

Health and Safety and Vulnerable Workers in a Changing World of Work

Conference

8th June 2010 – London

Conference Programme

9.00 – *Registration and Coffee*

9.30 – **Welcome**

M. Sargeant

Professor of Labour Law, MU Business School

R. Croucher

Associate Dean Research, MU Business School

Part 1: Chaired by M. Sargeant (Middlesex University)

9.45 – ***Vulnerable Employment and Health: Lessons from History***

M. Quinlan

Professor, University of New South Wales, Sydney (Australia)

10.30 – ***Work Organisation and New Forms of Employment, Good Practice in Relation to Health and Safety at Work: A Focus on the Italian Case***

M. Tiraboschi

Director of Adapt – Marco Biagi International and Comparative Research Centre, University of Modena and Reggio Emilia, Italy

M. Giovannone

PhD student at Adapt – Marco Biagi Foundation, University of Modena and Reggio Emilia, Italy
Adapt Research Fellow

11.00 – **Discussion**

11.15 – *Coffee and Tea*

11.35 – **Presentation Groups**

Group A

OHS of Migrant Workers: An International Concern

M. Boocock, Z. Hannif, S. Jamieson, T. Kjær, R. Lamare, F. Lamm, R. Markey, C. Martin, N. McDonnell, E. Rasmussen, C. Robertson, P. Schweder, B. Shulruf and M. Wagstaffe

The Health of Vulnerable Workers in Italy

C. Lucarelli and B. Boschetto

Group B

Undocumented Migrants in the Workplace: 'Duty of Care' ... Who Cares?

C. Jordan and F. Murray

Applying Amartya Sen's Capability Approach and Organizational Climate in Analysis and Prevention

A. Bernardi

Occupational Health and Safety in the Kuwait Construction Industry: The Rationale for Research
C. Robertson

12.35 – **Performance Drivers and Occupational Health and Safety: The Role of Supply Chains**

D. Walters

Professor, Cardiff University

P. James

Professor, Oxford Brookes University

1.05 – **Discussion**

1.15 – *Lunch*

Part 2: Chaired by F. Lamm (Auckland University of Technology)

2.15 – ***Deregulation, Safe Work, and Undocumented Workers in the New Economy: An Analysis of Novel Programming for America's Most Vulnerable***

S. Bisom-Rapp

Professor, Thomas Jefferson School of Law, San Diego

2.45 – ***The Right to Occupational Health and its Legalization***

K. Chang

Professor, Institute of Labour Relations, Renmin University, China

3.15 – **Discussion**

3.30 – *Coffee and Tea*

3.45 – **Discussion groups**

Group C

The Good and the Bad: Working Experiences of Youth in New Zealand

D. Anderson

How Bullying Changed my Life

F. Cecchini

Seeking OSH Solutions to Precarious Working in the Growth of New Zealand Dairy Farming: A Research Agenda

R. Tipples

Group D

Precarious Work in Times of Crisis: Regulatory Discourses, Labour Inspection and Soft Law in the new EU

C. Woolfson

The Misclassification of Vulnerable Workers in New York: Prevalence and Effects in Construction and Other Industries

J.R. Lamare

Temporary Agency Workers and Workplace Injury: Looking Beyond Employment Insecurity

E. Underhill and **M. Quinlan**

Part 3: Chaired by J. Bevan (Health and Safety Executive, UK)

5.00 – **Discussion and conclusion**

Plenary speaker abstracts

M. Quinlan

Professor, University of New South Wales, Sydney (Australia)

Vulnerable Employment and Health: Lessons from History

A large body of international scientific research now indicates that the growth of job insecurity, flexible/temporary work and precarious forms of self-employment have had significant negative consequences for occupational health and safety. What is often overlooked in debates over the 'changing world of work' is that today's widespread use insecure and short term work is not new but represents a return to something more resembling labour markets in Australasia, Europe and North America in the 19th and early 20th century. As this paper will seek to show, not only were precarious and exploitive working arrangements common during this period but the adverse effects of these on the health, safety and wellbeing was well documented in government inquiries, medical research, press reports and a variety of other sources. Drawing primarily on Australian, North American and British sources, attention here will focus on casual labourers, sweated garment workers, the self-employed and merchant seamen. The paper highlights the valuable role historical research can play in shedding light on contemporary problems and policy debates.

M. Tiraboschi

Director of Adapt – Marco Biagi International and Comparative Research Centre, University of Modena and Reggio Emilia, Italy

M. Giovannone

PhD student at Adapt – Marco Biagi Foundation, University of Modena and Reggio Emilia, Italy
Adapt Research Fellow

Work Organisation and New Forms of Employment, Good Practice in Relation to Health and Safety at Work: A Focus on the Italian Case

The spread of atypical labour contracts and the evolution of new forms of work organisation has produced a strong impact on the management of occupational health and safety in the European framework. The presence of new sources of risks, in the workplace, in fact places an obligation upon the employer to apply risk assessment and prevention principles to more complex management situations or to new risk areas. Many countries are adopting new legislative patterns to face the peculiar OHS problems for the so called vulnerable groups, i.e. workers who are exposed to particular risks: job-related stress, sex, age, country-related differences, spread of new technology, precarious employment contracts unconventional workplaces. Finally, in 2008 Italy passed a Consolidated Act giving general and specific protection to some of these workers: women, young people, teleworkers and immigrants, some of them were still neglected, not actually protected, such as home-workers and economically dependent workers and generally workers not hired on traditional salaried employment contracts, as well as they were formally considered as part of its application field. This legislative approach couldn't guarantee effective protection yet. In this context the Legislative decree n. 106/2009, can be considered a turning point for the development of a new culture and a new philosophy on health and safety at work. Starting from the analysis of some crucial indicators (risk assessment, special medical surveillance, workers' participation models and OSH information and training), the paper shows that risks connected to precariousness and job-insecurity must be faced not only through the recognition of equal treatment between vulnerable and non vulnerable workers and traditional

compensation/social security systems. Finally it is argued that equal treatment must be balanced by including age and contractual position in a special mandatory process of risk assessment and medical surveillance, but also by the use of special training programmes, legal instruments of quality certification of labour contracts and models of organization of work, and the enforcement of compliance systems.

D. Walters

Professor, Cardiff University

P. James

Professor, Oxford Brookes University

Performance Drivers and Occupational Health and Safety: The Role of Supply Chains

Modern approaches to achieving best practice in occupational health and safety are developed against a background of quite fundamental change in the structure and organisation of work as well as in its regulatory, political and economic contexts. The established norms that influence the way in which health and safety management is conducted and the environment in which it takes place no longer apply in the same ways they did when the main strategies to achieve such influence were developed. Moreover, in economies dominated by neo-liberal thinking in which resources for public welfare are increasingly stretched, the capacity of institutions that have traditionally mediated in the maintenance of health and safety standards, such as regulatory inspectorates and organised labour, continue to diminish. In keeping with neo-liberal thinking, in these scenarios business practices and market regulation are increasingly seen as containing the elements necessary to provide appropriate drivers to stimulate and sustain best practice on health and safety at work, which can supplement or even replace traditional actors and processes. The business relationships operating within supply chains are an example of one set of practices frequently cited as possessing such capacity. In this paper we examine the evidence for their role and the claims made for it.

The paper is based on a recent review of the international literature on supply chains and health and safety. It outlines the main findings of this research on direct and indirect effects of supply chain business strategies on health and safety arrangements and outcomes for individuals and organisations in dependent positions within these chains. It reveals a remarkable lack of systematic and rigorous evidence on the way in which the internal dynamics of supply chains impact on health and safety management and performance. It further considers these effects in the light of the reasons behind greater business focus on supply chain management and it explores the consequences of this for strategies that target supply chains as a focus for improving arrangements for health and safety in modern business practice.

Emerging from this discussion is a consideration of the role of supply chains as performance drivers for health and safety and the implications in this for the various parties and processes involved, including regulators and regulation, worker and consumer groups, as well as businesses themselves. Attention is paid to policy problems associated with the weaknesses and gaps that exist in the current evidence concerning the health and safety effects of supply chains, and suggestions are made concerning the nature and focus for further research.

The study on which the paper is based was funded by the Institution of Occupational Safety and Health (IOSH) and undertaken jointly by Cardiff and Oxford Brookes Universities.

S. Bisom-Rapp

Professor, Thomas Jefferson School of Law, San Diego

Deregulation, Safe Work, and Undocumented Workers in the New Economy: An Analysis of Novel Programming for America's Most Vulnerable

In industrialized countries, pursuing occupational safety and health (OSH) improvements for unauthorized migrants poses significant challenges. Scarce public resources for legal enforcement, the exclusion of some forms of work from regulatory coverage, and the growth of the informal labour market exert downward pressure on labour standards. Additionally, the absence of trade union representation, worker illiteracy and language barriers, and fear related to immigration status may chill many unauthorized workers' legitimate pursuit of existing workplace rights. Exacerbating these challenges are the effects of the so-called 'Great Recession', which in many countries has produced significant increases in unemployment, a phenomenon especially pronounced among undocumented workers. While these obstacles are significant, steps can be taken to foster safe working conditions for this vulnerable population. Focusing on strategies created by university-based programmes, such as those developed at the University of California Los Angeles's Labor Occupational Safety & Health Program (UCLA-LOSH), reveals four mechanisms by which safe work can be promoted for the undocumented population. More specifically, OSH gains are possible through programmes promoting: 1) occupationally-specific OSH capacity building, which train workers to work more safely and recognize hazardous conditions; 2) government agency navigational skills, which teach workers how to file claims; 3) networks of civil society groups, which provide worker support and reduce social isolation; and 4) information sharing, both among workers and workers' advocates and researchers, which can improve the efficacy of programming efforts. Enabling such programming through public funding is requisite if government calls for OSH improvement are to result in changes for those who are not only most vulnerable but also, with reason, most distrustful of the state.

K. Chang

Professor, Institute of Labour Relations, Renmin University, China

The Right to Occupational Health and its Legalization

The article indicates that the right to occupational health, in essence, is the right to living and health for workers. Not only should protecting the right to occupational health be the most prominent and urgent task in labour protection, but also the most fundamental content in Chinese labour legislation. At present, occupational safety and health is a very severe labour issue in China. The government, however, places more emphasis upon economic development, regardless of protection of labour rights in a large sense; the enterprises focus on economic profits at the expense of negligence to workers' lives and health; and workers have been unorganized by their representatives. As a result, the number of workers who are dead or injured due to industrial accidents and occupational diseases is incremental. The main causes include both imperfection in the legislation pertinent to occupational health and weak implementation of the current laws and regulations. In this respect, it is in urgent need of establishing a legal system to preserve occupational health and safety. This paper, through data and cases, analyses and articulates the status quo, problems and reasons in terms of Chinese occupational health and safety, as well as the content and characteristics of the legal system of occupational health and safety in China.

Migrant Workers and OSH

Migration can bring career opportunities that can enhance workers' general wellbeing, but it can also involve a degree of deskilling and downward social mobility which can be associated with potential health and safety problems. Migrants form a very heterogeneous group and not all are at risk regarding their occupational safety and health (OSH) but they are over-represented in high-risk sectors and in the so-called 3D jobs – dirty, dangerous and demanding. Their work is often characterised by uncertainty, poor working conditions and low wages.

Existing evidence suggests a concentration of migrant workers in certain sectors and occupations: on the one hand, they work in high skill professions, such as IT; on the other hand, many face poorer working conditions in sectors, such as agriculture and horticulture, construction, health care, households, transport and the food and drink sector. The significant presence of migrant workers in these sectors may be explained not only by labour shortages but also by language and legal barriers along with more subtle forms of discrimination. And their presence is likely to be even higher as official statistics refer only to legal permanent migration and not temporary or undeclared workers, which may be particularly relevant in sectors such as agriculture.

One direct consequence of the labour market segregation is the over-qualification of many migrant workers due to their employment in low-skill occupations. Labour market segmentation can have negative consequences in terms of lower wages, longer working hours, higher occupational instability, more physically demanding and monotonous work and higher risks of accidents at work. Migrant workers face additional health and safety risks due to their relatively short period of work in the host countries and their limited knowledge of the health and safety systems in place. They also report being subject to harassment more frequently than their native counterparts. Coupled with more unfavourable working conditions, higher rates of stress and burnout are one visible consequence.

It is estimated that in the nine largest economies of the former EU-15 between 4.4 and 5.5 million immigrants are working in the 'informal economy', although precise data about undeclared employment is still not available. There are serious health concerns for undeclared workers as they often do not have access to occupational health care services and lack the legal protection mechanisms for employees in dangerous occupations. The few studies carried out on safety and health of undeclared workers suggest that they are under-reported in statistics and that they are likely to endure very poor working conditions.

Building on the information presented above – covered by EU-OSHA's Literature Review on Migrant Workers – my presentation will next give an overview of the case study report *Workforce diversity and risk assessment: Ensuring everyone is covered*, which highlights the need to carry out inclusive risk assessments, taking into account the diversity of the workforce when assessing and managing risks. The first part of the report presents the main issues regarding the occupational safety and health of six categories of workers considered at increased risk: migrant workers, disabled workers, young and older workers, women (gender issues) and temporary workers. The second part focuses on the prevention of risks faced by the different groups of workers, by describing practical actions at workplace or sector level and their background, including groups who are targeted. More specifically, I shall give an overview of four cases addressing migrant workers: Hertel Services (Belgium), Vanhout (Belgium), HAS – Construction Sector (Ireland) and the UK Food & Drink Industry.