Multinational Companies and Social Regulation: The Case of the Asbestos Industry

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Blind spots in the New International Labor Governance
• **Links to conference themes**
  
  – Study of regulation of capitalism
  
  – Dark side of capitalism: labor conditions and occupational disease
Canada accused of hypocrisy over asbestos exports

Although Canada will not expose its own citizens to asbestos, its plans to continue exporting the deadly substance to developing countries has drawn widespread condemnation. Tony Kirby reports.

Asbestos is a lethal and naturally occurring group of minerals that has brought death and misery to people worldwide. Due to its good tensile ban on using the substance in any form in all but exceptional circumstances. But unlike other rich nations, Canada has been a major exporter of chrysotile, project. A spokesperson for the Quebec Government confirmed the matter was under consideration, and that the government required an economic

Despite this, WHO estimates that about 125 million people worldwide remain exposed to asbestos in the workplace. More than 107,000 people die each year from asbestos-related lung cancer, mesothelioma (a specific form of lung cancer), and asbestosis resulting from occupational exposures. One in every three deaths from occupational cancer is estimated to be caused by asbestos.
• **Links to conference themes**
  – Study of regulation of capitalism
  – Dark side of capitalism: labor conditions and occupational disease
  – Analysis of firms as social actors
  – (Legal) Architecture of firms (MNC and GVC) and its relationship to blind spots
  – Sectorial case study
• **Thesis**
  – Blind spots contribute to determine the *geography* of a MNC
  – Businesses with corporate structures and operations in multiple jurisdictions enjoy certain *legal* advantages because of their multi-country operations

• **Evidence**
  – Hardly new, in fact history provides the best evidence
  – Blind spots have favored certain social actors
  – Blind spots are purposely designed to favor certain social actors
<capitalism (regulation of)>
* ownership/capital
* markets/labor
  = diseases
Asbestos firms

- James Hardie
- Cape
- Eternit

Avoiding liability
- Secrecy and avoidance
- De-evaluation of victims
- Use of governmental inquiries
- Restructuring

Business model
- Founded in late-1800s
- Family owned/closed corporation
- Vertically integrated
- Transnational companies
Lawsuit: Tyler 1
- Cape, Capasco and Egnep appear as defendants
- $20m settlement of 462 claims
- $5.2m is the share allocated to N.A.A.C., Cape and Egnep
  - $4.1m paid by N.A.A.C.'s insurers
Cape

Lawsuit : Tyler 2

• 133 claimants
• $5.2m default judgment against Cape, Capasco and Eg nep
• To be enforced in England (parent company)
CAPE PLC
UK

CAPE Post 1975

CAPASCO
UK
dormant subsidiary

CIOL
UK
shares sold in 1979 to TCE

CASAP
SA

EGNEP
SA
Mining operations

NAAC
USA
Liquidated with no assets

Mr. Morgan
Former NAAC Executive

Mr. Ritter
CIOL Fiduciary

CPC
USA
US Marketing

AMC
Liechtenstein
US Sales

CPC acted as "agent" of AMC with no authority to contractually bind AMC. CPC received commission for its services

US Market
James Hardie’s exit strategy as litigation was growing

Abandoning use of asbestos fibers in cement production
Creation of MRCF (charitable trust): research + compensation + certain assets + shares of asbestos subsidiaries
Non-asbestos assets transferred to newly established parent company (the Netherlands)

Boycotts ➔ Asbestos Injuries Compensation Fund
Eternit’s network of companies

No conglomerate/No parent company
Product: one patent/licenses in 22 nations
Some companies (Belgium/Switzerland) were more powerful
Shareholder gatekeeping
Directors from one company sitting in board of other company
Coordinated business operations (cartel)

Various trials (major trial undergoing in Italy)
Lessons

– MNC's strategy for subsidiary (Prof Morgan)
  • Liability management seeking as additional dimension that explains

– Power relations underlying operations across national business systems (Ferner). Who profits and how? (Morgan)
  • Do blind spots serve a purpose? At the expenses of other social actors?

– Occupying institutional voids
  • Asbestos forms shaped the way in which institutions filled the institutional void.

– Intersectoral homogeneity and heterogeneity
  • Tobacco industry

– Lessons for regulation of global firms
  • Reminder of historical roots of current practices and arrangements
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