# Talking, listening and acting: Developing a conceptual framework to explore 'worker voice' in decisions affecting health and safety outcomes

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## Abstract

The aim of this article is to identify a conceptual framework for exploring how new statutory provisions for worker engagement, participation and representation (EP&R) in workplace health and safety (WHS) are contributing to 'worker voice' in the high-risk construction industry. Literature from employment relations, health and safety, human resource management and organisational behaviour debates are reviewed. Drawing on lessons from the past and contemporary perspectives, the favourable conjunctures theory is integrated with deconstructed concepts of 'employee/worker voice' and the key factors for effective voice in WHS. The authors conclude that this research has the potential to help clarify ambiguity and misunderstanding of terms that influence the interpretation and enactment of EP&R duties in the Health and Safety at Work Act 2015 (HSWA). By investigating 'worker voice' in WHS through an expanded conceptual framework, this study captures the link between 'worker voice' in WHS and the employment relations context.

**Keywords:** Worker voice, employment, engagement, participation, representation, WHS outcomes, construction

## Introduction

There is a substantial body of research exploring the concept of 'employee voice' in decisions that directly affect workers' work security, health, safety and wellbeing. The plethora of work spanning decades and multiple disciplines reflects the importance of 'worker voice' for all of the key parties in employment relationships, governments, employers, and workers and their representatives. Several authors have mapped waves of interest reflecting responses to critical political and economic events that stimulate employer interest in participatory schemes. In addition, recent incidents in high risk industry sectors have highlighted the lack of 'worker voice' in the systematic management of hazards and risks as a contributing factor to these incidents. This paper explores different perceptions of 'employee/worker voice' across academic debates and the context within which employee/worker voice occurs in New Zealand. Then engagement, participation and representation (EP&R) in the workplace and in the Health and Safety at Work Act 2015 (HSWA) are defined. This is followed by the development of a conceptual framework and theory for exploring the research question: How are the new statutory provisions for EP&R in workplace WHS contributing to 'employee voice' in the high-risk construction industry in New Zealand?

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## Understanding Different Perceptions of 'Employee and Worker Voice'

Overall, interest in employee/worker voice has fluctuated over the years. Interest has generally been stimulated by a desire to increase employee productivity and organisational profitability (Morrison, 2011; Van Dyne & LePine, 1998), and/or an interest in improving social and economic outcomes (Anderson & Nuttall, 2014; Barry & Wilkinson, 2016; Lamm, 2010; Marchington, 2015; Rasmussen, 2009a). The latest 'wave' of academic interest in 'worker voice' has been stimulated by the universal decline in unions (Barry & Wilkinson, 2016; Gollan & Patmore, 2013; Walters, Quinlan, Johnstone, & Wadsworth, 2016; Wilkinson, Donaghey, Dundon, & Freeman, 2014), new technology with the associated drive for more flexible work arrangements and an increase in vulnerable work (Lamare, Lamm, McDonnell, & White, 2015; Lamm, 2010; 2012; Weil, 2014). High-performance work systems (HPWS) became popular in the New Millennium, with the associated concepts of 'employee/worker voice' (Johnstone & Ackers, 2015; Kwon, Farndale, & Park, 2016; Mowbray, Wilkinson, & Tse, 2015; Wilkinson, Gollan, Kalfa, & Xu, 2018), 'employee/worker involvement' (Budd, 2014; Gollan, Kaufman, Taras, & Wilkinson, 2015; Marchington, 2015), 'employee/worker engagement' (Arrowsmith & Parker, 2013; Barton, 2018; Foster & Farr, 2016; Houghton & Lovelock, 2016; WorkSafe, 2016), and 'worker EP&R' (Anderson & Nuttall, 2014; Lamare et al., 2015; Pashorina-Nichols, 2016; Sissons, 2016).

These fluctuations are reflected in distinct bodies of literature spanning multiple academic disciplines. The literature review revealed that 'employee/worker voice', 'involvement', 'engagement and participation', 'empowerment and control' are explored within multiple disciplines including, but not limited to; employment law (Anderson & Nuttall, 2014; Bogg & Novitz, 2014), employment relations (ER) (Barry & Wilkinson, 2016; Markey, Harris, Ravenswood, Simpkin, & Williamson, 2015; Wilkinson et al., 2014), human resource management (HRM) (Marchington, 2015), organisational behaviour (OB) (Van Dyne & LePine, 1998), and occupational/workplace health and safety (Burton, 2010; Lamm, 2010; Walters & Nichols, 2009; Walters et al., 2016). However, terms defining 'employee voice', have been used interchangeably with variable objectives and meanings (Wilkinson et al., 2014; Wilkinson, Gollan, Marchington, & Lewin, 2010; Wilkinson, Townsend, & Burgess, 2013).

Practices vary at the industry and workplace levels and may include a range of direct and indirect 'employee voice' mechanisms. Direct informal mechanisms include: ad hoc individual and group interactions, meetings and complaints to line managers. Direct formal mechanisms include: planned meetings and grievance procedures. Indirect formal representation may occur through union representation and collective bargaining and/or employee/worker representation (NER) such as joint consultation committees (Barry & Wilkinson, 2016; Marchington, 2015; Markey et al., 2013; Wilkinson et al., 2014; Wilkinson et al., 2010).

Clearly, the difference in objective and meaning of 'employee voice' highlights how macro-level contextual factors, such as the social, political and economic environment, have influenced the forms of 'employee voice' that have emerged and co-existed in organisations (Wilkinson et al., 2010). Ideologically driven attitudinal differences shape decisions about the intended purpose, form, scope and outcome of worker voice initiatives selected at national, industry and organisational levels. This complexity is compounded by different research paradigms used to explore this concept across multiple disciplines. Theoretical assumptions inform expectations and choices about how much influence employees should have and what forms of 'employee voice' are used. Pluralist perspectives developed from political science scholars' interest in industrial democracy. The industrial relation/employment relations and employment law disciplines predominantly focus on indirect representative participation, i.e. union collective bargaining and social partnership practices. Union

representation was the recognised form of employee participation until the decline of unions in the 1980s (Gollan & Xu, 2015). The HRM and OB disciplines reflect unitarist assumptions (Kaufman, 2014). 'Employee involvement and engagement' is popular in HRM which essentially utilises 'employee voice' as a motivational tool to enhance employee commitment and raise organisational performance (Gollan & Patmore, 2013). OB scholars explain 'employee voice' as a "… discretionary, pro-social, largely, informal behaviour" (Van Dyne & LePine, 1998, p.262)

Although the occupational health and safety (OHS) voice occurs as an independent debate, it is similar to the HRM and OB disciplines in that it has adopted a functionalist unitarist management led approach focussing 'employee voice' at the task level. The 'Safety Pays' unitarist approach to improving OHS risk management is based on the assumption that "… there is no inherent conflict between the goals of WHS and profitability" (Brown & Butcher, 2005, p.2). However, OHS scholars in New Zealand (Lamm, 1989; Lamm, Massey, & Perry, 2007) and internationally (James, Johnstone, Quinlan, & Walters, 2007; Markey & Patmore, 2011; Quinlan & Johnstone, 2009; Walters & Nichols, 2007; 2009; Walters, Nichols, Connor, Tasiran, & Cam, 2005) were challenging this approach even before the catastrophic Pike River event. There is, nevertheless, agreement on the importance of employees having an independent voice in WHS matters (Barton, 2018; Lamm, 2014; Markey et al., 2015; Walters et al., 2016).

The health and safety literature includes critiques of proposed institutional reforms and reflections on the effectiveness of established reforms. Browne (1973) and Robens (1972) focus on the shift towards deregulatory institutions that follow the Robens' model established in the UK. Others explore the shift towards de-collectivist employment relations in New Zealand (Anderson & Nuttall, 2014; Jeffrey, 1995; Lamm, 2010; Pashorina-Nichols, Lamm, & Anderson, 2017; Wren, 1997) and Australia (Quinlan & Johnstone, 2009). As New Zealand laws and institutions have been influenced by the systems in the UK and Australia, it is worth noting the changing focus to health and wellbeing. The early legislative minimum standards in the UK and New Zealand were also concerned with the conditions of workers' health, rather than safety, especially the conditions of females and children. Furthermore, Campbell (1995) found that lobbying for regulatory safety interventions follows catastrophic industry events, largely in the mining industry. And although statutory frameworks are essential, other key factors are required to achieve effective worker EP&R in health and safety (Lamm, 2010; Walters & Nichols, 2009).

Walters and Nichols (2009) and Lamm (2010) have identified key factors for effective worker EP&R in WHS. These were:

1. the influence of a broader co-operative approach to employment relations
2. longstanding social partnerships
3. statutory requirements
4. supported by rigorous enforcement and inspection of health and safety regulations
5. adequate, available and accessible training programmes for managers and workers, and mandatory for health and safety representatives (HSRs)
6. an organisational climate conducive for participation and collaboration
7. employer and worker agreement on the function of health and safety committees (HSCs) and worker representatives
8. sufficient resources, including time allocated to HSRs, and proper support.

Another stream of research explores the meaning and purpose of 'worker silence'. In this discourse, power is central to ER concepts of 'worker voice' as power and control are perceived to stem from labour institutions and power structures that prevent employees from exercising voice (Barry & Wilkinson, 2016; Donaghey, Cullinane, Dundon, & Wilkinson, 2011). Whereas, OB concepts focus

on 'why' employees choose to remain silent (Morrison, 2011; Van Dyne, Soon, & Botero, 2003). Worker 'silence' emerges in health and safety literature as workers' fear of retribution and HSRs' reactive 'resistance' to management decisions, when management imposed decisions failed to prevent or control hazards in the high-risk mining industry (Walters et al., 2016). This suggests that there may be some ideological tension between the traditional HRM/OB approaches and the new WHS approach, regardless of the apparent convergence in efforts to consider both direct and indirect 'worker voice' across all the disciplines mentioned. It is within this national, industry, and organisational context that worker involvement in WHS occurs. Yet, Quinlan and Johnstone (2009) and Quinlan (2018) highlight a persistent dearth of literature exploring the link between WHS and ER.

There have been numerous attempts to assist cross-disciplinary debates by deconstructing concepts to facilitate in-depth analysis of the nature and extent of participatory initiatives and systems. Typologies, analytical models and theories of employee participation, influence and control in decision-making have been developed and tested in some key industries. The initial focus of the application of these theories was primarily in the manufacturing and public sector, and then extended to capture the service sector and smaller sized organisations. While there is some empirical research in the construction and mining industries, few studies adopt management models and theories to explore employee EP&R in WHS in high-risk industries. There are also concerns about the relevance of current theoretical frameworks in the contemporary global environment defined by the gig economy (project work, IT platforms and precarious work) (Barry & Wilkinson, 2016; Budd, Bray, & Macneil, 2015; Heery, 2016a). These concerns are supported by calls to learn from the past (Barry & Wilkinson, 2016; Budd et al., 2015; Heery, 2016b) and a need for more in-depth research on how health and safety systems function and the role of HSRs (Hasle, Seim, & Refslund, 2016; Lamm, 2014; Markey et al., 2015; Walters et al., 2016).


## The Context Within Which Worker EP&R Occurs in New Zealand

There have been a number of institutional mechanisms and voluntary schemes, to allow employees and their representatives to have influence in workplace decision-making in New Zealand since 1894. Rasmussen and Tedestedt (2017) refer to the waves of interest in a commentary of employee participation in New Zealand. The Arbitration System that operated for nearly 100 years gave employees some form of collective influence in decision-making through collective bargaining. There was also financial participation and profit sharing, for example, the Companies Empowering Act 1924, providing for employees to have shares in the company. In 1927, the New Zealand Railways introduced workshop committees, but there was little interest. Interest in establishing regulated industry level consultation committees emerged during World War II (Rasmussen, 2009a).

Another wave of interest in worker participation schemes occurred in 1960s and 1970s in attempts to stabilise the effects of industrial disruption. But these were largely management driven (Smith, 1978). In New Zealand during the 1980s, attempts were made to improve joint consultation in WHS through a voluntary Code of Practice for HSRs 1987. In 1989, a Commission of Enquiry into industrial democracy in New Zealand recommended formal representative councils for all businesses with more than 40 employees. However the recommendations were never implemented, partly because of employer resistance (Haynes, Boxall, & Macky, 2005). In the 1990s, the concept of workplace reform was taken up by a number of organisations with the aim of creating a stable, productive workforce. Worker participation was part of this workplace reform mix, but again, there was little interest from most employers and unions (Foster & Mackie, 2002).

In 2000, the fifth Labour government introduced a more collaborative approach to workplace change. A Partnership Resource Centre was established to promote employer and union collaboration in the

public and private sectors. The National government disestablished the Centre in 2011 (Lamm, 2010). Overall, the bipartite (government and employer) and tripartite (government, employer and union) initiatives have not achieved sustainable worker participation and influence in workplace decision-making (Anderson & Nuttall, 2014).

Consequently, the ER environment experienced a shift away from indirect voice, under the Arbitration System, to one of individual or direct voice (Anderson & Nuttall, 2014; Foster, Rasmussen, Murrie, & Laird, 2011). This came about with the introduction of the Employment Contracts Act (ECA) in 1991, the Health and Safety in Employment Act 1992 (HSEA) and a raft of other institutional reforms that led to a predominantly individualist climate in ER and WHS management decision-making. The HSEA was the first attempt at adopting the self-regulatory Robens' model in New Zealand. One of the objectives of this model was to enhance flexibility within which employers and workers could collaboratively develop, implement and continuously improve WHS risk management systems to reduce or eliminate workplace risks. The model requires action at both industry and workplace levels, and included statutory duties for employers to consult and engage workers (Browne, 1973). However, New Zealand did not originally adopt these duties (Pashorina-Nichols, 2016). According to the literature, this lack of representation and an inactive health and safety regulator, key objectives of the Robens model, were contributing factors in the Pike River Mining disaster (Adams, Armstrong, & Cosman, 2014; ITWHS, 2013; Lamare et al., 2015; Royal Commission on the Pike River Coal Mine Tragedy, 2012).

Following a Royal Commission inquiry into the disaster, a new regulator was established – WorkSafe New Zealand. The Royal Commission stated that worker participation is essential for the effective management of workplace hazards. Furthermore, noting that the previous government in 2007 had ratified the ILO Occupational Safety and Health Convention 1981 (C155), requiring worker participation (Royal Commission on the Pike River Coal Mine Tragedy, 2012). Moreover, the members of the Independent Taskforce on Workplace Health and Safety (ITWHS) concluded that the provisions for worker participation under the HSEA were not being fully implemented and that levels of worker engagement in WHS issues were inconsistent (ITWHS, 2013). The forestry (Adams et al., 2014) and construction (Construction Safety Council, 2012) industries also carried out reviews of their WHS systems. There was unanimous agreement that it is essential to create a safe workplace environment where workers feel confident to raise issues. Further, employers must involve workers in matters that affect their health and safety, listen to and consider workers issues before making decisions.

## A New Health and Safety System in New Zealand

Both the reports of the Royal Commission and the ITWHS recommended strengthening the provisions over worker participation and greater union representation in WHS. The Commissioners referred to staff members and contractors having 'voiced concerns', but used employee and worker participation throughout the report  (Royal Commission on the Pike River Coal Mine Tragedy, 2012). The importance of respecting 'worker voice' and fear of reprisal emerge in the taskforce report (ITWHS, 2013). However, concerns have been raised about New Zealand consistently blocking attempts to adopt statutory requirements for HSRs and HSCs. This is not the first attempt to establish formal employee participation systems in WHS. Neither is tension between recognising the importance of joint management and worker participation in the effective management of WHS and employer resistance to mandatory standards novel. This tension is evident in employer submissions on the recent reforms proposed in the Health and Safety Reform Bill (Sissons, 2016) and preceding the enactment of the Code of Practice for HSRs and HSCs, 1987 (Mullen, 1990; 1991).  Refer to Anderson and Nuttall (2014), Pashorina-Nichols et al. (2017) and Sissons (2016) for further reflection of the changes.

Comparing the two Acts, the HSWA 2015 is more explicit than the HSEA 1992, both in its entirety and specifically concerning worker EP&R in health and safety matters. There are a number of changes that impact on worker EP&R, such as the primary duty of care. The primary health and safety duty of care resides with the person conducting a business or undertaking (PCBU) who has to ensure the health and safety of workers and others affected by the work it carries out. Therefore, the PCBU must consult, co-operate and co-ordinate with other PCBUs where there is a shared worksite or is part of a contracting supply chain. 'Officers' of PCBUs have a positive duty of 'due diligence'; this includes directors and others who make decisions at the governance level.

The intention to establish a system to facilitate tripartite collaborative relationships to achieve continuous improvement in WHS outcomes is captured in both Acts. But, whereas duties to 'involve employees' in WHS matters were outlined in general duties in the HSEA and required providing reasonable opportunities for employees to participate effectively in the management of health and safety in the employees' places of work. There is a significant focus on tripartite worker voice in the main purpose of the HSWA. More detailed duties and provisions follow.

There are also new regulations prescribing how the minimum standards are to be implemented and maintained (Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016). Whereas the HSEA only provided for third party worker representation through HSRs, HSCs and unions; the HSWA interpretation extends the scope of a worker representative to include "any other [appropriate] person the worker authorises to represent the worker" (S16). However, "if the workers are represented by a health and safety representative, the engagement must involve that representative" (S59 (2)). More detail clarifies expectations necessary to manage WHS in complex contracting and supply chain situations. The use of the term 'worker' reflects a wider scope accommodating the changing nature of work. The repealed HSE Act provided for employees. Finally, the new Act and regulations allow considerable flexibility, as intended by the Robens model. But, there are concerns about exclusions of PCBUs employing less than 20 workers and some high-risk industries from duties to establish formal worker EP&R systems (Pashorina-Nichols et al., 2017; Sissons, 2016).

## Conceptualising EP&R in the Workplace and in the WHSA

Even though terms are used interchangeably and the meanings of terms vary, some disciplinary distinctions emerge (Budd, 2014; Budd, Gollan, & Wilkinson, 2010; Gollan & Xu, 2015; Wilkinson et al., 2018; Wilkinson et al., 2010). This section explores broad definitions of employee and worker engagement, participation and representation (EP&R). Each definition is supported with reflection on how this has been interpreted in the New Zealand context.

At the international level, employee rights to have a say are recognised by the World Health Organisation (WHO) (Burton, 2010) and in the principles of the International Labour Organisation (ILO) Convention 87 (Freedom of Association) and Convention 98 (Right to Organise and Bargain Collectively). In defining engagement, the WHO refers to involvement, influence and representation. Leadership engagement is critical for providing permission, resources and support, and is the first step and key feature of the continuous improvement process in WHS (Burton, 2010). Therefore, the scope of leadership includes all stakeholders; owners, senior managers, union leaders or informal leaders. The second key feature 'worker involvement and influence' in work and decisions is also crucial for effective sustainable WHS initiatives. Burton reported that few change initiatives have succeeded when a strong collective voice is absent. In fact, as two of the WHO core principles, leadership engagement and worker involvement are more than just steps in a process. Therefore, how workers must be involved is also clarified as:

…the workers affected by the programme and their representatives must be involved in a meaningful way in every step of the process, from planning to implementation and evaluation. Workers and their representatives must not simply be 'consulted' or 'informed' of what is happening, but must be actively involved, their opinions and ideas sought out, listened to, and implemented (Burton, 2010, p.62).

While New Zealand laws, policies and practices, to a large extent, reflect the principles outlined in Convention 98 (ratified in 2003) and Convention 155 (ratified in 2007), there are still some concerns regarding the limitations of the statutory provisions, duties and regulations for worker EP&R (Anderson & Nuttall, 2014; Foster & Rasmussen, 2017; Pashorina-Nichols et al., 2017; Rasmussen, Foster, & Farr, 2016). In the following sections, we endeavour to unpack the concept of 'employee voice' in order to see and understand its practical application in New Zealand.

## Engagement

'Employee engagement' (Kwon et al., 2016) and 'employee involvement' (Marchington, 2015; Markey et al., 2015; Pateman, 1970) are management driven direct forms of involvement aimed at increasing positive organisational outcomes. Pateman (1970) proposed that, although management may consult employees, the aim is for them to accept management decisions. Pateman called this 'pseudo' participation as influence is purely an unintended consequence of the organisational gains. Employees and workers would only be involved in operational and task level decisions on a narrow range of issues (Blyton & Turnbull, 2004; Markey et al., 2015; Pateman, 1970). Thus, worker engagement is mainly concerned about the purpose, intent and outcome of the employee/worker voice initiatives.

However, the HSWA duties on management and workers to agree to procedures for engaging and involving workers in WHS matters and decisions that are likely to affect health and safety appears to be based on the assumption of equal power in decision-making(Health and Safety at Work Act, No.70., 2015). The regulator, WorkSafe, expects management in PCBUs to provide reasonable opportunities for workers to be involved in two-way conversations about WHS. "Everyone involved in health and safety must be able to contribute and have their opinion considered when decisions are made" (WorkSafe New Zealand, 2017a, p.1). Citing Safe Work Australia, 2017 advice to employers, Barton (2018, p.9) interprets engagement as "part of employer attitudes towards worker involvement". Participation refers to the physical activity of worker involvement in making a workplace safer. Thus, engagement is more of a mental state, whereas participation is a description of practices related to that mental state, and representation is a sub-set of participation practices. Although the Australian statutory duties to consult workers are stronger than engagement (Pashorina-Nichols, 2016), this mental state is shaped by moral and ideological beliefs about why and how workers need to be involved in workplace decisions that affect their work, health, safety and wellbeing.

## Participation

Some define 'employee/worker participation' as encompassing all the direct and indirect forms of voice that involve workers in decisions about their work (Gollan & Xu, 2015; Marchington, 2015), These forms of participation processes make up worker involvement systems, and impact on the degree of influence employees/workers will have in management decisions. Others require participation to be between groups of employees and their manager (Budd et al., 2010). Markey et al. (2015) confine employee participation to collective indirect representation by unions, HSRs or other employee representatives. Pateman (1970, p.68) argues that:

The whole point about *industrial participation* is that it involves a modification, to a greater or lesser degree, of the orthodox authority structure; namely one where decision making is the 'prerogative' of management, in which workers play a part.

Situations where employees have some influence over some tactical and strategic level decisions within a context of unequal power are classified as, 'partial' participation. 'Full' participation is founded on equal power between management and employees/workers. The level of leadership openness to share decision-making and the amount of participation will be influenced by a range of individual and organisational factors (Tannenbaum & Schmidt, 1958). The stakeholders will need to agree on how employees/workers will participate, at what level of the organisation will they participate, the range of subject matter they will talk about, and what degree of influence they will have in management decisions.

Even though management and workers must agree on engagement and participation procedures, the HSWA allows PCBUs management to determine the best way to meet their duties to provide reasonable opportunities for workers to participate effectively in improving WHS on an ongoing basis (WorkSafe New Zealand, n.d.). This flexibility accommodates workers' views and needs, organisational size and nature of WHS risks. Moreover, PCBUs are allowed to keep existing engagement and participation practices if they are effective and comply with the HSWA (WorkSafe New Zealand, 2017a).

## Representation

'Employee/worker representation' includes traditional forms of indirect union bargaining, and workplace HSRs and HRCs. These may be replaced or complimented by non-union employee representation (NER). NER are useful for short-term task focussed working groups, but the HSWA requires that elected HSRs must be involved. Moreover, the practice of combining union representative voice with individual voice is not a new phenomenon, (Arrowsmith & Parker, 2013; Gollan & Xu, 2015; Kaufman & Taras, 2010; Wilkinson et al., 2010). Complimentary practices first occurred in Anglo-American countries in the 1970s as traditional ways of conducting industrial relations and managerial decision-making were expanded to capture individual employee rights (Marchington, Goodman, Wilkinson, & Ackers, 1992; Ramsay, 1977; Rasmussen, 2009a).

The effectiveness of traditional forms of representation in WHS is well established (Quinlan, 2008; Sissons, 2016; Walters et al., 2005; Walters et al., 2016). Elected HSRs and HSCs facilitate employee/worker participation in the continuous improvement of WHS outcomes. Independent regional roving HSRs (Burton, 2010; Frick & Walters, 1998; New Zealand Council of Trade Unions, 2012; Walters, 2010) and industry HRS (Walters et al., 2016) are also valuable in supporting worker voice and participation in high-risk industries and small and medium-sized enterprises (SME). Kaufman and Taras (2010) note that employer-led voluntary NER systems, such as joint consultation committees (JCCs), aim to enhance organisational flexibility and efficiency in identifying and resolving workplace matters. However, effectiveness depends on the purpose and extent it is used to integrate employee involvement or bargaining (Kaufman & Taras, 2010; McGraw & Palmer, 1995). In fact, Markey (2007) found that the Australian regulatory environment constrained the formation of a genuine independent non-union works council style employee participation initiative, and encouraged union substitution. These findings suggest that even when the legal aim is to enhance worker participation NERs may be used to undermine unions.

Research on motivation for establishing voluntary NER joint consultation committees (JCCs) to meet statutory duties in Australia, shows these forms require similar conditions as those for compulsory

HSCs including: management commitment and responsive to issues raised by the JCC members; provision of adequate resourcing and training; effective interpersonal communication between JCC members, JCC representatives and employees; inter-JCC links within an organisation; ensuring employee representation and participation is genuine; and gaining union support (McGraw & Palmer, 1995). The JCCs tended to deal with relatively trivial organisational issues and either complemented union collective bargaining or competed with unions' efforts to improve productivity. Kaufman and Taras (2010) concur with McGraw and Palmer (1995) that NERs are challenging to manage successfully, require considerable employer commitment, attention and investment. They found NERs can quickly atrophy. Both articles develop analytical models, the latter, based on a comprehensive review of the NER literature, includes consideration of the degree of power and permanence. However, research suggests that NERs are relatively ineffective as a forum for distributive bargaining and employee interest representation because they lack power, independent resources and autonomy to exert leverage on a company (Haynes, 2005; Haynes et al., 2005; Kaufman & Taras, 2010; McGraw & Palmer, 1995)

There are detailed provisions for HSRs and HSCs in the HSWA and new regulations (Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016), yet representation is only one form of participation. Furthermore, PCBUs who employ fewer than 20 workers or do not operate in specified high-risk industries do not have to use traditional indirect forms of participation.

While there is evidence that the new statutory duties are encouraging employers to improve the management of WHS, weaknesses and areas for improvement are apparent. The most recent results from annual surveys, started in 2012, show 49 per cent of businesses making significant changes to their WHS policies and systems (Ministry of Business Innovation and Employment (MBIE), 2013; 2014; 2016; 2018). This is a statistically significant increase compared to previous years (34 per cent in 2015/16, 24 per cent in 2014/15, 20 per cent in 2013/14 and 24 per cent in 2012/13). How the business involved their workers in WHS was only the fourth most common change made by these employers (49 per cent). Employers appeared to be more concerned about developing policies or systems (75 per cent), the training of workers, including inductions (63 per cent) and risk management (53 per cent) (MBIE, 2018). Foster and Farr (2016) also found some employer willingness to engage workers in SMEs, and Rasmussen and Tedestedt (2017) argue that employee participation has been embedded in the statutory provisions. In addition, annual reports suggest there have been some recent improvements in EP&R within some state sector organisations that are modelling good practice (Department of Conservation, 2018; Department of Corrections, 2018; New Zealand Police, 2018).

Another annual survey nevertheless highlights significant differences between employer and worker perceptions of how the statutory WHS duties are implemented in practice (Nielsen, 2015; 2017; WorkSafe New Zealand, 2017b). Weaknesses in complex PCBU EP&R systems are also starting to emerge in Enforceable Undertakings accepted by the regulator (WorkSafe New Zealand, 2018). The annual MBIE surveys from 2012-2017 show decreasing numbers of informal HSRs, trained HSRs and HSCs in New Zealand. And there are concerns about the Labour Party not delivering on their election promise to extend the right for workers to elect a HSR to all workplaces (Rudman, 2019).

## Occupational and Workplace Health and Safety

The terms 'occupational health and safety' and 'workplace (worker) health and safety' have varied over time. The terms defining the employment relationships are also used interchangeably with some researchers referring to 'worker' (Lamm, 2010; Ramsay, 1977; Smith, 1978; Wall & Lischeron, 1977; Walters & Nichols, 2007), while others to 'employee' (Arrowsmith & Parker, 2013; Blyton &

Turnbull, 2004; Marchington, 2015; Marchington et al., 1992; Pateman, 1970; Rasmussen & Tedestedt, 2017).

Finally, Wilkinson et al. (2018, p.711) recently concluded that 'employee voice' is weaker than terms such as participation "because it does not denote influence or power-sharing and may thus be at times no more than a trickle up voice". Furthermore, proposing that 'voice' is a prerequisite for participation practices. However, the Worksafe interpretation of worker EP&R duties of PCBUs (presented in Figure 1.a.) does not appear to encompass the broader WHO conceptualisation of leadership engagement or the context of continuous improvement common in WHS management systems (presented in Figure 1.b.). Although Barton (2018) agrees engagement is a precursor and element of continuous improvement participation processes, his suggestion of the distinction between engagement and participation being insignificant appears to deviate from this body of reviewed literature.

Figure 1.a. WHO Healthy Workplace Model: Avenues of Influence, Process, and Core Principles (Burton, 2010, p.13), and Figure 1.b WorkSafe Worker EP&R Duties of a PCBU (WorkSafe, 2016, p.12)
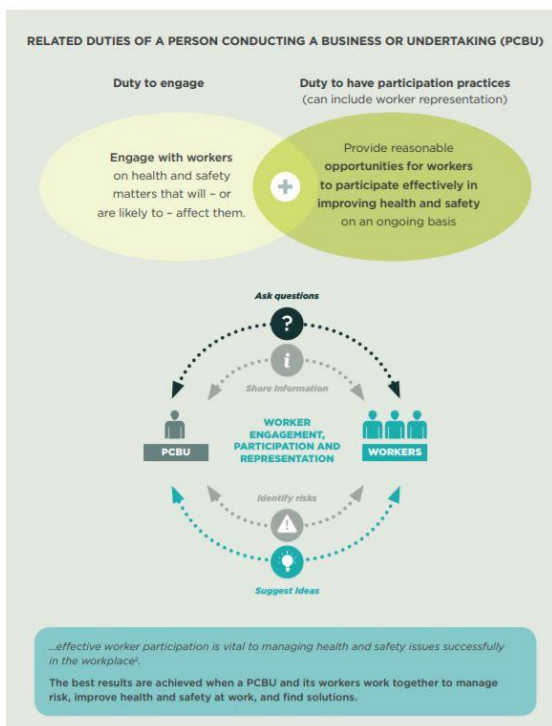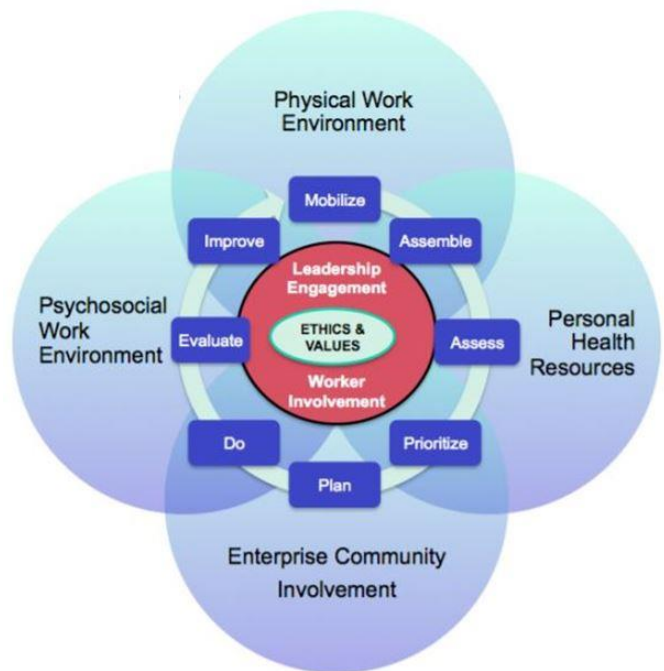


The literature suggests it is the intent, purpose, depth, breadth and intersection of worker EP&R policies and processes at the national, industry and organisational levels that will impact on the effectiveness and sustainability of WHS initiatives. This research adopts the term 'worker EP&R' to explore all forms of 'psuedo', 'partial' and 'full' worker engagement, participant and representation between management and employees, contracted workers, and PCBU and worker representatives.

There is agreement that all disciplines need to broaden their scope when exploring 'employee voice'. For example, ER scholars recognise the need to complement collective voice with individual voice in the contemporary work environment (Barry & Wilkinson, 2016; Wilkinson et al., 2014; Wilkinson et al., 2013). This research will also contribute to the academic debate concerning the relevance of statutory 'worker voice and participation' protections in neo-liberal context that lean towards unitarist employment relations systems (Bogg & Novitz, 2014; Quinlan & Johnstone, 2009; Walters et al., 2016; Weil, 2014).

## Discussion and Development of a Conceptual Model for Exploring Worker EP&R

The reviewed literature draws on a growing body of multi-disciplinary research exploring the concept of 'worker voice' in the contemporary environment. Of central importance is enhancing outcomes of 'worker voice' for the organisation and workers. Nevertheless, the literature shows that implementing sustainable 'worker voice' systems has been challenging in Anglo-Saxon countries. The waves and cycles theories have helped researchers analyse the macro level external socio-political and economic factors that influence the forms of 'worker voice' implemented in organisations and the level of influence workers have in decision-making affecting their work (Blyton & Turnbull, 2004; Marchington et al., 1992; Ramsay, 1977; Rasmussen & Tedestedt, 2017). The 'waves' model is useful for understanding the socio-political background of 'worker voice' and the implementation of the Robens model in New Zealand (Anderson & Nuttall, 2014; Campbell, 1995; Rasmussen & Tedestedt, 2017). But it also focusses attention on the vulnerability of voluntary and compliance-based 'worker voice' schemes and systems.

The literature shows that neither employer willingness (Kaufman & Taras, 2010; Marchington, 2015), nor statutory provisions are sufficient (Lamare et al., 2015; Pashorina-Nichols et al., 2017; Walters & Nichols, 2009; Walters et al., 2016). The importance of EP&R in the effective management of WHS suggests that the government, employers and workers have to collaborate to ensure the system functions as one of continuous improvement, rather than just fading away as another ineffective fad (McGraw & Palmer, 1995; Ramsay, 1977). However, concerns about implementing the Robens model in a largely individualist context in New Zealand indicate that it may be challenging to establish sustainable tripartite systems at the organisational and enterprise levels (Anderson & Nuttall, 2014; Pashorina-Nichols et al., 2017). Blyton and Turnbull's (2004) interpretation of cycles as having little impact in progressing objectives and outcomes (in relation to what?) may help distinguish between strategic level organisational choices of forms of 'worker voice', and understand challenges to the sustainable implementation of strategic choices at the tactical and operational levels, in complex supply chains.

The multi-disciplinary research debates have also highlighted the interchangeable use of a wide range of terms defining and deconstructing 'worker voice' and the need for the development of analytical tools to help comparative researchers talk to each other, rather than over or around each other. In summary, the reviewed empirical research demonstrates efforts to explore the depth and breadth of direct and indirect, formal and informal forms of 'worker voice'. Marchington's (2015) amended model explicitly highlights the socio-political factors that shape decisions about the objectives and meaning, whereas, ideological frames may get limited consideration in some industry and organisational level empirical studies (Markey, Harris, Knudsen, Lind, & Williamson, 2014; Walters, 2010; Wilkinson et al., 2013). Some researchers have applied Varieties of Capitalism (VoC) theory in comparative analysis (Marchington, 2015; Markey et al., 2014). However, Poole, Lansbury, and Wailes (2001) propose the favourable conjuncture model to overcome the limitations of VoC, and help account for the complexity and diversity of forms of participation within a country. The latter model also captures a related factor as it allows for consideration of the relative power governments, employers and workers and their representatives have in decision-making. However, integrating the model with Marchington's (2015) internal and external factors shaping depth and breadth of 'worker voice' (degree, level, range and form) and including the prerequisites for effective EP&R (Lamm, 2010; Walters & Nichols, 2009) will facilitate deconstruction of the meso-organisational level structures and process to gain in-depth insights at the firm level.

Typologies, frameworks and models of 'worker voice' have emerged from conceptual and empirical research, alongside concerns about the relevance of classical theories in the contemporary

environment. Some seminal work is still prominent in contemporary debates, such as (Marchington et al., 1992; Pateman, 1970; Ramsay, 1977) and new perspectives have also emerged across these debates (Budd, 2014; Kaufman & Taras, 2010; Lamm, 2010; Rasmussen et al., 2016; Walters & Nichols, 2009; Weil, 2011; Wilkinson et al., 2014). But, whereas different typologies and frameworks emerge from empirical studies, the ideological frames of reference are widely used across disciplines (Arrowsmith & Parker, 2013; Gollan & Xu, 2015; Ramsay, 1977; Smith, 1978; Walters, 2010).

There are numerous continuums classifying 'worker voice' and influence. Although Pateman's (1970) distinctions between the pseudo, partial and full involvement and power in decision-making that may occur at different levels in an organisational hierarchy, this applied to exploring participation and industrial democracy. In addition, Marchington, et al.'s (1992) escalator captures a wider range of voice and influence, therefore, it may be helpful for exploring and developing a tool to help understand the level of worker influence in health and safety. Contemporary terms may need to be added to reflect current understanding and practice. The prominence of continuums suggests that these would be familiar to academics; managers, workers and their representatives; and practitioners. Empirically developed tools and measures that have the potential to enhance the understanding of the duties and regulatory requirements for EP&R should be useful for policy and decision makers.

Reflecting on Rasmussen's (2009b) discussion of the three major theories used in ER, systems theory, conflict theory (ideological frames of reference) and social action theory. Poole, et al.'s (2001) analytical framework encompasses basic systems theory (inputs, conversion processes and outputs) applicable and at the meso-organisational level. Systems theory is a useful foundation for interpreting theory into practical models. Dunlop's (1958) industrial relations system expands to external level contextual factors influencing industrial relations matters, including ideology (unitarism, pluralism and radicalism). As the outcomes also expand to include the government, this can be applied at the macro level. Rasmussen's observation that Dunlop's ideological frames of reference are widely used in the literature, despite criticism, is supported in this review. Social action theory focusses on the 'actors' and individual differences in understanding, goals and expectations, thus narrowing to the individual level. However, the model does not allow consideration of external factors nor does it address the imbalance of power in the employer-worker relationship. Poole et al.'s (2001) favourable conjunctures model for comparative analysis of industrial democracy has the potential to be adapted to analyse the new legislative changes. It develops on a systems theory structure and reflects some concepts emanating from the 'worker voice' literature. As such, it may be useful for academic analysis that could be adapted for policy makers and practitioners. The current contextual factors have to accommodate the gig economy (platforms and projects) with the related increases in precarious work arrangements (contract, casual, part-time).

In summary, having defined the scope of the forms of 'worker voice' to be included in the study, a conceptual model is developed drawing on lessons from the past and contemporary perspectives (presented in Figure 2). In order to explore the research question, 'worker voice' will be deconstructed using Marchington's (2015) forces shaping employee involvement and participation (EIP) and the four dimensions to measure EIP (*degree* of influence in management decisions, *levels* of participation, *range* of subject matter, and *form* of participation). This framework is expanded to capture the key factors for 'worker voice' in WHS (Lamm, 2010; Walters & Nichols, 2009). These deconstructed factors are integrated with Marchington, et al.'s (1992) escalator of employee participation and influence, and Poole et al.'s (2001) favourable conjectures model. The latter model will help distinguish between differences and similarities in the case studies, thus overcoming a limitation in VoC theory.

Figure 2 Model for Comparative Analysis of 'Worker Voice' in Health and Safety
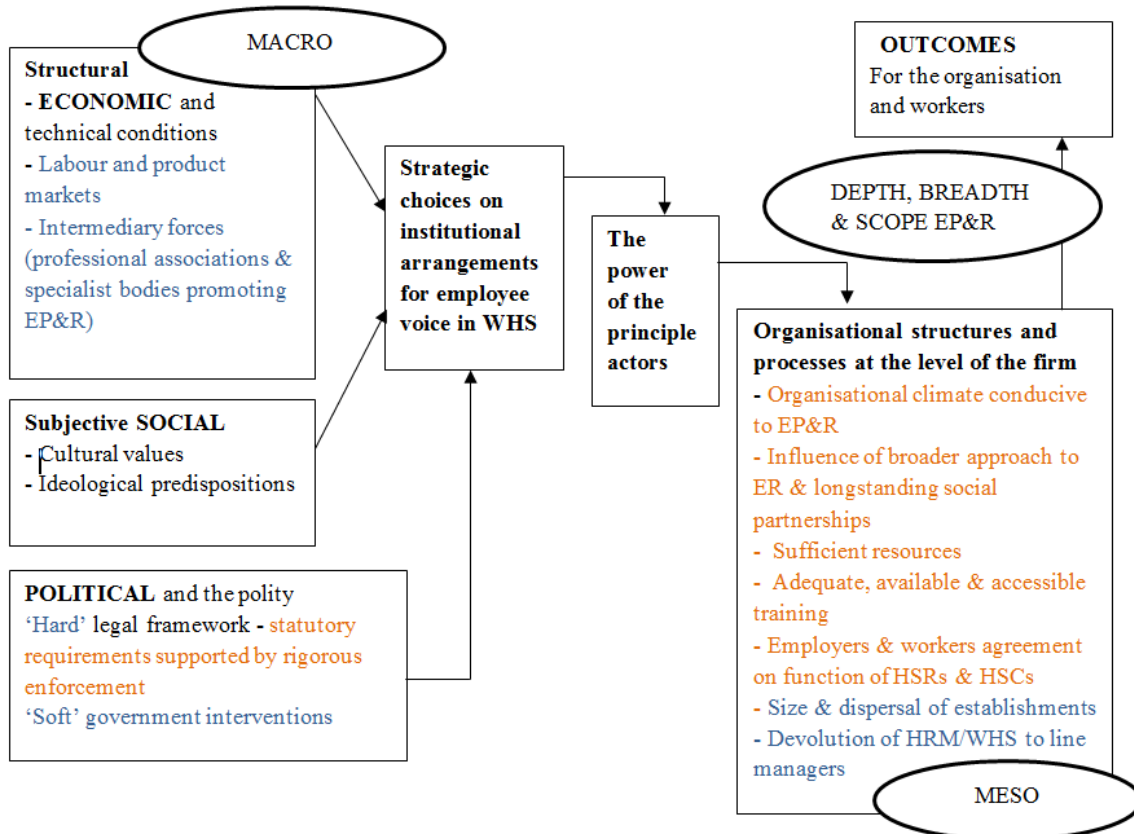


Note: This model is adapted from Lamm (2010), Marchington (2015), Marchington (1992), Poole, Lansbury and Wailes (2001), and Walters and Nichols (2009). Blue additions from Marchington. Orange additions from Lamm, Walters and Nichols.

## Conclusions

As academic debates have explored management trends and the relevance of theories over the centuries, the plethora of 'worker voice' research provides opportunities to identify lessons from the past that shape expectations and decisions in the contemporary workplace environment. Firstly, the importance of 'worker voice' in the effective management of matters affecting worker health and safety is well documented. Yet, the catastrophic Pike River mining tragedy highlighted the limitations of Robens' light national health and safety system that had been operating in New Zealand for almost two decades. Secondly, the reviewed historical accounts suggest that it will be challenging to implement sustainable effective 'worker voice' systems and initiatives. The literature has demonstrated the need to explore the complex socio-political and economic context shaping strategic decisions. Furthermore, diversity in the purpose and forms of 'worker voice' implemented in workplaces shows that in-depth analysis is required to determine similarities and differences in practices in the case studies. And although there are numerous attempts to classify the degree to which the 'worker voice' empowers workers to influence organisational decisions and imping on managers' prerogative, there is little empirical research exploring the link between WHS and ER. Finally, empirical researchers define and deconstruct the characteristics of 'worker voice' in different ways, depending of the research discipline and aim of the study. Therefore, the analysis and integration of the models is appropriate for exploring EP&R in health and safety in the contemporary New Zealand context.

An Interpretivist multiple-case study methodology will be adopted, with purposive sampling techniques applied to recruit key stakeholders for the Phase 1 interviews and the PCBUs explored in the case studies in the construction industry. The revised and adapted model will be used to explore the following research question: How are the new statutory provisions for EP&R in WHS, contributing to 'worker voice', particularly in high-risk industry sectors in New Zealand?

This empirical research has the potential to clarify ambiguity and misunderstanding of terms that influence the interpretation and enactment of duties in the WHSA. It will also provide new insight and an in-depth understanding of what effect this legislation has on 'worker voice' in the high-risk construction industry. The empirical findings will contribute to the debates informing policy, processes and practices aimed at enhancing worker EP&R in matters that affect their health and safety. By investigating 'worker voice' in WHS through an expanded conceptual framework, this exploratory study captures the link between 'worker voice' in WHS and the ER context. Thus adding to conversations about the relevance of statutory 'worker voice' provisions and participation protections in neo-liberal social, political and economic environments that lean towards unitarist employment relations systems (Bogg & Novitz, 2014; Quinlan & Johnstone, 2009; Walters et al., 2016; Weil, 2014).

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