

OPEN ACCESS

ISSN 2280-4056

*E-Journal of
International and Comparative*

LABOUR STUDIES

Volume 9, No. 2, May-June 2020



ADAPT
www.adapt.it
UNIVERSITY PRESS

Managing Editor

Valeria Fili (*University of Udine*)

Board of Directors

Alexis Bugada (*Aix-Marseille University*), Valeria Fili (*University of Udine*), Anthony Forsyth (*RMIT University*), József Hajdu (*University of Szeged*), Shinya Ouchi (*Kobe University*), Daiva Petrylaite (*Vilnius University*), Valeria Pulignano (*KU Leuven University*), Michele Tiraboschi (*Founding Editor - University of Modena and Reggio Emilia*), Anja Zbyszewska (*Carleton University*).

Editorial Board

Labour Law: Emanuele Dagnino (*University of Modena and Reggio Emilia*); Tammy Katsabian (*Harvard Law School*); Attila Kun (*Károli Gáspár University*); Adrian Todoli (*University of Valencia*); Caroline Vanuls (*Aix-Marseille University*). **Industrial Relations:** Valentina Franca (*University of Ljubljana*); Giuseppe Antonio Recchia (*University of Bari Aldo Moro*); Paolo Tomassetti (*University of Bergamo*); Joanna Unterschutz (*University of Business Administration in Gdynia*). **Labour Market Law:** Lilli Casano (*University of Modena and Reggio Emilia*); Silvia Spattini (*ADAPT Senior Research Fellow*). **Social Security Law:** Claudia Carchio (*University of Udine*); Carmela Garofalo (*University of Udine*); Ana Teresa Ribeiro (*Catholic University of Portugal – Porto*); Alma Elena Rueda Rodriguez (*National Autonomous University Of Mexico*). **Anti-discrimination Law and Human Rights:** Erica Howard (*Middlesex University*) Anna Zilli (*University of Udine*). **Labour Issues:** Josua Grabener (*Grenoble Institute of Political Studies*); Habtamu Legas (*Ethiopian Civil Service University*); Francesco Seghezzi (*ADAPT Senior Research Fellow*).

Language Editor

Pietro Manzella (*ADAPT Senior Research Fellow*).

Book Review Editors

Peter Norlander (*Loyola University Chicago*); Malcolm Sargeant (*Middlesex University*).

Scientific Committee of Reviewers

Maurizio Del Conte (*Bocconi University*), Juan Raso Delgue (*University of the Republic*); Richard Hyman (*LSE*); Maarten Keune (*University of Amsterdam*); Felicity Lamm (*Auckland University of Technology*); Nicole Maggi-Germain (*Pantheon-Sorbonne University*); Merle Erikson (*University of Tartu*); John Opute (*London South Bank University*); Michael Quinlan (*University of New South Wales*); Malcolm Sargeant (*Middlesex University*); Jean Michel Servais (*Honorary President of ISLLSS and Former Director of International Labour Office*); Anil Verma (*University of Toronto*).

*E-Journal of
International and Comparative*

LABOUR STUDIES

Volume 9, No. 2, May-June 2020

@ 2020 ADAPT University Press

Online Publication of the ADAPT Series
Registration No. 1609, 11 November 2001, Court of Modena
www.adaptbulletin.eu

The articles and the documents published in the *E-Journal of International and Comparative LABOUR STUDIES* are not copyrighted. The only requirement to make use of them is to cite their source, which should contain the following wording: **@2020 ADAPT University Press**.

Utilising Horizon Scanning and Foresight Techniques for Regulating Psychosocial Risks

Iván Williams Jiménez¹

Abstract

Over the past few decades, the management of psychosocial risks has become a growing issue that is generating greater interest at a policy level. In this context working conditions are increasingly facing new challenges as a result of the impact of globalisation and digitalisation, together with the growing structural precariousness of labour.

In order to monitor legal developments in this changing labour landscape, the use of horizon scanning and foresight exercises for improving psychosocial risk management regulations is starting to become a common technique that helps to better understand the different responses from public policy in a particular issue, trend or development. This paper tries to address the effectiveness of this technique for the anticipation and future-proofing of policy responses regulating psychosocial risks.

1. The Evolving Landscape of Regulatory Frameworks for Psychosocial Risk Management

Psychosocial hazards were defined by the International Labour Organization in 1984 as the ‘interactions between and among work environment, job content, organizational conditions and workers’ capacities, needs, culture, personal extra-job considerations that may,

¹ Ivan Williams Jimenez is a Policy and Advocacy Manager at the Institution of Occupational Safety and Health (IOSH). The views expressed here are those of the author and do not necessarily represent those of IOSH. Any error in this article is the authors’ sole responsibility. Email address: Ivan.Williams@iosh.com.

through perceptions and experience, influence health, work performance and job satisfaction’². At that time, attention was drawn to technological changes as a future trend that was going to impact on working conditions in a severe way, and far different from traditional occupational safety and health concerns such as physical, chemical and biological hazards. As far back as 1959 bodies like the World Health Organization were drawing the novel links between technological changes and the psychosocial health of workers by reflecting on how adverse psychological impacts had the potential to occur not just of automation processes but even of the prospect of the implementation of automation technologies in the workplace³.

According to most recent figures, traditional psychosocial risks, and work-related forms of violence, in particular, affect more than 40 million workers across Europe (European Foundation for the Improvement of Living and Working Conditions⁴). Work-related psychosocial risks are increasingly being considered as an emerging object of study, in comparison to more traditional safety risks associated with physical health, safety and wellbeing, which have traditionally attracted greater interest at a policy level.

Working conditions (including work organisation, work intensity, stress levels, poor management, work–life balance) are also facing new challenges⁵, due to factors such as precarious employment, globalisation and digitalisation. Working environments are evolving and introducing new forms of work that need to be addressed by policymakers. The current labour market landscape and working practices are in constant disruption and are now characterised by new forms of employment relationships emerging in a changing world of work. In this particular context, occupational safety and health (OSH) policies are pointing to a greater effect on the psychological and mental wellbeing of workers. This new context allows interactions between new initiatives and norms that need to be a subject of study. In this scenario, psychosocial risk prevention regulations are likely to play a key role in protecting workers’

² International Labour Organization (1986). *Occupational Safety and Health series. Psychosocial factors at work*. Geneva, 1986.

³ World Health Organization (WHO). (1959). *Mental Health Problems of Automation. Report of a study group*. World Health Organization (WHO). Technical Report Series No. 183, 1959.

⁴ EUROFOUND. 2017. *Sixth European Working Conditions Survey – Overview report*. Luxembourg: Publications Office of the European Union

⁵ EUROFOUND. 2015. *Violence and harassment in European workplaces: Extent, impacts and policies*. Dublin.

safety, health and wellbeing in industrialised economies and emerging countries.

How psychosocial risks impact on the world of work is not considered a new concept anymore. It represents one of the major development areas being monitored in occupational safety and health. As a result of this effort from the research and legislative sphere, legal interventions positively or negatively affecting workers' mental health and wellbeing are being reviewed and analysed. Carrying on doing the same things at a regulatory level has not demonstrated to be the right way forward. At the same time traditional and emerging psychosocial hazards aren't being properly reported, recognised, regulated and protected against by most national or international regulations. They are frequently neglected by occupational safety and health, working time, discrimination, equal treatment and labour law regulations, which makes them less effective to overcome legal obstacles. Still, a general duty of care on protecting workers' physical and mental health and the obligation to promote wellbeing (physical, psychological, moral and social) remain as key obligations for employers to comply with.

The complexity of regulating psychosocial risks has traditionally relied on the basis of the effectiveness of the existent fragmented approach of legislation. Legal provisions covering psychosocial hazards and risks can be included in Labour Codes, OSH Laws, OSH Acts, specific OSH regulations, codes of practice, technical standards, decrees and collective agreements⁶, though this is far from being a common practice in a relative majority of jurisdictions.

There are other countries that have articulated national frameworks relating to some fragmented aspects of psychosocial risks such as stress, bullying/ harassment or quality of work.

Many countries consider psychosocial risks already covered by existing labour law, working time or occupational safety and health, discrimination or working time regulations. These legal frameworks can foresee the obligation of the employer to prevent all hazards and risks of any kind and prevent them in order to protect workers' health by implementing preventive measures.

At the same time, we do have recent examples that support the relevance of psychosocial issues and help to understand why regulatory frameworks for psychosocial risks are at a tipping point. The 'right to disconnect'

⁶ International Labour Organization. (2016a). *Workplace Stress: a collective challenge*. 978-92-2-230641-1 (print), 978-92-2-230642-8 (web pdf), Geneva.

from workplace Information and Technology Communications (ICT) in France, the inclusion of more comprehensive definitions of these risks in legislation enacted in Belgium, Japan legislating on working time and intensive work shifts or the way that Indonesia has recently implemented new legislation to extend the protection of workers suffering work-related stress are just some examples of an evolving regulatory agenda in the world of work.

From a global policy perspective, the landscape is far from being static. The adoption and expected ratification of an ILO Convention and Recommendation on workplace violence and harassment⁷ means that for the first time a range of unacceptable behaviours and practices in the world of work is covered in new international labour standards. At the same time, we are witnessing the scope of workplace health and safety being expanded in the future to include the managements of psychosocial risks with a new standard in development. ISO 45003, Occupational health and safety management – Managing Psychosocial Risks in the workplace – Guidelines⁸, is expected to be published in late summer 2021. Previous research that reviewed the global aspect of regulating psychosocial risks anticipated Health and Safety legislation enforcing the protection of workers' mental health and wellbeing at a short-term scale. Those studies also highlighted the shortcomings of current regulatory frameworks by concluding that a higher level of awareness of the relevance of OSH legislation for the protection and promotion of mental health is needed in countries where relevant laws already exist. Experts also identified as areas for further improvement the harmonisation and adequate enforcement of legislation across countries, the recognition of stress-related disorders as occupational diseases, and the constraints on enforcement of legislation. Other contributing factors cited were lack of sharing of good practices and the need for building of key stakeholders. Awareness and engagement of public policy, improved social dialogue, the evidence-based knowledge and resource deployment were reported to be key aspects⁹.

From a European standpoint there have been preliminary discussions on the potential for a specific directive on psychosocial risks. This review

⁷ International Labour Organization. (2019). *World Employment and Social Outlook 2019*. Geneva.

⁸ International Standardization Organization. (2018). ISO 45003. *Occupational health and safety management - Psychological Health and Safety in the Workplace – Guidelines*.

⁹ International Labour Organization. (2016b). *Workplace stress a collective challenge*. Turin: ISBN: 978-92-2-130641-2 (print).

considered existing legal principles in European law on working time, work intensity and job insecurity that could be used as a basis for a European directive¹⁰.

Other global initiatives are making a real change in the world of work. Activism and legal activism in particular are driving policy change and cultural changes. We can see how initiatives such as “Me Too” have changed the status quo on misconduct in the workplace. Similar initiatives have put the spotlight on workers’ daily experience and expectations by raising awareness on ending the stigma of mental illness and promoting the creation of mentally healthy workplaces.

All these recent developments wouldn’t be considered or even imagined when these risks were defined for the very first time by the ILO in 1980s. Altogether they clearly help to build the policy and business case for things to change in this area and fill the existing gap in specific tools and guidance to further promote practice in this area of occupational health and safety¹¹.

2. Method

The findings of this paper are based on an exploratory study (see Figure 1)¹² that attempted to better understand the importance of emerging psychosocial risks and the changing policy environment for traditional psychosocial risks. This project examined the context and conditions for effective policy interventions in regulating psychosocial risks. The findings from the research provided a review of what good looks like in recent regulatory approaches for psychosocial risks and also identified gaps in legislative frameworks, something that at a research level has been somewhat overlooked.

¹⁰ European Trade Union Institute. (2019). *Defining the spirit of a European directive on psychosocial risks* <https://www.etui.org/Topics/Health-Safety-working-conditions/News-list/Defining-the-spirit-of-a-European-directive-on-psychosocial-risks> Brussels.

¹¹ Jain, A. Leka, S. *Policy, law and guidance for psychosocial issues in the workplace: an EU perspective*. EU-OSHA OSHWiki. https://oshwiki.eu/wiki/Policy,_law_and_guidance_for_psychosocial_issues_in_the_workplace:_an_EU_perspective

¹² Williams, I (2019). *Emerging Psychosocial Risks and their regulatory dimensions: an international perspective*. Universidad Carlos III de Madrid.

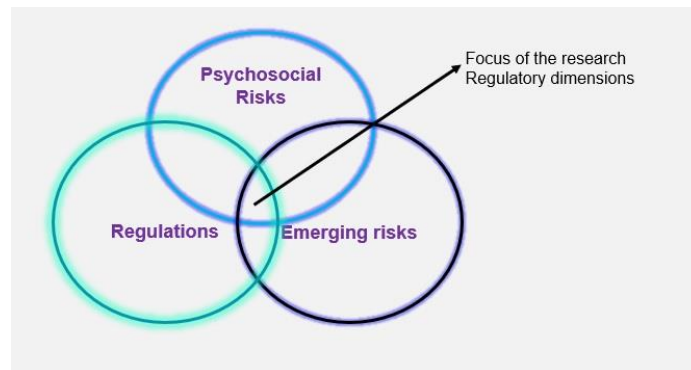


Figure 1. Research focus on the regulatory dimensions of emerging psychosocial risks (adapted from Williams, 2019).

The research involved a literature and policy review including academic papers and a grey literature search to help to identify research priorities and emerging themes, some of which are covered in this paper. It is worth adding that the literature review of foresight research had a generic focus on OSH and working conditions that might have consequences for psychosocial risk management.

After this initial review the study included two qualitative studies. The second stage involved an online survey of a broad spectrum of respondents, including figures from a policy, legal, professional or academic background. The third stage involved the development of a questionnaire focusing on the research questions.

The last part of the project involved 20 semi-structured interviews with different professionals. Respondents represented a cross-section of the international occupational safety and health community, policy experts, law/regulation experts, research/academic experts, occupational health experts, OSH professionals, psychosocial experts and consultants in the areas of wellbeing and health.

Some of the findings from these different stages have been extracted for the purpose of this paper.

3. The Imperative Need for Horizon Scanning in Psychosocial Risks

Globalisation is creating long-term transformations on labour relations, having a subsequent impact on workplaces and workers' safety and health. In order to properly assess the risks based on the probability and severity of the damage of new or emerging risks better anticipation is needed. Trends change quickly and need to be anticipated. For that specific

purpose, the development of horizon scanning exercises has proved to be a useful tool. As a mechanism the added value of horizon scanning techniques is the potential to change mind-sets, challenge the status quo and provide more scenarios.

This paper uses the term horizon scanning and foresight (HSF) together, but it is important to note that horizon scanning is actually a method of foresight. Within the document, horizon scanning generally refers to methodological approaches that scan or review various data sources, while foresight generally refers to the wider group of more participatory methods.

Foresight can support government policy-making in the following main ways (Organisation for Economic Co-operation and Development¹³:

- Better anticipation: to identify and prepare sooner for new opportunities and challenges that could emerge in the future
- Policy innovation: to spur new thinking about the best policies to address these opportunities and challenges
- Future-proofing: to stress-test existing or proposed strategies against a range of future scenarios

In our globalised world of work thinking about the future constitutes a fundamental activity for new regulations to be formally articulated. Drafting new scenarios, probable future characteristics, events and behaviours have become a widely extended practice at a policymaking level. Applying Futures techniques helps policymakers anticipate and learn about future opportunities and challenges¹⁴. Despite the success and the validity of these studies in public policymaking, reviewing future issues that could affect occupational safety and health aspects is still considered a novel practice. In the particular field of psychosocial risk management, the evidence is scarce though the number of studies has experienced a significant increase in the last five years. Psychosocial hazards in these studies have been connected to these factors:

- The decline of physical illnesses and the growth of psychosocial illnesses
- The impact of technology in the world of work

¹³ OECD (2019). *Strategic Foresight for better policies*. Paris.

¹⁴ UK Gov. (2020). *Futures, Foresight and Horizon Scanning*. <https://www.gov.uk/government/groups/futures-and-foresight>.

- Globalisation linked to workers facing a burden of psychosocial demands
- Changes in working conditions and working practices
- Precarious working or insecure work

Recent studies have carried out in-depth examinations of how the future of work would look through the anticipation of different scenarios. In these scenarios the identification of psychosocial risks related to changes to job risks and hazards were significant. A study¹⁵ by the National Institute of Occupational Safety and Health (NIOSH) in the US carried out a review on the topic of the future of work and occupational safety and health, based on peer-reviewed and grey literature in the 1999–2019 period. The research put a particular focus on the so-called emerging risks and on how new occupational risks in the form of psychosocial hazards could be created or exacerbated. The list of risks that the study identified included trends based on how globalisation is impacting working conditions in the new forms of precarious work, changes in how restructuring and downsizing processes can be managed, increased job insecurity, the increasing relevance of Information and Communication Technologies (ICT) and digitalisation leading to increasing intensification and increased time pressures at work, with a negative impact on the boundaries separating working time and personal time. More specific hazards, that we already knew about then are evolving in this new context. Some examples of these are based on the effect of stressful interactions with robots, fast pace of work, work intensification, loss of social skills, privacy invasion or decreased situational awareness.

The commission of this literature review on the future of work focused on aspects such as the impact of technology on job losses, the prevalence of automation or the proliferation of gig platforms employing growing numbers of people. Hence, we can see some similarities with previous studies that also based their rationale on the association of changes in working conditions as a result of globalisation or the impact of technological advances.

Here we need to be conscious of the limitations of these studies. There's no doubt that changes in technology are noted to be one of the main contributing factors to the future of work. That said, we need to be conscious of other driving forces that are currently having a resounding

¹⁵ P. Schulte, P. Streit, J. Sheriff, F. Delclos, G. Felknor, S. Tamers, S. Fendinger, S. Grosch, J. Sala, R. (2020) *Potential scenarios and hazards in the work of the future: A systematic review of the peer-reviewed literature.*

impact on workers and workplaces. These have been left unconsidered and to some extent neglected.

The current COVID-19 crisis is an unfortunate example of this. The outbreak is challenging companies, workers and working conditions in unprecedented ways. The nature of this economic and labour disaster is highly unusual but still uncertain when it comes to the psychosocial impact in the workforce¹⁶. The profound mental health impact of this global pandemic will require evidence-based studies¹⁷ to review the severe consequences on the psychological health, safety and wellbeing that the global workforce is likely to experience. A global and coordinated approach to research on the work-related ill health impacts resulting from COVID-19 will need to address knowledge and practice gaps on the following aspects:

- the impact on workforces in low- and middle-income economies
- the identification of hard-hit sectors
- the situation of workers employed in the informal economy or the gig economy
 - the circumstances of workers with limited access to health, safety and wellbeing services
 - workplace strategies for those returning to work after experiencing common mental disorders
 - the shift of remote working practices as the new normal
 - the effects of new technologies on all aspects of our lives, including our mental health
 - or the impact of organisational changes namely restructuring, automation becoming more pronounced, etc.

All these different psychosocial factors and the scale of the impact weren't properly considered when recent horizon scanning and foresight studies reviewed the evolution of psychosocial risk management and the state of the art of psychosocial issues.

¹⁶ World Health Organization (WHO). (2020). *Mental health and psychosocial considerations during the COVID-19 outbreak* <https://www.who.int/docs/default-source/coronaviruse/mental-health-considerations.pdf> Geneva.

¹⁷ BBC News. *Coronavirus: 'Profound' mental health impact prompts calls for urgent research.* <https://www.bbc.co.uk/news/health-52295894> April 2020.

4. Anticipating Regulatory Changes for Psychosocial Risk Management

There are several benefits associated with articulating policy initiatives through horizon scanning and foresight exercises. Simply put engaging in strategic foresight can contribute to shifting the approach from regulations being less reactive to being proactive in tackling a particular shortcoming. These studies can either help to highlight the problematic aspect of psychosocial risks management at a workplace level or can contribute to modelling new frameworks based on the knowledge acquired from previous regulations or lessons learnt from ineffective policy responses.

The use of these modelling practices can help to minimise the feeling of regulatory uncertainty. As a result of this, regulations might provide clearer pathways of compliance enforcement and increased levels of awareness. Foresight-based policy in occupational safety and health is traditionally represented through the exploration of future policy issues and scenarios through expert groups and specific studies. Some examples of initiatives in this field are normally supported by evidence base, in the form of occupational safety and health research priorities or existent knowledge gaps. Other extended tools are the design and modelling of scenarios, the establishment of observatories, the implementation of alert and sentinel systems for the detection of new and emerging risks or more traditional approaches such as the commissioning of literature and policy reviews to reflect on current patterns, and help to better understand future policy-related frameworks.

Anticipating the potential impact and implications for workplace health and safety of future trends can support policymaking in articulating preventive and proactive policies instead of reacting to workplace challenges. As awareness and better understanding through horizon scanning and foresight tools increases, OSH policies and strategies addressing psychosocial risks should be recipients of this knowledge as well. The information obtained from these exercises has the potential to act as a catalyst for feeding debates and policy decision-making or to contribute to the solution of an ongoing or emerging issue.

5. Analysis and Results

This paper tries to demonstrate how this sort of studies can become a useful tool that helps contribute to policy guidance in a traditionally under-regulated area, despite psychosocial risks being considered an

emerging risk and a key challenge in modern occupational safety and health (Partnership for European Research in Occupational Safety and Health)¹⁸. For the time being the creation of foresight centres or observatories has resulted in a successful initiative when addressing this knowledge gap.

Below are some examples on how Occupational Safety and Health observatories, foresight centres and research institutes have been active in addressing the existent gap for regulatory horizon scanning on emerging risks and on the impact of psychosocial risk management in particular. These centres have been responsible for monitoring new risks affecting working conditions, with a strong emphasis on the identification and detection of trends relevant to the workplace and new health and safety risks to workers. Some of these studies have been commissioned at a global scale to look at global trends and foresight of future scenarios in relation to the impact of psychosocial risks and work-related stress¹⁹ by putting the focus on the detection of drivers, barriers, facilitators, inhibitors and needs in relation to the prevention and management of work-related stress. This has helped to bring the protection of work-related stress into the policy agenda and to provide further level of evidence to reinforce the body of scientific knowledge on that particular area.

At a policy-making level, anticipating change in occupational safety and health risks has been a critical issue in the agenda of different OSH regulatory bodies. European research organisations such as the European Agency for Safety and Health at Work (EU-OSHA) were tasked to set up a risk observatory to anticipate new and emerging risks, specifically anticipating new and emerging risks, whether they be linked to new scientific knowledge, which could be in form of new data, evidence, theory or model, new technological development, a heightened level of awareness or new ways of responding to a known issue²⁰. This requires, first and foremost, ongoing observation of the risks themselves, based on the systematic collection of information and scientific opinions²¹.

¹⁸ PEROSH. (2017). *Psychosocial well-being in a sustainable working organisation*. Retrieved from <http://www.perosh.eu/research-priorities/psychosocial-well-being-in-a-sustainable-working-organisation/>.

¹⁹ International Labour Organization. (2016a). *Workplace Stress: a collective challenge*. 978-92-2-230641-1 (print), 978-92-2-230642-8 (web pdf), Geneva.

²⁰ United Nations. (2016). *Global Sustainable Development Report 2016*. Department of Economic and Social Affairs. Geneva.

²¹ European Commission. (2002). *Community strategy on health and safety at work 2002-2006*. Brussels.

As a formal mechanism for policy intelligence-gathering the subject has also been embedded in regulatory frameworks as we can see in the recent European OSH strategies, such as the Community Strategy on Health and Safety at Work 2007–2012, as well as the current framework, the EU Strategic Framework on Health and Safety at Work 2014–2020. The latter addresses the importance of anticipating change as a key area for policy and encourages member states to actively monitor trends and changes in working environments through the development of information systems for national statistics on occupational accidents, work-related health problems and illnesses, and the prevention of potential risks, both physical and psychosocial.

These organisations based their approach when carrying out a foresight exercise on the systematic examination of potential problems, hypothetical threats, opportunities and likely future developments including those at the margins of current thinking and planning. Horizon scanning and foresight tools may explore novel and unexpected issues, as well as persistent problems, trends and weak signals²² as represented in the table below.

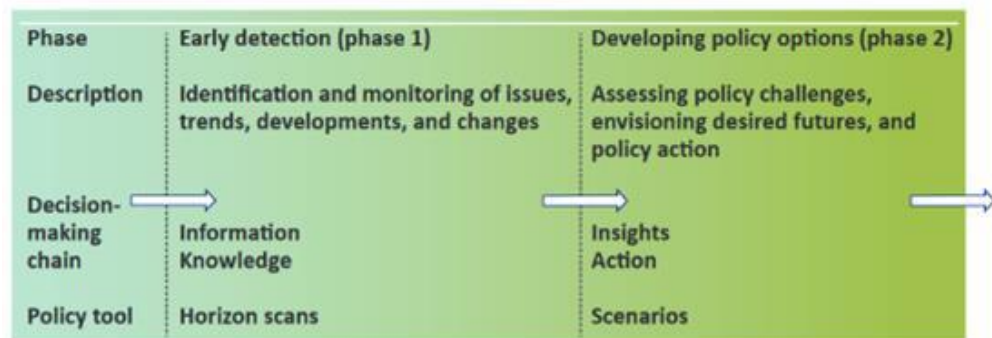


Table 1. Simplified phases of a foresight process (adapted from Habegger, 2009).

Other organisations have focused their studies on the insights arising from a variety of scenarios²³ particularly to anticipate long-term prospects for better policymaking decisions. Currently, much of the informed decision making at a policy level tends to be designed on a short-term basis.

²² Habegger, B. (2009). *Strategic foresight in public policy: reviewing the experiences of the UK, Singapore, and the Netherlands*. Zurich: Futures, 42, pp.49-58.

²³ Ponce del Castillo, A., & Meinert, S. (2017). ETUI. *Occupational safety and health in 2040 Four scenarios European Health and Safety strategic frameworks. A mixed instrument between regulation and dialogue*. Brussels.

Further relevant research in this area is also being led by PEROSH through the joint research project Futures. Foresight and priority setting in OSH²⁴. The European research network has also recently earmarked psychosocial wellbeing in a sustainable working organisation as a research priority challenge²⁵. Based on this priority agenda setting, the following areas were highlighted as key themes for future investing in research for policy and practice purposes:

- Influence of individual and work-related resources on mental health
- Psychosocial risks: the role of a new organisation
- Social capital, health, and wellbeing at work
- Psychosocial risk management, including regulatory framework and actions at company level; psychosocial working environment
- New ways of working: implications for new OSH risk and benefits for knowledge workers
- Psychosocial and organisational working environment, including working hours thematic (shift work, long working hours, night work).

Other reports consulted found that future trends will imply a substantial change from the inception. This is where the foundations of the management of psychosocial risks and mental health and wellbeing in the workplace could form part of an important component of human capital in the context of quality of life and working conditions²⁶.

Findings from these studies will be utilised to influence the policy agenda but the problem remains when trying to explore how to turn those findings into practical solutions for workers and workplaces. It is also important to look beyond the scope of traditional policy silos and consider how multiple developments can intersect and interact in unexpected ways²⁷. It's difficult looking beyond current expectations and taking into account a variety of plausible future developments to identify implications for policies without having the whole picture. For that reason, analysing megatrends taking place in multidisciplinary areas can help to provide key insights to the strategic foresight method chosen.

²⁴ INAIL. (2016). *Facts. Futures. Foresight and priority setting in OSH*.

²⁵ PEROSH. (2012). *Sustainable workplaces of the future – European Research Challenges for occupational safety and health*. Brussels.

²⁶ World Bank. (2019). *World Development Report 2019: The Changing Nature of Work*. Washington, DC: World Bank. doi:10.1596/978-1-4648-1328-3.

²⁷ OECD. (2019). *Strategic Foresight for better policies*. Paris. <https://www.oecd.org/strategic-foresight/ourwork/Strategic%20Foresight%20for%20Better%20Policies.pdf>

Exploring and reviewing large-scale changes building in the present at the intersection of multiple policy domains, with complex and multidimensional impacts in the future.

As the management of psychosocial issues and mental health and wellbeing in the workplace is gaining traction in the policy agenda, we are starting to notice how this relevance is being translated into different foresight interventions carried out by non-occupational safety and health bodies. Again, it needs to be emphasised that for the rationale of this paper the topic was deliberately restricted to studies analysing potential transformative changes of the future of work and implications for the articulation of regulations covering different aspects of psychosocial risk management.

Organisations like the World Economic Forum (WEF) have been facilitating strategic insights and contextual intelligence to the world of work for the past few years as part of their Strategic intelligence online platform²⁸. The existing online information tool explores and monitors the issues and forces driving transformational change across economies, industries, and global issues. It also helps to provide access to a knowledge bank of resources including the latest research and analysis, videos, podcasts and interactive data on a wide variety of pressing topics.

One of the topics covered how the work-related complex transformations are having a profound psychosocial impact on people's lived experiences²⁹. The WEF periodically monitors global trends in mental health, technology, addictions, automation, monitoring and workplace stress or psychological and emotional strain associated with the context of work. The following non-exhaustive list of emerging areas has been cited as key contributing factors affecting the wider global risks landscape:

- Workers' declining psychological and emotional wellbeing
- Uncertainty around how technological changes impact individual well-being
- Rapid (technological) transformations in the workplace having the potential to affect workers' emotional and psychological well-being
- Productivity targets causing an increasing psychological strain among the workforce.

²⁸ World Economic Forum. (2020) *Strategic Intelligence*. <https://intelligence.weforum.org/> Geneva.

²⁹ World Economic Forum. (2019). *The Global Risks Report 2019*, 14th Edition. Geneva.

Following a similar technology-related narrative advances in AI, robotics and other technologies are likely to change our lives, whether we like it or not. Many people, particularly low-skilled workers, may have to accept ever more insecurity and ever tighter control. However, jobs are increasingly subject to algorithmic management and workplace monitoring. But workers are subject to a new level of algorithmic oversight, with ratings systems now pervasive³⁰.

Working time and work-life balance regulations could suffer changes in enforcement practices³¹ through the introduction of working time reductions. At a time when excessive long hours of work are rampant in global labour markets³² we need to be conscious that an increasing body of empirical evidence underlines the adverse effects of regular long working hours (defined as more than 48 hours or more than 50 hours per week) on human health and workplace safety³³. The psychosocial toll of these work shifts, in conjunction with automation, analytics and innovation, to push performance and productivity in the workplace to its limits is huge. It results in higher rates of anxiety, depression and sleep disorders. In some cases, they can be the contributing cause to mortality rates as we've seen with 'karōshi' in Japan).

In this scenario the introduction of technology advances can have both positive and negative effects. When human effort is maximised through sophisticated use of enhancement techniques and devices, workers' performance and wellbeing is continuously measured, monitored and analysed. Changes on a short-term basis will be seen in the context of the Coronavirus pandemic as part of the recovery and back-to-work implementation strategies. One particular example of this will come through the increasing use of contact-tracing applications. Essentially, the objective of these tools is to monitor physical distancing compliance both in and outside the workplace environment. Companies will invest in monitoring and measuring, from the location of their workforce, their performance, health and wellbeing – both in and outside the workplace. Technology could be seen as a legitimate excuse for firms to actively

³⁰ RSA. (2019). Dellot, B, Mason R, Wallace-Stevens Fabian. *The four futures of work*. March, 2019.

³¹ Shain, M., & Nassar, C. (2009) *Stress at Work, Mental injury and the law in Canada. A Discussion Paper for the Mental Health Commission of Canada*. Canada.

³² International Labour Organization. (2019). *World Employment and Social Outlook 2019*. Geneva.

INAIL. (2016). *Facts. Futures. Foresight and priority setting in OSH*.

³³ Messenger, J. (2018). International Labour Organization. *Working time and the future of work*. Geneva.

invest in health resources to make their employees feel psychologically healthy and safe. Legal scholars are reacting and calling for better governance frameworks to be put in place through dialogue between the state, employers, and unions prior to and during any app rollout and implementation³⁴. As with any other introduction of technology companies will have to abide to existing Health and Safety regulatory frameworks.

Some horizon scanning and foresight studies predicted this ‘new’ normal reality that we are living in where both companies and workers will be taking ownership of how they manage their mental health and wellbeing. An increasing amount of workers’ decisions have the potential to be tightly controlled by either regulation or employer prerogatives. Mandatory digital health and wellbeing policies and practices (eg ‘digital dieting’ which involves spending time away from connected electronic devices)³⁵ are likely to experience an exponential growth in the workplace.

While these different trends and transformations illustrate how the global landscape is far from static, they don’t represent a resulting increase in the number of regulations, policies and practices to be articulated or implemented per se in the field of psychosocial risks. One of the things that the COVID-19 public health crisis is demonstrating is that when disruptive forces are at play at a major scale, existing regulatory strategies and linear predictions can be considered inadequate. The issue brings scholars and policymakers again to the argument that reflects on how occupational safety and health regulatory frameworks tend to be reactive, with a focus on compensation rather than prevention. For the time being, the lack of policy responses clearly undermines the potential for psychosocial risks to be enforced or prosecuted as legislative approaches are still fragmented and many states consider it implicitly covered by existing laws. But the disruptive nature of the trends previously presented will require different problem-solving solutions to be revisited, including the adequacy of governance structures and policy responses.

Likewise, with the increasing acceleration of social, economic, and technological developments in the workplace the role of the employer’s duty of care is at stake. The central role of businesses in our evolving world of work will require a re-examination of the interrelation between employee productivity and healthy workforces.

³⁴ De Stefano, V. J Colclough, Christina. *Mind the App!*. <https://www.alainet.org/en/articulo/206107> 2020.

³⁵ PricewaterhouseCoopers (2018). *Workforce of the future. The competing forces shaping 2030*, London.

The variety of scenarios summarised provides a starting point for considering a range of options around the multiple possible futures of psychosocial risk management. In addition, these examples reinforce why it is paramount for policymakers to create valid and robust data for strategic evidence when exploring and anticipating regulatory changes in this area. Horizon scanning and foresight exercises for analysing the impact of psychosocial risk factors are no longer considered a new approach in the occupational safety and health discipline but a necessary means to better understand how working environments and working conditions are changing.

6. What the Horizon for Changes in Regulations for Psychosocial Risks might Look Like

Foresight-based policy in occupational safety and health is traditionally represented through the exploration of future policy issues and scenarios through expert groups and specific studies.

Some examples of initiatives in this field are normally represented by the definition of occupational safety and health research priorities and the monitoring of new and emerging risks through foresight analysis, the design of scenarios, the establishment of OSH observatories or the implementation of alert and sentinel systems for the detection of these emerging risks.

All these instruments applied to this discipline have proved to identify why anticipating change and future challenges, together with policy horizon-scanning exercises in the area, should remain critical in the future of work agenda. This should include the design and implementation of specific studies reviewing the progression of psychosocial factors in the workplace.

Anticipating the potential impact and implications of future trends on the mental health and wellbeing of the workforce can support future policy needs, articulating preventive and proactive policies instead of reacting to societal challenges. As awareness and better understanding through horizon-scanning and foresight tools increases, OSH policies and strategies managing psychosocial risks should improve in their effectiveness and applicability. This information has the potential to act as a catalyst for feeding debates and policy decision making. It can also contribute to the solution of an ongoing issue, where safety, health and wellbeing and psychosocial risk management specifically are lagging behind transformations in labour relations and employment markets.

From the outcomes of the research it can't be denied that key developments at the international and European level in the coming months and years will have major influence. We can already find in some countries signs of determination to address work-related ill health by adapting regulations on workplace safety and health to better reflect today's changing world of work. This will imply a correlative increase of enforcement and prosecution on this area.

From a regulatory perspective some key initiatives are being revised. The concept of the employer duty of care is changing from a legal approach to a moral duty of care. Liability for inflicting mental suffering is also being considered. The protection of mental health could be included in collective bargaining. Changes in working time and workplace violence regulations are also taking place in different jurisdictions. In summary it's fair to say that what we are seeing is how regulations are becoming more 'aggressive' in issues related to working time and work-related stress. At the same time the promotion of workplace wellbeing is also gaining legitimacy on the regulatory agenda.

The foreseeability of harm to mental health resulting from exposure to risky practices can be said to attract a general duty of care, increasingly enforceable in law, to abate these hazards to mental health by all reasonable and practical means available. This duty can be seen as an extension of due diligence in occupational health and safety laws to embrace psychosocial as well as physical hazards³⁶. Prosecution for aspects linked to work-related stress, abuse of work intensification practices is likely to increase against an organisation for failing to manage psychosocial risks effectively. At a regulatory level there's a clear need to consider the following better provision of remedies and support for victims and improved enforcement for non-compliance and breaches or effective sanctions for perpetrators. This might be considered in a single incident that is particularly high profile or, more likely an incident involving a group of people who are all suffering from poor practices in the management of psychosocial issues and where the lack of compliance can point to corporate responsibility for the inflicted harm.

From a business perspective a series of trends was also identified as drivers of regulatory change: the stronger recognition of mental injuries as work-related or the progressive recognition of the positive benefits of workers' mental health and wellbeing in the business results (productivity)

³⁶ Shain, M., & Nassar, C. (2009) *Stress at Work, Mental injury and the law in Canada. A Discussion Paper for the Mental Health Commission of Canada*. Canada.

and quality of life of employees. Companies are being encouraged to address psychosocial risks through proactive management systems. Apparently, there is a perception that addressing mental health could be the next challenge for organisations and Occupational Safety and Health practitioners to incorporate in their management and engineering controls and processes.

7. Conclusion and Ways Forward

The findings of the studies reviewed have provided some ‘warning signals’ that should contribute to policymakers assuming a better understanding of the importance of this momentum. It’s never been the case before for such a great deal of regulations to be articulated at a national, European and international level. The recently approved Recommendation and Convention on violence and harassment in the world of work, the work started for the future ISO on guidelines for the positive management of psychological health and safety in the workplace and the new proposed directive on transparent and predictable working conditions are just some examples of this emerging legal landscape.

This momentum is not a coincidence. Policymakers are in active listening mode, eager for these warning signals to be as comprehensive as possible. Academics, scholars and professionals with a particular interest in regulating and managing psychosocial risks shouldn’t miss this opportunity to shape these signals and translate them to the world of work through a sensible and pragmatic approach. This long-awaited milestone has also been demonstrated, based on the remarkable interest on this subject from other disciplines, namely international organisations such as the Organisation for Economic Co-operation and Development (OECD), the World Bank Group and the World Economic Forum. They are encouraging research in this area or revisiting their own strategies to place workplace mental health high in their agendas considering the ramifications and implications of the issue.

This clearly reinforces the call for a collective response. The regulatory landscape of psychosocial risks requires a better legal drafting in order to support legislation with content linked to psychosocial risks so that it is comprehensive, less ‘patchy’ and consistent. Workers, employers and the public need to be aware, educated, informed of their rights and obligations in this field, and be accountable too. Smarter and more simple terminology can make laws better understood and accessed by ordinary citizens, workers and employers.

It can also make regulatory frameworks more legitimate to communicate the message that psychosocial hazards should not be ‘part of the job’. This desire for inclusiveness should also apply to both approaches from industrialised and non-industrialised economies to avoid psychosocial risk management being a tale of two stories. As we know the need for increased public awareness of psychosocial issues through additional knowledge, education, training and awareness is much needed in the later states.

Strategic horizon scanning and foresight studies are an evolving discipline and as an anticipatory governance practice applicable to occupational safety and health standards has proven to be a challenging concept. However, this paper has demonstrated how useful these methodologies can result in developing robust, future-ready policy on a particular area of law.

While in the current scene, many still seem pointless to hope, in the short or medium term, for a legislative initiative in the area of regulating and managing psychosocial risks, governments and public policy need to be better equipped for a number of possible, even seemingly unlikely, outcomes. This should include policy and law for psychosocial issues and challenges in today’s workplaces.

ADAPT International Network



ADAPT is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at www.adapt.it.

For more information about the E-journal and to submit a paper, please send a mail to LS@adapt.it.

