

PHILIPPINES

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1. Introduction

Despite all the advances made in technology in enhancing the ease of collection, aggregation, distribution and consumption of statistical information in the digital age, occupational health and safety advocates are still hindered by a lack of data. Although developed countries, including those located in Scandinavia, have very good ways of collecting and making official government data on work-related deaths and illnesses available for stakeholders, the same cannot be said of developing economies.

In a report on global fatalities in the workplace by Jukka Takala, he states that “underreporting, limited coverage by reporting and compensation schemes and non harmonized accident and recording and notification systems” make the aggregation of data on occupational accidents more difficult¹. In the same paper, the author proposed an improved method of estimating fatal accidents despite the limited data collected from International Labour Organization (ILO) member countries. Estimates of non-fatal accidents can also be derived² using data collected.

In the Philippines, official government data on work-related accidents and injuries are not compiled and released every year. The most recently released report covers 2007 which was made available in 2010 through the Occupational Health and Safety Center (OHSC), an agency under the Department of Labor and Employment (DoLE). The center’s current style and cycle of release (see Table 1) creates massive gaps in the data. A release is made only once every four years, and each release covers only a single year. There is no data available for the missing years. Comparisons of the data for the years 2003 and 2007, for example, can be made, but researchers need to guess what happened to workers in the intervening years, 2004, 2005 and 2006. The government will next release data for 2011, but what about 2008, 2009 and 2010?

Access to the agency's digital data is another point of concern. Despite improvements in the look and features of the OHSC website, the site is full of dead links. For workers who have average skills in searching the web, they may often face a blank 404 error wall and repeated such experiences can prove very frustrating. Those with more time to spare can visit their library and search the published hard copies, but when asked about where digital data on health and safety can be accessed, library staffers from the above mentioned agency point to the Bureau of Labor and Employment Statistics (BLES) website.³

The BLES website is updated regularly and through the site, one can search for information on Philippine labour statistics. However, the site is written in English and can prove difficult to navigate for a typical worker with average computer and English-language skills. For seasoned researchers, a one-stop-shop website works to their advantage but for the average Filipino employee, who is looking for statistics on injuries, illnesses and deaths, navigating through the information maze can become a major stumbling block and too much information can lead to an overload.

Table 1: Philippines: Survey of Occupational Injuries: Fatal Cases⁴

Total men and women	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Industry		178		302	170				115	
C Mining and Quarrying		0		28	5				0	
D Manufacturing		21		64	24				53	
E Electricity, Gas and Water Supply		22		21	25				26	
F Construction		40		13	4				0	
G Wholesale and Retail Trade; Repair of Motor Vehicles, Motorcycles and Personal and Household Goods		29		84	48				1	
H Hotels and Restaurants		5		1	10				0	
I Transport, Storage and Communications		16		37	36				17	
J Financial Intermediation		1		0	2				1	
K Real Estate, Renting and Business Activities		44		46	14				14	
M Education		0		3	2				0	
N Health and Social Work		1		2	0				1	
O Other Community, Social and Personal Service Activities				3	0					

Government data on the number of work-related diseases for the years 2003 and 2007 are currently available online and is the result of the 2003/2004 and 2007/2008 Bureau of Labor and Employment Statistics (BLES) Integrated Survey [BITS].

According to the DoLE “the BITS is a nationwide survey covering 6,460 sample non- agricultural establishments with 20 or more workers. It has expanded its industry coverage from 58 industries in 2003 to 65 to include building and repairing of ships and boats (manufacturing industry); bus line operation (transport, storage and communications); accounting, bookkeeping and auditing activities, tax consultancy; architectural, engineering and related technical consultancies; call center activities; medical transcription and related outsourcing activities (real estate, renting and business activities); and animated films and cartoons production (other community, social and personal service activities) industries.”⁵

Table 2 shows that the Manufacturing sector had the greatest number of reported cases of occupational disease, with 35,956 cases in 2003 and 26,284 in 2007, followed by Wholesale and Retail Trades sector with 5,241 and 4,342 cases, respectively.

Table 2: Cases of occupational disease in non-agricultural establishments, 2003 & 2007

Major Industry Group	2003	2007
All Industries	55,413	47,235
Mining and Quarrying	1,350	51
Manufacturing	35,956	26,284
Electricity, Gas and Water Supply	1,112	526
Construction	149	370
Wholesale and Retail Trade; Repair of Motor Vehicles, Motorcycles and Personal and Household Goods	5,241	4,342
Hotels and Restaurants	2,195	1,697
Transport, Storage and Communications	3,828	6,176
Financial Intermediation	594	700
Real Estate, Renting and Business Activities	761	2,926

Real Estate and Renting	121	137
Business Activities	640	2,789
- Call Center Activities	NA	1,175
Private Education Services	2,694	2,204
Health and Social Work except Public Medical, Dental and Other Health Activities	839	1,233
Other Community, Social and Personal Service Activities	695	728

Note: The survey covers non-agricultural firms employing 20 or more persons.

Among the different types of recorded occupational diseases, musko-skeletal disease topped the list with 20,603 cases in 2003 and 13,296 cases in 2007. (See Table 3.)

Table 3: Cases of Occupational disease in non-agricultural establishments, 2003 & 2007

Types of Occupational Disease	2003	2007
Total	55,413	47,235
Occupational Dermatitis	5,028	5,965
Bronchial Asthma	6,742	8,759
Acute Poisonings	202	189
Heat Stroke, Cramps, Exhaustion	631	577
Chilblain, Frostbite, etc.	150	112
Deafness	510	172
Infections	7,825	6,517
Cataract	634	284
Cardiovascular Diseases	1,454	854
Essential Hypertension	5,708	6,152
Peptic Ulcer	5,347	4,135
Work-Related Musculoskeletal Diseases	20,603	13,296
Others	579	222

Note: The survey covers non-agricultural firms employing 20 or more persons.

The limitation of the BITS survey is very evident. First, it is a survey conducted by government among various firms representing the different industries. However, the firms surveyed in 2003 may not be the same as those in 2007, allowing no direct comparison on the firm level. Take, for example, the number of cases of musculo-skeletal disease. There is no basis to attribute the smaller figure to an improved working environment since reports are coming from different firms and not from the same firms in both time periods. Secondly, the present number of workplaces in the Philippines is around 800,000 and surveying a mere 0.8 percent of all workplaces for incidence of occupational disease is under-reporting and the resulting data will tend to be an underestimate. Another important point to mention is there does not appear to be any quality control or due diligence on the BITS survey to ensure that those companies who take part in the survey are presenting an accurate picture in the answers they provide; these submissions are voluntary and there is no way to verify the information and there is obviously under reporting.

Adaptive solutions

Due to the lack of data, the Institute for Occupational Health and Safety Development (IOHSAD) has recently started compiling news reports on work-related accidents and deaths. Numerous tabloids and broadsheets are checked for new reports of workers figuring in accidents. Radio reports are also compiled via the health and safety volunteer reporters of IOHSAD. Every time they hear a report of an accident, the volunteers forward the information to the organization. Websites of news media are also monitored, including their social media accounts, for relevant information.

Table 4: IOHSAD data on workplace fatalities & injuries

Year	Fatal	Non-fatal
2009	331	427
2010	180	364

In 2009, reports of accidents gathered from various news media showed 331 fatalities due to work-related accidents, and 427 non-fatal injuries, while in 2010, there were 180 fatalities and 364 injured. This type of data aggregation has a tendency to be conservative and present an incomplete picture since only those accidents which figured in the news are compiled. Hazardous work, including mining and plantations, happen in remote areas and are not readily accessible by reporters and are thus likely to go unreported. Desk editors and the media

also determine which ‘beats’ or topics are covered and anything outside the beat is often ignored, not to mention corruption in mainstream media wherein certain events may be consciously omitted from publication.

Another point raised by Jagdish Patel⁶ during one of the meetings of Asian Network for the Rights of Occupational and Environmental Victims (ANROEV⁷) was that the media tends to report sensational cases but forgets or fails to follow-up on incidents once they are ‘old news’. The victim/s can be reported as injured in the first report, but whether they go on to survive the injury might no longer be considered “newsworthy”, thereby no space is allocated for the update.

There are conscious efforts by employers to hide accidents from the eyes of the media, especially deaths which happen at the workplace. In October 2011, a fatal accident occurred at the Keppel Shipyard in Subic, Philippines, where six workers died and seven more were injured. The management of Keppel initially allowed the police to enter the accident scene but later blocked entry to all others, including the town mayor. From discussions with local reporters it is clear there were deliberate attempts by management to limit information on the incident. This kind of news blackout is standard operating procedures for many companies and only the persistence of some reporters ensures more accurate coverage of accidents.

The Social Security System (SSS) through its annual report releases the total number of members paid compensation for work-related accidents and deaths. The SSS is the social security agency for private workers, while the Government Service and Insurance System covers public sector workers. In June 2010, the SSS reported a total of 17,761 ‘death pensioners’. Does this mean there were this many work-related deaths in that year? The answer is no.

SSS compensation for work-related death entitles the survivors and beneficiaries of the victim to receive a total of PhP 150,000 which is spread over five years or payments of PhP 2,500 a month. So for a given year, the total number of recipients or pensioners will be those who have recently lost someone due to work, as well as those who are still within the five-year period. So for June 2010, those receiving monthly payments will be beneficiaries within the 60-month block period of compensation or from July 2005 to June 2010. A simple mathematical extrapolation yields 3,552 pensioners per year which can be interpreted to say that there were probably 3,552 persons added per year to the list of workplace deaths.

The figure mentioned above is shocking, especially when compared to the official data gathered by the OHSC or that which IOHSAD has compiled from news report. But what is more disturbing is that the true number could be even higher. With the growing informalization of work and the increasing number of labourers working in precarious conditions, social security coverage is in fact shrinking. More workers are falling outside the net of any insurance coverage or social protection.

Table 5: Employed persons by class of worker⁸

(in '000)	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Total Employed	29,156	30,062	30,635	31,248	31,961	32,636	33,560	34,089	35,062	36,035
Wage and Salary	14,438	14,653	15,354	16,334	16,194	16,673	17,508	17,846	18,681	19,627
Own Account	10,926	11,399	11,517	11,423	11,912	11,950	12,000	12,081	12,162	12,252
Unpaid Family Work	3,792	4,009	3,765	3,490	3,856	4,012	4,052	4,161	4,218	4,157

The number of 'own account' and unpaid family workers has been growing over the past 10 years, while the share of industrial workers continues to shrink. Own account workers, those who work without employers like ambulant vendors, have increased⁹ from 10,926,000 in 2001 to 12,252,000 in 2010, an increase of 12.1 percent over the period. On the other hand, unpaid family workers or those who work for the family without receiving any wages, have also climbed by 9.6 percent¹⁰ in the 10-year period. Most of the workers belonging to this sector do not qualify for any existing social protection scheme, i.e., any benefits from the SSS and from the Employees Compensation Commission (ECC) and therefore are virtually invisible if they are involved in an accident, whether fatal or non-fatal.

No urgency in government

Health and safety was never the strong point of the Philippine government. In 2011, before the new Aquino government took over, the allotted budget for personnel under the *Enforcement of labor laws*, regulations and standards was only PhP 54.6 million or a mere 8.5 percent of the total PhP 6.39 billion budget of the Department of Labor and Employment¹¹.

Occupational health and safety remains unimportant for the Aquino government. In the government's 22-point labor agenda¹², there was no mention of health and safety, while agenda items relating to overseas foreign workers accounted for 13 out of the 22 points. The Department of Labor and Employment (DoLE) also cold shoulders OHS.

During the 2011 budget deliberations in the House of Representatives¹³, DoLE representatives were asked to defend their budget requests: Throughout the whole proceeding, the issue of raising the budget to hire more workplace inspectors was never taken up, despite the clear lack of personnel. At present, there are 253 inspectors spread across the Philippines, tasked to inspect around 800,000 workplaces. To be able to cover all workplaces, each inspector must survey at least 9 sites per day non-stop for 365 days, or a maximum of 53 minutes per worksite. The numbers are stacked against the inspectors.

But instead of addressing the lack of inspectors, the DoLE came out with a seemingly magical solution, legalize non-inspection. In 2004, the DoLE issued an order setting new standards for workplace inspection, Department Order 57-04.

According to D.O. 57-04, sites with more than 200 in the total workforce would no longer be required to be inspected (self-assessment), while those with 10 – 199 employees would still be inspected and those employing less than 10 will be provided with technical assistance from the department to help them adhere to standards. Sites eligible for self-assessment were expected to receive the *Checklist for Self-Assessment on Compliance with Labor Standards* during the first quarter of each year. Self-assessment must be conducted within one month of receipt of the form and must be jointly performed with the union or representatives from the Labor Management Council if no union exists; and this undertaking must be done every year. Completed checklists are submitted to the regional office of the DoLE.

The D.O. 57-04 has been the scourge of workers' health and safety, helping exonerate regular and potential violators of the standards and is grounded in assumptions which do not reflect the realities on the ground. This has proven fatal for many workers.

First, the order disregards the fact that certain sectors, including shipbuilding and construction (where work is inherently hazardous¹⁴), need greater surveillance from inspectors. Workers in hazardous sectors are exposed to many dangers (e.g. heavy equipment) which require a high level of vigilance to prevent deadly accidents. This is precisely the reason why it was called hazardous in the first place. This sector needs regular and often systematic and thorough safety inspection and a single, annual exercise will not suffice.

Second, regular monitoring of occupational disease is a necessity, if the government is to develop programs to mitigate the number of workers suffering

from disease brought about by work. There is also the danger of job dismissal for workers suffering from disease, despite the cause of their condition resulting from their work. Rather than report the occurrence of diseases in their workplace, employers leverage the 'fit-to-work' requirement against workers and use the policy to fire workers they want to get rid of.

Third, most of the time the site inspection activity is one-sided, with only the management represented during the self-assessment. In 2010, no more than 7 percent of the workers in the Philippines were members of a trade union (management-backed unions included), while the rest are represented by a Labor Management Council or have no representation at all. Without workers participating in the survey, erring companies could easily sweep under the rug any safety violations to avoid penalties.

One case in point was the construction of the Eton Residences in Makati in January 2011. During construction, 11 workers fell from the 31st floor, with 10 workers dying on the spot. Only one survived the tragedy. It was only after the incident that the DoLE inspected the worksite and found multiple violations. Only after 10 workers died did the DoLE learn that there was no safety plan implemented by the company, that equipment used were sub-standard, and many other violations of existing standards. Only after 10 workers died did DoLE learn that most of the 700 or more workers on the construction site were not even receiving the minimum wage despite the hazardous nature of their job.

Another case was the incident at the Keppel Shipyard¹⁵ in Subic, Philippines where at least six workers died when a 250-ton ramp collapsed, crushing several workers to death and injuring seven more¹⁶. Again, we have another case of *ex post facto*, where the DoLE eventually learned that the Keppel management, who employed more than one thousand workers (many working in precarious conditions), did not have a safety plan and was in a hurry to finish the repairs, ignoring safety procedures. DoLE discovered this fatal context only after conducting an inquiry on the incident, and only after the incident and the tragic death of workers.

The case of Keppel also underscored another issue, the lack of the proper oversight by the authorities over the export processing zones (EPZ). The Keppel shipyard in Subic, as well as Hanjin Heavy Industries and Construction¹⁷ (HHIC) are operating within the Subic EPZ. In 2009, during an investigation¹⁸ by the Congressional Committee on Labor and Employment (COCLE) on the numerous cases of work-related deaths inside the HHIC compound,

the DoLE Region 3¹⁹ representative and the chairperson of the Subic Bay Metropolitan Authority (SBMA) blamed each other, when prompted to answer why inspections were never undertaken inside the shipyard before the incident,. The DoLE representative asserted the SBMA did not allow their personnel to enter Subic Bay, while SBMA rebuttal was that DoLE Region 3 never requested permission in the first place.

There are two types of EPZs in the Philippines: The first are public, state-run zones and the second type privately operated zones. Public EPZ are under the jurisdiction of the Philippine Export Processing Authority (PEZA), while private EPZ, such as Subic Bay, are administered by various governing bodies. Of the 248 EPZs²⁰ in the Philippines, only four zones are under the PEZA: Cavite Export Processing Zone²¹ (CEPZ), Baguio City Economic Zone²² (BEZ), the Mactan Export Processing Zone²³ (MEPZ) and the Bataan Export Processing Zone²⁴ (BEPZ). Protocol dictates that any agency, including DoLE personnel, must acquire permission first from the EPZ governing authorities before any inspection can be carried out inside their zone of control.

Aside from the various perks²⁵ locators²⁶ get from doing their business inside the zone, the existing rules provide them with another layer of “protection” from the prying eyes of labour inspectors. First and foremost, a request must be filed with the EPZ authority, who can either approve or deny it, as the power lies solely in their hands. Second, the concerned EPZ authority needs to get the approval of the locator for the inspection. Again, the locator can deny the inspection request, unless DoLE has sufficient grounds for the application of Rule 1004.01, the Special Inspection, Investigation and Review of the Occupational Safety and Health Standards (OSHS).

Rule 1004.01 of the OSHS states:

“Any worker or representative of workers or any concerned person who believes that a violation of any provision of this Standards threatens physical harm or imposes imminent danger to life, may request an inspection by giving full particulars or details regarding such violation or danger to the Regional Labor Office or duly authorized representative. If upon appraisal of such notification, the Regional Office or its duly authorized representative finds reasonable ground to believe that a violation has really been committed or danger exists, a special inspection or investigation shall be conducted immediately. The complainant shall be notified in writing of the outcome of such investigation or inspection, immediately upon its completion.”

The problem with relying on this rule is that the danger or physical harm must be overt. Many hazards, including that of asbestos and chemicals, are not visible to the naked eye, and when the situation related to those hazards has become overt, it may be too late to prevent the impact on the health of the workers. The rule also assumes that anyone who reports will not suffer retaliation by management. In most cases of whistle-blowing, the slogan “Don’t Shoot the Messenger” falls on deaf ears, and workers who have mustered enough courage to report violations, either get fired or slapped with libel cases, among others.

Also, since most locators inside the zones employ more than 200 workers, they are exempted from regular inspections under the D.O. 57-04. The current dilemma of labour inspectors when it comes to EPZ was underscored during the 11th National Occupational Safety and Health Congress held in October 2008. It was shown that business process outsourcing (BPO) companies were able to block attempts by OHSC personnel to perform their work in this sector under the preconditions stated above. In the case of BPO, the hazards are not overt. Yet studies have shown dangers, including night work, exist in these workplaces. Anecdotal evidence has also shown high levels of stress among BPO workers, caused by performing night work. Representatives from the BPO industry have assured the OHSC that they were in the process of synching their work procedures with that of the OHSC. The product of this promise has yet to be seen.

Health and safety and the realities from below

At around 11:30 on the morning of January 27, 2011, 11 workers were riding a suspended platform from the 31st floor of the posh condominium they were constructing, to the ground below, where a meager lunch was waiting for them. Little did they know that it would be their last ride. The rope (which was proven to be defective later in the investigation on the incident) holding the platform snapped, hurling them to their death. IOHSAD, along with other labour groups, together with the families of the victims formed the Justice for Eton 11 Network²⁷, a support group for the survivors of the tragedy. This group assisted them in their quest for indemnification from Eton Properties, the owner of the construction site.

Management was quick to work to extricate itself from the bad position, both in the public eye and with the families of the victims. During the wake, representatives from management would arrive during odd hours (according to the families, usually around 1am) and talk to them about the support Eton

Properties was willing to provide, including a cash payment of PhP 150,000 for each family, burial expenses and other promises. Many of the commitments made in person and in private to the families were later told to the mainstream media, obviously a part of a public relations exercise on the part of the company.

Management made good on their promise to give each family PhP 150,000, which was given in cold-cash after the family representative signed a piece of paper, which according to the people sent by Eton Properties were merely a receipt, and proof the families indeed had received the said amount. The support network warned some of the families not to sign any document without consulting a lawyer, but most of them were poor and not familiar with the laws and signed the piece of paper in desperation. It was later, during the preliminary hearing of the cases filed by families against Eton Properties that lawyers from the management asserted that the families signed 'quit claims waivers', indicating they were no longer interested in pursuing any case against the company.

As of the time of writing this paper, some of the families have not yet received any compensation and are still in the middle of a court battle with the company. The beneficiaries of the victims will receive from the Social Security System (SSS) PhP40,000 in death benefits, PhP20,000 for burial expenses and a total of PhP150,000 in pension funds spread over five years, while the Employees Compensation Commission (ECC) will reportedly give the families PhP 40,000 in death benefits and PhP10,000 for burial expenses.

As the campaign for justice for the workers of Eton Properties went on, various construction groups approached the network, many of them also mired in court cases against their employers. During a discussion with one of the groups representing 82 workers, they shared the dangers they encountered every minute they worked and the fact that labour standards were something foreign to sites they worked on. They related that many of them did not receive the minimum wage (one of the cases they filed against their employer), or social security, and that hazards were 'something they ate for lunch'. Among them there was a fatalist attitude that death had become their co-worker. They also stated that they had seen deaths occur on their sites, but the management had been able to keep a tight lid on news of the tragedies, and nothing was leaked to the media. Often, management would immediately send the remains home to the province of the worker to avoid noisy reporters. In a sector both dangerous and disorganized, workers die without ever creating a ripple of concern in public.

Shipbuilding inside the economic zones is another particularly difficult industry in which to collect information on the safety and health of workers. Aside from the problems raised earlier about the “lack of coordination” between the DoLE and the EPZ authorities, other issues have been raised by workers inside the zones. Workers of HHIC described how the company had made arrangements with local government officials with regards to hiring workers. Apparently, HHIC allots each local mayor a certain number of slots for them to fill, and this quota is also distributed among barangay (village) officials. Each workers needs to be “sponsored” and “endorsed” by the local officials before they can work with HHIC and any “trouble maker” is filtered out by this system. The political clout of the local official rises, making the *modus vivendi* beneficial for both HHIC and local officials. According to the testimonies of workers, this system of worker recruitment arose in reaction to the heat and attention²⁸ HHIC received in past years due to the numerous deaths occurring inside the shipyard.

It should be noted that Region 3, where the HHIC and the Keppel shipyards are located, is where 154 extra-judicial killings²⁹ (EJK) of workers and activists have taken place. This is the same region where the massacre³⁰ of workers and farmers of the Hacienda Luisita³¹ transpired. No perpetrators of the massacre at the hacienda and other EJK's, have ever been made accountable and justice for the victims and their families remains elusive. Unionists in the region complain of regular surveillance and monitoring, of harassment through threatening text messages, including unwelcomed visits by suspicious looking individuals to their places of residence. The ongoing impunity sends a chilling message that workers' rights can easily be squashed, and anyone asserting their rights might end up as another fatal statistic.

The MPEZ in Mactan, Cebu remains a major location for garment firms operating in the Philippines, and despite the exodus of firms from the country's economic zones to other Asian countries, MEPZ continues to host locators. No union is allowed to operate inside the MEPZ, as zone authorities continue to implement an unwritten policy of “No Union, No Strike”. Most workers in the Cebu zone are women and under contractual and temporary work arrangements. There is also an increasing occurrence of outsourcing or home-based work, where tasks meant to be done inside the zone, are transferred to surrounding communities. Clearly the practice is aimed at further reducing wage costs, as the price of work outside the zone is always lower than what employees inside the zone receive.

The *modus operandi* is a contractor, contacted by the management and given the job requests, will seek people from the communities willing to do

the work. The contractor commonly seeks former workers of the company, since they are familiar with the product to be worked on. The contractor and the worker haggle over the price of the job, which is usually set in bulk terms. If an agreement is reached between the two parties, the worker goes on to ask other workers to help fill the order, and the work is done in their homes or sometimes in alleys and streets.

Even when the work was done inside clearly demarcated work sites, collecting and aggregating data on work-related accidents and diseases was already a big challenge for health and safety advocates. When work has been dispersed to homes, the challenge becomes even greater. Health surveillance becomes even more daunting and the dangers and hazards of the tasks bring are shared among the household members. A house filled with an inventory of flammable fabric poses fire risks, not only to the household, but also to the neighbors. And in Mactan, Cebu, most of the workers reside in slums, with homes erected using light, flammable materials. The little hands of children can now access dangerous chemicals used for certain tasks and with poor capability to handle chemicals, the home, supposedly a refuge from the uncertainties of everyday life, becomes a powder keg of danger.

Cenapro Chemical Corporation (CCC) manufactures activated carbon used for water filters, gas masks, and gold recovery. It is also used as a preservative and as an anti-pollutant among other things. Its manufacturing facility is located in Cebu, Philippines, where it uses coconut shells to create the activated carbon.³² The coconut shell is heated at high temperatures to create charcoal and then mixed with oxygen to create the activated carbon. During the process of “activation”, smoke is emitted from the coconut shell which contains various chemicals, including formaldehyde and ammonia³³. At CCC staff were often forced to work overtime and longer than normal shifts, including shifts of 16 hours without rest.

The CENAPRO Chemical Employees Association (CCEA), the duly recognized bargaining unit for the workers of CCC, has diligently recorded information on their co-workers who have suffered various illnesses in the past. According to CCEA records, 16 co-workers have died recently. Many of those who died suffered from different types of carcinoma. These included three cases of liver cancer, two cases of breast cancer, one case of colon cancer and another of throat cancer. There was also one case of Stevens-Johnson Syndrome, a form of toxic epidermal necrolysis, while seven other workers suffered cardiac arrests. The latest case reported by the union was last March 2011, when a co-worker

who worked in the Fluidized Bed Department³⁴, eventually succumbed to lung cancer after months of battling the disease.

This latest case of cancer was diagnosed as work-related. During her battle against cancer, the woman incurred more than half a million pesos in medical expenses for her medical care. Part of the Collecting Bargaining Agreement (CBA) between the CCC and the CCEA was that the company would shoulder the cost of her medical treatment. However, this company reneged on their responsibility to the worker, and after she died, the CCC also refused to release her retirement pay.

In response to the CBA violations by the management, the CCEA carried out various types of industrial action in May 2011, to press the company to adhere to agreed provisions in the CBA. In retaliation for the industrial action, the CCC management in June 2011 terminated 19 union members who had participated in the actions. The CCEA case versus the CCC management has been filed with the regional office of the DoLE.

Maria,³⁵ worked for a business process outsourcing (BPO) company for more than five years. After having positive metrics³⁶ for many months, her performance eventually dropped due to various illnesses she contracted. She had to undergo surgery on both of her wrists as the pain had become debilitating. During her surgery, the company doctor diagnosed her condition as work-related. The surgery was successful and she was eventually cleared by her physician and allowed to go back to work. Unknown to her, the company has already placed her on 'floating status'.

The Human Resources department told her that there was no seat available for her and the previous account she had been handling was no longer available. They advised her to wait until a new account became available. Days turned into weeks and months, but no new account was given to her. She kept coming back to follow-up on her job, and the answer from the management was always the same, that there was no work for her. When Maria asked if the company had terminated her, she was told that she was still on their roll but that no seat was available for her. She eventually filed a case of illegal dismissal against her employer.

Although the BPO industry in the Philippines is a relatively new³⁷ sector, the hazards faced by workers in the industry are old and familiar problems. Musko-skeletal disease brought about by poor ergonomics is common³⁸ among

BPO workers. In an ocular inspection of one of the operating BPO firms, the paradigm of the “machine adjusting to workers” was not observed, as work stations had similar geometry and specifications and the workers, all different in height and other measurements, had to adjust to the generic design.

Night work, declared as a Class 2B carcinogen by the International Agency for Research on Cancer (IARC), is the standard for most BPO employees. From discussions with various BPO workers, it is clear that upper respiratory tract infections are very common; many have difficulty sleeping, suffer from shoulder and back pains, and from a high incidence of hypertension³⁹ and stress⁴⁰. Despite the initial impression that work in the BPO industry is satisfying, with soft chairs and a temperature-controlled working environment, dangers still lurk.

Challenges and answers for OHS advocates

Given the Philippine context faced by advocates of health and safety, with a myriad of realities at various levels, intervention must be carried out at all levels and with the aid of a variety of actions and measures.

International level

International Labour Organisation (ILO) Convention C121 or Employment Injury Benefits Convention, 1964, calls for benefits for cases of industrial accidents and disease. The same convention requires ratifying parties to provide contingencies for the following conditions resulting from work-related injury:

Article 6

- (a) a morbid condition;*
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national legislation;*
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and*
- (d) loss of support suffered as the result of the death of the breadwinner by prescribed categories of beneficiaries.*

The succeeding article (Article 7) requires members to prescribe a definition for what is an industrial accident and what conditions are considered to be under the classification, while Article 8 states that member countries must list occupational diseases.

The ILO Medical Care and Sickness Benefits Convention, 1969 (C130) outlines the framework for the provision of curative and preventive care for workers, while the Convention concerning Occupational Safety and Health (C155) and the Working Environment, 1981 provides proposals on health and safety and the working environment. Early adopters⁴¹ of C155 are Cuba, Norway and Sweden which ratified it as early as 1982. The convention states the employer should ensure, in all fairness, the safety of the employees. C155 also protect workers who refuse to do life-threatening work as laid down in Article 13.

Article 13 of C155 states:

“A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.”

The convention also reiterates the obligation of the employer to shoulder the costs of providing occupational health and safety, without imposing any cost on the worker⁴² and provides the impetus for health and safety training for all workers.

All of the above mentioned conventions pertaining to health and safety of workers have yet to be ratified by the Philippine government. Despite C121 coming into force in 1967, more than four decades ago, the Philippines is not among the 24 countries⁴³ which have signed this important document. C130 came into force in 1972, but the government has also not signed this⁴⁴ nor⁴⁵ C155.

A campaign to push the Philippine government to sign existing conventions can provide greater discussions on the merit of the ILO conventions and clarify inconsistencies of government policy towards workers' safety. International conventions provide greater breadth for campaigners and advocates in driving for positive change in government policies.

National policies

At the national level, the D.O. 57-04 must be immediately revoked. This D.O. not only allows erring companies to get away with manslaughter, in both the figurative and literal senses of the word (e.g., the case of the Eton 11), but it also allows the government to renege on its social responsibility to

ensure the safety of the working population. The government is able to scrimp on the budget for additional personnel in exchange for the safety and lives of tax-paying men and women.

The Occupational Health and Safety Standards must also be expanded to include penalty provisions stiff enough to make erring companies think twice about violating the existing standards. The October 2011 incident at the Keppel shipyard came after another deadly accident there, wherein the DoLE temporarily halted operations. However, after a few days, it allowed the firm to continue operations, citing the company's adherence to recommendations by the DoLE. In the end, the company paid no penalty and did not receive even a slap on the wrist. Employer impunity reigns in the workplaces.

Government must also improve the climate for union organizing. Public prosecutors must double their efforts on cases of EJK's against unionists and activists, and the perpetrators must be brought to justice as soon as possible. Unless human rights violators are caught and made liable to the law, the freedom to organize, guaranteed by the constitution, will be empty rhetoric. The situation is not expected to change radically soon and gathering data can prove to be littered with dangers. Yet workers are still asserting their constitutional rights and continue to document and report on the workers' situation. The experience of CCEA, with their capacity for monitoring work-related accidents and disease, if replicated across all workplaces, will provide a true picture of health and safety on the ground. Creative ways of aggregating and storing data, with high regard for security, safety and secrecy is still needed, if accurate, reliable and comprehensive OHS data is to be compiled.

Local empowerment

Unions and other workers organization should strive to establish health and safety committees (HSC) and develop skills and capacity for health and safety for their members. In the Philippines, the workers' movements are currently facing attacks from a variety of sources. Unionization is on the decline, as the government continues to implement policies which are inimical to workers' organizing⁴⁶ and the climate of impunity continues to reign over the whole country. The rising cost of living erases any improvement in wage rates. With so many concerns, a developed and dedicated team of workers within the framework of the union and other workers' organizations can assist in developing a holistic approach to workers' concerns.

The HSC should be trained and developed using relevant and updated information. By building the capacity of the HSC, they can engage the management to improve health and safety conditions and work as information gatherers, to provide a clearer picture of the reality faced daily by workers in all workplaces.

Health and safety organizations can work with other organizations to support workers in developing their own program for OHS. The project ‘Training of Trainers’ of the Asia Monitor Resource Center (AMRC) with IOHSAD, aimed at developing a sustained capacity by unions and workers’ organization by instructing workers on how to become trainers for their own organization, should be replicated and expanded.

The building of victims’ network is an essential activity for developing a strong OHS movement. The experience of the Justice for Eton 11 Network, wherein the families of the victims have taken a lead in seeking justice for their kin, is a fountain of information for other workers, particularly in the construction sector where there are many similar issues and cases. The information on the process of seeking compensation, the details and traps encountered by the families is an important resource for other workers who are also face similar situations. The process of filing criminal cases and labour cases that the families went through should also serves as an important guide for any honest student of labour law and the workers’ movement in the Philippines.

Strategy for data gathering

In the age of social media, sharing and accessing information has never been easier. Various terminologies have sprung up, including *internet meme*, to describe a specific idea - a meme - spread across the World Wide Web. Platforms and technologies (some are part of the free and open source software library) are now available to aggregate raw data that can be processed by the end-user. Noteworthy among such platform is Ushahidi⁴⁷, a software for information collection, visualization and interactive mapping, initially developed to monitor election violence in Kenya. The platform allows easy collection of information via text messages, email, twitter and web-forms⁴⁸.

Whistle-blowing websites, such as the Wikileaks, expose behind-closed-door dealings of politicians, while ‘open data’ advocates are pushing for that information and data to be made available to the general public without limits imposed by copyrights and other access restrictions. Positive steps have been

taken regarding access to data and information, with various governments, mostly from the developed countries, establishing open data websites⁴⁹ to promote transparency.

In the Philippines, the Freedom of Information Bill⁵⁰ (FoI) is pending in Congress. The FoI bill, if approved, constitutionally mandates the freedom and access to information of the citizen and allows greater transparency, especially in government dealings. In a country ranking high in terms of graft and corruption, FoI can serve as a picklock to break open cases of robbery of the public coffers.

Indeed, technologies now are no longer a hinder to data collection and access compared to a decade ago. Crowdsourcing - wherein one user asks the community to do a specific task via a public call - is common. By using the energy of the community, groups with limited resources are able to amplify their capacity to complete projects. The success of crowdsourcing has encouraged companies, even those with huge budgets, to utilize this strategy.

Big international organizations, including United Nation bodies, are leveraging the internet and other technologies to reach out to a wider audience. Mobile devices can record and transmit data very fast, and make it accessible to anyone on the web. The massive drive by technology companies for seamless integration between the web and mobile devices should provide additional new ways of using the handheld phone. With a bit of organization, the basics of a workplace accident could be gathered by those on the job and sent to workers' organizations via mobile devices. A system of checking and follow-up could then be carried out by informal and official parties to confirm and verify data.



A steel ramp being erected at the Keppel shipyard collapsed on workers, immediately killing 5 and injuring 7 more. According to various news reports, the fatalities who sustained multiple crush injuries were Jay Lord Reyes, Glen Miranda, Mark San Juan, Chrisander Papna and Ronald Lara. Among the injured were Alvin Peñeverde, Albert Ricaña, Belmore dela Vega, Eleazar Elopre, Bernardo Asinas with the names of two others still being determined.

Endnotes

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12. Department of Labor and Employment, *Labor and Employment Policy Reforms and Program Implementation for the First 100 Days of President Benigno S. Aquino III Administration*, <http://www.dole.gov.ph/fndr/bong/files/First%20100%20Days%20with%20additonal%20reports%2014%20October%202010%2011am.pdf>, 2010.
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14. Rule 1013.b of the Occupational Health and Safety Standards
15. <http://www.keppelom.com/en/content.aspx?sid=2690>
16. <http://iohsad.org/10/11/press-release/shut-down-keppel-shipyard>
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22. Located in the Cordillera Autonomous Region (CAR), north of the capital Manila.
23. Located in Region 7, south of the capital Manila.
24. Located in Region 3, north of the capital Manila.
25. http://www.peza.gov.ph/index.php?option=com_content&view=article&id=112:fiscal-incentives&catid=67:incentives&Itemid=154
26. Registered companies operating inside the EPZ
27. <http://eton11.tumblr.com/>
28. A Congressional and Senate inquiry occurred in 2009 to learn about the deaths of workers inside the shipyard. The Labor Committee Chairperson of the Senate in 2009, along with other groups, conducted a site investigation of the HHIC shipyard.
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44. *Convention No. C130*, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C130>
45. *Convention No. C155*, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C155>
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47. Ushahidi, which means “testimony” in Swahili
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49. http://en.wikipedia.org/wiki/Open_data#Open_data_in_government
50. <http://www.scribd.com/doc/32089191/HB3732-Freedom-of-Information-Bill>