Employee participation and the role of health and safety representatives: 
Legislation, literature and role enactment

Leigh-Ann Harris
Centre for Ergonomics, Occupational Safety and Health,
School of Management, Massey University, Palmerston North, New Zealand
Email: L.A.Harris@massey.ac.nz

Dr Robyn Walker
School of Management, Massey University, Palmerston North, New Zealand
Email: R.J.Walker@massey.ac.nz

Dr Kirsten Olsen
Centre for Ergonomics, Occupational Safety and Health,
School of Management, Massey University, Palmerston North, New Zealand
Email: K.B.Olsen@massey.ac.nz
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ABSTRACT

New Zealand provisions for employee participation in occupational health and safety (OHS) are contained in the Health and Safety in Employment Amendment Act 2002, which establishes basic rights that workers in many Western industrialised countries have been entitled to for decades. This overview of the employee participation in OHS literature has a special focus on the health and safety representative. We highlight the role of the health and safety representative, research methods used to study representative employee participation in workplace health and safety, broader management and contextual factors and the opportunities for further research. We outline a research study aimed at achieving a more comprehensive understanding of the health and safety representative role.

Key words: occupational health and safety, employee involvement, labour relations, industrial relations legislation

BACKGROUND TO NEW ZEALAND’S OHS LEGISLATION

Managers often perceive that the management of workplace health and safety is peripheral to the core operations of their organisations (Hasle & Sorensen 2011). But recent tragic New Zealand events, such as the 2010 Pike River mine disaster and the 2011 Onehunga gas explosion, illustrate the centrality and significance of occupational health and safety management, not only for workers and their employers, but for affected families and communities – to say nothing of New Zealand’s standing in a global community. These remarkable, shocking, and highly publicised events punctuate periods of apparent stability, and draw OHS matters to public attention. Reactions range from predictable political responses from governments and unions, to more general, organisational questions around the efficacy of OHS processes and practices. The appalling fact is that New Zealand typically records an annual toll of over 50 work related fatalities (Department of Labour n.d.) a rate, revealed by robust cross comparative analysis, to be higher than that of Australia and the United States (Feyer, Williamson, Stout, Driscoll, Usher & Langley 2001). But far less newsworthy workplace injuries, twinned with largely hidden, often long-term, health related issues, pose even greater challenges to managers. Musculoskeletal diseases are New Zealand’s most common work-related disease (Driscoll et al. 2004), and half of the country’s total compensation cost in 2004/05 was due to a combination of
sprains, strains, and diseases of the musculoskeletal system (Pezzullo & Crook 2006). The implication for managers is that they must move to more proactive, preventative OHS management.

Legislative changes have put onus on managers to manage OHS, and have also given them a general framework within which to operate. In particular, under the prevailing systematic occupational health and safety management (OHSM) philosophy, employers are responsible for implementing methodical processes for hazard identification, hazard assessment and control. Since the 1970s, diffusion of this OHSM philosophy has established it as the dominant legislative strategy for improving OHS across advanced industrial and developing countries (Frick, Jensen, Quinlan & Wilthagen 2000). Worker participation is fundamental to this approach, favoured because “managers simply do not know or control the production base of OHS in enough detail to do without the experience, competence and motivation of workers to detect and abate hazards” (Walters & Frick 2000: 44).

New Zealand’s transition to an OHSM legislative framework was triggered by calls for OHS reform by the Federation of Labour (now New Zealand Council of Trade Unions) in the wake of an industrial fire in Parnell and the deaths of five workers at the CMC factory in Petone in 1974/75 (Wren 1997). When discussion about OHS administrative and legislative reform began, New Zealand was able to draw inspiration from commonwealth counterparts, particularly Australia and the United Kingdom (Lamm 1994; Wren 1997), which had initiated the enshrinement of OHSM philosophy within legislation from the 1970s (Creighton 1982; Walters 2005). However, it was not until the early 1990s that New Zealand enacted significant OHS administrative and legislative reform by introducing the country’s principal OHS statute, the Health and Safety in Employment Act 1992. This requires employers to adopt an OHSM risk management strategy (Frick & Wren 2000), but initially provisions for employee participation were negligible (Harcourt 1996) to protect managerial prerogative (Jeffrey 1995). A decade passed before the Health and Safety in Employment Amendment Act 2002 gave workers the right to formally participate in matters concerning their health and safety, thus cementing a cornerstone of effective OHSM and improving New Zealand’s conformance with ILO Convention 155 (New Zealand Government 2008).
EMPLOYEE PARTICIPATION: THE HEALTH AND SAFETY REPRESENTATIVE

Provisions for employee participation within the Health and Safety in Employment Amendment Act are rationalised on the basis of unitarism, which assumes employers and workers share common interests and can collaborate to achieve higher standards of health and safety management (s.19A). Yet, paradoxically, amendment of this legislation was driven by a trade union campaign underpinned by a pluralist ideology. From a union standpoint, health and safety (HS) representatives were deemed necessary to act as a ‘check and balance’ on management to protect and promote the interests of workers within a context of high industrial fatality and injury (Harris 2004). The eventual wording of New Zealand legislation stresses managerial prerogative, reflecting the lobbying power of employers and the willingness of Government to mollify employers in order to accommodate representatives within the legislation (Harris 2004). Simultaneously the legislation accommodates the worker’s right to exercise some influence over their work environment, particularly via the promotion of employees, named HS representatives, mandated to represent co-workers’ OHS interests.

New Zealand legislation formalised HS representatives’ role in improving OHS and preventing injuries. The Minister of Labour saw HS representatives as key players in reducing the country’s high level of occupational injury and fatality (Wilson n.d.). Yet, almost a decade after the legislative change, surprisingly little is known about how HS representatives participate in OHS in New Zealand workplaces. The institutionalisation of HS representatives progressed in the absence of the Department of Labour’s usual guidelines on legislation, apparently because neither employers nor unions could agree on the content of the code of practice (Bob White, senior policy analyst, Department of Labour, personal communication, 8 May 2009). Our interest in researching representative participation in OHS was aroused because of the backdrop of political conflict over the role of HS representative, and the lack of explicit guidance to employers and workers. We were keen to know how, within this flexible legislative framework, the HS representative role had been interpreted in practice, how the role was enacted within workplaces and the nature of HS representatives’ contributions to OHS.

Before outlining a research study aimed at achieving a more comprehensive understanding of the HS representative role in New Zealand, we build the rationale for the study and locate it within the wider international research on representative employee participation in OHS. However, scholarly sources
span a range of disciplines and research preoccupations, posing some difficulty when canvassing information directly pertinent to representative employee participation in OHS.

IDENTIFYING RELEVANT LITERATURE

In contrast to some other management fields, empirical research into OHS is likely to be undertaken by government departments, unions, and/or research consultants, rather than university-based academics. Therefore, in addition to scholarly journals or texts, a great deal of OHS knowledge is made available through professional and government sponsored publications in print and electronic media. Work that addresses this topic reflects differing motives and interests, as it is drawn from, and produced by, a wide range of experts and/or stakeholders, including government departments. Thus a review spans different forms of literature across several loosely related fields – making literature search and synthesis a complicated, cumbersome and often challenging task.

Initially, the search was conducted electronically via academic databases (Business Source Complete, Google Scholar, JSTOR and Web of Science) and websites of OHS administrative authorities (Department of Labour, Health and Safety Executive, WorkCover Victoria). We used a combination of broad search terms that reflected the terminological diversity of various key fields such as: ‘health and safety representative’, ‘employee participation’, ‘occupational health and safety’ and ‘workplace relations’. Reference lists from relevant identified sources enabled follow-up of references and citations – an approach of particular value in identifying and accessing seminal works. To ensure comprehensive coverage of relevant literature, academic colleagues were approached to identify pertinent research that might have been excluded by our search parameters. This phase cast light on more nuanced aspects of HS representative role enactment, particularly power and political strategies used to affect organisational change, and drew out a range of generally qualitative research papers that had evaded capture in the initial database searches because of terminological differences of which we were unaware. Notably, HS representatives have a number of aliases: OHS practitioners (Brun & Loiselle 2002), worker safety advisors (Shaw & Turner 2003) or generically as actors within internal OHS organisations (Hasle & Jensen 2006). Finally, civil servants directly approached provided access to publically inaccessible New Zealand based research on OHS employee participation.
Given that one of the distinguishing features of research in the field of OHS in general, and of employee participation in particular, is that it is not primarily ‘academic’ making it difficult to know the extent to which publications have been subject to the rigour of peer review. All studies were thus evaluated for inclusion in the study according to several criteria: peer reviewed journal; reputation of author (based on acknowledged expertise and citations); acknowledged expertise of researchers and/or professional recognition within the OHS field; and accessibility (e.g. published in English; communication quality). This process of information seeking and iteration exposed diverse research focuses and methodologies that provided more comprehensive insight into the multifarious nature of the HS representative role, particularly in Australia, Britain and other European Union countries, New Zealand and North America. Omission of non-English language publications is a limitation of the review, especially given that Nordic countries have a strong employee participation tradition, but frequent reference is made to research findings reported in English from these milieus.

HEALTH AND SAFETY REPRESENTATIVE LITERATURE REVIEWED

An abundance of factors are believed to influence the role of the HS representative and their ability to improve workplace safety. To organise the data, we divided the broadly contextual and individual-oriented studies of representative OHS employee participation into further sub-categories: national; industry-specific; workplace and individual.

National political and economic factors affecting employee participation in OHS
Numerous national, political and economic contextual factors promote worker participation in health and safety. Notably, legislative provisions for HS representatives are an important supporting condition serving to stimulate the establishment of workplace representative employee participation structures, including HS representatives and OHS committees (Glendon & Booth 1982; Leopold & Beaumont 1982; Lewchuk, Robb & Walters 1996). Additionally, laws provide guidance on the roles and responsibilities of HS representatives and legitimise representatives' claims to resources, such as rights to attend specialist OHS training and to consult with management (Walters & Frick 2000). However, laws governing employee participation need to operate in tandem with basic employment rights to protect workers from disadvantage and/or dismissal should they raise OHS concerns and
challenge managerial decisions (Jensen 1997; Quinlan & Mayhew 2000). Trade unions are seen to play a pivotal role in lobbing for the protection and promotion of workers' rights to basic employment conditions and to participate in OHS, thus assisting to improve the labour market position of individual workers (Glendon & Booth 1982; Walters & Frick 2000). Indeed, the position of the worker in relation to the labour market bears on management's propensity to engage with employees in decision making processes. Generally, management tends to be more receptive to the views of employees with skills and qualifications in demand in the labour market (Jensen 1997; Walters & Frick 2000). Yet, regulatory agencies, especially labour inspectorates, have a role to play in actively enforcing compliance with workers' rights thereby helping ensure all employees have opportunity to participate in OHS (Bryce & Manga 1985; Walters & Gourlay 1990).

Numerous analysts express concern that these national contextual factors known to promote employee participation in OHS are eroding (James & Kyprianou 2000; Ochsner & Greenberg 1998; Quinlan & Mayhew 2000; Walters 2005). Specifically, OHS inspectorates across a number of jurisdictions were found to rarely regulate legislative provisions for employee participation (Garcia, Lopez-Jacob, Dudzinski, Gadea & Rodrigo 2007; Walters & Frick 2000). This 'hands off' approach by those with the power of enforcement increases reliance on unions to redress worker interests, but widespread decline in union representation across Anglo-American countries limits the support these institutions provide (James & Kyprianou 2000; Ochsner & Greenberg 1998; Walters 2006). Consequently, there are fears that workers and their representatives are likely to be “denied their legal rights and have no means of obtaining redress” (James & Kyprianou 2000: 60).

This body of research implies that the influence of national political and economic factors on the HS representative role cannot be underestimated. Notably, national differences as to the nature of these factors helps to account for the diversity in participatory behaviours and OHS outcomes (Walters & Frick 2000). Yet, other findings suggest that we should be mindful that industry context variables also affect representative employee participation in health and safety.

**Industry specific factors affecting representative employee participation in OHS**

International evidence suggests that workplace OHS representative participation structures are most established within workplaces in certain industries, especially in the public and manufacturing sectors,
that are high risk and/or highly unionised and have higher proportions of large businesses (Istituto Per Il Lavoro 2006; Vanderkruk 2003; Walters & Gourlay 1990). Workers in high risk work environments are more inclined to join collectives to protect their interests (Beaumont, Coyte & Leopold 1981), and unions and managers also appear to be more willing to voluntarily institutionalise HS representatives and committees to enable the joint problem solving of OHS issues (Beaumont & Deaton 1981; Eaton & Nocerino 2000; Leopold & Beaumont 1982). Research from a range international contexts, including New Zealand (Colmar Brunton 2004), indicates that these formal OHS participatory structures are overwhelming more evident in larger organisations (Garcia et al. 2007; Istituto Per Il Lavoro 2006; Vanderkruk 2003). Most obviously, this is because larger workplaces simply have more resources to establish and sustain formal structures and procedures for worker participation than smaller institutions (Jensen 1997; Robinson & Smallman 2006; Walters 1987). Policy makers often recognise this by exempting small businesses from adhering to laws mandating the establishment of formal OHS participatory structures (Quinlan & Mayhew 2000).

As such, the prevalence of formal structures for OHS employee participation is lowest in industries dominated by small businesses, but also where precarious employment is high and trade union organisation is minimal, particularly in the service, agriculture and construction sectors (Istituto Per Il Lavoro 2006; Tragardh 2008; Walters & Frick 2000). The rise in precarious employment, a broad term used to describe jobs that are short-term and unsecure, poses challenges for the institutionalisation of HS representatives because it can be impractical to provide workers with opportunities to interactively participate in matters concerning their health and safety (Johnstone, Quinlan & Walters 2005). Given that precarious workers are often non-unionised, they lack the support and influence of workers’ collectives that are known to facilitate the establishment of OHS participatory structures (Leopold & Beaumont 1982; Walters & Gourlay 1990). To improve employee access to OHS representation, numerous European countries have introduced regional or roving HS representatives to represent workers in defined regions or sectors, particularly within small businesses (Walters 1998). But there are a number of more localised workplace factors known to impact on the HS representative role, and we will look at those next.
Workplace factors affecting representative employee participation in OHS

In addition to the national and sectoral contextual factors that affect the establishment and operation of representative OHS participation, organisations' internal political environments, and associated power dynamics, play a key role in supporting and/or constraining HS representatives' ability to improve health and safety. In OHS, power is most often defined in relation to how organisational actors and groups influence decision making processes. Decision making is conceptualised as a political process in which different interest groups attempt to promote their agendas in the resulting decisions (Bahn 2009; Dawson, Poynter & Stevens 1984; Hasle & Sorensen 2011; Walters & Frick 2000). OHS practitioners, including HS representatives, have difficulty influencing central organisational decision making processes because OHS is peripheral to the core function of an enterprise (Brun & Loiselle 2002; Dawson et al. 1984; Jensen 1997). HS representatives typically have limited formal authority and no direct access to decision makers or resources, implying that their ability to influence core management to improve OHS is negligible (Dawson et al. 1984; Hasle & Sorensen 2011).

HS representatives undoubtedly find it easier to facilitate improvements to working conditions in situations where management perceives that health and safety and employee participation adds value to the core business. Management commitment to worker participation is widely recognised as fundamental to the effective operation of representative participatory structures (Biggins & Phillips 1991; Kochan, Dyer & Lipsky 1977; Leopold & Beaumont 1982; Walters & Gourlay 1990). In organisations where management is committed to health and safety, representatives are found to be better supported with resources such as time to conduct OHS activities, attend specialist OHS training and consult with management (Walters & Nichols 2006). Representatives' access to these resources is bolstered where they have support and commitment from union representatives, who are found to provide a form of social security and help secure managerial compliance with legal employee participation provisions (Quinlan & Mayhew 2000; Walters 2006; Weil 1999). Within the context of declining union membership and a lack of external enforcement by OHS inspectorates, the effectiveness of HS representatives is increasingly dependent on the motivation and capacity of management to engage with, and facilitate, participatory OHS practices (Walters 2005).
HS representatives: power bases and role enactment

Regardless of whether or not the official managerial position on employee participation in OHS is favourable, HS representatives have numerous power bases to influence core organisational decisions. Expert knowledge is a key source of power and influence (Hall, Forrest, Sears & Carlan 2006; Walters & Frick 2000), which derives from a combination of formal skills and qualifications, job competencies, work experience and OHS knowledge (French & Raven 2001), enhanced by representatives' attendance at specialist OHS training courses (Culvenor, Cowley & Harvey 2003; Johnson & Hickey 2008). Whilst managers are known to be more willing to engage with HS representatives perceived to have expert knowledge (Leopold & Beaumont 1982), representatives can find it difficult to convincingly assert their health and safety knowledge because there is often wide scope for debate about the significance and nature of OHS risks (Walters & Frick 2000). Still, representatives have some degree of legitimate power to compel management to deal with issues by way of the rights they are conferred by their HS representative appointment (Frick & Sjostrom n.d.; Menèndez, Benach & Vogel 2008), as well as placement on the organisational hierarchy in their primary employment position (Dawson et al. 1984). HS representatives' personal qualities potentially enhance these powers (Dawson et al. 1984; Hasle & Sorensen 2011), thereby helping them to gain access to internal coalitions (managers, workers, unions and the OHS organisation) and external coalitions (OHS service and labour inspectorate) that may support their endeavours to improve OHS (Beaumont 1981; Dawson et al. 1984; Jensen 1997; Walters 1987; Walters & Haines 1988). It is important that representatives understand their different sources of power and when to use them to facilitate change. In this respect, Walters' (1985) suggests that the HS representatives’ role is:

strategic because it is their responsibility to identify or pursue issues raised by workers, to prioritize issues, to present a case to management, and to strategize where necessary – deciding, for example, when to draw on broader union support and other resources, whether to publicize an issue and when to approach the Ministry of Labour. (62)

Questionnaire surveys form a popular and efficient research tool for investigating HS representatives' role performance. Findings suggest that HS representatives tend to focus on operational rather than strategic OHS activities across a range of international contexts, including Australia (Gaines & Biggins 1992), Britain (Hillage, Kersley, Bates & Rick 2000), Canada (Brun & Loiselle 2002), New
Zealand (Johnson & Hickey 2008), Spain (Garcia et al. 2007) and Sweden (Tragardh 2008). Representatives’ role focus at the operational level, however, differs between contexts: Australian representatives primarily ensure workers act safely by encouraging compliance with safety rules (Gaines & Biggins 1992), but New Zealand counterparts motivate workers to report pain (Johnson & Hickey 2008). While Johnson and Hickey's (2008) study is the only research to provide insight into how New Zealand based HS representatives enact the role, it shares limitations common to other questionnaire surveys: it fails to explain the nature of representatives’ participation, particularly within the workplace context; it is restricted to the perspectives of the individual representatives; and it does not develop qualitative insights into the lived experiences of HS representatives.

Qualitative accounts of HS representatives' role enactments are not as common as questionnaire based studies, but provide opportunities for richer insights. Two studies, relying on semi-structured interview data, have developed typologies to facilitate the comprehension of some key elements of the complex HS representative role within particular contexts (Hall et al. 2006; Wright & Spaven 1999). The power dimensions of HS representatives’ role enactments are increasingly being exposed (Walters 1985), particularly the way in which representatives engage in political processes to affect health and safety changes (Hall et al. 2006; Hasle & Jensen 2006). Latest findings indicate that representatives who facilitate the most significant OHS improvements, often pursue what Hall et al. (2006) term a 'knowledge activist' strategy. Specifically, HS representatives are able to convince management to accept their proposals for the improvement of working conditions by demonstrating the significance of hazards and control in terms of potential productivity and quality gains.

IDENTIFYING AND ADDRESSING THE 'GAPS'

Our overall assessment is that there is little [New Zealand] research, as to how HS representatives actually perform their roles and what impact they have, especially from the perspectives of others affected by them. To gain a richer sense of the HS representative role, as it has been interpreted and enacted in New Zealand workplaces within the bounds of the Health and Safety in Employment Amendment Act 2002, we designed a study that would take us into an industrial environment where HS representatives were well established. This study would address some of the short-comings of
quantitative questionnaire-based surveys, by exploring the qualitative dimensions of HS representative role enactment from the perspectives of multiple organisational actors.

We approached the ACC’s Metal Manufacturing Safer Industry Group and gained access to two major metal manufacturers perceived to have good OHS employee participation systems. This sector is internationally renowned for having advanced arrangements for employee participation in OHS because of its high risk work processes and union influence (Istituto Per Il Lavoro 2006; Leopold & Beaumont 1982). Establishments perform a diverse range of activities that expose workers to a multitude of hazards, such as welding, fabrication and metal casting (ACC 2007).

Face to face, semi-structured interviews (King 2004) were conducted with eight HS representatives and 23 other organisational actors shown to influence the representative role, including line managers, workers, OHS managers, senior managers and a union representative. OHS managers recruited the senior managers, union representative and HS representatives. Representatives recruited their managers and fellow workers with whom they shared a rapport and/or who were available for interview. Interview themes focused on the representatives’ purpose, activities and OHS impacts. Interview transcripts were thematically analysed (Braun & Clarke 2006) and the data from the individual representatives were compared and contrasted with the perspectives of their managers and co-workers, a form of triangulation (Mathison 1988) used to gain a more realistic sense of the HS representatives’ roles.

Representatives’ activity profiles emerged by analysing their activities in relation to Brun and Loiselle’s (2002) framework, which allows for the work of OHS practitioners to be categorised according to the level (operational versus strategic) and dimension (organisational, technical or human) of their preventative efforts. Representatives’ OHS impacts were evaluated and differentiated according to the Danish National Working Environment Authority’s (2002) impact ladder.

It was found that, although all HS representatives wanted to improve health and safety, there were marked differences between representatives in terms of how they interpreted their purpose, enacted their roles and impacted on OHS at their workplaces. HS representatives’ perceptions were further embellished by the views of their managers and co-workers, so that eventually we were able to identify several semi-distinct ‘types’ into which representatives can be grouped: administrators,
workshop inspectors, problem solvers and craft experts. Commonly, all types of HS representative fostered positive labour relations, and nearly all in this study were perceived by workers to improve health and safety by providing a legitimate avenue of redress. Otherwise, contribution differed among the types; administrators contributed by implementing and maintaining health and safety management systems; workshop inspectors improved workers’ attitudes towards health and safety; problem solvers facilitated improvements to production from a health and safety perspective; and craft experts influenced the development of standards and procedures for the management of hazards at the strategic level. Finally, we found that a cross-perceptual approach enriched understanding of the multifaceted nature of representatives’ contributions to workplace health and safety given that the representatives were not reliable assessors of their own performance and impact (see Harris 2010).

**CONCLUSION**

The role of the HS representative has the potential to affect people’s working lives and general health, workplace productivity, organisational reputation and even the country’s standing within the international community. This overview of OHS representative employee participation research has highlighted for managers, the significant activity of a key player in New Zealand’s overall health and safety strategy. Reported international and New Zealand research illustrates that the HS representative role is shaped by a variety of contextual and individual factors, including management affirmation of, and commitment to, the successful implementation of the legislation. Our critique of the research methods used to study representative employee participation in workplace health and safety indicates that studies have been overwhelmingly survey-based and descriptive; analysis shows that the few qualitative studies have drawn on the role perceptions of HS representatives. For HS representatives to be better placed to improve OHS, there is a clear need for more research into how their role is currently being played out in workplaces throughout New Zealand. We have described a research project designed to go some way toward gaining a more comprehensive sense of the HS representative at work. Future research into the HS representative role can potentially facilitate a form of employee participation that reduces both the extreme cases of industrial accident or work hazards, and the more ‘routine’ or long-term cases that cause widespread, more insidious harm.
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