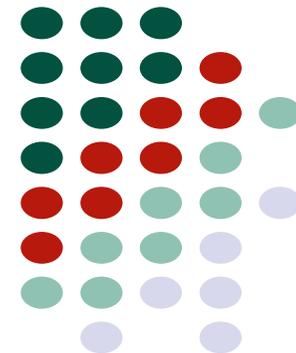


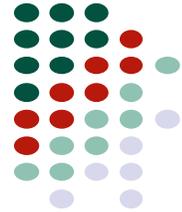
An Inspector Calls? Achieving regulatory compliance on OHS in times of change

David Walters

Cardiff Work Environment Research Centre

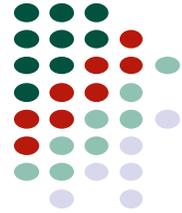


What this presentation is about



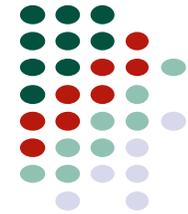
- How do regulatory agencies for OSH respond to change innovatively?
- Reflections on EU research experience
- **Three parts —**
 - ***Background***
 - Labour inspection in Europe
 - Changes in the structure and organisation of work
 - Changes in regulatory policies
 - Innovation in regulatory strategies
 - Reflections on current paradoxes

Background



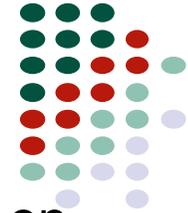
- Complex range of approaches to labour inspection in Europe:
 - Generalist/Specialist – Latin model eg. France, Spain, UK/Scandinavian – specialist
 - Variations in regional autonomy – Spain, Germany, Italy
 - Shared responsibilities with other inspection bodies - Italy/UK
 - Dual system with accident insurance - Germany
- Great variation in national economies, labour relations systems and regulatory styles — both current and historic
- EU Framework Directive 89/391 provides common regulatory framework for OHS management — ‘Three cornered stool, of which, regulatory inspection is one leg’

Change in the structure and organisation of work and labour markets



- Downsizing/restructuring, outsourcing/ subcontractors/supply chains, labour leasing, franchising
- Decline in 'permanent' jobs, temporary/fixed contract work, part-time/multiple job-holding, home based work, telework, contractless work. irregular working hours, unpaid hours & presenteeism etc.
- Privatisation
- Increased immigration/use of temporary guest-workers
- New materials/tools (IT, chemicals, nanotechnology)
- More intensive work systems (ergonomic/physical hazards)
- Changes to age & gender composition of workforce
- 'Fissured' work
- Gig economy etc

Changes....

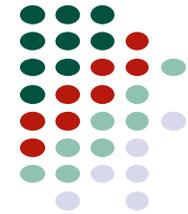


- Overwhelming burden of evidence indicates that these changes have consequences for protecting/managing OHS – and impact on the institutional arrangements supporting this:
 - More ‘hard to reach’ work, workers & duty-holders (eg risk-shifting in subcontracting & ‘undeclared’ work)
 - Relevance of legal requirements, penalties and enforcement
 - Reduced union presence and participative mechanisms/worker awareness/involvement
 - Reduced reach of OHS prevention
 - Effects also weaken injury and disease surveillance
- All imply increased challenges for regulatory inspection



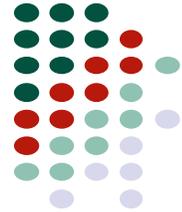
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The statutory framework?



- Appropriateness of the current legislative framework for OHS management as a framework for the protection of **all** workers is questionable
- Does it identify **all** duty-holders and duties to protect workers from the risks of emergent trends in structure and organization of work in the new EU economy?
- But little appetite for new regulatory approaches in the EU at present despite signs of shifts of emphasis in recent policy .

Where has change occurred in regulatory policies in last 30 years?



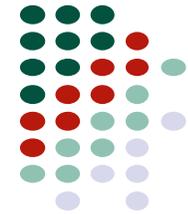
Change in political/policy orientations of governance:

- At EU level from ‘Social Europe’ to ‘Better Regulation’
- Politically driven notions of ‘over-regulation’
- A UK Prime Ministers’ New Year’s resolution 2012: ‘to kill off the health and safety culture for good...’
 - ‘Elf and safety’
 - Emphasis focused on reducing ‘regulatory burdens’ for business
 - Business friendly regulation
 - ‘Common sense’ regulation



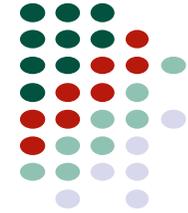
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Implications



- Political and structural changes combined create a different scenario – structurally, organisationally and politically to the one in which the regulatory framework for managing OHS was originally conceived in the EU
- Both might be anticipated to be significant influences on operation

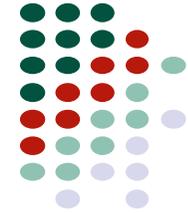
NERCLIS* 2012



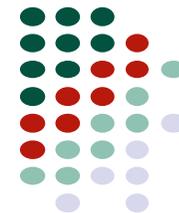
- Overview of 27 EU countries (and Norway)
- Detailed study of significant issues in ten countries
- Report to European Commission and Senior Labour Inspectors' Committee

**New and Emerging Risks and their Consequences for Labour
InSpection*

Change and labour inspection strategies to address emergent trends

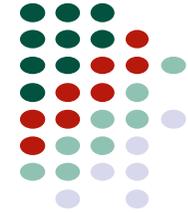


- ***Organisational and policy responses:***
 - Greater attention to strategic co-ordination, stimulation and promotional activities increasing reach and ‘buy-in’
 - Support for greater ‘stakeholder’ involvement in work environment issues by labour market actors and other interest groups
 - Policy reorientation emphasising target setting and evaluation in relation to inspection practices



In enforcement and compliance practices:

- more targeted inspection
- broadened surveillance for multi-employer arrangements, especially in construction
- supervision of temporary/agency firms
- going upstream in inspection/supervision of supply chains



Examples:

Targeting in Denmark :

On targeted inspections 10 years ago SLIC (2008) commented *"The evaluation team had some concerns that during inspections the focus was almost exclusively on the four priority targets.... to the possible exclusion of other significant health and safety issues."*

Multi-employer worksites in UK construction :

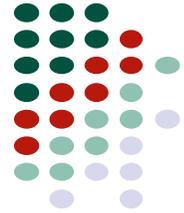
"...we took things to another level....how they could facilitate health and safety ... actually how you then co-ordinate and communicate the issues to be managed by the suppliers....where you've got people in a room ...its harnessing those skills to deliver the outcomes you need."

(HSE Chief Inspector of Construction)



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Examples

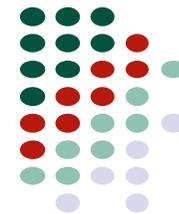


In UK, HSE said improving ‘stakeholder engagement’ required increasing inspectors’ awareness of changes in the organization of work (e.g. role of supply chains) and changing the way they operated:

“if you’re looking at influence and seeking change the only way to do that is to understand what makes the process tick”

And:

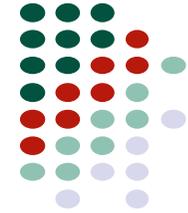
“You have to perhaps influence without enforcement, or not use enforcement as a first line of approach to perhaps larger organizations”



- ***Efforts to extend the reach of the influence of the regulatory authority with:***
 - Greater focus on advice and guidance, cascading messages to ‘hard to reach’ duty-holders such as small and micro firms, foreign firms and workers, sub-contractors, migrant workers etc
- ***Emergent risks***
 - Inspection strategies for risk management in relation to emergent trends such as psychosocial risks and MSDs
 - Increased concerns with undeclared/undocumented work ***and*** greater resourcing for some inspectorates to address this issue*



Example



On inspection and undocumented work:

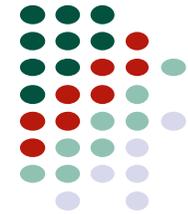
“This is the problem of undeclared work....you cannot enforce anything if the company is not registered and is not declared. This is the problem. You cannot impose fines to these kinds of companies. You cannot check, you have no powers, no real powers to enforce the law in these kinds of companies, the first assumption is that the company should be declared, should be registered in social security, inland revenue... all this sort of thing.”

Director of the Labour Inspectorate in one Spanish Autonomous Region



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Changes in *labour inspection authorities support* to deal with emergent trends and risks through:



- International collaboration, notably in psychosocial risks and of cross border problems of migrating firms and workers
- Use of IT
- Some improved data collection on risk through cooperation with other stakeholders like health insurances and other government agencies
- Initiatives to improve worker engagement
- Some signs of changes in training for labour inspectors – with learning outcomes specifically addressing emergent trends

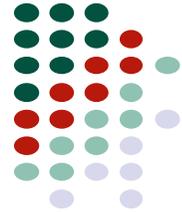
Some conclusions:

- Innovative approaches identified but practiced in relatively few countries.
- Piecemeal, many gaps & little coordinated strategy
- Limited resourcing/political support for broader or more stringent regulation or regulatory enforcement
- Mostly nation-based interventions but problems increasingly transnational
- Significant reduction in resourcing of labour inspection for OHS regulation continuing in many countries
- Tensions in overlap between the need for innovationand the adoption of practices to offset the effects of reduced resourcing and the political demand for reduced/reorientated regulatory inspection



Some needs:

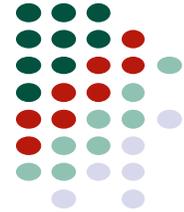
- Better intelligence on effects of structural change
- Better intelligence sharing
- More and better evaluation of new initiatives
- Better spread of what is successful
- Appropriate resourcing
- Better preparation and support for labour inspectors (training)
- More attention to preserving of the professional identity of labour inspectors

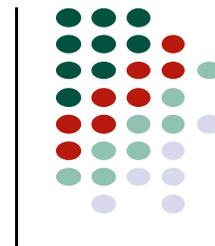


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Some reflections

- **Generally poor evaluation** at both national and EU levels in relation to actions on emergent trends and risks
- **Political drivers** of change over the last 30 years are not those aimed at improving the reach or effectiveness of labour inspection but rather, those of facilitating greater freedoms for capital
- Signs of change in recent EU policy?
Eg – Social Pillar, Strategic Framework, EC Communication January 2017 on Modernisation of the EU Occupational Safety and Health Legislation and Policy, Jean Claude Juncker on a European Labour Authority?





Thank You