Employee Voice and Occupational Health and Safety Representation in Australia: Evidence and Implications

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Abstract
Through an exploratory study case study analysis of two Sydney metal manufacturing workplaces, several factors were identified as being a hindrance to the practice of occupational health and safety, specifically employee consultation on OHS matters. Despite differences in organisational characteristics between the two workplaces, a lack of management commitment to OHS was common to both workplaces and was identified as having the most significant influence on the overall outcomes of employee consultation. The results of the research highlight failures in the self-regulatory approach to occupational health and safety that underpins current OHS legislation in Australia and most developed countries, and illustrates the common practice of paper compliance which often acts as a mask for OHS inactivity.

Introduction
Using research findings obtained from interviews in two metal manufacturing firms in New South Wales, the purpose of this paper is to highlight the incidence, dynamics and outcomes of employee voice in both workplaces. The paper focuses on examining the occupational health and safety (OHS) practices of the two workplaces in order to understand the factors that influence employee voice on OHS. Consultation on workplace health and safety is crucial to improving work related deaths, injury and disease, and investigating employee voice in OHS is important to understanding the effectiveness of legislation mandating employee consultation, in this case the *NSW Occupational Health and Safety Act 2000*. Employee consultation is also fundamental to Australia's *National Occupational Health and Safety Strategy 2002-2012*. The *National OHS Strategy* advocates the need for cooperation and commitment to workplace consultation as a means of achieving systematic OHS management (NOHSC, 2002). The findings of the research identify the role and level of commitment by management to OHS and the practice of paper compliance as being the most influential factors affecting employee voice on OHS. The paper is structured as follows. First the literature review pertaining to employee voice in OHS is examined. This is followed by some information on the methodology used for the study together with some background information on both of the case study companies. The findings of the research are presented in the main body of the paper and are evaluated against the literature, followed with conclusions of the policy implications presented by the research findings.

Background
Employee voice on workplace health and safety issues occurs through the employer-employee consultative process as mandated in OHS legislation in Australia's states and territories, and commonly in other developed countries across the world. Employee consultation on OHS gained prominence in 1972 when the UK Committee of Enquiry on Safety and Health and Work, chaired by Lord Robens, handed down the Robens Report. The avocation for the self-regulation of OHS was the underlying principle of the Robens Report, and since its delivery, has been influential in the development of regulatory strategies for workplace health and safety and is arguably the key factor underpinning OHS management systems in today's modern context (Walters, 2003: 2). To enable self-regulation to succeed the Robens report advocated the need for greater consultation between workers and employers, arguing that good health and safety practice should encourage workers to participate in making and monitoring arrangements for their health and safety (Walters, 2001: 4). There are numerous views on the importance and benefits of employee voice on OHS. In addition to being viewed as a central element in making self-regulation operational, Walters argues that worker participation lends OHS policy a transparent and preventative character (Walters, 2001: 5). Frick views employee consultation from a more operational perspective, suggesting that employees need to be consulted as they hold the shop floor experience and expertise needed to identify and prioritise what to do in OHS management (Frick, n.d: 1). Frick further maintains that when workers have

been involved in identifying problems and developing solutions then they are more likely to implement and adhere to safety rules (Frick, n.d: 1). Among all the benefits attributed to employee consultation, the overall message communicated is that employee voice has a crucial role to play in OHS and is a necessary requirement for OHS improvements.

Irrespective of legislative requirements mandating consultation, the prevalence of employee consultation in practice is often influenced by a host of factors. For instance, management commitment and attitudes toward worker participation are addressed throughout the literature as having a bearing on the overall success or failure of consultative mechanisms in individual workplaces. For instance, Peterson (1999) and Walters and Frick (2000) draw reference to the struggles and conflict between capital and management's obligations and duties under OHS legislative, arguing that since workplace inspection and control of regulation is weak, the importance of having management commitment on OHS becomes crucial. However they also acknowledge that where the balance between capital and OHS is in favour of capital (i.e. productivity, profits and production), management will be motivated to meet the financial needs of the company in favour of OHS.

Safety education, knowledge and awareness is also identified as a necessary requirement in the development of improved communication and understanding that will ultimately provide employees with the necessary tools and skills for effective consultation and participation in workplace decision-making processes. As argued by Worksafe Australia, by increasing a worker's level of knowledge, it enables them to make informed decisions to potentially improve OHS performance (Industry Commission, 1995: 612) and as employees become more aware of risks, they are more likely to report matters of concern and make suggestions for safety improvements (Hopkins, 2002: 13–14). The importance of equipping employees with information for knowledge is paramount in empowering them to make valid contributions to the planning, implementation and improvement of OHS problems (Hopkins, 1995: 127).

Research reviewed by Walters suggests that where worker representatives are supported by trade unions directly or indirectly, they are more likely to be able to engage meaningfully and autonomously in dialogue with employers, which is essential to self-regulation (Walters, 2003: 12). Although it is an employee's legal right to be consulted by management on issues pertaining to OHS, there is an imbalance in consultative rights between unionised and non-unionised workplaces. According to Hopkin's analysis of international studies, the findings indicate that non-unionised workers are ineffective in drawing management attention to OHS (Hopkins, 1995: 128), whereas unionised workplaces can depend on the use of collective agreements as a means to securing co-operation from employers (Walters 2003: 19); unions can provide solutions to problems that may arise when individual workers are left to bargain over safety measures on their own behalf (Fenn and Ashby, 2004: 463). According to Walters and Frick (2000), Saksvik and Quinlan (2003), and Biggins and Farr, (1988), trade unions play a significant role in providing resources and support to OHS participatory mechanisms such as safety committees and representatives, enabling them to perform a more effective role in workplace health and safety matters.

Alternatively, other studies relate a lesser relationship between OHS and trade unions. A diminishing context for trade union representation, based on declining trade union membership, in many countries has created implications for the ability of workers to benefit from trade union representation. Bohle and Quinlan recognise that changing employment relationships and less favourable industrial relations legislation in Australia have contributed to the decline in union membership density over the past 20 years (2000: 456-457), possibly weakening the support trade unions have to offer. Frick maintains that many of the problems or potential problems in promoting OHS relate to the effect of limited resources due to a widespread decrease in unionisation (Frick, 2003: 19).

Research has found workplace size to be a strong determinant on the effectiveness of health and safety consultation and representation (Walters, 1996 cited in Frick and Walters, 1998). The case most often argued is that worker participation in OHS in small businesses is less prevalent than larger businesses. Several arguments are proposed throughout the literature to explain the relationship between organisational size and employee consultation and participation. Eakin and Weir (1995: 109) argue that there is a problem in promoting representation in small businesses because they typically lack union membership, while Walters (2003: 21) and Johnston, Quinlan and Walters (2004: 17) suggest that due to size thresholds, statutory requirements exempt employers

from being legally required to establish arrangements for health and safety committees and health and safety representatives in small businesses. According to Walters and Lamm (2003: 13), the emphasis on self-regulation and participatory arrangements for workers are limited in small businesses in the extent of their application (Walters and Lamm, 2003: 13). One of these limitations includes the direct relationship between employer and employees. This relationship should be facilitated by the absence of formal barriers associated with larger organisations, however Walters and Lamm suggest that such closeness has the potential to vastly reduce the willingness and ability of employees to challenge the assumptions and prerogatives of their employers. Limitations in small business have been termed 'structures of vulnerability' by Nichols, who uses the term to describe the situation in small enterprises in which a general and multi-faceted lack of resources make for poor OHS arrangements (Walters and Lamm, 2003: 13).

Methodology

The research used for this paper is exploratory in nature and utilises a qualitative case study design, drawing on semi-structured interview schedules as the primary data collection tool. Eleven respondents across two companies participated in the research. Respondents to the interviews included management, employees, trade union officials and employer association officials. To maintain the anonymity of the case study participants, coding has been applied whereby each of the workplaces is referred to as Company A and Company B. The initial source of data collection was through semi-structured interviews which were conducted individually and on a face-to-face basis. Documentary material relating to OHS, including OHS policies and certified agreements, were obtained from both of the companies. These secondary pieces of the material were used to corroborate responses provided in the interviews together with legal mandates under the *NSW Occupational Health and Safety Act 2000* in order to achieve a degree of methodological triangulation.

Research Findings

Both Company A and B are well established private companies operating in Sydney with operations spanning 30 and 20 years respectively. At the time of the interviews fewer than 20 workers were employed in Company A, while Company B had a workforce of approximately 110 employees. The majority of employees in both companies are from a non-English speaking background or where English is a second language. Each company has a basic OHS policy in place, however employee consultation was not sought in the development of the policies. Toolbox talks[1] are the primary mechanism used to address OHS in Company A while Company B has both a safety committee and toolbox talks. Toolbox talks in Company A are overseen by the Company's foreman, while the employees of Company B's safety committee facilitate toolbox talks, and a production manager represents management on Company B's safety committee. Trade union representation is limited in Company A, with only two employees belonging to a trade union while approximately 80% of the workforce in Company A are members of a trade union.

Despite regulatory requirements for consultation on OHS, the results of both case study companies demonstrate numerous shortfalls in the methods used to consult with workers and promote employee voice. Employees in Company A and B identified a lack of consultation as a key issue of concern. Despite having OHS policies that address the need for consultation and communication between management and workers, employees in both companies reported to never or rarely being consulted by management for their input into OHS issues. Even with the differences in organisational size and the level of trade unionism, common themes concerning employee voice were evident across both workplaces. The role of management and their lack of commitment to OHS was frequently identified by participants as an issue affecting OHS. The attitudes of management toward OHS had significant impact on the overall safety culture of the workplaces, which evidently influenced employee attitudes and their approach to health and safety matters. In addition to management's role on OHS, the impact of trade unions, OHS committees, and organisational size were addressed in interviewee responses. The purpose of the following section

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[1] Toolbox talks are brief, informal meetings provided to employees in order to raise employee awareness of OHS issues within the workplace. Toolbox talks in both of the case study companies are held during working hours, run for approximately 15-20 minutes, and are required to be held at regular intervals (every month for Company A and quarterly for Company B). Toolbox talks are primarily used as a forum for employees to raise OHS concerns and for the chairperson or leaders of the meetings to train and educate employees on OHS issues.

is to use the outcomes of the interview responses to examine and evaluate in further detail the specific bearing that management commitment, trade unions, OHS committees, and organisational size has on employee voice within each of the workplaces.

The relationship between management and employee voice

The role of management, in particular senior management's contribution, to OHS had a significant impact in shaping the overall dynamics and role of employee voice in Company A and Company B. Senior management did not attend toolbox talks or safety committee meetings, and with the exception of making financial decisions on OHS activities, were far removed from the OHS process. Management's inactions on OHS influenced not only the process of employee voice but it also had impact on employee perceptions on consultation. Management's lack of commitment largely acted as a deterrent against a positive safety culture, alluding to employees that their contributions to health and safety were invalid and unwelcoming. Although employees were knowledgeable of their right to consultation, the majority of the respondents in Company A felt uncomfortable with approaching management to raise OHS concerns, preferring not to voice concerns unless they deemed the matter to be of a serious nature. Employee's perceived management as being dismissive of OHS, treating it as irrelevant and making workers fearful to approach management out of concern of losing their jobs. Job insecurity was of considerable concern amongst older workers who believed it would be difficult to find alternate employment, with one respondent claiming "if you want to keep your job, you'd better keep quiet". Apprehension in raising OHS matters with management was more evident in Company A which did not have a strong union presence. One of the employee respondents suggested that a union representative could approach management on employee's behalf because "employees should not have to keep shut up about things".

The OHS knowledge of managers was a key factor affecting management's approach to employee consultation. The general manager of company A and the production manager of Company B acknowledged to having insufficient knowledge of OHS legislation. When asked to identify the piece of legislation mandating OHS in NSW, the manager of Company A responded with "I don't know, I'm not getting any of these right but keep going", while the production manager of Company B admitted to referring to the legislation only when a safety issue arose "I don't sort of sit down and read it all the time". Both management respondents stressed that the pressure to meet productivity deadlines removed them from being able to dedicate time to OHS. The apparent lack of knowledge amongst management may help to explain the lax attitude and approach toward workplace safety and consultation on safety matters.

The insufficient opportunity for employees to consult with management representatives beyond the foreman or the production manager questions the legitimacy and meaningfulness of consultation in Company A and Company B. The apparent lack of 'meaningful' consultation between management and employees is indicative of OHS policies as a paper compliance tool; a concept where OHS matters addressed in policies are not put to practice. Paper compliance represents signs of failure in the Roben's regulatory approach currently grounded into the principles of NSW and other Australian legislation.

Trade union representation
The interview findings gathered in Company B, where the majority of the workforce belonged to the union, provided minimal evidence to suggest that the union had either a direct or positive role on employee voice in OHS. Employees perceived the union as having a reactive stance on OHS matters, viewing them primarily as a sounding board to raise issues of concern. Although employees in Company B believed the union placed greater emphasis on other workplace issues such as pay, employees felt confident about contacting the union to help look after their interest or problems concerning OHS or protect them from the pressures of management. These findings are consistent with findings by Quinlan (1993) who highlights the important role unions play in assisting employees in their complaints against workplace health and safety. Throughout the interviews in Company B, employees expressed a greater degree of confidence than employees in Company A in raising voice on OHS matters primarily because of the security they felt in belonging to a union. Company A employees expressed greater fear and intimidation in consulting management without the support of a trade union. Although the trade union did not play a direct role in OHS in Company B, being a union member was of an intrinsic value to employees. The findings of the research in Company A

and B purport that trade union membership has a deeper value meaning and is not simply reflective of traditional trade union provisions and services.

Organisational Size

Interview results from Company A, where the workforce totalled less than 20 employees, showed that in small companies where there are no OHS specialists and where reporting lines between employees and management are flat and immediate, employees can feel intimidated to speak up on OHS related matters. A number of Company A respondents drew comparisons between the safety environment of Company A and their previous work experiences on larger work sites. According to an employee in Company A:

> *Big companies do things different, they go by the rules, and maybe its not 90% or 100% but its 80%. In small companies they do things themselves and nobody knows what is going on. Big place is different, they got everything, rules. I used to work onsite and its different onsite. Onsite you get everything , in small companies if something happens its probably just swept under the carpet*

Respondents felt that the small size of Company A made it difficult to raise complaints without being perceived as a whinger, unlike in larger workplaces where there was a dedicated safety officer who did not assume a managerial role. As expressed by one employee "if you go to the boss he will probably sack you, whereas the safety officer doesn't have to mention names". Within this particular example, the relationship between management commitment and the dynamics of a small business had created a dual force to discourage employee consultation. The close proximity that employee's of Company A share with management, together with the fear of being identified as a whinger, act as deterrents against employee voice.

Safety Representatives as a vessel for employee voice

Joint worker-management safety committees or representatives are the primary mechanisms for employee voice on OHS, yet in the case of this research their role in supporting employee voice proved ineffective. According to employees, the safety committee in Company B no longer had impact on health and safety outcomes The safety committee did not meet on a regular basis (at the time of the interviews several months had lapsed since the last safety meeting at Company B) and often employee's had no knowledge of scheduled dates for the committee meetings, therefore limiting employee opportunity to raise issues with committee members prior to the meetings:

> *In the beginning employees were happy because they had the committee to look out for them but in the last year they haven't had a fire drill nor do they arrange for toolbox meetings anymore. The committee does not listen to the employees anymore and the whole thing is done because interest has been lost.*

These findings from the research challenge arguments raised in the literature by Weil (1999), who maintains that safety committees and representatives are designed to provide a forum for problem solving and enhancing health and safety enforcement. Furthermore, the outcomes of this research are considerably more consistent in establishing linkages with other research findings (AMWU, n.d; ACTU, 2002) where it has also been found that safety committees and representatives do not work well if there is intimidation and pressure from management not to raise OHS issues. This circumstance was evident in Company B when one of the respondents chose to withdraw from the safety committee on account of feeling disliked by management for raising OHS issues:

> *I came under pressure because employees kept coming to see me about problems and no one else, and I would tell management but on one side management doesn't want to hear you complaining too much, and I just said to myself that its better to give this up so I wont be in the middle of management because they were beginning to despise me.*

Fear and intimidation of management felt by certain committee members not only affected their ability to approach management but also had affect on worker's perceptions of the safety committee. Interview responses highlighted that employees viewed the safety committee as being ineffective if they were not able to get management to commitment to OHS matters.

Toolbox talks provided the principle mechanism for OHS communication in Company A and were used in conjunction with safety committee meetings in Company B. Despite the consultative opportunities toolbox talks can provide to employees, meetings were not being utilised accordingly

by Company A and B to sustain this objective. Across both workplaces it was identified that toolbox talks were not being held on a regular basis, and lacked management attendance (chaired by the foreman in Company A and employee safety committee members in Company B). Employee respondents from Company A maintained that in circumstances where toolbox talks were missed employees were still required to sign documents declaring their attendance at the meeting. According to the employees of Company A, monthly safety meetings were a requirement that needed to be satisfied as part of Company A's contractual requirements in project work performed for a government agency. When asked what happened to workers who refused to sign the toolbox attendance sheets, one respondent replied "when they say sign we just sign. If you don't sign he'll look at you different". The irregularity of meetings and the use of coercion to make employees sign attendance at toolbox talks demonstrates further a case of paper compliance and its detriment to employee consultation.

Conclusion

The outcomes of the research demonstrate that employee voice lacked prominence and place within both Company A and Company B. Employee voice was weak on account of a number of interplaying factors with management's approach to OHS posing the most significant bearing on OHS activities in the workplace. The lack of management commitment to OHS and the strong emphasis placed on production are congruent with arguments by Peterson (1999), and Walters and Frick 2000), highlighting the dominance of managerial prerogative in an environment where inspection is weak and where the competing force of capital takes priority to OHS. The research findings from Company's A and B also demonstrate a lack of transparency in OHS compliance. Walter's (2001) suggested that worker participation lends to transparency and acts as a preventative character to OHS policy, however the practice of paper compliance across both companies is illustrative of the fact that employee consultation was weak and lacked influence in shaping management activities in OHS. The use of coercion in both the case study companies created an imbalance in the employer-employee relationship. Employee voice was suppressed using intimidation of job loss. The lack of management commitment to OHS created negative safety cultures which discouraged reporting and consultation on OHS and left employees to believe OHS a waste of time.

The outcomes of this research also highlight the failures of the self regulatory advocated in the Robens Report. Without the presence of OHS inspectors to ensure compliance with OHS legislation, managerial prerogative prevails and in the process limits employee consultation from taking place in a meaningful manner. Unlike arguments presented in the literature, supporting the role and influence of trade union representation on employee voice, the research findings from Company A and B demonstrate that trade unions had an implied role and had not ever demonstrated an actual contribution to enhancing employee voice. Employee's felt that the security of belonging to a trade union provided them with an avenue to raise concerns, demonstrating the intrinsic value of trade unions. The findings from Company A and B also present an example of where organisational size did not prove to discriminate against OHS performance. Based on arguments raised in the literature, it would have been expected that Company B, being the larger employer, would have demonstrated a more sophisticated approach to OHS than Company A, however the research findings highlight that organisational size was less an issue in the two companies.

This research demonstrates failures and weaknesses in employee voice in OHS. For employee voice to succeed in Company A and B, a reform to management commitment is required. From a policy perspective, these findings present possible challenges for the *National OHS Strategy 2002-2012,* particularly in question of whether the *National OHS Strategy* is capable of achieving improvements in employee consultation in spite of current challenges in compliance with OHS legislation. In addition, the findings highlight the need for improved external inspection of workplaces to ensure improved management compliance with OHS. While trade unions have some role in representing workers interests, declining unionisation across the world questions the future of trade unions and how an absence in trade union representation could be of further detriment to employee voice. The influence of management prerogative is far reaching, affecting not only the decisions on the amount of resources to be dedicated to OHS, but also shaping the overall safety culture within an organisation.

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