Occupational Safety and Health Management:
The role of criminal law and the law of delict in safeguarding workers

by

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Major changes have occurred in the workplace in the past decades. Technology has changed dramatically, innovative ways of utilising nuclear power have been developed, new chemicals have been introduced to the market and the adverse effects of other chemicals on both human health and safety and the environment have been discovered. This has influenced the nature of the workforce itself.

Regulators in the different jurisdictions were required to react to the challenges that these changes represent. This thesis explores the responses in the United Kingdom, the United States of America and the Republic of South Africa by identifying the occupational safety and health (OSH) regulations, administration, enforcement and penalties which have been put in place to address the above mentioned challenges.

It is impossible to mention all the changes in the workforce and workplace that have occurred in the recent years, and this thesis therefore focuses on the possibilities that different types of regulation offer to address some of these changes. Alterations to existing approaches are proposed to ensure that enforcement is improved and better targeted. The utilisation of third parties as surrogate regulators is also addressed.

The central theme of this thesis is how the law can stimulate self-regulation by adopting a Safety Management System (SMS) within enterprises to encourage “self-critical reflection about their OHS performance”.

The purpose of criminal sanctions in occupational safety and health regulation, the role of the prosecution in the enforcement of OSH strategies and the possibility of combining prosecutions of corporations with prosecutions of individual managers and directors who are responsible for non-compliance with OSH standards are also addressed.

Although it is most important to ensure that workers are not injured or do not contract occupational diseases, in practice this does unfortunately happen. Therefore this thesis also discusses the compensation of injured workers.
DECLARATION

I declare that the thesis, which I hereby submit for the degree Doctor Legum at the University of Johannesburg, is my own work and has not previously been submitted by me for a degree at another University.

___________________________
Marna Jackson
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