



Persatuan Pengguna Pulau Pinang Consumers Association of Penang

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Press Statement

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DOSH fails to oversee non-compliance of safety requirement at worksite

The Consumers' Association of Penang (CAP) is shocked when the Department of Occupational Safety and Health (DOSH) disclosed on 18 August 2018 that 711 workers were killed on the job in 2017, with 183 of the fatalities occurring at construction sites.

Three persons were injured and an Indonesian couple killed in the latest worksite incident at Gombak LRT station where a multi-storey car park under construction in Taman Melati collapsed on 23 May 2019.

This is an indictment of the pathetic state of enforcement by DOSH and raises the question whether DOSH is any longer relevant.

A large number of construction work are ongoing in the country and are a major contributor to the economy, yet the safety of the workers (mainly the manual workers) is not given the importance they deserve. It is as if their lives are cheap.

CAP has carried out few surveys at the construction sites and discovered that the employees did not wear safety apparels such as safety helmets, safety harness or fall protection equipment (when working above 6 feet), safety jackets, protective gloves and hearing protection. Who should be blamed for this non-compliance on the safety aspect at the worksite; either the employees themselves, the employer, or the enforcement body?

DOSH appears to believe that putting up "SAFETY FIRST" notices at worksites absolves DOSH and the developers from liability for accidents resulting in injuries and death.

The Occupational and Safety Act makes employers responsible for making worksites safe and it makes DOSH responsible for enforcing the Act. The death of 711 workers in 2017 figure is shocking and disgraceful to say the least. It means that those in the construction industry do not respect the law because they do not fear the law, and that is because of non-professional enforcement of the law.

DOSH says that projects costing over RM20 million are "self-regulated". This means the project developers are required to hire their own safety experts to ensure worker safety on their sites and DOSH does not inspect these sites. It only inspects worksites of projects costing more than RM20 million.

DOSH is wrong to think that "self-regulated" projects do not need to be audited by it. Is safety being compromised as it might cost more to put in all the safety measures required under the law than to pay compensation for the life and limb of manual workers? Why does DOSH think that there is no need to check on the safety consultants' work at these big projects?

In two major landslide cases in Tanjung Bungah and Bukit Kukus, Penang, DOSH has highlighted that the contractors did not comply with safety standard as required by the law and that negligence subsequently killed more than 20 workers in both cases.

CAP's observations on other ongoing projects at both island and mainland also revealed that many workers did not wear safety apparels such as safety helmets, safety harness while working at high rise buildings. Most shockingly, there were no supervisors at the worksite to monitor whether workers comply with safety requirements.

Taking action only after major accidents have happened and people have been killed is not a consolation to the families of the victims. The recalcitrant consultants should be deregistered so as to send a strong message that any incompetency and negligence will not be tolerated.

DOSH claims that it practices high professionalism in carrying out its duties appears hollow. It states that it carries out surprise checks at worksites and at the same time laments that its officers cannot be at the worksites all the time. DOSH's lament speaks volumes of its "professionalism". If it is professional, it should put enough fear into the building construction industry such that no one would dare to breach any safety regulation without the constant on-site presence of DOSH officials. Until and unless DOSH starts enforcing the law strictly in an out of the box way, DOSH cannot claim to be exercising high professionalism in its regulatory work.

CAP recommends as follows for improvement of work-site safety:-

- > For each worksite, there must be one dedicated consultant who is for the overall in charge of safety. This person must be severely dealt with for any preventable accidents on the site.
- > DOSH must carry out spot-checks (unannounced) at all worksites, including the so-called "self-regulated" ones.
- > DOSH does not need any army to enforce the law. It needs to enforce the law in a way that will educate everyone in the building industry very effectively, i.e. instead of advising and pleading with the culprits to follow rules and regulations, it should impose the maximum penalty for the first offence to drive home the point that workers' safety is a serious matter.
- > Section XI of the Occupational Safety and Health Act gives wide powers of investigation and action against those who breach the law. The law needs to be enforced strictly. It does not give discretionary powers to let anyone off lightly.
- > Current penalties of a RM50,000 fine and imprisonment of not more than 2 years are grossly inadequate and therefore not deterrent at all. In fact, light penalties only encourage the breach of laws as it is cheaper to do so than to comply with the law. The penalty should be raised to not less than 10% of the project cost or not less than 2 years imprisonment or the irresponsible employer should be penalized under Penal Code for manslaughter in event of fatalities.
- > DOSH has to conduct a follow up check at the worksite after the contractor or developer being issued with stop work order. In case of landslide at Bukit Kukus, it was revealed that a stop work order was issued but the developer did not comply with it. DOSH should examine any violation in stop work order and take immediate action against the developer.
- > The guilty party should be charged in court and a befitting sentence be given so as to set an example for the rest in the industry.

We urge DOSH to take a tough stand with errant contractors or developers so as to prevent worksite accidents. DOSH has to take urgent measures to rectify this festering problem that affects those who help to build the nation.

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