

Health and Safety Implications of Posted Work

The Example of British Engineering Construction
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Outline of the Presentation

- Research Questions
- Theoretical Background
- Cases and Method
- Findings
- Conclusions
- Q&A

Research Questions

- What are the Occupational Safety and Health issues faced in multinational construction workplaces where part of the workforce is posted from other EU countries?
- How have these issues been dealt with in the UK?

Theoretical Background

Characteristics of transnational multi-employer workplaces

- Multiple employers both native and foreign (subcontracting chain) (Marchington et al. 2005)
- Different terms and conditions (Lillie 2012)
- Multiple moves between contingent and direct employment and between contingent forms of labour (Forde et al. 2009)
- Subcontracting as a key feature of the restructuring of employment relationships have brought about the need for mechanisms for auditing, reporting, and communicating information between contracting partners (MacKenzie 2000)
- Unclear responsible layers where to address grievances (Fudge 2012; Marchington et al. 2005)

Layers of Vulnerability Approach to OSH (Sargeant and Tucker 2009)

- Migration Factors
 - Migration status
 - Conditions of recruitment
- Characteristics of Migrant Workers
 - Socio-economic conditions in the home country
 - Education and skills level
 - Language skills
- Receiving Country Conditions
 - Characteristics of employment and sector
 - Access to collective representation
 - Access to regulatory protection
 - Particular problems of social exclusion/social isolation

OSH in the UK

■ Legislation

- Health and Safety at Work etc. Act (HSW Act) 1974
- Legislative Reform (Health and Safety Executive) Order 2008
- Health and Safety (Enforcing Authority) Regulations 1998
- Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006

■ Responsible Authorities

- The Health and Safety Executive (HSE)
- Local authorities (LAs)
- The Employment Agency Standards Inspectorate
- The Gangmasters Licensing Authority
- HM Revenue and Customs

Cases and Method

- Engineering Construction in the UK:
 - Local industry with an internationalised labour market
 - Multi-employer transnational workplaces
 - Transient & Project-based Industry
 - Contingent workforce
 - Highest number of posted workers
- Research conducted in 2014, follow-ups in 2015
- Case Studies: Two Large Construction Sites
- Qualitative Method of data collection:
 - Interviews with posted workers: 16
 - Interviews with trade union officials and shop stewards: 2 + 8
 - Interviews with Site Managers: 4
- Analysis: MAXQDA software

Characteristics of the cases

- Power Stations in remote areas
- In peak times up to 27 companies working on site both UK and non-UK in Engineering and Civil works
- Workforce: local, posted (20%) and agency workers
- Posted workers interviewed were predominantly from Spain, Poland, Ireland, Slovenia, Slovakia
- In scope, i.e. projects operating under the NAECI (The National Agreement for the Engineering Construction Industry)

Irregularities identified among the different subcontractors

- Long working hours, a regular 5 days and Saturday until 2-3 p.m. Sometimes Sundays.
- NAEI guarantees higher pay for over time and double for weekends, however there have been at least two subcontractors who have not respected the collective agreement, in terms of:
 - Contracts as local workforce
 - Same pay per hour regardless of the amount of hours
 - Delayed payments (e.g. one Spanish company was paying workers on the 20th of the next month, i.e. 50 days later)
 - Only the first ticket back and forth from the sending country paid
 - Deductions for various expenses
 - two accounts in which payment is made to workers: one for the official salary and the other for **'black money'**

OSH Implications

- Work intensification
- Overtime
- Language Barrier
- Safety in the workplace
 - Inappropriate skills – posted workers hired to perform tasks they are not really trained to do.
 - Different training and work practices: trade-specific training and employment in the UK vs. more general do-it-all training among Eastern and Southern European workers
 - Posted workers often told to perform other tasks to expedite the work process by supervisors/foremen, who would deny responsibility if caught by OSH reps
 - No accidents in the cases covered in this research

Both Unions and Posted Workers Recognize the Problem

"...we experience problems on other projects, workers are – they do a bit of one trade, they do a bit of welding, a bit of pipefitting, a bit of electrical work, a bit of erection work, do lots of different things. Within our agreement, it's trade specific, if we have a welder comes on, he will weld, he's a specialist and if we have an electrician come, only the electrician can do that type of work. The pipefitters, everybody has basically got a task to do and it's trade specific but outside NAEI, they exploit all the workers, and they will be told to do various other tasks. Sometimes they are not capable of doing them but they will be told to do them and if they don't do that, they will move them on." (Senior Shop Steward)

"A rear has a special training and knows how to do specific things without danger. If a Spanish supervisor asks you to do something a rear is meant to do he will not have to hire a qualified rear. You just do it however you can and if something happens the supervisor washes his hands and blames you. You know?" (Cervantes, welder)

Dealing with the Issues on Site

- NJC Guide to Health, Safety and Welfare (cross-referenced in NAECI)
- Project Health and Safety Plan
- The Induction Process
 - Induction on Health and Safety and Unions in native language or with translation
- The toolbox talk
- Health and Safety Posters/Instructions were Bilingual on the site with posted workers from only one other country
- Leaflets provided in various languages in the other site
- Safety Representatives on site regulated under Safety Representatives and Safety Committees Regulations 1977 (SRSCR) – appointed by the unions, notified to the Employer(s), who have to pay them even for the time spent dealing with OSH issues on site.
- Four-stage grievance procedure
- Monthly Incident reports to the External Audit and the Project Joint Council

The importance of Unions in British Construction Sites

And it's a safer site as well - where there's trade unions involved, they will always elect safety reps as well as shop stewards. And they're afforded the same facilities as the shop stewards are because their job is just as important as the stewards from a safety point of view. ... we set up safety committees who run concurrently with ...[the employers team] so they all have a weekly meeting. And they do walks out on the job, out on a site, having a walk round and having a look to see if they can spot any potential problems, or stuff that can be improved, or equipment that can be improved (Senior Shop Steward)

Language issues

- **NJC Guide:**

Training and information for non-English speaking employees

Training and information required for an English speaking employee to be able to work safely and without risk to health must also be provided to a non-English speaking one carrying out the same work in the same circumstances. The employer must ensure that the non - English speaker is provided with the necessary information and training in a form that he can understand

- **Providing information in the different languages in leaflets**

Yes, we had a bit of a dispute in a power station in Nottinghamshire and a power station called Staythorpe and there was a lot of the Italian lads we knew on there, were getting exploited. So what we did, we put all the terms and conditions what they should be getting paid on there, all the wage rates, bonuses, flights home, we put it on a leaflet but we put it in Italian for them. And then we did one in Polish and one in Portuguese so they all knew then what they were supposed to be getting. So we have that facility where we can get things translated, put it in a leaflet form and give it to the migrants (GMB Official, Leeds April 2014)

- **Professional or peer translation**

Conclusions

- Posted workers are vulnerable to OSH risks that stem from:
 - Their status as temporary and mobile workers
 - Their professional skills
 - Their knowledge of the local OSH regulation
 - Their language skills
 - Workplace OSH practices
 - Their access to representation
- While the host country regulation might provide OSH protection, the issue becomes about access to such protection and enforcement of OSH regulation.

Questions and Answers

Thank you 😊