.

4.6.5 Issues Covered by the Labour Inspection Process

The safety and health inspectors deal specifically with safety inspection, accident investigation and industrial hygiene. Safety and health inspectors perform technical inspections of boilers, hazardous plants and machinery such as lifts, hoists, cranes, pressure vessels, and more (Labour Officer Interview). Not only this, Section 96 of the Malawian OSHW Act makes mention of the eleven thematic areas namely; preliminary, registration and workplaces, duties and responsibilities, health and welfare, machinery safety, notification and investigation of accidents, dangerous occurrences and industrial diseases, records, administration; offences, penalties and legal proceedings and miscellaneous provisions.

4.6.6 Types of Visits and the Frequency of The Inspection Services

The Labour Inspector interview identified three types of visits that are conducted in manufacturing organizations in Malawi namely; the routine, emergency and request visits. The routine visit on one hand is done unexpectedly and without giving a notice to employers. It is an exhaustive visit which ensures that each and every aspect of work is inspected to see how far the legal dictates of the labour law are being observed by employers. An emergency visit on the other hand is usually dictated by the events that have taken place at the workplace that calls the immediate attention of Labour inspectors without any delay. For instance, when an abrupt fire has erupted or a manufacturing building has suddenly collapsed and killed workers, Labour Officers are required to be at the accident site to appreciate for themselves what have contributed to the occurrence of such a workplace calamity, and where necessary determine if such an accident was a direct responsibility of employers' negligence and complacency or not.

To wind up, a request visit occurs at the request of stakeholders to visit the workplace and investigate an alleged illegal layout of work activities or to settle a problem

related to the application of the labour law. When it comes to the types of visits used when inspecting the manufacturing organizations under study, it was revealed that the routine visit, an instant and the one characterized by the absence of employer warning is the widely used type of workplace visit by Labour Inspectors. This type of visit is very effective, and when properly utilized, employers are usually caught unaware, and hence, the actual reality on the ground as regards the enforcement of the OSHW provision in Malawi is revealed. However, it was further noted that the emergency and request visits are also used when a need rise but they are not applied as frequently as the routine visit does.

When it comes to the frequency of the visits at the workplace, the law provides for a minimum of two visits to every workplace each year. According to the Director of Occupational Safety, Health and Welfare, the Directorate had in the past been able to conduct ten (10) inspections on average per month but this year, due to the additional Labour Officers recruited, the Directorate has been able to conduct (20) inspections per month which is close to the required number of the monthly inspection of 30. With this state of affairs (increase in the distribution of the number of Labour Officers across the various districts), the Labour Officer was optimistic that more organizations that had in the past years not been closely monitored will be able to be audited in the near future. However, this requirement is not fully fulfilled due to lack of human and material resources. As such, Labour Inspectors in most cases inspect an average of one workplace per year.

Currently, the Directorate has a workforce of twenty (20) Labour Inspectors who are distributed throughout the three regions of the country. This figure is far below the government establishment which requires it (the Directorate) to have thirty (30) Labour Inspectors.

4.6.7 Sanctions Imposed for Non-Compliance

There are various legal sanctions at the disposal of Labour Inspectors which they may decide to inflict upon the law breakers so that employers comply with the legal dictates of the occupational safety and health law more especially those in manufacturing organizations in Malawi. These may include; advice, warnings, financial sanctions, imprisonment just to mention a few (Labour Officer Interview). Similarly, the OSHW Act provides on subsection 3a of the same section that ‘every

person who fails to permit, or refuse entry of an inspector to any workplace shall be guilty of an offence and liable to a fine of K10, 000 and imprisonment for six months'. It must be noted that the type of sanction imposed may vary according to the type and nature of the offence committed. Sanctions also vary depending on the context within which the industrial relations system is being administered. Normally, it is at the discretion of the Labour Officer to decide the most appropriate sanction to be imposed on the offenders of the occupational safety and health law.

4.7 The Essence of Labour Inspection Services in Promoting the Labour Law

The Regional Occupational Safety, Health and Welfare Officer for the South (interview) indicated that labour inspection is an important exercise as far as enforcement of the Act is concerned. He argues that without inspections, it could have been difficult to monitor the activities of employers and the lives of workers could have been at stake. He also agrees with what Francis Blanchard, Director General of International Labour Organization from 1974 to 1989 said that, "labour legislation without labour inspection is an exercise of ethics, and not a binding discipline". Labour inspection therefore is of paramount importance in as far as the implementation and enforcement of the Occupational Safety, Health and Welfare Act 1997.

4.8 Challenges Facing the Ministry of Labour

There are numerous challenges that adversely impinge the Ministry of Labour when it comes to the enforcement of the OSHW Act 1997. Some of these challenges include; inadequate funding and shortage of Labour Inspectors.

4.8.1 The Ministry of Labour is Underfunded

Empirical evidence revealed that inadequate funding is the first challenge that makes the Ministry of Labour to be caught between a rock and a hard place as regards the enforcement of the OSHW Act 1997 in Malawi.

Evidently, the Ministry of Labour is one of the ministries in the country which relatively receives low funding. The ministry on average receives an annual funding of K186, 000,000 which is shared among its divisions. Worse still, the division of Occupational Safety Directorate gets K10, 000,000 which constitutes only 5% of the total ministerial funding (Labor Officer interview). With the growing number of

workplaces over the years, the Directorate finds it difficult to visit as many workplaces as possible due to lack of adequate funds to cater for expenses such as fuel and subsistence allowances. The fact that the Directorate has only three offices across the country, Labour inspectors are inevitably required to travel to various districts in order to enforce the Act.

Besides, the problem of insufficient funding has to a great extent paralyzed the Ministry's effort to adequately visit, inspect, fish out and where possible bring to book the numerous dubious and unlawful actions of the owners of capital. Not only this, the Labour Officer observation concurs with the assertion of Nyanda in Dzimbiri, (2008) that inadequate financial and fiscal resources naturally pushes Labour inspectors to be confined to their offices waiting for employees to register their complaints for investigation instead of them visiting various workplaces to appreciate for themselves the what is actually happening on the ground.

4.8.2 The Ministry Of Labour Is Understaffed

To continue with, study findings have showed the problem of shortage personnel. The shortage of Labour Inspectors has substantially affected the administration, monitoring, and enforcement of the Act. Instead of the minimum of thirty (30) Labour Inspectors that the law prescribes to work within the Ministry of Labour, currently the Ministry is operating using only twenty (20) Labour inspectors. Thus, this challenge puts the Ministry of Labour in an awkward position when it comes to the effective implementation and enforcement of the OSHW Act 1997.

4.8.3 Turnover of Labour Officers

Both the Regional Occupational Health and Welfare Officer and the Labour Officer interview indicated that low salaries and lack of career development prospects results in high rates of turnover. Labour inspectors are more often than not tempted to look for green pastures in the private sector due to problems surrounding low salaries and poor working conditions. He further argued that the Ministry of Labour has been losing a lot of highly competent and skilled Labour Officers because of the absence of proper retention strategies and plans. It is imperative to understand that, this study will compare and contrast the different manufacturing companies OSH policies and practices with the OSH theory and conceptual framework, and hence, providing a logical explanation to the research sub-problems identified.

From the above discussion, there are a number of important observations pinpointed in relation to the way the three manufacturing organizations in questions have implemented and operational zed their safety and health policies and programs.

To begin with, the three manufacturing organizations under study have been implementing their various safety and health programs and activities unsystematically and without any written safety, health and welfare policy document or guideline. This altitude of manufacturing organizations operating without putting a working OSHW policy in place is regrettably a bad practice and it is in sharp contrast with the clear specifications of Section 13 (3) and 69 (d) of the OSHW Act. Both Section 13 and 69 of the OSHW Act emphasize the need to put in place an elaborate and clearly developed OSH policy statement and make it available to all employees. These Sections of the OSHW Act are also in direct support with ILO Conventions No. 81 and 129 which point out the legal obligations of each and every employer to develop a clearly written down safety and health policy so that workers are kept abreast with the manner and pace at which workplace safety and health programs ought to be implemented or administered. For Torrington (2008), where more than five workers are employed, employers are expected to have a written health and safety policy which must be kept up to date and made available to all staff.

The tendency of the three manufacturing industries operating without any living OSH policy document creates the impression that the development and implementation of an OSHW policy is a waste of time and resources. Needless to say, the essence of the development of manufacturing organizations safety and health policies in Malawi is undeniably being underrated and taken for granted by management. It contradicts Allie (2008:45) who observed that the OHS policy should be written because it represents the foundation from which occupational safety and health goals and objectives, performance measures and other system components are developed. Perhaps, Armstrong (2006; 961) observation that the importance of healthy and safe policies and practices is, sadly, often underestimated by those concerned with managing businesses and by individual managers within those businesses catches the essence of it.

Second, this study has only come across one company (Laher Bakery) that plans its OSH programs in accordance with the systematic approach to the management of occupational safety, health and welfare programs and activities which include policy planning and development, organizing, implementation and evaluation. According to Robson *et al.*, (2007:333), the implementation of an OHS management system reduces the number of accidents and occupational diseases among employees. On the other hand, the findings revealed two manufacturing industries (Universal Industries Limited and Hisco Limited) that did not follow the steps necessary for complying with aspects related to the management of continual improvement of health and safety in the workplace.

To reiterate, a systems approach to the management of safety and health involves a process of activities that need to be followed for effective implementation of health and safety workplace programs. It is a transcript of safety and health policy planning and direction tools which links the organizational mission, vision, objectives and operating plans with the individual employees' health and safety needs. It is to do with the what, who, where, why and how a company would want to implement and execute its safety and health programs. According to ILO (2001), a good health and welfare management system should define individual and organizational goals, objectives, mission and strategic visions. It also defines employees' and employers' responsibility in the implementation of the safety and health policy as provided for in chapter three of the Malawian OSHW Act 1997. If the organization safety and welfare programs have not been properly defined and aligned through policy planning and direction processes, how can employees know what is expected of them? Against what standard can the realization of the health and safety goals and objectives be evaluated?

The systems' approach to the management of safety and health aims at providing a technique to assess and improve performance in the prevention of workplace incidents and accidents through the effective management of hazards and risks at the workplace (Gaceri, 2015). A successfully implemented occupational health and safety management system affords a logical, comprehensive framework to justify, create and continually improve health and safety program activity (Copper, 2004). On the contrary, the absence of a consciously and clearly developed organizational safety and

health policy shows an organization's lack of commitment and dedication in the promotion of safety and health regulations (Labour Officer Interview).

The main argument here is that while the OSH conceptual framework is clear on the guidelines that ought to be employed as regards the planning, implementation and evaluation of safety and health policies at work, the study findings revealed that there is a great mismatch between what theory of systems approach to the management of safety and health is advocating for and what the actual implementation of occupational safety and health program is preaching.

Third, whilst S 13 (2) (b,c,d and e) of the Malawi OSHW Act stipulates the legal obligations of employer to provide adequate information, training, instruction and supervision to employees in order to improve the safety and health services delivery at the workplace, the actual implementation of safety and health programs and policies of the manufacturing organizations under study seems to undermine the fundamental principles of social dialogue (employee consultation, participation and employee voice and communication) in the planning, implementation and evaluation of OSH legislations.

Further to this, the study revealed that a lion's share of participants did not take part in policy planning, implementation, risk assessments and in the investigation of occupational accidents, diseases and incidental death at the workplace. It has been discovered from the study that the three manufacturing organizations have planned, organized, implemented and evaluated their safety and health programs unitarily without the involvement of employees or communication of feedback to employees on what needs to be done and what is expected of them. This is in sharp contrast to the findings of Armstrong (2006), who argued that effective execution of OSH policies requires top management support, good leadership skills and finding the right mechanisms for worker involvement. Based on the study findings, the three manufacturing firms being studied have adopted a unitary approach to the management of their occupational safety and health programs. There are only a few individuals more especially top management that partake in the policy making processes and the management of health and safety programs. This top-down approach to industrial relations had its roots in Taylor's Scientific School of management which was characterized by lack of employee voice, participation and

consultation in the process of decision making. This approach is not a good practice. It essentially subjects workers to vulnerable working conditions and exposes them to human exploitation.

Related to the above, the present study showed that more than half of the employees approached expressed ignorance about the existence of OSH programs at their respective workplaces. This shows lack of communication and employees participation in the implementation of OSH programs. Management of these manufacturing firms have forgotten the fact that a fundamental strategy that can be adopted by the employer to manage workplace risks is paying emphasis to worker participation (Hughes & Ferret 2013:24). What these manufacturing industries are doing is contrary to the findings presented by the ILO (2001:6) and Burton (2010:6) which pointed out that occupational health and safety management systems should emphasize on the effective communication, workers' participation and involvement. Further opposing findings were propounded and popularized by (Burton 2010:6) who argues that the ILO-OSH 2001 management system states that one of management's duties and responsibilities is to promote the participation of all members of the organization towards a common goal with regards to health and safety issues.

Participation' refers to arrangements that give workers some influence over organizational and workplace decisions (Williams and Smith, 2006). Involvement is the process through which management allows employees to discuss with them issues that affect work life (Armstrong 2006). Consultation is important as it leads to improvement in health and safety practices and employees become aware of the hazards in their work (PAHO, 2006:23). According to ILO (2010:13), the implementation of worker participation fosters the culture of oneness between employers and employees when it comes to determining good working environment.

By extension, it emerged from the present study that there is very minimal reporting of industrial accidents, injuries, diseases and incidences to the Labour office simply because employees feared to lose their jobs. The above findings are agreement with the study carried out by the Malawi Occupational Safety and Health Profile (2009) which argues that overall the number of reported occupationally related injuries and diseases are much lower than ILO estimates and this may point to serious underreporting of work related accidents in Malawi. However, the non-reporting of

OSH accidents and incidents contradicts the OSHW provisions which requires timely and regular reporting of occupational accidents diseases to the Directorate in order to facilitate immediate investigation as required by S (66) of the OSHW Act in Malawi. What is even more fascinating is that most employees approached did not know where they could go to report their safety and welfare problems due to lack of knowledge of where and when they should meet relevant authorities. “You mean we are legally obliged to report to the Labour office on health and welfare matters that affect our wellbeing at work? We thought these issues ought to be reported to our immediate supervisors or the production and Operations Manager. We thought these are the ones who could properly assist us in dealing with the health and safety problems we encounter when discharging our daily duties” (Production line interviews at Universal Industries Limited).

Furthermore, the study established that the three manufacturing firms did not record industrial accidents, injuries and diseases in the permanent general registers and neither did not produce incident reports for reviews especially when Labour Inspectors inspect the workplace. Worse still, the annual accidents reports and registers were not submitted to the Directorate of occupational safety and health. What these three manufacturing organizations did was to capture and keep the records of annual injury registers and industrial investigation reports in loose documents for future reference. This tendency of manufacturing firms working without using general registers to record industrial accidents and diseases is in contradiction with Section (70) of the Malawian OSHW Act which prescribed the need for every employer to keep and maintain a general register where every particular of accident and industrial diseases must be kept. The employer must also ensure that the register is annually submitted to the Directorate of OSHW for purposes of execution of this Act.

This done, the study focuses its attention on the analysis of the factors that affect the effective enforcement of OSH programs and policies for manufacturing industries. Although it sounds sensible from the employers’ perspective that inadequate economic and financial challenges to a large extent affect the effective implementation of manufacturing organizations’ OSH programs, the OSHW Act still takes an unchanged stance that all organizations’ safety and health programs should be in consistent with the prescribed provisions of the labor law. Putting it another

way, the labour law does not sanction anywhere that employers should use economic factors as a valid excuse for their non-compliance with the standards of the OSH statutes. What is even more interesting with these manufacturing organizations is the fact that, in the face of financial hardships, employers' are able to pursue various types programs and priorities that are considered beneficial to the success of organization. For instance, at Universal Industries Limited it was found that each and every year the organization buys new fleet of vehicles, they purchase new manufacturing plants, build, expand and refurbish existing buildings, they pay bonuses to outstanding performers, and they increase workers' salaries and so forth (Trade Union Representatives interview). But when it comes to the implementation of the OSH policies, management complain about insufficient financial resources. The question that still remains unanswered is where does this manufacturing organization source the money which it uses to implement these other policies if financial problems really present a challenge for non-compliance with the OSH legal provisions? This is why this study is arguing that the manufacturing organizations tend to take for granted and treat issues concerned with the welfare of employees with kids' gloves but give much preference to organizational priorities that seem more beneficial to the growth and prosperity of the firm.

In a similar fashion, much as we appreciate the fact that the manufacturing organizations need to institute proper security mechanisms for protecting their stock from being stolen by night shift production-line workers, the researcher totally disagrees with some of the arguments presented by employers interviewed at Universal Industries Limited, Laher Bakery and Hisco Limited that they lock the night shift employees inside the hot manufacturing building with poor ventilation as part of strengthening the security mechanisms for their organizations. From my personal perspective, this is not a sufficient claim that should affect the effective implementation of OSH policies of manufacturing organizations in Malawi. To me, this is just a matter of management failure to institute better security strategies. This has nothing to do with the issues of implementation of OSH policies at work.

Could there not be other mechanisms for improving the manufacturing organizations' security instead of locking employees inside a poorly ventilated production building? What these manufacturing organizations should know is that their action is contrary to

Sec 57 of the Malawian OSHW Act which spells out the need to provide adequate means of escape like all the doors and windows that afford a way of exits in cases where fire has erupted. It also expects employers to strive in ensuring that all means of escape in an event of fire are clearly marked and maintained and that it should be free from any obstruction. Notwithstanding the requirements and specifications of the OSHW provision, the study found that for more than twice have workers at Universal Industries Limited been saved from the pangs of death when the factory building they were locked into caught fire and workers were unable to flee themselves due to absence of emergency exit doors and windows. Therefore, much as the manufacturing firms focus on the organizational safety and security needs, workers health and safety needs also have to be given due attention and priority. In fact, there is need to strike a balance between the security needs for the manufacturing organizations and the employees' safety and health needs. This concurs with Chisiza(1961:23) who wondered as to why the one party government in Malawi was putting too much emphasis on the need to achieve economic development at the expense of workers' interests while it would be possible for these two different interests to be pursued simultaneously. Needless to say, by concentrating only on the attainment of security and economic needs at the peril of workers' needs, manufacturing firms in Malawi have undermined the provisions of occupational safety, health and welfare Act in particular and the provisions of labor law that governs the dynamics of employer-employee relationships in general.

Lastly, the manner in which the Ministry of Labour carries out its various OSH activities and programs shall be briefly analyzed in order to determine its level of effectiveness in enforcing the safety and health labour legislations in manufacturing companies in Malawi.

To begin with, the empirical evidence of this study showed that inspection services in manufacturing firms under the spotlight have not been adequately, regularly and systematically done for the past three years (Labor Commissioner Interview). It was further noted that instead of inspecting each and every workplace twice a year as required by OSHW statute, Labour Officers only inspect manufacturing establishments once a year. Sometimes manufacturing organizations' labour inspection services are conducted after two years (Trade Union Representatives interview). In the same vein, instead of conducting 30 work inspections monthly and a

total of 360 inspections per year as per the requirements of the safety, health and welfare Act, only 20 work inspections are carried out monthly and a total of 240 inspections yearly.

Closely related to the above, the OSHW law expects 30 Labour Inspectors for effective enforcement and delivery of the labour inspection process but to the contrary only 20 Labour Inspectors are available on the ground. The twenty (20) Labour Inspectors in the Directorate are not able to effectively carry out the inspections activities across the country. The country has numerous workplaces which critically need inspection services for the purpose of enforcing the Act. This number of Inspectors is too little as compared to the work on the ground.

It is therefore undeniably ridiculous to note that the Ministry of Labour which is responsible for the execution and enforcement of the safety, health and welfare Act is operating with only twenty (20) Labour Inspectors vis-à-vis an increasingly growing numbers of workplaces in Malawi. What does all this mean? Perhaps questions one would ask as regards to such developments could be; why is it that the number of Labour Inspectors remains stagnant as if there are no well qualified and suitable personnel in the labour market? How would one expect employees comply with minimum standards of employment if they know for sure that the responsible ministry to audit their business operations and activities is incapacitated due to inadequate personnel? How can this government machinery entrusted with the responsibility of implementing and enforcing the OSHW Act 1997 reasonably inspect the growing number of workplaces in Malawi only 20 times a month? In fact, the recommended number of thirty (30) Labour Inspectors to provide inspection services in many working establishments in Malawi is not enough. The Ministry of Labour has failed to show respect and live up to the dictates of the ILO Conventions. No 81 and 129 which it ratified long time ago. This is why we are arguing that the Ministry of Labour has failed to demonstrate greater commitment toward the enforcement of the OSHW Act 1997 in the manufacturing sectors in Malawi. The manner in which the Ministry of Labour executes its various labour inspection functions leaves a lot to be hated rather than to be desired since to the great extent it exposes the lives of vulnerable manufacturing workers in Malawi to potential industrial hazards and dangers. As earlier established from the Labor Officer interviews that the effectiveness and efficiency of the Ministry of labor in enforcing the OSHW Act is determined by three

attributes; should be well organized, well-funded and well-staffed. However, it is evident from the study that the Ministry of Labor has miserably failed to stand these three tests; it is neither organized, well-funded nor well-staffed, and hence, ineffective in its effort to inspect workplaces and enforce the OSHW Act in Malawi. Suffice to say, lack of seriousness on part of Ministry of Labor in Malawi in enforcing the OSHW Act pose a great threat to the development, growth and blossoming of sound industrial relations in Malawi. Based on the findings of this study, the labor inspection system in Malawi is too porous and has got a lot of loopholes that can easily be manipulated by unscrupulous employers. For the fact that it is not well organized, underfunded and understaffed; it can be likened to a sinking sand... it does not have adequate capacity to uproot and eradicate the vices of manufacturing organizations' noncompliance with the occupational safety, health and welfare regulations in Malawi.

In conclusion, the study also revealed that lack of training and development opportunities for Labour inspectors pose a great setback to the Ministry of labor's effective delivery of the inspection services (Commissioner of Labor interview). According to Armstrong (2006), Human Resource Development is concerned with the provision of learning, development and training opportunities in order to improve individual, team and organizational development. For Harrison (2000), strategic human resource development refers to development that arises from a clear vision about people's ability and potentials and operates within the strategic framework of the business. Human resource development plays a crucial role in the attainment of organizational goals. Training affords the individual a role and responsibility in the organization and a sense of belonging, loyalty, identity with the vision and mission of the organization (Armstrong, 2006).

For Harbison (1973) any country which cannot develop its human resources cannot develop anything else. If the country that develop its human resources cannot achieve anything else, what would one expect of a Labor Officer who do not receive appropriate training to sharpen his labor inspection and enforcement skills? How would an untrained Labor Inspectorate be able to collect, collate, interpret and retrieve information to appreciate the level of employer compliance with OSH standards in the country?

He further pointed out that trainings have been delivered to Labour inspectors by international cooperation projects but there have not been systematic trainings plans to identify and meet training needs of Labour inspectors. In short, the training and development of labour officers is not systematic in nature; training needs assessment, design, implementation and evaluation processes are never considered whenever the training is being delivered. It does not start by reviewing what kind of skills and competencies Labor Inspectors already have and what they are lacking. The training offered to them does not involve training design processes which answers questions like what type of training Labour Officers need, where can it obtained, who needs it and when it is needed? Neither does it take stock of the actual training delivery techniques. It is devoid of the evaluation process which measures its impact and change of behavior it will have to the training beneficiary and the concerned organization. In essence, the training offered to Labor Inspectorates is inadequate, unplanned and does not address the nitty-gritty of the training and development plans. The training and development process is essentially haphazardly done and implemented.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

In a nutshell, the study has showed that that the three manufacturing industries in Malawi were not fully committed and dedicated to adhere to the OSH laws and, as such, their health and safety management systems were haphazardly planned and executed.

The study further discovered that the state of OSH and compliance with OSH regulations in the Malawian manufacturing industries is very minimal. Empirical evidence also showed that most manufacturing organizations studied operated their occupational safety and health programs without any working safety and health policy and guideline in place. The majority of employees interviewed expressed ignorance about the existence of the OSH programs at their respective workplaces.

Alternatively, the study showed that there has been a great mismatch between what the occupational safety and health theories advocate for and what the practical implementation of organizational safety and health legislations preaches. Whereas, the OSHW theoretical framework argues that effective management of safety and health should follow a systematic approach which involves planning, organizing, implementing and evaluation of OSH programs, the study findings found that only one manufacturing firm (Laher Bakery) lives up to the dictates of the systems' approach to the management of OSH policies.

Additionally, the study revealed that more than half of the production-line workers approached did not take part in the planning, implementation, risk assessment and review of the impact of the occupational safety, health and welfare policies and programs that were implemented within their organizational settings.

Not only this, the study also found the problem of underreporting of the occurrence of

industrial incidences, accidents, diseases and injuries due to two reasons; fear of reprisals and lack of knowledge of who and where they could report the occupational safety and health-related grievances.

By extension, the study findings discovered that all the three manufacturing firms understudy never recorded industrial occurrences and incidents in the permanent register as required by the 1997 OSHW Act. Last but not least, study further revealed that all the manufacturing companies approached never submitted their annual reports and registers to the Directorate of OSHW as required by labor law. Besides, the manufacturing establishments did not maintain and present their general registers to Labor Officers each time they were being inspected.

The empirical evidence of the study found that the Ministry of Labor is neither effective and efficient nor organized in enforcing the occupational health, safety legislations in manufacturing firms in Malawi; employers are not adequately taken to task and this exposes employees' welfare to pervasive and hazardous working conditions; follow up visits to the previously inspected manufacturing firms where work defects were identified were rare, the number of inspections falls far below the expected standard; the number of Labour inspection does not tally with the requirements of the labour law and manufacturing organizations who do not comply with the labour law are leniently treated and punished.

To wind up, empirical evidence of the study found economic factors, globalization, and fear of reprisals, employee theft and unbecoming behaviors, disunity of labour enforcement agencies, bribery and corruption as well as poor communication as potential factors that affect the effective implementation and enforcement of OSH legislations in manufacturing industries in Malawi.

5.2 Conclusion

In conclusion, the study above critically examined the manner in which the Blantyre-based manufacturing organizations have complied with the occupational safety, health and welfare legislations. The study further analyzed the basic legal standards that promote the minimum safety standards in manufacturing firms. Besides, it examined the prevailing safety, health and welfare standards in the three manufacturing industries understudy. Then, it assessed the effectiveness of the Ministry of Labour in

enforcing the OSHW Act. Finally, the study attempted to ascertain the factors that affect compliance to safety standards in manufacturing companies in Malawi.

5.3 Recommendations

The government, Ministry of Labour, employers, employees, Trade Union representatives and other stakeholders involved in the implementation and enforcement of the OSH Act must work collaboratively in ensuring strict adherence to the Act in question.

If the government machinery through the Ministry of Labour does not put in place preventive mechanisms to curb the above malpractice, more and more manufacturing firms will continue to cut corners as regards non-compliance with occupational safety and health legislations; manufacturing industries will continue violating or setting aside both the local and international safety and health legislations that help in safeguarding the work rights of employees. Besides, cases of fatal accidents, injuries and occupational diseases will continue to be on a higher side thus putting the lives of the workforce into jeopardy. If corrective measures are not taken to make the wrong right, manufacturing industries will continue to deliberately violate the safety and health legislation.

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