The Occupational Health and Safety
of Workers on the Section 457 Visa Scheme in Australia:
A Pilot Study

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Abstract:
The dynamics of Australian migration has shifted from permanent residence towards an emphasis on skilled migration. In 1996, the Temporary Business (long stay) subclass 457 visa was introduced which allows approved business employers to sponsor foreign nationals to work in Australia from three months to four years. In recent years, the number of workers entering on a 457 visa has expanded dramatically. Attention had been drawn to this particular visa as there has been a rise in reports and claims concerning the mistreatment of these workers. As a result, this research examines the management and regulation of Occupational Health and Safety (OHS) rights and Workers’ Compensation entitlements of workers on the section 457 visa scheme in Australia. Furthermore, it explores how government departments, employers associations and unions have responded to this issue. The study employs a qualitative approach with the use of semi-structured interviews as the primary data collection method.

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Introduction

In the past 20 years, there has been a renewed wave of the international migration of labour. This notion is characterized by the movement of people from one country to another for the purpose of employment. The global movement of labour is not a new phenomenon. However, there is currently a global trend towards temporary international labour migration (Castles 2006, p.749), in which a greater component of foreign-born workers are moving on a short term basis. In Australia, temporary movement has increased to an extent that it has supplanted permanent settlement migration (Khoo, Voigt-Graf, Hugo & McDonald 2003, p. 27; O'Donnell & Mitchell 2001, p.281).

It is suggested that there is cross over link of the international movement of labour with flexible employment arrangements. This has been to an extent a result of synergistic developments and fundamental immigration policy reforms, in which additional flexible work arrangements have been introduced to accommodate changing labour market demands, such as the current skill labour shortage Australia is experiencing (Collins 2006, p.10). As a result there has been a significant increase in the number of temporary skilled workers on specific short term visas entering Australia.

Temporary working visas in Australia

There are four main categories of people who comprise of this movement that have migrated on a temporary basis to Australia.

The first category are visitors who arrive as working holiday makers. In Australia, two types of visas are available for people aged 18-30 years old who are allowed to stay in the country for up to twelve months. The Working Holiday Maker (subclass 417) visa is available to participating countries under the Working Holiday Maker Programme 1. Visa holders are permitted to work for up to six months for one employer. This visa can be extended for a further twelve months after a minimum three months of seasonal work in regional Australia is completed (DIAC 2007a).

The Work and Holiday (subclass 462) visa is currently available for tertiary educated people from Chile, Thailand, and Turkey. This programme will be extended to Bangladesh and has had previous arrangements with Iran2. This allows visa holders to work on a casual or temporary basis to supplement their holiday costs and living expenses whilst in Australia. There is no restriction on the employment tenure with this visa (DIAC 2007a).

The second notable category is overseas students who come to study at high school and tertiary levels. Once a student work visa is granted, students are allowed to both study and work with restricted conditions. A maximum of twenty working hours per week is allowed during school terms but is unlimited when the course is not in session (DIAC 2007a).

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1 Participating countries/regions: Belgium, Canada, Cyprus, Denmark, Estonia, Finland, France Germany, Hong Kong Special Administrative Region of the People's Republic of China, Ireland, Italy, Japan, Republic of Korea, Malta, Netherlands, Norway, Sweden, Taiwan and United Kingdom.

2 Arrangements between Australia and Bangladesh have been sign but have not yet commenced. This visa was previously offered to visitors from the Islamic republic of Iran however, this arrangement ceased on 30 June 2007.
The third category of people are a result of non synergistic occurrences but rather the explicit development of short-term entry based workers; the classic guest worker. In particular, the option to enter a country and engage in employment on a short term basis on specialised temporary business-related visas has expanded. In Australia, foreign-born workers can enter on the Temporary Business (short stay) (subclass 456) visa and Temporary Business (long stay) (subclass 457) visa once sponsored by an employer. The visas are commonly known as the “456 visa” and “457 visa” and is referred as such in this paper. These visas are designed to allow employers recruit foreign workers who hold skills that are not readily available from the Australian labour market. The availability of other distinct skilled work visa options that do not require employer sponsorship include the General Skilled Migration programme (GSM) for professional and other skilled migrants, business people and medical practitioners.

Increasingly there are people who arrive illegally or have arrived legally but have overstayed their visa and subsequently obtained work. A number of terms have been applied to this category of workers including illegal immigrants, undocumented workers, aliens, unlawful persons, and irregular (Sivakumaran 2004, p.117).

In particular, the temporary working visa that requires significant attention and research, are foreign-born workers arriving under the 457 visa. This visa is most commonly used by employers to sponsor overseas workers to work in Australia on a temporary basis (Khoo, S.E., Hugo, G. & McDonald, P., 2005). They are a rapidly expanding wave of contingent workers, who have come into Australia to engage in labour. Recently, they have received considerable attention as there has been a rise in reports and claims emerging from the media and union groups regarding the mistreatment and exploitation of especially foreign and immigrant workers brought under the 457 visa who have been brought in to fill the skilled labour shortage crisis in Australia (Bachelard 2006a, p.2; Bachelard 2006b, p.8; O’Malley 2006, p.9; Workers Online 2006; CCH Daily OHS Alert, 14 Feb 2006; Australian Manufacturing Workers Union et al. 2006).

Growing concerns of the issues surrounding workers on the 456 and 457 temporary business visas led to the request of a formal investigation by the Australian Council of Trade Unions (ACTU). On 1st March 2006, ACTU President, Sharan Burrows submitted a letter to the Commonwealth Ombudsman for an “…urgent need for an inquiry to investigate… whether the requirements for the issue of such visas are being met prior to issue and if temporary workers entering the country under such visas are having their fundamental rights abused.” (Burrows 2006).

On 6 December 2006, Joint Standing Committee on Migration (JSCM) established the inquiry into ‘Eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas’, in particular the Temporary Business (long stay) 457 visa (JSCM 2006). 86 submissions were made to the inquiry by various organisations, state government departments, employer and industry associations, community groups, trade unions and individuals. From 14 March to 3 July 2007, the Senate committee held a total of 7 public hearings over this period in Melbourne, Brisbane, Perth, Sydney, Canberra¹ and Cairns to take evidence for the

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¹ Canberra held two separate public hearings, 1 June 2007 and 13 June 2007.
inquiry. All submissions and hearing transcripts are publicly available\textsuperscript{4}. As to date of this paper, the final inquiry report is still to be released.

The Research

This research examines the management and regulation of Occupational Health and Safety (OHS) rights and Workers’ Compensation entitlements of workers on the section 457 visa scheme in Australia. The study is focused on the following four industries: Construction, Manufacturing, Agriculture, and Hospitality. It is a policy focused study and aims to identify whether there are any issues in relation to compliance with OHS standards (both in term of the coverage of laws and their implementation). Furthermore, the study seeks to look at any particular problems in relation to workers on 457 visas and how government departments, employers associations and, unions have responded to this.

There is currently a paucity of systematic and details academic research relating to the access of OHS rights and entitlements for 457 workers\textsuperscript{5}. Therefore, this pilot study will be a pilot study based on the following questions:

The Research Questions

The key research question is:

\textit{“Are there problems for workers on the section 457 visa in accessing their Occupational Health and Safety (OHS) rights and entitlements under Workers’ Compensation and OHS law in Australia?”}

The sub-questions is:

\textit{“What are the views of employers, governments, and unions in relation to OHS rights and entitlements of foreign-born, skilled temporary workers on the 457 visa?”}

The Section 457 Visa Scheme

The subclass 457, Temporary Business (long stay) visa (the 457 visa) allows employers to sponsor foreign skilled workers to work in Australia for a period between three months and four years. This visa program is designed to enable employers to recruit, sponsor and employ workers on a temporary basis. It is most commonly used to fill skilled vacant positions that cannot be otherwise satisfied by an Australian citizen or resident. Sponsored workers (primary applicants) are allowed to have secondary applicants accompany and remain with them in Australia. Secondary applicants include spouses, interdependent partners, and dependent child (aged under and over 18 years old).

\textsuperscript{4} Submissions and transcripts are available online at http://www.aph.gov.au/house/committee/mig/457visas/index.htm

\textsuperscript{5} For an exception see the article by Guthrie & Quinlan (2005) that examines the OHS rights and worker’s compensation entitlements of illegal immigrants.
Background

In 1994, the Keating Labour government established the Committee of Inquiry into the Temporary Entry of Business People and Highly Skilled Specialists. The Committee was chaired by Neville Roach, the managing director of Fujitsu Australia at the time and included union and employers representatives. The committee examined the temporary entry policies and procedures to ensure that they were congruous with overall policy directed towards the internationalization of the Australian economy (DIEA 1995, p.1). In August 1995, the Committee produced a report titled ‘Business Temporary Entry-Future Direction’, or otherwise known as the ‘Roach Report’ that outlined proposed reforms to the existing temporary-entry policy. The report highlighted that policies and procedures were “overly prescriptive, complex and time consuming.” (DIEA 1995, p.65) and recommended a more streamlined and transparent approach. A new temporary business entry regime was proposed with the development of single ‘business temporary entry’ visa class, subdivided into ‘short-term entry’ (three months and less) and ‘long-term entry’ (three months to four years) (DIEA 1995, p. 27-29). The Committee’s rational for this was based on “the primary principle governing the entry of key business personnel is that it is of benefit to Australia” (DIEA 1995, p.65). The legitimate needs of business would be met by having quick access to key skilled personnel where temporary shortages existed and that it would benefit Australia with enhanced transfers of skills consistent with a policy to facilitate “…greater competitiveness and greater integration into the international business environment” (DIEA 1995, p.66). In September 1995, Senator Nick Bolkus, the then Minister for Immigration and Ethnic Affairs accepted the key recommendations of the Roach Report. In August 1996, following the change of leadership from the March 1996 election, the Howard government introduced the 457 visa as part of a deregulated temporary entry scheme.

Statistics

Since the introduction of the 457 visa scheme, the number of visa grants has gradually increased (see Table 1). In 2001, labour market testing was abolished, an activity in which employers do not have to demonstrate that local applicants are not available to perform the job. Since then the number of total (Primary and secondary applicants) approvals have continued to expand particularly in the last three years. In 2003-04, 39500 total visas were issued and this increase by 9090 total visas in 2004-05, representing an 18.7% change. However, this percentage jumped to 31% in 2005-06, with a notable fluctuation of 22 560 visa issued, totaling to 71 150 total visas holders.
Table 1: The number of primary and secondary 457 visa (excludes Independent Executives) granted, 1997-2006*

<table>
<thead>
<tr>
<th>Program Year</th>
<th>Primary</th>
<th>Secondary</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997-98</td>
<td>16 550</td>
<td>14 330</td>
<td>30 880</td>
</tr>
<tr>
<td>1998-99</td>
<td>16 080</td>
<td>13 250</td>
<td>29 320</td>
</tr>
<tr>
<td>1999-00</td>
<td>17 540</td>
<td>13 530</td>
<td>31 070</td>
</tr>
<tr>
<td>2000-01</td>
<td>21 090</td>
<td>15 810</td>
<td>36 900</td>
</tr>
<tr>
<td>2001-02</td>
<td>18 410</td>
<td>15 100</td>
<td>33 510</td>
</tr>
<tr>
<td>2002-03</td>
<td>20 780</td>
<td>16 020</td>
<td>36 800</td>
</tr>
<tr>
<td>2003-04</td>
<td>22 370</td>
<td>17 130</td>
<td>39 500</td>
</tr>
<tr>
<td>2004-05</td>
<td>27 350</td>
<td>21 250</td>
<td>48 590</td>
</tr>
<tr>
<td>2005-06</td>
<td>39 530</td>
<td>31 620</td>
<td>71 150</td>
</tr>
</tbody>
</table>

*Figures are rounded to the nearest 10.

Source: Table 1, Answer to Question Taken On Notice no. 52, Budget Estimates Hearing: 22 May 2006, Immigration and Multicultural Affairs Portfolio.

Sponsoring Employers

Employers can either be approved Australian businesses or overseas business. The program separates regional and non-regional business employers. Regional Australia is defined as outside Brisbane, Gold Coast, Newcastle, Sydney, Wollongong, Melbourne or Perth (DIAC 2007b, p.16). The visa scheme does not require labour market testing to be performed by employers. To obtain approved sponsorship, employers are required to satisfy certain sponsorship undertakings set by the Department of Immigration and Citizenship (DIAC). As a sponsor, there are five key undertaking that must be met; sponsor must be responsible for cost, must comply with immigration laws, cooperate with the department, comply with terms of the nomination and lastly, comply with workplace relations laws (DIAC 2007b, p.7). The undertaking terms include employers to comply with applicable law relating to workplace relations including any workplace agreements that the applicant and employer enter into. Employer can terminate visa sponsorship at any time in the duration of the contract and must also notify the DIAC within 5 working days if the sponsored worker ceases to be employed in their approved position.

In addition to mandatory health and character examinations, a key requirement for sponsorship is for all positions to meet minimum salary threshold and skill levels. However, certain regional employer sponsored arrangements can apply for reduced minimum skill and/or salary levels. This skill level is applied to all positions that must correspond to the gazetted occupations as specified in the Australian Standard Classification of Occupations (ASCO) levels 1-4. The major category lists occupations from managers and administrators, professionals, associated professionals; and tradesperson and related workers respectively (DIAC 2007b, p.25, 37). Workers in the construction, manufacturing, agriculture and hospitality industries fall under the ‘tradesperson and related workers’ category. Under the visa scheme,

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6 The list of gazetted occupations from ASCO major groups 1-4 is available from www.immi.gov.au/migration/temporary_business/sbs/eligibility-nomination.htm
these workers under category four are brought in either through the standard employer-sponsorship or via Labour Agreements. A Labour Agreement is a formal arrangement negotiated between government departments, and employer or industry associations.

The minimum salary level (MSL) for all professions is $41 850 per annum based on a 39 hours working week (with the exception of Information and Communication Technology (ICT) professions with a MSL of $57 300 per annum). For regional sponsoring employer, this MSL is 90% of the standard gazetted MSL, or $37 850 per annum.

**Sponsored Employees**

Sponsored primary 457 visa holders are subject to visa condition 8107, “Not cease or change work” under Schedule 8 of the Migration Regulations 1994. Condition 8107 states that granted visa holders must not:

(i) cease to be employed by the employer in relation to which the visa was granted; or

(ii) work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; or

(iii) engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted.

Primary 457 visa holders found in breach of these conditions may have their visa and any secondary applicant’s visa cancelled. In the event that the visa is cancelled, the primary applicant has 28 days to find a new approved employer sponsor from the date of notification or otherwise leave the country. Secondary 457 visa holders do not have condition 8107 applicable to them and may work and study in Australia.

All 457 visa workers are covered by relevant state and territory Occupational Health and Safety and Workers’ Compensation legislation. The legislation applies to all employees regardless of employment status and 457 visa workers have the same legal rights as Australian citizens. They are entitled to tax deductions and superannuation but do not qualify to receive Australian social security payments as temporary residents.

**The Literature Review**

This section seeks to examine the relationship between flexible employment arrangements and occupational health and safety. Industrialized countries have witnessed a global shift in the growth of flexible work arrangements and away from standard permanent full time employment. A review of this growing body of literature indicates contingent work arrangements adversely affect OHS.

It has to be noted that this paper only discusses one aspect of the literature review. The final thesis gives a historical and comparative overview of the international migration of labour, in addition to the OHS and Workers’ Compensation rights and entitlements literature for both temporary and migrant workers.
Definitions

Temporary work is part of a broader shift of the nature of work that has digressed away from the standard and permanent full-time employment structure to contingent employment practices whereby work is performed only when required (Kalleberg 2000, p.341; Quinlan & Bohle 2004, p.81). It is a precarious type of employment which this term connotes an unstable labour situation and encapsulates several characteristics such as job insecurity, income instability, temporary work status, and low employment protection (Benavides, Benach, Muntaner, Delclos, Catot & Amable 2006, p. 416). Temporary employment is a flexible labour arrangement that entails a short-term nature of work to be performed as specified in contract usually for a short period of time. Temporary workers include leased labour, subcontractors, casual, those on short term contracts, and day labourers.

Growth of flexible work

In the last 25-30 years, there has been a significant growth of more flexible work arrangements in industries for both developed and developing countries. There are several attributes in the global economic environment that have facilitated, promoted and encouraged the shift from standard permanent full time employment to flexible work practices. The growth of contingent work has been the result of global strategies and policies pursued by corporatists to promote economic and capital interest (Quinlan, Mayhew & Bohle 2001a, p.523). Restructuring of the US economy led to the deregulation of markets, and weaken trade barriers, by political policies such as the 1993 North American Free Trade Agreement (NAFTA). Consequently, there was an increase in control by multinational corporations (MNCs) that shifted production to lower cost countries to reduce labour costs, maximise profits and operate in favorable environments (Azaroff, Lax, Levenstein & Wegman 2004, p.278). There was also the shift from production to a service economy and together with neo-liberal ideas employers responded with strategies of downsizing, outsourcing and restructuring to achieve increased profitability and competition. The influence of conservative governments, neo-liberal policies and MNC agendas has transformed industrial relations systems, weakened union powers, suppressed collective bargaining and promoted individualism in the labour market (Gordon & Turner 2000, pp.10-13). Additionally, a critical factor that has pushed for a more mobile and flexible workforce is by global organisations such as the International monetary Fund (IMF) and Organization Economic Cooperation and Development (OECD), that encourage labour market flexibility (Quinlan et al. 2001a, p.219)

Job insecurity

The growth of flexible work arrangements has altered the traditional standard, full time employment relationship, in which secure, stable and permanent contracts was once the norm (Smith 1998, p.414). The principle notion now is that the nature of contingent work and precarious employment is in itself insecure with fewer entitlements and benefits within the organisation in comparison with full-time permanent employees (Sparks, Faragher & Cooper 2001, p.490). Thus, workers have higher employment/job insecurity. This has provided an inherent basis for the explanation into why precarious employment results in inferior OHS outcomes.
The concept of job insecurity is defined as “the discrepancy between the level of job security a person experiences and the level they might prefer” (Bartley & Ferrie 2001, p. 778). The focus of previous studies have analysed how job insecurity affects employees health and well-being. Psychological research has examined the impact of precarious employment on the experiences of job insecurity by young adults by analysing the implicit ‘physiological contract’ (Smithson & Lewis 2000). Perceived job insecurity has been found to be negatively correlated with workers well-being and it is suggested that this is exacerbated with the increase of the changing nature of employment relationships (Ferrie, Shipley, Marmot, Stansfield & Davey-Smith 1995). Sparks et al. (2001) study showed that transformation of organisations such as downsizing as a consequence of the increase in the use of a flexible workforce, has resulted in the growth of perceived job insecurity, intensified and extended work schedules, perceived loss of work control and poor managerial styles. All impact negatively on the experience of employees’ well being and occupational health. Furthermore, job insecurity as a chronic stressor can have significant adverse effects on self-reported physical and mental health, with higher self-reported morbidity amongst workers exposed to insecurity (Ferrie, Shipley, Stansfield & Marmot 2002). Thus, job insecurity is a critical initial factor in explaining how flexible employment practices adversely affect OHS outcomes.

Industry characteristics and working conditions

To examine why temporary employment is associated with a higher likelihood of occupational injury and illness, it is necessary to look at the mechanisms and links between this relationship. Therefore, it is important to analyse the establishment or industry characteristics, working conditions and, employee characteristics of contingent workers (Amuendo-Dorantes 2002, p.275; Benavides, Benach, Muntaner, Delclos, Catot & Amable 2006).

A growing amount of evidence has found that temporary and contingent workers are correlated with higher risks of occupational injury (Benavides et al. 2006; Virtanen, Kivimäki, Joensuu, Virtanen, Elovinio, & Vahtera 2005; Foley 1998). These increased injuries are associated with the type of establishments and industries where temporary workers are predominately positioned in the labour market. Temporary and contingent workers are often employed in industries such as construction, manufacturing, agriculture, hospitality, and cleaning services (Guthrie & Quinlan 2005, p.70) where occupational risks, injury, illness and fatality are more perverse and inherent in the nature of the work (Rousseau & Libuser 1997, p.109). For example, the construction industry is one of most dangerous labour occupations with one of the highest rates of occupational fatality (Dong, Entzel, Men, Chowdhury & Schneider 2004, p.1222). Furthermore, the construction injury has one of the highest employment rates of temporary workers which further attributes to why they are associated with elevated risk. In these industries, workers perform tasks that require intensive manual labour, are subject to physical hazards such as heavy machinery, and risks including falls, heights, slips. Those in cleaning jobs are exposed to chemical agents or toxic fumes (Neitzel & Seixas 2005, p.4). Higher work injury rates were also found in the fast food industry, predominately by younger casual workers (Mayhew & Quinlan 2002). Contract workers in the mining industry have been reported to incur more frequent and severe injuries than full-time permanent employees (Blank, Andersson, Linden & Nilsson 1995).
Rousseau & Libuser (1997) argue that contingent worker affects safety and risk in hazardous work environments as an unintended consequence of their use (p.103). As temporary workers are short-term external bodies, there is an increased exposure to risk of accidents, injuries, and deaths in the workplace as often these workers are less experienced, typically unfamiliar with the site and have little knowledge of norms and practices operating in the firm (Rousseau et al. 1997, p.107). Concentrated in these industries are particularly vulnerable segments of the labour force that hold these contingent and precarious jobs. They are notably, immigrants, non-union workers, the youth, women (European Foundation for the Improvement of Living and Working Conditions 2006, p.7, 13; Azaroff et al. 2004, p.276, 282’ Bertone 2000, p.58; McCauley 2005, p.315). They have found to have poor or fragmented knowledge about their OHS and workers’ compensation entitlements (McCauley 2005, p.316; Quinlan & Mayhew 1999). Research has also found that immigrants especially from non-English speaking backgrounds have difficulty in accessing information provided by regulatory agencies (Alcorso 2002). Not only are these groups of workers exposed to hazardous environments and higher injury rates (Loh & Richardson 2004), there is evidence that women home outworkers are exposed to violence and abuse by middlemen (Mayhew & Quinlan 1999). Workers in precarious employment and short-term contract are found least likely to report injury or file a claim due to ignorance of workers’ compensation and also fear that future employment prospects would be affected (Morrison, Wood & MacDonald 1995, p.6).

Methodology

Currently there is little existing or no detailed and systematic academic research relating to the access of OHS rights and entitlements for 457 workers. A qualitative study was found appropriate for the thesis and serves to be an introductory study. The research adopts a qualitative positivistic approach. This refers to non-quantitative methods within the traditional positivistic assumption (Prasad & Prasad 2002, p.6). The study espouses a realist epistemological position that seeks to test the research question with an objective framework.

Data Collection

A total of 28 organisation have been contacted and invited to participate in the research. This comprises of 7 trade union, 11 employer and industry associations and 10 government departments from the relevant industries of construction, manufacturing, hospitality and agriculture.

Interviews

Semi-structured interviews were selected as the primary data collection method for this research because it allowed for two-way communication and rich data to be collected based on the participants perspective of the topic (King 2004a, p. 11, Veal 2005, p.125). The qualitative interview allows for information of “descriptions of the life-world” (Kvale 1983, p. 174) to be gathered and also for individual opinions, perceptions, attitudes, and experiences to be explored (Barriball & While 1994, p.330).

Given the project scope and time constraints, random sampling of participants was not possible. Key informant interviews were used as a strategic and purposeful sampling
method (Gilchrist & William 1999, p.76). Key informants were chosen because of the ability to yield from “…individuals who possess special knowledge and skills…who have access to perspectives or observations…information that is unavailable except from the key informant” (Gilchrist & William 1999, p.73, 74). Key informants from the relevant stakeholder groups were identified from the publicly available programs and transcripts from the public hearings of the Senate Inquiry\(^7\). Participants for the study were not limited to those who appeared in the inquiry. Other key informants were identified from the public domain as they have made public statements in relation to the scheme. Relevant government departments, unions and employers associations who have had dealings with the 457 visas were also approached for interviews. The organisations were asked to nominate persons with expertise or experience with the 457 visa scheme.

Snowball sampling was also a sequential technique utilised to identify other potential key informant participants (Kuzel 1999, p.41). Key informants who participated in interviews were requested the names of others persons they knew who had contact or experience with the research topic.

It was emphasised that interview participation was voluntary and no prejudice would be held against possible interviewees or their organisation in the future if they did not wish to partake in the study. All interviews were conducted at a location and time best suited to the participant. Prior to each interview, the research and its objectives were explained and each participant had the opportunity to ask any questions and make any comments before commencing. Interviews with participants were audio recorded with permission and notes were taken during the discourse.

**Document Analysis**

Document analysis of secondary data sources will be triangulated with interview findings. Secondary data includes publicly available submissions from the Senate inquiry into temporary business visas, government publications, parliamentary debates and Hansard, materials from relevant industry associations and unions, statistics and documented legal cases. Complementing interview data with documentary analysis can allow a complete picture of an issue to be produced that was not achieved during the interview. Data-triangulation, the combination of various data sources for the study of the same phenomenon is viewed as a strategy of validation (Denzin 1978, p.291, cited in Flick 1992, p.176).

**Data Analysis**

Template analysis (TA) is a qualitative data analysis method which refers to a style of organizing textual data by producing codes or ‘templates’ that represent a particular theme (King 2004b, p.256). A priori of existing themes are identified and established from the interview guide and this is applied during the analysis. TA was selected because it can be used with a positivistic position and it works well with an aim to compare perspectives of different groups within a specific context (King 2004b, p.257). TA also has advantages given the limited time, scope and resources available to complete the thesis. It is highly flexible with the absence of strict rules for

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\(^7\) The schedule of public hearings, programs and transcripts of evidence from the inquiry are available online at, [http://www.aph.gov.au/house/committee/mig/457visas/hearings.htm](http://www.aph.gov.au/house/committee/mig/457visas/hearings.htm)
developing templates, and easy to grasp for a novice researcher like myself. I can also contrast and compare the viewpoints held by representations of the government, unions, and employer associations.

A disadvantage of TA is however the coding of very broad themes that include various descriptions (Crabtree & Miller 1999, p.165). For my research, I could potentially identify fewer themes or ‘problems’ with a broad range of characteristic and fail to recognize that other themes could exist within.

Limitations

Sensitive research can be referred to as a topic that “addresses some of society’s most pressing social issues and policy questions” (Sieber & Stanley 1988, p.55, cited in Lee 1993, p.2). Due to the controversial nature of the 457 visa scheme in the broader social, economical and political environment to stakeholders, this has affected access and interview participation rates. Out of the 14 interviews conducted as at the time of writing, twelve were carried out with unions, and only 2 were with employer and industry associations. No interview opportunities were made available to the researcher by relevant government departments that were contacted. However, written response via emailed were received from some departments.

As a result, the data analysis structure shifted to the use of documentary material as the primary sources of comparative data with interview findings as supplementary evidence. To allow for a fair and balanced perspective from government departments and employers association, the study will draw heavily on the publicly available submissions and hearing transcripts from the Senate inquiry into temporary business visas. As a limitation consequence, the availability and quality of data has to be taken into careful consideration in terms of validity and reliability levels (Lee 1993, p.2).

Preliminary Findings

The preliminary findings discussed in this paper are only from the data analysis of interviews conducted. It should be noted that this does not entirely reflect the overall finding for the final thesis.

Occupational health and safety risks

Communication has been indicated as one of the key OHS risks with 457 visa workers. Significant language barriers exist with 457 visa workers from non-English speaking counties who have no understanding and comprehension of the English language. Implications arise in regards to informing OHS information to workers on 457 visas and are especially problematic when attempting to relay/transmit crucial OHS news in dangerous environments.

Cases have been identified which indicate employers are not meeting their responsibility in ensuring the health, safety and welfare of all employees at work as required by law. Absence of the management and prevention of OHS risks have resulted in 457 visa workers engaging in unsafe work practices. Procedures and systems of work that is considered the norm back in the workers home country are not consistent with specific requirements and standards of the OHS legislation.
Knowledge of legal rights, entitlements and obligations

Workers on the 457 visa have been identified as having little awareness about their legal right, obligations and entitlements in the experience of union participants. Sponsored workers are not providing the information necessary to ensure employee’s health and safety at work. This absence of knowledge is also compounded by language difficulties, fear of asking and ignorance. Workers who have retrieved information about OHS and employment rights have obtained this information from colleagues, community group and unions.

Non-reporting of injuries

Workers on the 457 visa have been indicated as more reluctant to report workplace injuries. A combination of factors including fear and financial debt contribute to non-reporting. As previously mentioned, employers are able to terminate employment and cancel the visa of workers at any point in the duration of the sponsorship. Fear is the predominate reason why non-reporting is most likely to occur, as workers are afraid that raising such issues will cause their sponsorship to be terminated. In addition, many workers see their employment in Australia as a pathway for obtaining permanent residency. Therefore these workers do not want to jeopardize this future opportunity and are less likely to report any injuries.

Some workers have been found to incur significant financial debt as a result of fees charged by overseas migration agents to obtain a 457 visa. As a result, 457 visa workers are reliant on their employment in Australia to repay back their debt. This places workers in a further vulnerable position as their fear for the risk of deportation is elevated.

Conclusion

This research seeks to contribute to field of OHS and workers’ compensation where a dearth of academic literature exists. By examining workers on this particular visa class it serves to facilitate further investigation into not only on workers on the 457 visa, but the other categories of workers on temporary working visas. This includes working holiday makers, overseas students, and illegal workers as introduced earlier.
References


