



NEWSLETTER

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NEW CHALLENGES TO OCCUPATIONAL HEALTH AND SAFETY IN NORTH AMERICA

Recent Push by Some Governments to Deregulate in Labour Matters

The logic of a global free market encourages a relentless economic race to the bottom, whereby countries continually compete with one another to create a better business environment by offering subsidies to lure new investments, cutting tariffs, deregulating labor laws, ignoring human rights violations, and weakening safety and health protections. This race to the bottom affects countries like China, but it also affects industrial democracies like the United States, where workers' rights and safety protections are under assault. —Vernon Mogensen¹

During the Presidency of George W. Bush, there was little doubt that occupational health and safety (OHS) legislation and standards were under assault, as well as the ability of the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) to ensure the protection of workers in their workplaces. The Bush administration became the first administration in OSHA's history not to issue a single safety and health standard. There were also far fewer prosecutions by OSHA and MSHA under his administration.

While Canada did not see the same regressive policies as those in the U.S., there are on-going pressures on current federal, provincial and territorial governments to revisit the manner in which OHS matters are regulated and enforced. Past downsizing of public services left regulatory bodies with inadequate resources to effectively enforce existing OHS requirements in the workplace. Fortunately, some jurisdictions recognized this danger and their governments reversed any further reductions in their inspectorates—instead in some cases significantly increasing the numbers of inspectors. Nevertheless, in these harsh economic times with increasing government deficits, one must continue to be vigilant in order to ensure that sufficient resources are available to regulators to carry out proactive interventions against violators and to actively pursue promotional prevention and educational activities.

Not too long ago, the concept of 'smart regulation' entered into the lexicon of governments in Canada, notably the Federal Government. However, upon examining the concept further, many observers expressed serious concerns that the concept was simply an euphemism for 'deregulation'. Policies surrounding smart regulation were of particular concern to regulatory agencies responsible for enforcing public health and safety, environmental and transportation safety laws. Numerous prescribed standards in law would have come under intense scrutiny given the intention to move to a greater use of guidelines, voluntary industry codes of practice and generalized promotional activities. Unlike standards prescribed in regulation, such approaches would be more difficult to enforce in order to ensure compliance by means of orders, penalties and prosecutions. This debate continues to this day in both Canada and the U.S. Worker health and safety may still be under siege.

¹ *Introduction to Worker Safety Under Siege (Labor, Capital, and the Politics of Workplace Safety in a Deregulated World.)*: Vernon Mogensen, Editor (M.E. Sharpe, Inc., New York, NY, 2006)

“Healthier organizations mean more productive employees.”

Increased Regulator Enforcement in High Risk Sectors

With limited resources, OHS regulators have increasingly moved to selective interventions in what are usually deemed as 'high risk' sectors (e.g. industrial, health care, construction, forestry and mining). Within such sectors, employers are normally targeted in those cases where workers' compensation claims are the greatest and/or where non-compliance with OHS laws is excessive. With improved and timely data and continuous electronic monitoring, regulators can now better and more quickly target those employers, certainly in high risk sectors, which represent the 'worst actors'. Their workplaces are then targeted for regularly scheduled inspections and they are given additional incentives.

For example, in 2008, Ontario launched a four-year plan entitled "The Safe At Work Ontario". The plan allows the ministry's 430 full-time health and safety inspectors to be flexible and strategic in determining which businesses require their attention. The strategy is based on a number of factors including injury rates and associated costs, a company's compliance history, and the presence of young workers. The results of an inspection then determine the level of engagement and frequency of subsequent inspections for a targeted workplace.

Growth in Long-Term Disability Due to Psychosocial Hazards

Workplace stress. Recent studies indicate again and again that Canadian workers, and in particular 'knowledge workers', are increasingly having to deal with higher levels of stress within the workplace. Elevated levels of stress can culminate in signs and symptoms related to varying degrees of psychosocial illnesses such as anxiety, depression, apathy, emotional fatigue, burnout, sadness, mood swings, hypersensitivities, irritability, hopelessness, etc. These illnesses will then affect one's behavioural traits in both one's work and personal life. They also often manifest in behaviours negatively affecting self-esteem, wellness, rates of absenteeism, family and work relationships, job performance, substance use, sense of responsibility, etc. If psychosocial illnesses are left unchecked and accumulate over time, and if the stressors are not dealt with, there could be severe and debilitating results. Illness associated with resulting cumulative stress reactions include chronic depression, asthma, heart disease, paranoia, extreme chronic fatigue, muscle tremors, and on and on.

The growth in psychosocial illnesses is evidenced in the increasing numbers of persons on long-term disability insurance or pensions due to such illnesses. Many organizations have been slow to deal with the contributing stressors in their workplaces. The annual cost to businesses and society is in the billions, not to forget the painful psychological and social costs to affected individuals, families and communities. Coping with stress has also become a major health and safety issue in light of the clearer link established between mental health and accident involvement.²

Fortunately, according to a 2008 National Health Survey released by Desjardins Financial Security, organizations appear to be gradually meeting mental health challenges in their businesses. Close to two-thirds of workers surveyed thought that the employer's senior management is concerned about employee wellness. Four out of 10 also believed that management is showing that they are ready to listen or are open to discussing issues with their employees concerning stress-related mental health problems and the contributing stressors.³

Aging Workforce and Health and Safety

According to a 2007 Statistics Canada study, older workers are staying in the workforce longer. As a result, they may be dampening the potential of a sudden and severe labour shortage as baby boomers

² *Creating Healthy Work Organizations*: Cary L. Cooper & Stephen Williams, Editors (John Wiley & Sons, Chichester, 1994)

³ *Stressed-out workers costing economy – study*: John Morrissy, The Ottawa Citizen May 02, 2008

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retire. An estimated 2.1 million individuals aged 55 to 64 were either employed or looking for work in 2006, more than double the total in 1976. Older workers represented 12 percent of the total labour force in 2006, compared with 10 percent three decades earlier. The two main forces behind these increases are an aging population and rising labour force participation rates among older workers.⁴

Studies have shown that additional OHS issues have emerged for older workers. As a result of an aging work force, organizations will have to assess certain OHS matters of particular concern to older workers. Such matters will include the likelihood of increased repetitive strain injuries, greater sensitization to exposure to hazardous materials, higher incidence of stress-related illnesses, loss of ocular and hearing capacity, etc.

Concerns related to OHS issues surrounding older workers are growing as illustrated by OSHA's planned July 2, 2009, [Office of Small Business Assistance](#) forum examining the challenges of protecting the aging workforce.

The experience of older workers is very valuable to any organization. The ability to retain and ensure their ongoing productive contribution is even more important during the current economic downturn. However, retaining older workers will require a number of adjustments in order to reduce the possibility of OHS problems and increased absenteeism due to health concerns. Administrative practices will have to become more flexible, allowing older workers to control their hours, exercise autonomy and find opportunities to learn. Flexibility means thinking in new and creative ways about dealing with their issues, including OHS and working conditions such as the pace or the timing of work. While older workers must adhere, as any other worker, to OHS policies and practices in the workplace, some modifications may be necessary for older workers to ensure their effective and efficient implementation.

Growth of the Contingency Workforce

In light of the current economic downturn, numerous organizations are attempting to reduce HR, IT and other costs by outsourcing certain activities; using consultants, hiring temporary staff and contracting for various specific activities. Even before this recession, there had been a steady growth in what has become known as the 'contingency workforce'. In addition, with existing layoffs, many former employees are turning to 'self-employment' to make ends meet. In some cases, self-employed workers are contracting their services back to their original employers. In both Canada and the U.S., researchers have estimated that, using the broader definition of contingency work, contingent workers could today represent as much as 25 to 30 percent of the total workforce.

The recession and subsequent wave of downsizing have further forced many corporations to eliminate in-house services and use independent contractors instead. Buyouts and layoffs have pushed many skilled professionals into the 'freelance marketplace'. Meanwhile, technological advances have made remote work and virtual teams more feasible.

Recent research by the U.S.-based National Institute for Occupational Safety and Health (NIOSH) noted that American and European studies suggest that contingent workers are at higher risk for occupational injuries and illnesses than workers in traditional employment situations.⁵ In order to help protect the health and safety of contingent workers, organizations need to ensure that the same OHS policies and practices are being applied to these workers, be they employed either within or outside an organization's workplaces. In addition, organizations are required to inform all workers having approved access to their workplaces of any known occupational hazards and their related risks. Failing to do so could lead to violations under OHS laws, or to litigation as a result of injuries or illnesses incurred through the organization's use of contingent workers. To avoid unsafe working conditions and

⁴ *Participation of older workers – 2006*: in Perspectives on Labour and Income, StatsCan, August 24, 2007

⁵ *Contingent Workers and Contingent Health: Risks of a Modern Economy*: Kristin J. Cummings and Kathleen Kreiss, in the Journal of the American Medical Association, January 30, 2008

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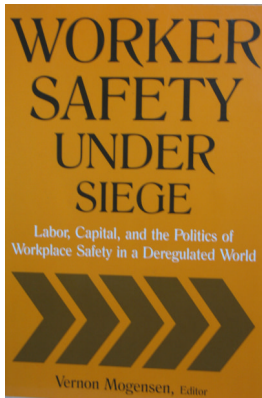
establish 'due diligence', some organizations have included compliance with OHS requirements, standards and practices as part of written contracts involving contingency work.

Impact of Downturns on Health and Safety Programs

Given the current economic downturn, there is always the danger that organizations will reduce or eliminate some OHS programs and activities, especially those related to worker education and training. There are sufficient requirements under legislation to ensure compliance with OHS laws, including the ongoing threat of prosecution for situations of non-compliance. However, some employers may still attempt to cut corners as part of any cost reduction exercise. Past experiences have shown that any significant reduction in the health and safety program can lead to costly and dangerous consequences for employees and in turn the organization's bottom line. The maintenance of a good OHS program is one important factor in sustaining a healthy organization, as well as facilitating the recruitment of potential employees and the retention of experienced employees.

In addition, human resources experts have noted that the cumulative effect of layoffs is that it sends a wave of elevated anxiety through other workplaces, even the ones that have managed to sidestep economic woes. The result is that workers, concerned about their employment status, may attempt to cut corners in order to meet deadlines and expedite work. This can lead to increase risks given the potential for accidents and unhealthy situations. With the additional stressors associated with downturns, past studies have shown that the incidence of preventable accidents tends to rise. Besides added anxieties, workers may also experience stress-related mental and physical conditions such as substance abuse, sleep deprivation, depression, burnout, chronic fatigue, anger management issues, etc. Such symptoms in turn can lead to a loss of ability to focus on the work at hand and an impaired capacity—all of which can result in greater accident potential and productivity loss. Organizations may need to strengthen existing wellness and employee assistance programs so as to better monitor and respond to the inevitable growth in work-related stress and psychosocial impacts.

Recommended Reading:



“Worker Safety Under Siege”

(Labor, Capital, and the Politics of Workplace Safety in a Deregulated World.)

Vernon Mogensen, Editor

(M.E. Sharpe, Inc., New York, NY, 2006)

Recommended Web Sites:

- ◆ Institute for Work and Health: <http://www.iwh.on.ca/>
- ◆ The Canadian Institute of Stress: <http://www.stresscanada.org/>
- ◆ Canadian Centre for Occupational Health and Safety: <http://www.ccohs.ca/>
- ◆ The National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh/>
- ◆ Occupational Safety and Health Network: <http://www.osh.net/index.htm>
- ◆ Institute for Health and Productivity Management: <http://www.ihpm.org/>
- ◆ European Agency for Safety and Health at Work: <http://osha.europa.eu/en>

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