

Self-regulation, Corporate Social Responsibility and the Business Case: Health and Safety at Work

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Background

- Political shift towards economic liberalism in developed market economies
 - Importance of the marketplace and reduction of government role in economy and society
 - Focus on business flexibility and competitiveness in global economy
 - Push to let market forces set labour standards, and push for deregulation of business in general

Examples of deregulation policy initiatives

- Federal government's Advantage Canada, 2006, including reduction of "unnecessary regulation and red tape and increasing competition in the Canadian marketplace" (p. 1)
- Council of Atlantic Premiers, 2007, initiative to streamline provincial regulation to "reduce burden on business" (p. 1)

Workplace Health and Safety

- Form of self-regulation since 1970s reforms in UK, Australia, Canada
 - Regulatory burden shift from inspectorate to employer as general duty holder
 - Broad goal-setting parameters, rather than detailed prescriptive regulations
 - Idea of internal responsibility in Canada and UK today - employers' general and specific duties met partly by involving employees (eg., JOSHs)

“Regulating self-regulation” (Bluff et al., 2004)

- More emphasis on persuasion, such as collaboration, training and education
- Less on development of new or enforcing existing regulations (Nichols and Tucker, 2000; Walters, 2005)

Corporate Social Responsibility (CSR)

- Growing criticism of business and pressures for CSR
 - Globalization – business more pervasive and powerful
 - Deregulation trend diminished role of government
 - Heightened media activity

Business case for Corporate Social Responsibility (CSR)

- Rationale: that corporations will benefit from voluntarily being socially responsible
 - CSR will directly or indirectly result in a corporation's improved financial performance, thus inciting them to behave ethically, leading eventually to positive social and environmental change
 - Indirect benefits include enhanced corporate image, reduction of reputational risk in consumer, labour and equity markets.

Business case for CSR

- Goal setting = less inspection and more persuasion, fewer government resources
- Made promotion of business case for CSR (including workplace health and safety) attractive for governments
- Business case and deregulation preferred by business
- Demonstrating success of business case justifies more self-regulation/deregulation

The CSR concept: bundling all components together

- Reframing of issues with a legal face, such as human rights, labour practices, pay and employment equity, workplace health and safety, and, increasingly, environmental sustainability, into an integrated package called CSR.
 - Puts responsibility squarely on to players with resources and power and hooks into the business case, theoretically leading to more change. Some steps forward in practice. On the other hand,
 - Broad concept of CSR fits in readily with prominent discourse of globalization, markets, competition and deregulation: business case as central plank of CSR facilitates view of ethical behaviour as instrumental (rather than as an end in itself) along with the view that there is less need for government intervention

Main question to be addressed

- How effectively has “regulated self-regulation” , with its reliance on the business case, worked to achieve workplace health and safety, an important labour right?

The business case and workplace health and safety

- Workers' Compensation schemes essentially economic incentives and have long history, even before the deregulatory trend in 1970s
- Ontario government's advocacy of 'safety pays' – eg., "...competitiveness and safety excellence are mutually reinforcing" (cited in Nichols and Tucker 2000, p. 301)

The business case and workplace health and safety

- Industrial Accident Prevention Association (IAPA) 2007 Leadership Forum:

“[promised that] employers would learn how a robust health and safety system contributes to an organization’s corporate social responsibility strategy and how that can translate into a sustainable business strategy”
- NL’s PRIME policy – preamble: “Proactive employers realize that safety, quality, cost, productivity and profit all go hand-in-hand” (WHSCC–PRIME 2007, page 1)

Safety: shifting discourses

Reframing: shift from traditional 3 rights – to know, participate and refuse (legal concepts) to OHSMS dominated – total quality management and human resources management

- Focus on individual attitudes and behaviour as key rather than collective worker participation and working conditions – “safe person” versus “safe place” (Frick et al. 2000).
- Business case becomes easier to demonstrate if safety is OHSMS driven – (to oversimplify) training and educating individual workers is easier (and usually costs less) to act upon than engineering out hazards

Safety: shifting discourses

- OHSMS focus on short term indicators, such as LTIs, can show a safe workplace (that is, business case worked) when we know from disaster analysis that this is not always the case, for example, the Westray and Longford explosions (Hopkins, 2000; Richard, 1997). Long term occupational health hazards are often underemphasized (Gallagher et al., 2000; Wokutch and VanSandt, 2000).
- Regulatory reform can weaken traditional rights in the guise of consolidation by incorporating OHSMS and individualist principles (Hart 2006)

Safety: our record

- Long established use of business case
- Even so, other factors at work (e.g., regulatory weaknesses)
- LTIs fluctuate but in overall decline (but problems with this indicator)
- Fatality rates consistently higher between 1998 and 2002 (e.g., 6.1 per 100,000 employees in 2002) than the US (4), France (3.8), Germany (2.92), Norway (1.7), Sweden (1.4) and the UK (0.74), and was the only one to not show an improvement (ILO 2007)

Safety: technical problems in business case

- Methodological difficulty of accurately measuring costs and benefits:
 - of accidents and prevention (Panopoulos and Booth 2000)
 - of health although highest OHS cost (Dorman 2000) – difficulty reinforced by OHSMS trend
 - costs of lost corporate image often not clear
- Evidence that economic incentives do not work or have opposite effect (under-reporting, discouraging claims etc. affecting both management and worker motivation – see, for example, Dorman 2000)

Safety: fundamental flaws in business case

- In reality, impossible to assess human cost of accidents, illness and death – to injured workers, families and their communities - despite insurance and compensation attempts
- Inherent tension between production/profit and safety/health (Canada - Ocean Ranger Enquiry 1985; Tombs 2000; Hart 2002; Wells 2010)
 - legal caveat of employers spending money on risk prevention only to the point of being “reasonably practicable” immediately weakens business case (Panopoulos and Booth 2007)

Tension between production and safety

Management discourse and practice emphasizing high production targets, or need for new patterns of work for global competitiveness, such as mobile maintenance crews, long-term long or varying shifts, or multi-tasking, meet production imperative but often undermine health and safety (Bohle and Quinlan, 2000; Hart, 2002)

Production and safety

- Business case requires a cost benefit analysis and when corporate investment in safety measures involves high capital cost it will not necessarily benefit production or profitability. So there is no business case. For example, very expensive industrial ventilation to cut down dust exposure or re-engineering to reduce high vibration levels, as opposed to the purchase of personal protection equipment.
- Nichols and Tucker, 2000, found employer resistance to significant safety expenditures or reconfiguration of production process

The production imperative

- In 1982 the semi-submersible offshore oil rig Ocean Ranger capsized and sank with 84 fatalities
- In their investigative report, the Commissioners remarked:

The Ocean Ranger

...[the industry] has faced and overcome the problems associated with exploring for and producing oil and gas under major environmental constraints because, without these solutions, exploration and production could not take place...[they] are deemed essential to the rig's mission and therefore worthy of the latest innovations that technology has to offer. The evacuation system does not meet that same criteria of being essential nor does it elicit the same response. (Government of Canada, 1985, p. 104)

The production imperative?

Judge Wells in his investigative report into NL offshore oil industry helicopter crash in March 2009 with 17 deaths:

The offshore oil industry is directed to production and marketing, with the resultant employment, profits, and contribution to tax revenues...oil production and helicopter transport both have a degree of risk, with helicopter transportation having the higher level of risk to the individual. In the event of failures, the results are likely to be catastrophic. In both cases, the safety of human life must be paramount...These factors, along with the concern over an inherent tension or conflict of interest, are at the heart of the argument for the separation of safety regulation from oil exploration and production regulation. (2010, Volume 1, p. 251)

Overall: how effective is the business case?

- As a central plank of a self-regulatory trend in workplace safety, the business case is weak. It is based on instrumentality and strategic management rather than social justice or legal rights. Some possibility for short term workplace change but little likelihood of longer term, structural change (organizational or legal).
- In broad terms, the impact of globalization, deregulation and associated discourses (egs., competition and efficiency) along with the marginalization of important organizational and societal factors undermine its effectiveness.

Self-regulation, the business case and CSR

- In the context of the oil industry, Judge Wells wrote:

“The oil industry has submitted that we already have the best system of regulation and that it need not be changed. They say also that it is they who have the highest levels of expertise and that the Regulator does not need that degree of expertise. Perhaps not, but the Regulator should have sufficient expertise and organizational strength to deal with the oil operators as on a level playing field.

Judge Wells continued

The implicit message of the industry is: we will get it right, because we have the knowledge and expertise. It implies that the Regulator should approve what the industry brings forth without rigorous debate, stakeholder input and public scrutiny. The oil operators indeed have world-class expertise and a world-wide reach.

However, the Canadian public is entitled to the assurance that the standard of their operations is determined, monitored, and verified by Canadian institutions which clearly have power and are deserving of the public's confidence.

Let us look for a moment not at what the industry says but at what it did in the case of the Emergency Breathing System ... [it] took nine years to implement the EBS following the CNLOPB's request that it be done, and final implementation only came a month after March 12, 2009 [the date of the crash]." (Wells Report, Volume 1, p281-282)

Complementary approaches

- International evidence that compliance and enforcement more effective than business case (research cited by Tombs 2005 p 8)
- Stronger legislation and enforcement needed, including more powerful safety representation (as in Norway)
 "Strong and proactive regulation is the counterbalance to the extensive powers which performance-based regulation grants to the oil operators"(Wells 2010 p 270)
- Unionized worker participation effective (Tombs 2005; Walters 2003). Various joint committees/task forces recommended in Wells Report on NL helicopter crash, in addition to JOSHS. Co-determination power and collective representation are most effective. Union campaigns can also achieve positive change (egs., Bill C-45, asbestos campaigns)