
Safety vulnerabilities of transnational workers and union responses in the British construction sector

Sonila Danaj¹

Abstract

The article focuses on the occupational safety and health (OSH) vulnerabilities of transnational workers in the construction sector in the United Kingdom (UK) and the British unions' involvement in OSH enforcement and their challenges in transnational workplaces. Based on interview insights with transnational construction workers, trade union representatives and management conducted in two large construction sites in the UK in 2014-2015, research findings indicate that for transnational workers, there are additional layers of safety vulnerabilities produced by their temporary cross-border labour mobility pattern, precarious subcontracted employment, and migrant characteristics. Although collaborative top-down structures at the site-level comprised of management, unions, and appointed OSH officers, and bottom-up structures of elected OSH representatives at the subcontractor level have been established in transnational workplaces to ensure OSH protection, enforcement remains a challenge due to the differences in practices among the companies in the subcontracting chain and the persistent vulnerabilities of posted workers. The main argument of the article is that to increase the efficacy of OSH enforcement, British unions need to find better ways to address the vulnerabilities that come from the combined effects of temporary migration and precarious employment.

Keywords: Posted workers; Occupational Safety and Health; Trade Unions; Construction Sector; United Kingdom.

Vulnérabilités des travailleurs transnationaux en matière de sécurité et réponses syndicales dans le secteur de la construction britannique

Résumé

Cet article traite de la vulnérabilité des travailleurs transnationaux (travailleurs détachés) en matière de sécurité et de santé au travail (SST) dans le secteur de la construction au Royaume-Uni (RU). Il examine le rôle des syndicats britanniques dans la mise en œuvre de la SST et les défis qu'ils rencontrent sur les chantiers transnationaux. Sur base d'entretiens menés sur deux grands sites de construction au Royaume-Uni en 2014-2015 auprès de travailleurs détachés, des représentants syndicaux et de la direction, les résultats de la recherche indiquent que les travailleurs détachés présentent davantage de vulnérabilités en matière de sécurité et de santé au travail en raison de leur statut de travailleurs transfrontaliers temporaires, de leurs emplois précaires en sous-traitance et de leur condition de migrants. En dépit de l'existence de structures partenariales composées de la direction, des syndicats et de responsables SST nommés et des représentants SST élus au niveau du sous-traitant sur les chantiers pour assurer la protection SST, l'application de la loi reste un défi en raison des pratiques variées dans les entreprises de la chaîne de sous-traitance et des vulnérabilités persistantes des travailleurs détachés. L'article considère que pour accroître l'efficacité des mesures de protection en matière SST, les syndicats britanniques doivent aborder de front les vulnérabilités qui découlent des effets combinés de la mobilité de travail temporaire et de l'emploi précaire.

Mots clés : Travailleurs détachés ; sécurité et santé au travail ; syndicats ; construction ; Royaume-Uni.

¹ Doctorante à University of Jyväskylä, Finland. Coordinatrice du projet européen "Employment and Labour Mobility Research" au European Centre for Social Welfare Policy and Research, Austria. danaj@euro.centre.org.

1. Introduction

The increase in flexibility and non-standard employment has transformed workplaces into complex multi-employer organizations and made employment more uncertain and precarious for many workers. This is especially common in the project-based construction industry, particularly at large construction sites with long subcontracting chains and a transnational workforce. The most vulnerable appear to be workers employed by small and medium-size firms at the end of the chain, who operate under substandard working conditions and are exposed to higher occupational safety and health (OSH) risks (Cox et al., 2014; Wadsworth and Walters, 2018). The literature on the effect of worker representation on health and safety in the workplace has already reported the impact that this type of fragmentation has on the enforcement mechanisms (Cunningham et al., 2018; Robinson and Smallman, 2006; Walters, 2010). However, the role of labour unions in addressing the OSH challenges faced by transnational workers remains under-researched.

Therefore, this article aims to contribute to the literature on the OSH of migrant workers and unions' involvement in enforcing OSH measures. The article focuses on the OSH vulnerabilities of transnational workers in the construction sector in the United Kingdom (UK), the British unions' involvement in enforcing OSH measures, as well as the challenges they face in doing so in transnational workplaces. The term transnational workers in this article refers to EU workers sent by their employers to provide a service in the UK for a temporary period, also referred to as posted workers. Based on empirical data on OSH practices in large construction sites drawn from interviews with posted workers, trade union representatives and managers in 2014-2015, the article discusses the layers of safety vulnerabilities for posted workers produced by their temporary cross-border labour mobility patterns and precarious subcontracted employment and migrant characteristics. The article then examines unions' participation in the enforcement of OSH for posted workers and the challenges they face in fulfilling this specific role in workplaces with long subcontracting chains.

The article is structured as follows. After the introduction, an overview of the safety and health of temporary migrant workers and worker participation in OSH enforcement in the British construction context are presented. The findings are divided in three parts: the OSH risks and vulnerabilities of transnational workers, OSH rule enforcement in unionized workplaces, and British unions' challenges in ensuring OSH in transnational workplaces. We conclude by observing that unions' active role in monitoring and enforcing OSH standards is constantly challenged and re-articulated by the presence of long subcontracting chains and a transnational workforce. Mechanisms utilized to overcome the impact of fragmentation along the subcontracting chain on OSH, do not seem to be sufficient against the pressures to increase cost efficiency and workers' reluctance to collaborate with the unions due to their temporary migrant status.

2. Safety and health of temporary transnational workers

Conditions of employment and migration status play a fundamental role on the level of safety and health of temporary transnational workers. Precarious employment has been identified as an emerging social multi-dimensional determinant of health with a negative influence on working people (Benach et al., 2014). Its dimensions include the increased levels of employment uncertainty, non-standard forms of employment, low pay, lack of collective representation, limited social protection, and limited legal protection for workers (Benach et al., 2016). The literature suggests that the more precarious the workers are, the more exposed they are to health risks generally, and occupational safety risks particularly (Benach et al., 2010; Sargeant and Tucker, 2009).

Fragmentation of the work process and the long chains of subcontracting often have negative effects for the working and safety conditions of workers (Cox et al., 2014; Manu et al., 2009; Mayhew et al., 1997). One factor produced by fragmentation is the pressure of efficient production, which is often transferred down onto the small firms at the end of the subcontracting chain and consequently the workers they employ (Lingard, 2013). The presence of multiple firms of different sizes and of different background and work experience also means different working cultures and levels of attention to OSH

in the same workplace (Swuste et al., 2012). Furthermore, research indicates that smaller firms might not have the necessary resources and capacities to abide by the required OSH standards (Manu et al., 2009).

Migrant status is identified as a source of occupational health inequalities (Benach et al., 2010; Davies et al., 2009; Moyce and Schenker, 2018). Migrant workers located in a segmented and highly precarious labour market are exposed to various layers of vulnerability with direct implications for their safety and health. Especially newly arrived and unskilled migrants are commonly employed in the so-called 3D jobs (dirty-dangerous-degrading), and research studies indicate that they indeed are more exposed to hazardous conditions and are more likely to be injured (Moyce and Schenker, 2018). Apart from the risks of the professions, documentation status, social or political isolation, limited access to protection mechanisms and language barriers have been reported to increase the safety and health vulnerability of migrant workers (Davies et al., 2009).

Sargeant and Tucker (2009) have introduced a comprehensive framework they call 'layers of vulnerability' to assess the OSH vulnerabilities of migrant workers, on which the analysis for this article is based. The authors differentiate between permanent settled immigrants and those with a more temporary status, arguing that temporariness produces more OSH vulnerabilities for migrant workers in terms of access and awareness of the mechanisms for protection. They enlist three layers each composed of a set of factors that produce migrants' OSH vulnerabilities, namely migration factors, individual migrants' characteristics, and receiving countries conditions. Migration factors relate to the migration status where short-term, temporary, seasonal, and irregular statuses affect negatively on the workers' occupational safety and health (cf. Benach et al., 2010). Individual characteristics relate to the home country conditions that have pushed the migrants to migrate as well as their individual skills, education, and language levels, indicating that those from poor economic backgrounds with limited skills would be less demanding of proper safety and health standards (cf. Tutt et al., 2013). Receiving country conditions are broken down to the specifics of the sector in which the migrants are employed, access to collective representation and regulatory protection, as well as problems deriving from social exclusion/isolation (cf. Moyce and Schenker, 2018).

This article focuses on one specific category of temporary migrant workers: posted workers. Posted workers are sent by their employer based in an EU country to provide a service in another EU country. Their work in the host country is temporary and upon completion, they should return to the sending country. Previous research has found that moving from one country to another makes these temporary transnational workers quite precarious (Arnholtz and Lillie, 2020; Wagner, 2018). They are mostly hired by small and medium firms that are located at the lower ends of the subcontracting chain. They are often underpaid and offered poorer terms and conditions than locally hired workers, exposed to long-working hours, substandard working conditions, and isolated or crowded accommodation, and have limited or insufficient access to protection mechanisms (Arnholtz and Lillie, 2020; Caro et al., 2015; Cremers, 2011). Due to the subcontracted, temporary, and transnational nature of their employment, posted workers are often very vulnerable and exposed to higher OSH risks (Cremers, 2016; Danaj and Zólyomi, 2018). Through the layers of vulnerabilities framework, we can understand how the different structural and personal factors intersect to produce OSH risks for posted workers, as well as see how national unions respond to these vulnerability factors and provide OSH protection for this category of workers.

3. Health and safety enforcement in British construction and worker participation

OSH regulation enforcement in the UK is shared among employers, workers, state authorities, and trade unions. The British legal framework includes the 1977 UK Safety Representatives and Safety Committee (SRSC) Regulations, the MHSW Regulations 1999 and the HSC Regulations 1996. There are also sector-specific regulations, such as the Construction, Design and Management (CDM) Regulations passed in 1996 and the updated Construction (Design and Management) Regulations passed in 2007. In addition to OSH rules, labour standards and legal migration and employment also fall under the purview of different state authorities. In the UK, enforcement is diffused among various public agencies such as

the Health and Safety Executive (HSE), the Gangmasters and Labour Abuse Authority (GLAA), the Employment Agencies Standards Inspectorate (EASI), HM Revenue and Customs (HMRC), the police and the Border Agency. While efforts to coordinate among these agencies have been observed in the past decade, enforcement remains fragmented (Mustchin and Martinez Lucio, 2020).

The legal framework also enables unions to appoint safety representatives among the employees of companies that recognize unions in their workplace. The appointed workplace safety representatives have several functions that can be categorized as representative, inspective, and informative. In their representative function, they can represent workers in consultations with employers on OSH matters as stipulated in Section 2(6) of the Health and Safety at Work (HSW) Act, represent workers in cases of complaints to the employer, and in consultations with inspectors. In their inspective function, they can investigate potential hazards in the workplace, examine the causes of accidents, investigate complaints, and conduct workplace inspections. In their informative function, they receive information on OSH from inspectors and provide such information to workers (Walters and Nichols, 2007).

Despite the regulatory context, unions face challenges in their role as OSH enforcers related to the organizational structure of the industry and to their own power resources. Firstly, the construction sector is considered high-risk in terms of OSH due to the hazardous nature of the job and the structural and organizational challenges, especially in projects with complex, multi-employer, temporary worksites, and supply chains. Previous research finds factors such as management commitment, stable employment relations, and strong union presence affect positively workers' OSH (Fenn and Ashby, 2004; Walters, 2010). However, large stable organizations are not common in a sector composed mainly of small firms, self-employment (including bogus self-employment), casual and agency labour, that employ high levels of semi-skilled and unskilled migrants and young workers, conditions which produce highly fragmented multi-employer workplaces with poor OSH measures (Cunningham et al., 2018; Robinson and Smallman, 2006; Walters, 2010).

Secondly, union density in the UK has been in decline in the last decades, especially in construction where it reached its lowest in 2017 at 11.4 percent (GOV.UK, 2019). The engineering construction industry is one of the few exceptions where unions have maintained a high density of 76 percent (Gall, 2012), and have one of the few functioning collective bargaining agreements. A distinctive feature of the British industrial relations is that even in cases where there exist functioning CBAs, their application is voluntary, and trade unions need to negotiate its application to every specific company and/or workplace (Eldring et al., 2012). Likewise, the current legislation does not make safety representatives obligatory, so they are allowed only on a voluntary basis, and therefore mostly found in unionized workplaces where the employers recognize the union and worker representatives. Unfortunately, unions' active involvement in the enforcement of occupational safety standards has been confronted by an anti-union attitude by some employers in the British construction sector, who were oriented towards profit, even if that came with a disregard for OSH rules (Clarke, 2012). Until recently, safety representatives in the UK were often targeted by such employers, who considered them as troublemakers and would undermine their activity by blacklisting them. The existence of the blacklist for construction workers, especially union activists and safety representatives, was uncovered publicly in 2009. It confirmed the extend of anti-union sentiment, but most importantly how the enforcement of work safety was a critical matter that could have serious repercussions for the workers that were elected by their peers to be their safety representatives (for more details see Clarke, 2012; Rogers, 2014).

4. Methodology

The case studies were selected based on several key criteria. The British engineering construction industry was chosen because of its characteristics, namely the multi-employer workplaces with long subcontracting chains where work is distributed among national and transnational firms of different sizes. Furthermore, the engineering construction industry continues to be well-organized with a high union density (Gall, 2012). Both selected construction sites had long subcontracting chains of up to twenty-seven firms, some of which EU companies that were posting their workers from Poland, Spain,

and Ireland. The sites were unionized, which means that they were operating under the National Agreement for the Engineering Construction Industry (NAECI) and therefore had two senior shop stewards with a site-level mandate and several firm-level representatives elected in the various companies along the subcontracting chain in each site. Each site also had safety representatives referred to as safety shop stewards, who monitored the observance of OSH standards during the work process. The presence of trade unions at both site and firm level provided the opportunity to observe union involvement in monitoring working conditions and defending labour standards, as well as identifying the challenges they face in enforcing safety measures in transnational workplaces. A comparison between unionized sites and non-unionized ones was not possible because the author could not get access to non-unionized sites, therefore insights on conditions in non-unionized sites are drawn from the previous experiences of the trade union representatives and managers.

The study is based on twenty-nine in-depth interviews conducted with fifteen EU construction workers posted to the United Kingdom in the period 2014-2015, two trade union officials and nine workplace representatives, as well as 3 managers in two large power plant construction sites in Northern England (see Table 1).

Table 1 : Descriptive information on the interviews conducted during the fieldwork 2014-2015

Type of participant	No of interviews	Site 1	Site 2	Profession	Country of origin
Posted workers	15	5	10	welder (2), mechanic (6), structural metal fitter (5), mounter (1), slew teleporter driver (1)	Spain, Poland, Ireland
Trade union officials (Unite the Union, GMB)	2	n/a	n/a	Construction	UK
Senior shop stewards	4	2	2	Construction	UK
Elected shop stewards	3	1	2	Construction	UK
Safety representatives	2	1	1	Construction	UK
Managers	3	-	3	main contractor manager, health and safety manager, site manager	Ireland Spain

Posted workers are considered as hard-to-access participants, therefore the fieldwork was accessed through a combination of the mediation by 'gatekeepers' they trusted, such as trade unionists, and the snowballing technique (Refslund, 2019). The posted workers in both sites came from various EU countries, mostly from Eastern and Southern member states, such as Spain, Poland, and Slovenia, which compared to the UK are lower income countries. They were all specialized professionals in construction, namely as welders, mechanics, structural metal fitters, mounters, and machinery operators. The workers had between five to twenty-five years of experience in the profession. During the fieldwork, interviews were conducted with Polish, Spanish and Irish posted workers. The interviews were conducted in English with consecutive interpretation provided in Polish and Spanish for the interviews with thirteen of the posted workers. The study was part of a larger project, Transnational Work and the Evolution of Sovereignty (TWES – 263782), and had an ethical policy approved by the Research Ethics Committee of the Faculty of Social Sciences at the University of Jyväskylä. Therefore, confidentiality through anonymization was guaranteed to all workers interviewed and was offered also to the unionists and the managers. The interviews consisted of semi-structured questions on the participants'

background, and open-ended questions about their working lives and the experience on the current sites, namely terms of employment, working conditions, health and safety, and their engagement with the unions. The recorded interviews were transcribed and translated into English, all potential identifiers were removed wherever relevant, and the transcripts were analyzed using the qualitative data analysis software MAXQDA. The thematic analysis comprised the identification of the OSH vulnerabilities posted workers face as temporary migrant workers (Sargeant and Tucker, 2009), OSH structures and mechanisms in the workplace, union OSH enforcement practices, and the challenges they face.

5. OSH risks and vulnerabilities of transnational workers

The posted workers in both construction sites worked for subcontracting firms at the end of the subcontracting chain. The main forms of exposure to OSH risks for the interviewees came from work intensification, pressure to perform tasks beyond their professional training, and language barriers. Personal and structural factors related to their migration and employment status, individual characteristics, as well as sending and receiving country conditions combined to produce OSH vulnerabilities (Sargeant and Tucker, 2009), which are discussed in this section.

Work intensification was evidenced in both sites. It was quite common for those interviewed to work long hours including part of the weekend.

Well, it's from Monday to Friday 9.5 hours and on Saturdays six hours. Usually. Yesterday, for instance, there was an exception because they wanted to put a certain piece of a machine and it got late and we spent half a day preparing tubes. But it was an exception because they thought they would have enough time to do it and finally the other company that was meant to do that did not have the time. So, we came in on a Sunday. So, now we're here to start working whenever they want us to (Montero, Spanish posted worker, mechanic, site 2).

As the quote illustrates, posted workers in the second site regularly worked 53.5 hours in six days per week, and when there was a deadline to meet, they were also sometimes asked to work further overtime on Sundays. A Polish worker interviewed in the second site reported similar working time. Apart from the official working time, workers also said foremen often asked them to work faster and complete assignments in the shortest time possible to increase their cost efficiency.

The Spanish company lowers the budget by ordering people to work faster for less salary and that you do a variety of jobs... the company told me, you have to take the cherry picker crane, go up and do that job. And I said, "I don't have a training for the cherry picker [crane], I am not going up!" "You have to go up there". "No, I do not have a cherry picker training and the safety man would fire me from the project". And they said you have to do it anyways (Cervantes, Spanish posted worker, welder, site 1).

Cervantes speaks not only about the pressure to intensify work constantly, but also about the pressure to perform tasks beyond his professional training. Both workers and union representatives interviewed said that posted workers were often asked by their foremen or direct employers to do tasks they had no professional training on. Due to their dependence on the posting employer, they often felt they could not refuse.

The reason why these workers thought they could not refuse lies in their migration and employment status (Alberti and Danaj, 2017). Rather than going to the UK for work independently, they were sent by their employers based in other EU countries. Their being posted to other countries meant that they had an employment relation established in their home country with terms and conditions that included mobility as part of their agreement, both locally and transnationally. Furthermore, although all workers interviewed had professional qualifications such as welders, mechanics, structural metal fitters, mounters or slew teleporter drivers (see Table 1), most were employed on temporary project-based contracts, and even most of the Spanish workers who had been with the same company for many years were on so-called discontinuous open-ended contracts (for details on this type of contract see Pérez

Pérez, 2003). This meant that they were employed by a company who continuously used them from one construction project to another, but they were paid only when they worked and went on unemployment benefit when there was no work or project to implement. Their temporary migrant and precarious employment characteristics were combined with the economic and employment situation in their sending or home countries. Posted workers interviewed came from lower income countries of Eastern and Southern Europe, where employment opportunities in construction were scarcer than in the UK. As a result, in order not to lose their income, they agreed to be sent wherever the company wanted them to go. As one of them put it:

They either give you the option to go somewhere else or you claim for unemployment benefits in Spain and then you wait for a month or so until they call you and when they call you, you go somewhere else. Or you search for a different company (Fausto, Spanish posted worker, mechanic, site 2).

Lack of sufficient employment opportunities at home increased these workers' dependence on the posting employers and their compliance with the employers' requests, such as extended working hours. However, if they were caught in violation of safety rules, workers said that the foreman would pretend the workers acted on their own initiative, and therefore they would bear the consequences of the violation of OSH rules. This was confirmed by the shop stewards interviewed, who said that when OSH violations were identified, it was the workers' word against the foremen on whose decision it was to go against OSH rules, therefore, the disciplinary actions were taken only against the workers caught in violation.

Language barriers and the limited knowledge of the UK system contributed to the vulnerability of posted workers (cf. Davies et al., 2009). Most of the workers interviewed (twelve out of fifteen) did not speak English almost at all and relied on their co-workers or foremen or on interpreters provided by the company to communicate. Most of them also had little to no experience working in the UK, apart from one or two other short posting assignments of three to five months. And they lived in shared accommodations provided by the employer, usually in areas with easy access to the construction site, and therefore had little access to the local community. The labour process was also organized in such a way that workers were usually in contact only with their team members and had limited contact with other teams during lunch and tea breaks. Individual characteristics combined with their precarious employment conditions, their status as temporary migrant workers on posting assignments and their rather secluded working and living circumstances increased posted workers' overall vulnerability and dependence on the employer (Caro et al., 2015), and therefore limited their ability to report OSH violations and other unsafe behaviour imposed by their employers via their supervisors or foremen:

The foreman here is only to put pressure on the workers, not to communicate or coordinate.... Well, the Spaniards are required to be faster during work, they are under more pressure. There are respected less, and the English are left alone. That's because the English say: "I'm not Spanish, I'm English, if you don't respect me, I'm going to the Union". So, then the foreman stops [asking them to overlook OSH rules] ... And I tell my friends: "go to the Union". But they are afraid of being fired because in Spain there is no jobs and lots of them do not speak any English at all. So, they are afraid of losing their jobs (Cervantes, Spanish posted worker, welder, site 1).

6. OSH rule enforcement in unionized workplaces

In both sites the main contractors had agreed to operate under the engineering construction industry collective agreement,² which meant that collaborative top-down structures at the site-level comprised of management, unions, and appointed OSH officers, and bottom-up structures of elected OSH

² The National Agreement for the Engineering Construction Industry ("the NAECI", "The Bluebook") is available at: <https://www.ecia.co.uk/naeci/>

representatives at the subcontractor level were used to overcome the OSH challenges of transnational multi-employer workplaces. The trade union representatives and two of the managers interviewed, who had worked extensively in the UK, compared their experiences in unionized sites operating under the collective agreement with non-unionized workplaces. According to their accounts, the difference in safety measures and monitoring mechanisms between the two types of experience was stark, especially for transnational workers, who were exposed to substandard working and living conditions. In the two sites under study, there were few minor accidents, but the interviewees reported cases of dangerous work situations and accommodations of posted workers in other sites where the collective agreement was not applied.

Now there was another one down in South Wales again in Pembrokeshire called The Dragon project... there were migrant workers there living in a house, Polish again, they were working on that project for a company. And they were living about 7 or 8 of them in a 3-bedroom house, probably more. And the one had to sleep on the settee downstairs, he couldn't go to bed until everybody else went to bed at night. And then there were two of them sleeping in the garage and this garage it was not insulated, it was winter, and it was freezing cold, and it had fungus growing on the ceiling (GMB construction union official).

The unionists argued that having a workplace under the collective agreement made it safer for all workers, including transnational workers. The unions had included specific OSH regulations and monitoring mechanisms in the collective agreement, which strengthened OSH protection. This argument was also used in negotiations with the employers at the beginning of a project. The advantage of having unions on site, the interviewees argued, benefitted companies as well, because safer workplaces guaranteed that the work is completed without delays.

...they are pretty dangerous places if they are not organised because if the employer does not want to do anything as regards safety, and there is no one there to pull him up, and no one there to suggest that the safety regime is a little bit lax... An organised site [is different] and a lot of these big employers welcome the site being organised by the trade unions because they know that they will probably have a lot less problems than if it was not organised. It saves them doing it. And it's a safer site as well - where there are trade unions involved (Senior shop steward, site 1).

The managers interviewed worked for the main contractor of the sites under study and they confirmed that although the collaboration with the unions was not easy, it was better to have the collective agreement applied at the workplace and to collaborate with the unions to guarantee the smooth and efficient implementation of a project. The two managers with previous experience in the UK, mentioned different issues at the subcontractor level such as mismatch between workers' skills and the tasks they are given, irregular migration status of certain workers (including expired student visas), and issues with worker pay. Comparing some of these experiences with the current site, one of them said:

There has been issues on sites that... and on Pembroke site there was the UK border agency [that] came in and there was an awful lot of foreign guys on student visas that had run out. Companies went bust because of the fines imposed. When we came to this [current] site there was an instruction that guys have to have their passports and the backup documentation for a right to work on site, in the UK. Just so that we had done our due diligence. It's up to the companies as well. [In Pembroke] the contractor was a contractor of [name of large company] and it caused huge issues on site. They have learnt and [name of main contractor] learnt as well (Main contractor manager, site 2).

As a result, the managers and the unions in both sites had instituted top-down industrial relations mechanisms that comprised the establishment of and were controlled by the project joint council, in which main contractor, subcontractors, senior shop stewards and elected shop stewards and safety representatives would participate. This top-down structure ensured that OSH was closely monitored on site. In addition, there was bottom-up representation in each company that would elect a safety representative. The safety representatives met regularly with the OSH managers and other shop

stewards to monitor and exchange on OSH rule enforcement. In addition, all those involved in OSH monitoring received specialized OSH training:

There's a vast health and safety team. There must be nearly 10 guys for health and safety representatives.... There is a huge health and safety emphasis on the site, and health and safety representatives on the site. There is also weekly health and safety meetings with the managers, and there are weekly health and safety meetings with the health and safety reps. ...for the unionized structure the safety rep[resentative] is elected, they will go on a course for two weeks to update their health and safety knowledge. Those reps then have a meeting with [the main contractors] health and safety managers. They have a walk around the site. Then the health & safety reps have a meeting with the stewards as well, and they go through whatever issues. They have access to any reports if there are accidents, they have access to all reports. If there are issues first port of call the senior stewards will go to safety, but they will keep me in the loop... All eyes are on safety, there is very little that can get away from us. If there is an issue it will be brought up, which is only correct and proper, because at the end of the day all sites are very busy, very tight, very... it can be very dangerous if everyone does not adhere to the health and safety rules (Main contractor manager, site 2).

The union representatives were involved in the enforcement of OSH rules in all three functions, i.e., informative, inspective, and representative (cf. Walters and Nichols, 2007). The OSH training during the induction was done by the senior shop stewards, but all shop stewards were trained on labour rights and OSH, so that they could provide the right information to workers on site. They were also constantly monitoring the workplace and safety representatives were conducting the so-called safety walks, during which they monitored the application of OSH rules in collaboration with safety managers. Elected safety representatives and elected shop stewards also represented workers in cases of both labour rights claims or OSH claims.

Measures against language barriers were also taken. In the second site, all posted workers were from Spain, so the OSH signs were bilingual: English and Spanish. The first site was more multilingual. Workers were provided fliers in different languages to inform on OSH and labour rights. And during the induction in both sites, interpretation was provided for all workers.

7. British unions' challenges in ensuring OSH in transnational workplaces

Despite the establishment of monitoring structures and mechanisms of enforcement, transnational workplaces bring forth new challenges for trade unions and their efforts to enforce OSH. Complex long subcontracting chains of national and foreign companies created two types of challenges: the different OSH cultures and the difficulty of representing all workers along the subcontracting chain. There were multiple companies in both transnational construction sites, where work was distributed across long subcontracting chains of up to twenty-seven companies. Trade unionists were concerned about the different understandings of OSH rules and work practices companies from various countries had on site. While basic OSH standards and fundamental rules are based on the EU Framework Directive on OSH (89/391/EEC), different countries in Europe have their own national rules and practices that do not necessarily align across countries. The unsafe work practices they had observed among some foreign companies included their workers not using protective gears or performing multiple tasks, for some of which they did not have professional training. They believed that the companies who showed disregard for OSH rules were allowed to do so in other countries.

We approach the companies, and we say basically that if somebody is doing any rigging work, tying steel, fastening the steel on to the crane, they need to be qualified to do that with certification. And some of the guys from various countries, they come on to this project and they have been on other projects, and they have been allowed to do that. But on these projects, we do not do that (Senior shop steward, site 2).

The differences in working practices were noted by the workers as well. One of them said explicitly that “the safety in the UK is too strong and in Spain there is more permissivity” (*Fausto, Spanish posted worker, mechanic, site 2*). Not only are there different practices between the sending and the receiving country, but even when the posting employers are executing a job abroad, they do not always respect the rules:

Because the mentality is different... The Spanish company wants you to do everything. But the project doesn't allow that, it says that everyone is a specialist because if you have an accident whilst doing a job you are not qualified for, your insurance will not cover it. But the Spanish bosses do not care (Cervantes, Spanish posted worker, welder, site 1).

In addition, although the sites were operating under the collective agreement, the long subcontracting chains presented a challenge for unions in terms of worker representation. According to the collective agreement, workers can voluntarily elect their own shop stewards and safety representatives at the company level, who can represent only workers in their company. While workers employed by British companies usually became union members and elected their company-level representatives, this did not happen in all companies, especially foreign subcontractors. This means that OSH monitoring and enforcement could be uneven along the subcontracting chain of the same construction site (cf. Swuste et al., 2012). When asked why they did not become union members in the UK, posted workers mentioned the same factors that produce their OSH vulnerabilities, namely their temporary cross-border employment, the limited knowledge of the receiving country rules, and language barriers:

It's good that they fight for whatever but it's a different language, you do not understand it, it is different laws, you don't really get them, you just come for six months.... The union might be good but, at least in my situation, it is not worth it at the moment (Diego, Spanish posted worker, mechanic, site 2).

Another worker also admitted to the vulnerability the dependence on the posting employers and the pressure they put on workers not to join British unions:

- The Spanish companies don't want us, the Spanish people, to be members of the unions because they defend our interests. In fact, the first company with which we came here explicitly said that we should not join the trade union. Although it is normal here to join the union.

- What would happen if you joined the trade unions?

- I guess they would fire you (Cervantes, Spanish posted worker, welder, site 1).

To remedy the unequal safety representation throughout the subcontracting chain, the senior stewards, who had access to the whole site, were involved also in OSH monitoring and participated in the safety walks. However, even this measure did not always work due to workers' fear to report their direct employer, especially transnational workers employed by foreign companies. Language barriers also made it difficult for workers to communicate with safety representatives on site and the presence of foremen or others in the interpreter's capacity made it difficult for them to report any OSH risks or other violations encountered.

...if a non-UK worker feels as though he is told to do something, more than likely he will do it because he will think potentially, he could lose his job. Whereas a UK worker if he is told to do something unsafe generally, he will not do it and if they tell him to do it, he will probably come and see a safety guy or see us and we will act on it. But the non-UK guys will not come here and tell us that, and they are telling them to do things they should not be doing because once again we feel as though they are under threat (Senior shop steward, site 2).

These findings are in line with previous research, which argues that posted workers rarely join or approach the unions and often under dire circumstances, such as unpaid wages (Danaj and Sippola,

2015). In this fieldwork, only Cervantes and three of his colleagues, who worked for a Spanish subcontractor went to the senior shop stewards to report the subcontractor that did not pay them for nearly two months. Once they explained the situation, the unions encouraged them to become members as the only way to represent them. They collaborated with the unions to provide evidence of the abuse, which was then presented in the project joint council. Upon review by the main company, the subcontractor was fired from the project, and the workers were able to recuperate their salaries and those who wished to remain were re-allocated to other subcontractors.

8. Conclusions

In this article, we discussed the various layers of OSH vulnerability faced by temporary transnational construction workers and the strategies unions have deployed to counteract their impact in the UK. Individual characteristics combined with precarious employment conditions, the temporary migrant workers status on posting assignments, and the rather secluded working and living circumstances increased posted workers' overall vulnerability and dependence on the employer (Caro et al., 2015), and therefore limited their ability to report OSH violations and other unsafe behaviour imposed by their direct employers. The main risks included work intensification, pressure to perform multiple tasks without professional training, and language barriers, which are in line with findings in other receiving country contexts, such as Austria, Germany, the Netherlands, or Finland (see Caro et al., 2015; Danaj et al., 2020; Lingard, 2013).

British trade unions play an active role in ensuring health and safety in the workplace through their three different functions: informative, inspective, and representative (cf. Walters and Nichols, 2007). The study of transnational workplaces shows how these functions stipulated by law have been challenged by and are constantly re-articulated to account for the transformation of construction sites into workplaces with long subcontracting chains and a transnational workforce. Although collaborative top-down and bottom-up structures between main contractors and the unions have been established in transnational workplaces to ensure OSH protection, enforcement remains a challenge. While main contractors see the advantage of collaborating with the unions, other contractors along the subcontracting chain are not always equally committed to OSH standards (Cox et al., 2014; Lingard, 2013; Manu et al., 2009; Mayhew et al., 1997). To overcome the fragmentation of work along the subcontracting chain, which has limited elected representatives' right to monitor OSH within the subcontractor level, senior shop stewards with overall workplace level mandates are participating in monitoring. This measure does not seem to be sufficient against the different OSH practices imposed mainly by the foreign subcontractors who pressure posted workers to overlook OSH rules and increase their cost efficiency. Meanwhile, the temporariness of their migration status and their precarious employment combined with language barriers increase most workers' dependence on the posting employers and make them reluctant to collaborate with unions to enforce OSH rules (Cremers, 2016; Danaj and Zólyomi, 2018). To increase the efficacy of OSH enforcement, British unions need to find better ways to address the vulnerabilities that come from the combined effects of temporary migration and precarious employment.

Bibliography

ALBERTI G., DANAJ S., 2017, "Posting and agency work in British construction and hospitality: the role of regulation in differentiating the experiences of migrants", *The International Journal of Human Resource Management*, 28/21, 3065-3088.

ARNHOLTZ J., LILLIE N. (Eds.), 2020, *Posted Work in the European Union*, London, Routledge.

- BENACH J., MUNTANER C., CHUNG H., BENAVIDES F. G., 2010, "Immigration, Employment Relations, and Health: Developing a Research Agenda", *American Journal of Industrial Medicine*, 53/4, 338–343.
- BENACH J., VIVES A., AMABLE M., VANROELEN C., TARAFA G., MUNTANER C., 2014, "Precarious Employment: Understanding an Emerging Social Determinant of Health", *Annual Review of Public Health*, 35, 229–253.
- BENACH J., VIVES A., TARAFA G., DELCLOS C., MUNTANER C., 2016, "What Should we Know about Precarious Employment and Health in 2025? Framing the Agenda for the next Decade of Research", *International Journal of Epidemiology*, 45/1, 232–238.
- CARO E., BERNTSEN L., LILLIE N., WAGNER I., 2015, "Posted migration and segregation in the European construction sector", *Journal of Ethnic and Migration Studies*, 41(10), 1600-1620.
- CLARKE L., 2012, "The dangers of hidden exclusion from the construction industry: blacklisting", *CLR News*, 30.
- COX A., FLETCHER L., RHISIART M., 2014, *Scoping Study for a Foresight on New and Emerging Occupational Safety and Health (OSH) Risks and Challenges*, European Risk Observatory. Brussels, Publications Office of the European Union.
- CREMERS J., 2016, "Construction labour, mobility and non-standard employment". *HesaMag*, 13, 17-22.
- CREMERS J., 2011, *In search of cheap labour in Europe. Working and living conditions of posted workers*. International Books, ISBN, 978(90), 5727.
- CUNNINGHAM T. R., GUERIN R. J., KELLER B. M., FLYNN M. A., SALGADO C., HUDSON D., 2018, "Differences in safety training among smaller and larger construction firms with non-native workers: Evidence of overlapping vulnerabilities", *Safety science*, 103, 62-69.
- DANAJ S., HOLLAN K., SCOPPETTA A., 2020, "Labour mobility and OSH vulnerability of posted workers: the cases of Austria and the Slovak Republic". In: Diaz F. Bretones, A. Santos, (Eds), *Health, safety and wellbeing of migrant workers*, Basel, Springer.
- DANAJ S., ZÓLYOMI E., 2018, *Occupational Health and Safety of Posted Workers in the EU: A Comparative Report*. POOSH – Occupational Safety and Health of Posted Workers: Depicting the existing and future challenges in assuring decent working conditions and wellbeing of workers in hazardous sectors, Vienna, European Centre.
- DANAJ S., SIPPOLA M., 2015, "Organizing posted workers in the construction sector", in J. Drahokoupil (ed). *The outsourcing challenge: organizing workers across fragmented production networks*, Brussels, ETUI, 217-235.
- DAVIES A. A., BASTEN A., FRATTINI C., 2009, "Migration: a social determinant of the health of migrants", *Eurohealth*, 16(1), 10-12.
- ELDRING L., FITZGERALD I., ARNHOLTZ J., 2012, "Post-accession migration in construction and trade union responses in Denmark, Norway and the UK", *European Journal of Industrial Relations*, 18(1), 21-36.
- FENN P., ASHBY S., 2004, "Workplace risk, establishment size and union density", *British Journal of Industrial Relations*, 42(3), 461-480.
- GALL G., 2012, "The engineering construction strikes in Britain", 2009, *Capital & Class*, 36(3), 411-431.
- LINGARD H., 2013, "Occupational Health and Safety in the Construction Industry", *Construction Management and Economics*, 31/6, 505–514.
- MANU P., ANKRAH N., PROVERBS D., SURESH S., CALLAGHAN E., 2009, "Subcontracting Versus Health and Safety: An Inverse Relationship", *Proceedings of CIB W099 2009 Conference*, 21–23 October (eds. H. Lingard, T. Cooke, M. Turner), Melbourne, Australia: RMIT

- MAYHEW C., QUINTAN M., FERRIS R., 1997, "The Effects of Subcontracting/Outsourcing on Occupational Health and Safety: Survey Evidence from Four Australian Industries", *Safety Science* 25/1, 163-178.
- MOYCE S. C., SCHENKER M., 2018, "Migrant workers and their occupational health and safety", *Annual review of public health*, 39, 351-365.
- MUSTCHIN S., MARTÍNEZ LUCIO M., 2020, "The evolving nature of labour inspection, enforcement of employment rights and the regulatory reach of the state in Britain", *Journal of Industrial Relations*, 62(5), 735-757.
- REFSLUND B., 2019, *Studying Hidden or Hard-to-Access Populations in Case Study Research: The Example of Labour Migrants*, SAGE Publications Ltd.
- ROBINSON A. M., SMALLMAN C., 2006, "The contemporary British workplace: a safer and healthier place?", *Work, Employment and Society*, 20(1), 87-107.
- ROGERS D., 2014, "Blacklisting: anatomy of a scandal", *Construction Research and Innovation*, 5(1), 24-33.
- PÉREZ PÉREZ M., 2003, "Contingent employment in Spain", in O. Bergström, D. W. Storrie (eds), *Contingent Employment in Europe and the United States*, Edward Elgar Publishing, 107-135.
- SARGEANT M., TUCKER E., 2009, "Layers of Vulnerability in Occupational Safety and Health for Migrant Workers: Case Studies from Canada and the UK", *Policy and Practice in Health and Safety*, 7/2, 51-73.
- TUTT D., PINK S., DAINTY A.R. J., GIBB A., 2013, "'In the Air' and Below the Horizon: Migrant Workers in UK Construction and the Practice-Based Nature of Learning and Communicating OHS", *Construction Management and Economics*, 31/6, 515-527.
- WADSWORTH E., WALTERS D., 2018, *Management of Occupational Health and Safety in European Workplaces – Evidence from the Second European Survey of Enterprises on New and Emerging Risks (ESENER-2)*, European Risk Observatory Report, Luxembourg, <https://osha.europa.eu/en/tools-and-publications/publications/management-occupational-health-and-safety-european-workplaces> (17. 4. 2018).
- WAGNER I., 2018, *Workers without borders*, Ithaca, NY, Cornell University Press.
- WALTERS D., 2010, *The role of worker representation and consultation in managing health and safety in the construction industry*, Geneva, ILO, pp. 1-48.
- WALTERS D., NICHOLS, T., 2007, *Worker representation and workplace health and safety*, Springer.