

Occupational Health & Safety: introduction to the collection

FIONA EDGAR, IAN McANDREW, ALAN GEARE and PAULA O’KANE
University of Otago

At 3.44 in the afternoon of Friday November 19, 2010, an explosion in the Pike River Mine on the West Coast of Aotearoa New Zealand’s South Island trapped 29 men underground. Following three additional explosions over the next 10 days, police accepted that the men could not be alive and attention turned from rescue to an unsuccessful effort at recovery. The disaster remains on the public consciousness seven years later, as families of the victims continue to press authorities for the mine to be entered and the bodies of their lost men finally recovered.

The Pike River disaster has also affected the public consciousness in another way as well. In terms of the loss of human life, it was amongst the most costly workplace episodes in New Zealand history. In looking for explanations, attention quickly turned to weak mine safety regulations and inadequate mine safety inspections, which in turn led to a wider concern with the general inadequacy of New Zealand’s Occupational Health and Safety (OHS) regime. These inadequacies were reinforced when an earthquake hit Christchurch for the second time in February 2011, resulting in further loss of life, including many people at work. The urgency to do something increased.

New Zealand is not alone in experiencing recent workplace tragedies, and OHS is increasingly recognised as an important Employment Relations (ER) issue, with inherent obligations on employers and the State to keep workers safe. In developed countries, a key contributory element for the escalation of occupational illness, injuries and death has been the diminishing role of unions as workers’ advocates, with neither government regulation nor employer ER initiatives moving sufficiently or sufficiently quick to fill the void. The Pike River disaster and its aftermath served to highlight two important realities: by comparison with others, New Zealand’s occupational accident and injury rates were high; and employers were not sufficiently attentive to or held accountable for the welfare of their workers.

Impelled by a ground swell of public opinion, change was deemed urgently necessary and employer groups in conjunction with the State belatedly swung into action. This was evidenced by the commissioning and development of a series of working papers and reports (e.g. *The Report of the Independent Taskforce on Workplace Health and Safety*, April 2013; *Wellness in the Workplace*, 2013; and *Workplace Health and Safety*, 2012), with this work subsequently informing a revamping of OHS legislation. In April of 2016, the Health and Safety at Work Act (HSWA, 2015), which is explicitly aimed at securing “the health and safety” of workplaces and their employees came into force. A new regulatory agency, WorkSafe New Zealand, was established by the HSWA.

This Act has raised a lot of questions about employers’ obligations and liabilities in the OHS arena, and it is against this backdrop that we were delighted to be invited by the Editors of the NZJER to convene this collection of papers on aspects of the broad and multi-faceted field of workplace health and safety. We see this collection as a beginning that urgently invites further research attention to this vital area of study.

Primary industries remain key drivers of the New Zealand economy and to some extent lifestyle as well, and the first paper in our collection illustrates the difficulties of adequately regulating for worker safety in this arena, and the complexities of regulating for worker safety across a diverse economy. Bronwyn Neal highlights peculiarities of hill country farming as an industry from an OHS perspective, including the uncontained nature of the workplace, the involvement of family labour and the integration of workplace with lifestyle, and the long tradition of public access to the privately-held terrain of the high country. Neal contends that, in the hill country farming sector, the Act has prompted peripheral issues to become the main focus, thus detracting attention away from the more serious risks experienced in this sector. She points to a contradiction of enforcement, engagement, and education functions of the newly-established State regulatory agency, WorkSafe, as undermining its effectiveness in this iconic New Zealand industry.

Construction is another vital and high profile industry in New Zealand, both because of a general shortage of housing stock, particularly in Auckland, the country's largest market, and due to the reconstruction continuing in Christchurch and the wider Canterbury area following the earthquakes of 2010, 2011 and subsequently. The HSWA places a lot of emphasis on managerial commitment and worker involvement as key pillars of a rejuvenated drive for occupational safety, and the second paper by Taylor Sizemore examines this focus in the construction industry. Sizemore finds commitment to improving workplace health and safety is being addressed largely through enhanced employee involvement; however, the efficacy of these initiatives may be thwarted by the complacent attitudes of workers. Nonetheless, his interviews with construction industry managers responsible for OHS within their organisations revealed some positive changes in the safety culture of firms in the industry and provided reasons for optimism.

We stay in the construction industry for our third paper, but with a wholly different focus. A special issue on OHS would not be complete without a review of worker vulnerability and this article takes up this important issue. Using the catalyst of the Christchurch earthquakes and their subsequent impact on the construction industry, Felicity Lamm, Dave Moore, Swati Nagar, Erling Rasmussen, and Malcolm Sargeant apply Quinlan and Bohle's 'Pressures, Disorganization and Regulatory Failure' model to probe issues pertaining to the OHS and sub-contracted workers in this industry. They propose a model which recognises the interests of multiple stakeholders, combined with the fostering of intra-industry collaboration, as potential mechanisms for enhancing the outcomes of this vulnerable worker group.

A cornerstone of past and current OHS legislation in New Zealand, as in a number of other jurisdictions, is and has been the obligation on employers to take 'reasonably practicable steps' to ensure the safety of workers (and others). This involves the interpretation of those terms and the application of that principle to the facts and circumstances of particular situations. As such, the obligation has been at the contentious centre of academic discourse and, of course, of many adjudicated cases as well. Continuing with the legislative theme, our fourth paper by Christopher Peace explores the origins of the 'reasonably practicable test' both in common law and in New Zealand's and Australia's health and safety legislation and asks what a risk assessment under these current legislative frameworks might look like.

For our final paper, we take a different approach and consider New Zealand's problematic drinking culture and its confounding impact on the workplace, examined in an exploratory study by Ian McAndrew, Fiona Edgar and Trudy Sullivan. It is accepted that alcohol serves a sometimes functional purpose as a social lubricant in many work-related and workplace

situations. However, research has also established the harmful effects of workers intoxication on the job, reporting for work 'hungover,' or workers otherwise impacted by inappropriate alcohol consumption by themselves, their employers, their co-workers, or others with whom they interact in their employment. Drug and alcohol consumption are now recognised as modern day threats to workplace health and safety. Our final paper examines one aspect of alcohol in the workplace as an OHS danger, invoking the same employer and worker obligations that attach to any threat to workplace safety. The focus is workplace social events, including after-work drinks and the iconic 'work Christmas party'; a source of so-much pleasure and pain in so many workplaces. McAndrew et al examine a number of significant behavioural issues that can occur at these events, including acts of physical aggression and sexual harassment, and highlight the lessons to be gleaned from this study.

In concluding this introduction, we wish to redraw attention to the broad range of issues which fall within the gamut of OHS, noting that the breadth of topics addressed within this special issue afford testament to this. We thank the authors for their valuable contributions, and encourage others to contribute to this vital area of regulatory and ER policy and practice.