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An Insight into Significant Challenges Faced by SH&E Profession: An International Perspective

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Introduction

Every Country has taken its own pace in introducing the SH&E practices and regulations as the industrialization taken place in respective countries. Safety, Health & Environmental professionals plays a vital role in developing, implementing and monitoring of these programs. During this process, various challenges are being faced SH&E professionals. In fact, these challenges are varying from Country to Country as the development and implementation of SH&E regulations considering local prevailing political, economic and other conditions. This is due to the fact that SH&E regulations / practices are not introduced around the World at the same time and the ground realities are certainly different. As the industry grows, challenges are growing, complexity of solutions are becoming different & difficult across the World. The paper will provide an insight on these challenges that are being faced by SH&E profession and will provide an opportunity to attendees to understand and gear up with desired solutions in European, Australian and Gulf region.

By Richard Cooper:

Every Country has taken its own practice in respect of the introduction of SH&E laws, regulations and best practice. In this paper I will outline some of the significant challenges facing the Safety, Health & Environmental professionals attempting to address the varying from Country to Country requirements. I shall focus of course on my own region Europe outlining the process of legislative development and from a practical standpoint some of the great challenges faced on a day to day basis operating as an Internal Safety Practitioner.
One of those great 'quotes' of the 20th Century has to be that of:
Henry Kissinger's famous remark – "Who do I call if I want to speak to Europe?"

But for the sake of regularity I should perhaps add the rider that Reginald Dale of the Center for Strategic and International Studies in Washington (and before that of The Financial Times) has stated:

"Kissinger never made the famous remark about Europe's telephone number. According to the late Peter Rodman, who knew him well, the saying is apocryphal, and in fact Kissinger's concern was the precise opposite – he was fed up with having to deal with a Dane (A native of Denmark) whom he regarded as incompetent and ineffective, who was trying to represent the whole of the EU as President of the Council. Kissinger himself has disowned the remark, and it seems that he was actually seeking to divide and rule in Europe, rather than be restricted to a single voice on the telephone."

Any more myths need puncturing?

Today he perhaps strangely enough Kissinger would not find it too difficult to find the correct telephone number but that would be a very superficial answer.
Europe is a very different place and one that from a safety perspective requires a lot of thought and certainly some examination.
Already I have fallen into the trap of 'shorthand.' Europe is of course a geographical region but certainly not a country. One has to be very careful for this subject becomes very quickly one n which the slightest terminology misrepresentation can offend and betray a political bias.
So based hopefully on my understanding of the facts as is the case today;
The European Union (EU) is a unification of 27 member states (see list in appendix) united to create a political and economic community throughout Europe.
Within the EU there are at least 22 different languages spoken by its 495 million inhabitants. Perhaps therefore on a very superficial level it will seen that the safety professional has significant challenges and requires to be very specific in the art of communication. Translation for the native tongue to a format that the individual worker can understand is vital to ensure that messages are understood.
Again one of those sayings or quotes which are difficult to attribute to any particular individual;
Two nations divided by but a single language.

Well that does not really appear to have been a quote by anyone of note and the closest my research can uncover is:

Was it Wilde or Shaw?' The answer appears to be: both. In The Canterville Ghost (1887), Wilde wrote: 'We have really everything in common with America nowadays except, of course, language'. However, the 1951 Treasury of Humorous Quotations (Esar & Bentley) quotes Shaw as saying: 'England and America are two countries separated by the same language', but without giving a source. The quote had earlier been attributed to Shaw in *Reader's Digest* (November 1942).
This significance will become very apparent (I hope as this paper develops)

The history of the European Union (EU) is as complex as are its nation states. I order to understand the organisation of the EU it worth spending time looking at its history or development
In 1951, six countries (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) decided to go down the path of economic cooperation by setting up the European Coal and Steel Community (ECSC), the first instance of European integration. In 1957, the six founding Member States went even further, signing the Treaty of Rome that established the European Economic Community (EEC) and the European Atomic Energy Community (Euratom).

1992 the 12 then members of the EEC became founding members of the European Union at its launch (see the Maastricht Treaty) the purpose of which was to set up the EU and to prepare for European Monetary Union (the Euro) and introduce elements of a political union (citizenship, common foreign and internal affairs policy). As such with the establishment of the European Union and introduction of the co-decision procedure, giving Parliament more say in decision-making. New forms of cooperation between EU governments – for example on defence and justice and home affairs. (1)

EU law

How EU decisions are made

The EU's standard decision-making procedure is known as 'Ordinary Legislative Procedure' (ex "codecision"). This means that the directly elected European Parliament has to approve EU legislation together with the Council (the governments of the 27 EU countries). The Commission drafts and implements EU legislation.

Regulations, Directives and other acts

The aims set out in the EU treaties are achieved by several types of legal act. These legislative acts include regulations, directives, recommendations and opinions. Some are binding, others are not. Some apply to all EU countries, others to just a few.

Application of EU law

EU law - which has equal force with national law - confers rights and obligations on the authorities in each Member State, as well as individuals and businesses. The authorities in each Member State are responsible for implementing EU legislation in national law and enforcing it correctly, and they must guarantee citizens' rights under these laws.

The forgoing is an important element for the safety professional for while many of the legal requirements in the EU will be established on principles developed within the European Commission, the enactment and amendment of the requirements of directives by local ordinance or regulation can prove a significant challenge in respect of implementation

Perhaps it would be advantageous to provide the reader with a current example:

In February 2013, The European Commission has proposed to better protect workers from risks linked to exposure to chemicals at the workplace. In particular, the Commission has proposed to amend five existing EU health and safety Directives on protection of workers from exposure to harmful chemicals to align them with the latest rules on classification, labelling and packaging of chemicals (Regulation (EC) 1272/2008).

The proposal now goes to the European Parliament and the EU's Council of Ministers for adoption. The proposal would ensure that manufacturers and suppliers of chemical substances and mixtures would have to provide harmonised labelling information on hazard classification, alerting the user to the presence of hazardous chemicals, the need to avoid exposure and the associated risks. Employers use this information when carrying out workplace risk assessments. This allows employers to put in place appropriate risk

management measures to protect workers' health and safety, such as process enclosure, ventilation systems and the use of personal protective equipment.

Every day millions of EU workers are potentially exposed to hazardous chemicals in a wide range of employment sectors including manufacturing and service industries, agriculture, health care and education. The proposal has been the subject of two rounds of consultation of employer and trade union representatives at EU level as well as discussions in the Advisory Committee on Safety and Health at Work (ACSHW). Background

The classification, labelling and packaging of substances and mixtures regulation, Regulation (EC) 1272/2008, implements the United Nations Globally Harmonised System for the harmonised classification of hazardous chemicals. It foresees the information to users about the related health hazards by means of harmonised communication elements, like pictograms and hazard and precautionary statements on packaging labels, and safety data sheets. It entered into force in January 2009.

The five Occupational Safety and Health Directives that would be amended by this proposal (92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and 2004/37/EC) all currently refer to existing EU chemical classification and labelling legislation that will be repealed on 1 June 2015 in accordance with Regulation (EC) 1272/2008.

So before the due date each EU member state will be required to enact into country specific legislation regulations or laws that will enable this directive.

Perhaps one of the most significant challenges facing the ‘International’ safety professional is now becoming clear that of attempting to ensure that the ‘Body of knowledge’ available to enable compliance with local legislation is accurate.

Again a practical example may be of use:

Every day (regretfully) individuals are injured in the workplace. The requirements of accident and occupational diseases is a complex local application.

Recently the United Kingdom changed reporting requirement of absence due to workplace injury from three to seven days.

As of **6 April 2012,** RIDDOR’s over-three-day injury reporting requirement has changed. The trigger point has increased from over three days’ to over seven days’ incapacitation (not counting the day on which the accident happened).

Incapacitation means that the worker is absent or is unable to do work that they would reasonably be expected to do as part of their normal work. (2)

The Republic of Ireland while having a state involvement in both accident reporting for regulatory purposes and compensation also maintains a division between the agencies. The Injuries Board (Ireland) (3) established in 2004 - it is a statutory body set up to provide independent assessment of personal injury compensation for victims of Workplace, Motor and Public Liability accidents. This assessment will be provided without the need for most of the current litigation costs, such as Solicitors fees, Barristers fees and Experts fees, associated with such claims. The process for the claimant is straight forward:

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1. Claim is submitted to InjuriesBoard.ie ether on line or by post to Injuries Board.
2. InjuriesBoard.ie send a Formal Notice of the Claim to the Respondent (A Respondent is the term we use to describe the Person or Entity against whom a claim is made).
3. Respondent consents to an InjuriesBoard.ie assessment.
4. InjuriesBoard.ie arranges an Independent Medical Examination and request details of out of pocket expenses. Without full details of the injuries and out of pocket expenses the assessment will not reflect fully the pain, suffering and expense incurred by the injured party.
5. Assessment is made and Claimant and Respondent are notified of assessment i.e. level of compensation being awarded.
6. Both parties accept the assessment and InjuriesBoard.ie issues an Order to Pay.

In practice however this process can lead to situation of claims being made to the Injuries Board without notification to employers or other 'Respondent.' (A Respondent is the term we use to describe the person or entity against whom a claim is made).
Notification is sent to the 'Respondent' via post. An interesting section of the act allows the Board to assume:

If we do not receive a reply in writing within the 90 days, you will be deemed by default to have consented to the assessment of the claim and become liable for payment of the statutory fee for dealing with the Claimant's Application.

It must be mentioned here that in the majority of cases Insurance companies will meet costs statutory fee but of course their reporting criteria will need to be implemented.
It can perhaps be envisaged that while 90 days is in effect three months. In large organisations, internal communication is such that this time frame is not excessive to allow for the correct departments to conduct investigations.
From this authors experience let the simple message be that internal reporting systems and internal communications must be robust to ensure that a 'default' scenario is not to be established.

In Conclusion

In this paper I have attempted to give you some practical situations that are face on an almost daily basis by safety professional working in the International arena. It must be commented that as with most things these days, an unlimited budget would solve a lot of the issues but we know that will not be the case for many if not all of us.

I would in conclusion therefore state that we have several challenges as a safety professional which can be defined as significant. Let me however give you my top three:

- Language
- Local legislation
- Culture

Can you overcome them?

The language barrier is not that easy, some people are gift and can soon pick up words or phrases which assist. I have developed other means

Local legislation that can be overcome with a great deal of application of systems and local knowledge. Utilise local contacts, local safety groups and I have to say many Government embassies' are only too pleased to be of assistance.

Local culture Use your eyes and your ears and take advice before you go. For example (Switzerland is not an EU country and they value their independence. The **Swiss** have this tendency to stare for longer than may seem socially acceptable perhaps to American or UK based individuals, it happens and can be a little intimidating. In general, they are very polite and greet you at all opportunities. English is quite widely spoken although not one of the 4 official languages.
Be careful of language native English speakers tend when identifying someone that can converse in English to accelerate the pace of speaking. Conversely, remember that speaking loudly and slowly will not make you understood by all.

Table 1. Countries of the European Union

Bulgaria	Lithuania
Cyprus	Luxembourg
Czech Republic	Malta
Denmark	Netherlands
Estonia	Poland
Finland	Portugal
France	Romania
Germany	Slovakia
Greece	Slovenia
Hungary	Spain

Ireland	Sweden
Italy	United Kingdom
Latvia	
Austria	Belgium

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By Hamad Al-Kandari and Ashok Garlapati

As per Fact book published by CIA in the year 2009, more than 38 % petroleum resources are available in Countries of Gulf Co-operation Council viz. Saudi Arabia, Kuwait, Oman, Bahrain, UAE and Qatar. As the demand for petroleum products are increasing across the World, the exploration and production development activities are increased at the same pace over the years. The Oil & Gas industry is an essential element of the Gulf Region and it is vital importance for the health and welfare of the region. To manage the new dynamic Oil and Gas industry growth is sustainable; it has to be ensured to do in a safe manner. The challenges faced by SH&E profession is something significant due to the fact that magnitude of operations and its high risk involved. Following are some of the top 5 challenges in the Gulf Region, which are diverse workforce from around the World, SH&E regulations & its enforcement, multinational companies engaging regional & local contractors, Complacency factors and Green Hands as follows:

1. Diverse Workforce from around the World working in the Gulf Region
   Migrant workforce from more than 65 countries works in the Gulf Region in various core and support sectors. These migrant workforces from diverse cultures, different skill set & background etc. Engagement of diverse workforce in enhancing SH&E performance is a recurring problem for the operating companies in the Gulf region. In addition, there is a tremendous turnaround of workforce is a common phenomenon due to several regulations by local Governments.

2. SH&E Regulations and its enforcement
   Every country in the Gulf Region (also called as Gulf Co-operation Council countries) consists of 6 countries. These countries have enacted several regulations over a period of time. In respect to SH&E regulations, there is a lack of industry specific regulations and needs to have specific focus on high

hazardous industry. Also enforcement on SH&E regulations among all industries is truly requires big push on this area.

3. Multi-national companies engaging regional & local contractors

   Due to the nature of high magnitude and hazardous nature of operations / projects, several multi-national companies (MNCs) are executing the projects. In turn, these multi-national companies engage available regional and local contracting companies. Often, these local companies are not keeping up to the required standards with respect to compliance to SH&E regulations. This is due to the fact that the lack of enforcement as well as monitoring aspects, In addition, many MNCs often dilute their systems when they work in these countries as it is a fact that the SH&E regulations in these countries are much relaxed than their own company standards.

4. Complacency factors

   As per OGP (Oil & Gas Producers Association) safety performance reports, there is a substantial improvement in the region with respect to SH&E performance among the industry. Due to this fact, complacency among the workforce and even among the management is often a big threat and challenge to the SH&E profession in the Gulf region.

5. Green Hands

   Due to increase of demand for petroleum products across the World, the expansion of Oil & Gas industry is grown exponentially over a decade in the Gulf region. In view of this increase in activities, there is a huge flux of Green Hands are pushed into the operations with low competency levels and inadequate of knowledge on hazards posed by the highly hazardous industry present in the region. As per statistics of the industry SH&E performance indicators shows that the injury rate among newly as Green Hands is high compared to other experienced personnel. This is a big challenge for SH&E profession in the region.

The conference presentation will also talk about international perspective on challenges of SH&E profession from other parts of the World.

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By Neil Dine:

The significant challenges facing the Safety, Health & Environmental professionals in Australia differ from state to state and a safety professional in Australia has a number of issues that differ from other global jurisdictions.

In Australia the foundation of our Occupational Health & Safety (OH&S) laws and regulations were based on the United Kingdom structure and for 50 to 60 years from the early 1900's each state in Australia introduced OH&S laws that were similar to those enacted in the United Kingdom. In the seventies most states followed the United Kingdoms Robens model however in Australia over the past few years it is a well-worn notion that the application of safety based on this model has some fundamental problems.

Chief among these is the lack of standard definitions, lack of basic models that are agreed as suited for purpose, and the failure of the tripartite system of controlling safety at a governmental level, along the lines of the Robens model of the United Kingdom. Lord Robens, in his landmark report on Health & Safety in the United Kingdom in the 1970's essentially espoused the notion that, if you get people to talk to one another, they can understand each other.

No problem with that, but the application of his thinking in safety in the UK and Australia led to the tripartite system of occupational health and safety legislation, based on the notion that, if you put someone from Government, someone from Utrade unions and someone from Management into a room, they will be able to solve the problems of safety. I formed the view that the *Robens model has disenfranchised the science of safety* and for the progressive safety professional in Australia as in other parts of the world we have been swamped by mandated meetings and consultations and safety to some degree has been left to flounder in its wake.

I believe that the pressures on employers and managers to reduce costs and increase productivity due to international competition have had a very significant effect on safety in the Australian environment and the Safety Professional must be on top of such pressures and sadly too often we know that a short cut on the production floor can lead to a dramatic effect when an accident occurs. State Governments of all political persuasions have been acutely aware of this and have been working hard to support the Safety Professional with new laws and regulations.

In April 2008 the Australian Federal Government announced a national review into OH&S laws in Australia. One of the key elements of this task was the move towards one set of national model laws known as harmonisation and this review was to be overseen by the Workplace Relations Ministers Council which is a group of State and Territory Government Ministers responsible for Occupational Health & Safety

The development of national OHS laws was undertaken by Safe Work Australia (a Federal Government Body) and the implementation date of these national laws was set at the 1st January 2012. The purpose of these laws was to ensure they are relevant and applicable to all Australian workplaces however following a change of state governments a number of states have not accepted the content of these new laws and currently two states are still operating with differing OH&S Acts, regulations and codes of practice.

This is a major source of frustration for safety professionals who operate across Australian state boarders and this has been and is an ongoing concern of the Safety Institute of Australia (SIA). When the move to harmonisation was introduced the Federal Government stated that this was an opportunity for Australian businesses and individuals to actively participate and voice their opinion on the new laws and the Safety Institute of Australia made a number of submissions to Safe Work Australia.

In its submission the Safety Institute of Australia commended the principle of harmonised legislation across Australia and believes that the Model OHS Act is a very positive move in that direction. After this public comment was received the SIA was pleased to see that nearly all of its recommendations were included in the new laws. Sadly state politics have prevented the full integration of these laws within all states of Australia.

Some aspects of these new laws have a real benefit to safety professional by including specific definition that are lacking in current laws. Under the new model laws (as they are known), the definition of an officer includes a person 'who makes, or participates in making decisions that affect the whole, or a substantial part, of the business or undertaking of the body [organisation]'. The Australian Chamber of Commerce and Industry (ACCI) wanted guidance material made available to employers to allay the fears

that mid-level managers and other staff may be caught in the definition and as a result are prosecuted. Irrespective of the above it now gives the Safety Professional a lot of support in their work.

In Australia we have six state and two territories but we are a very multicultural country and apart from our indigenous population of around 300, 000 our population is made up from many countries around the world. Whilst our predominant language is English many people come into Australia unable to read or write the English language and this can be in some industries an area of frustration by the Safety Professional and poses significant challenges in communicating the safety message. Most Australian states have a legislative requirement to have the "safety message" provided in the language of all employees in the workplace but I have found that this is a problem when the employee working in an unskilled environment comes from a refugee background with a limited ability to read and write. Their desire is to earn an income for their families rather than attend classes to learn to speak and read the English language.

As a result of earlier "Robens" style OH&S legislation the trade union movements in Australia have made significant inroads towards establishing a "union perspective" towards OH&S. Whilst in many cases this involvement has been very positive and some of the Union OH&S Officers have taken the opportunity to gain tertiary qualifications and have had a very respected role in this arena. However on numerous occasions the self-styled union supported OH&S representatives as they are known have assumed a role as a safety officer and after a "five day" OH&S training course they become experts on the "duty of care" with regard to OH&S and in some cases frustrate the efforts of the site Safety Professional who approaches the OH&S problems from a far more practical and informed way. The Safety Professional in Australia who has to deal with these problems in their work environment soon becomes politically aware when dealing with unions.

The Workers Compensation laws in each state in Australia are not covered by the new "harmonisation" procedures and are in many cases overseen by the Safety Professional and these are in my opinion are also a "minefield" and can be another challenge. People who make workers compensation claims for a work related injury have seen that the somewhat lax application of the reporting and policing of the rules applicable to claims by their employers and the State Workers Compensation statutory bodies and these can be used to their advantage. There are mandatory reporting requirements for injuries and claimants have then used a variety of ways to gain a maximum and excessive benefit from the system and I can recall wasting many hours with regard to unnecessary investigations, reports and court attendances which in turn leads to excessive litigation costs in defending unsubstantiated and in some cases fraudulent claims which are then reflected in increase cost of insurance premiums to an organisation.

This leads to another challenge that we are currently facing and will certainly become a major issue in the next ten years and that is "an aging workforce". Population ageing has given rise to a host of issues, including the pressures placed on employee management to deal with those who chose to continue to work and those who are forced to continue to work because of inadequate pensions or who lost their savings in the 2008 financial crisis.

We must also consider the dilemmas facing employers as they strive to resolve competing demands from government to keep people working along with governments who are urging older workers to delay retirement by increasing the age when a pension can be accessed.

A paper written by Lynda Enos of the Oregon Nurses Association shows a clear correlation of injury and illness between over people 55 to 64 and those over 65 years of age, the over 65s had a 25% great number of days off work for non fatal injuries and illness than the younger group, however it was noted that the over 65 age group had the lowest rates of injuries per 1000 full-time employees than other age groups.

In my view and I say this as an older worker, both employers and employees will need to work together to make sure that the older worker can do the job safely within their physical abilities. Employers should always try to fit the job task and tools to the individual for maximum safety and this is especially important for older workers. Likewise, older employees need to know their limits. If there are job tasks that they cannot safely do anymore, they need to and must communicate with their supervisor and consider job accommodations to protect themselves and their colleagues and they should also be protected from being forced to retire as a consequence.

Does the workplace need a complete overhaul to suit older workers? In my view, no; but it is always best to adjust the job tasks and tools to the individual, regardless of age. Good risk management such as job hazard analyses, ergonomics, and wellness programs can maximize safety for older workers as well as their younger counterparts.

Older workers bring many benefits to the workplace. Their skills and experience gained from many years of employment can:

- help reduce the impact of labour and skills shortages;
- be valuable in mentoring and training roles; and
- assist with safety and health management because of their substantial knowledge and experience.

In all states in Australia employers have a general duty of care to address potential age-related factors and provide and maintain, as far as practical, a working environment where workers are not exposed to hazards and reduce the risks of injury or harm.

While certain risks are associated with ageing, these should be considered in the context of safety and health management for all workers. Reducing the workplace hazards and improving work and job design, particularly those associated with a physically demanding work environment, will bring benefits to all at the workplace.

Definitions of ‘older workers’ vary and in turn the ageing process varies greatly according to the individual person and their past work experience and general level of health. These types of factors combined with both the work environment in which an individual is engaged and the task demands involved in the position play a critical role in determining whether an older worker has an increased risk of injury or harm.

Occupational safety and health should not be used as a reason for excluding older workers from the workplace. Older workers are often unfairly stereotyped and ill health and increased injuries are not inevitable with age. As everybody ages differently, we cannot generalise about older workers and assume they will have certain characteristics in relation to potential safety and health risks at work.

Treating a person unfairly because of their age is also unlawful under many State and Federal government acts and associates laws. In Australia the Australian *Equal Opportunity Act 1984* and the Commonwealth’s *Age Discrimination Act* 2004 are just two laws that apply to older workers

Conclusion

Hopefully the politics currently prevailing between the a Federal Government and some states will be settled and the new model Health & Safety Act will be able to be used to the benefit of workers, their employers and the Safety Professional. The Act removes legal labels and "pigeon holes for duties of care and obligations of employers and employees and there is now a positive duty of care for officers (those who have a responsibility) to exercise due diligence with enforcement of the Act and regulations and is aimed at OH&S outcomes not just punishment. When fully implemented by all states the new Work Health & Safety Act, regulations and codes of practice will end many years of frustration by Australian Safety Professionals.

In the world of the ageing employee we need to see much more global research into the safety of ageing employees because it has become and will continue to be a major issue for the safety professional.

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