Victims and the Justice System in South Africa

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Overview

• Context
• Struggles of workers / victims
• Way forward
South Africa

• Unequal society – 19 years into democracy
• Health outcomes have racial & gender dimensions
• Health spending 8.5% of GDP – poor outcomes
• Life expectancy – 50 yrs
• Middle income country – GDP 25\textsuperscript{th} in world & 17% of Africa’s GDP
The Labour Market in South Africa

• High unemployment but limited informal employment
• 52m people of whom 17m work
• 4.1 m in the informal sector (50:50 gender split) – 34% of the labour force
• Insiders versus outsiders (unemployed / informal workers)

Heinz & Posel, 2008; Valodia, 2007
In summary...

- **Problem** – unknown numbers of victims, major backlogs and access; externalized health, social & environmental consequences

- **Paradox** – human rights culture / anti-apartheid

- **Pressure** – multiple fronts

- **Potential** for change

- **Promise** ....
Global Governance

- World Health Organisation & International Labour Organisation
  - Alma Ata Declaration on Primary Health Care
  - ILO Conventions on Occupational Safety and Health and on Occupational Health Services
Legislation - South Africa

- Occupational Health & Safety Act 85 of 1993
- Mine Health & Safety Act 29 of 1996
- Compensation for Occupational Injuries & Diseases Act 130 of 1993
- Occupational Diseases in Mines & Works Act 78 of 1973
- Various Environmental laws
Struggles for Justice

• Historical (linked to anti-apartheid struggle)
• Constitution (rights based)
• Combination of activism (worker and environment groups), legal battles and state intervention
1907

Miners' Phtisis
NO CURE—NO PAY

CONSULTATIONS AND ADVICE FREE.

All or write: C. H. STEVENS (Specialist),
S.A. Institute of Medicine, Livingstone Buildings,
Roseik Street, Johannesburg.

This audacious advertisement—four times the size shown here—
appeared virtually daily in the Rand Daily Mail throughout April
and May 1907.

1902 - 3

Milner Commission

1902

1913

1910

Cartoon from Die Voorloper 12 July 1913. The caption, in English and
Afrikaans, reads:

Silent Causes of the Strike
During the last ten years 52,205 natives have died on the Mines;
16,356 accidents took place and about 60,000 were sent home as
invalids. It is impossible according to Mr Merriman, to obtain
reliable statistics of the excessive mortality among
European miners.

SHARING THE CAKE

MINER: Now then, Guv'nor! Can't you spare a small piece of that
there cake to insure me and my mates against phthisis?

SIR G.F.— [Sir George Farrar]: Nothing I should like better in the
world, my good man; only I'm so awfully afraid it might not
be good for you.

Rand Daily Mail 5 July 1910

Courtesy of Times Media
Chamber of Mines vs Dept of Health

2011
Mr Thembekile Mankayi vs AngloGold Ashanti

2012
MARIKANA ...
16 August 2012
Mining

McCulloch J. AJ Orenstein Lecture. April 2013
A medical review at the Mine Recruitment Centre, early 1950s

McCulloch J. AJ Orenstein Lecture. April 2013
Worker Health in South Africa / SSA

- 3 workers die every day from accidents

- 875m in Sub-Saharan Africa (WB, 2011)
  - 258 000 die
  - 98.9/100 000 (73.3 – world) – Fatal Injuries
Trends in Mine Fatality Rates

- Gold, 51.1
- All, 32.9
- Iron ore, 15.1

Wilson K. NIOH. 2011
Safe Work, Australia. 2010

Figure 2  Incidence of fatalities: achieved versus reduction required to meet target
Active pulmonary tuberculosis in African miners at autopsy, all commodities, 1975 - 2009

Rate/1000

Year

Pathaut, NIOH. 2010
Gold Price (2000 – current)
Victims of Exposures

- Thallium – Chemical weapons (1981)
- Acrylamide (1986)
- Organophosphates (1989)
- Mercury and Thor Chemicals (1992)
- Multiple exposures (oil) and Durban South (1992 & 2001)
- Manganese and Assmang (2007)
- Arsenic and Tsumeb (2012)
- Silicosis (Constitution Court / class action in UK and South Africa) (2011 onwards)
Issues faced by Victims

- Wider societal stress of SURVIVAL
- Individual versus group (trade unions?)
- Geographic distances
- Families of victims

- Access
  - Information
  - Organisation
  - Technical support (health, legal, financial)

- To stay the distance (long time)
Issues faced by Victims

• Compensation
  – Bureaucratic process
  – Financial literacy
  – Touts / middle persons

• Ongoing health & social services
  – Post traumatic stress
  – Health care
  – Rehabilitation & disability support
Way Forward

• Strengthened legal instruments
• Enforcement
• Partnerships, solidarity & advocacy (ANROEV)
• Empowerment of victims, workers and communities
• Morality

“the wealth of business depends on the health of workers” M Neira, WHO
Together we can!

“Fit for work,
Fit for life,
Fit for tomorrow”

HSE, 2005

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