

Asbestos and Money: a Local Perspective from South African Asbestos Claimants

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Abstract

This presentation examines how people in Griquatown, South Africa have received and interpreted asbestos compensation over the past 30 years. Many of the residents of this town worked at Cape plc asbestos mines in the Northern Cape and are thus inflicted with various asbestos-related diseases. Those people who worked at the mines have been able to claim compensation from the Medical Bureau of Occupational Disease within South Africa and, more recently, as claimants in the international class action against Cape plc. Those people who experienced only environmental exposure, but who still suffer from asbestos-related diseases have fewer options for compensation and have to rely on state pensions, which are difficult to secure. This presentation examines how these various payments for asbestos related diseases are conceptualised by residents of Griquatown. It focuses on cultural interpretations of asbestos related diseases, exploring the impact of these diseases through notions of family and belonging, and examines the socio-economic context into which these compensatory payments are made.

Introduction

In July 2003, a British asbestos mining company named Cape plc transferred 10.5 million pounds to the human rights lawyers representing 7500 claimants spread throughout South Africa. This was the culmination of an out-of-court settlement that had occurred on the 22nd December 2001. Reaching the settlement had taken more than four years. In the small rural town of Prieska, in the Northern Cape, the settlement was part of a process which had begun in 1996 when a local group of activists started to campaign for improved access to asbestos compensation. The settlement and Cape plc's payment is a legal success story. For many people within South Africa, this story of international litigation, of local mobilisation, activist networks and asbestos pollution is without doubt, a David and Goliath story. As Ward argues, the litigation is also a legal breakthrough as the first example of a foreign direct liability case in which personal injury actions were brought by South Africans against parent companies of English multinationals in the London High Court (Ward, 2002). This case, accompanied by other product liability cases around the world (Jasanoff, 1995; Newell, 2001) have come to be seen as a means of ensuring that corporations are held accountable to their exploited workers and as a means of delivering compensation to injured workers. Throughout the case, NGOs, academics and lawyers assumed that, although minimal by British standards, this compensation will greatly benefit impoverished communities. In fact, the poverty of the communities affected was identified as a key factor for pursuing international litigation against toxic abuses in South Africa, coupled with the lack of legal expertise or financial aid and the powerful incentives not to address corporate irresponsibility in claimants' home country (Meeran, 2003, McCulloch, 2003).

During 2003, shortly before the £10.5 million pounds referred to above was paid out to the claimants, I did research in a small farming town in the Northern Cape, South Africa. Griquatown, situated 150 kilometers due west of Kimberley, had been a significant mission station and frontier town in the nineteenth century. The first impression one receives of Griquatown today is of a small, quiet town. The next image is one of acute poverty. Cars are old, houses and shops are unpainted and people drift about poorly-dressed and unemployed. In the 1970s, the district was reasonably wealthy, with residents deriving incomes from sheep farming, karakul-pelt farming, lime works and the mining of asbestos, manganese, iron ore and semi-precious stones. For example, between the 1960s and 1970s, 12 000-14 000 workers were employed at the crocidolite (blue asbestos) mines (Felix, *et al.*, 1994: 267). By the late 1990s, the asbestos mines had closed, karakul farming had ended and Griquatown had been reduced to an economically depressed, small, rural town. About 3000 Griqua people eked out a living in this harsh and unforgiving environment. Economic activities were limited and most people survived through pensions. Surveys conducted in 1997 showed that between 13-20% of people were economically active and that almost 79% of all households in Rainbow Valley relied on at least one pension in order to survive, while pensions provided the only source of income for 22% of all households (Waldman, 2001).

Compensation and dissatisfaction

In Griquatown people saw the Cape plc court case referred to above as a means of making money. They commented that they had been promised huge sums of money; that they had been told of people winning cases of unbelievable amounts. They had been waiting for this money for years. During the late 1990s, for example, people were genuinely disappointed when they discovered that they did not have ARD, so great were the sums of money believed to be involved. I attended the community meeting that informed the people of Griquatown that the case had finally been settled and that their payment was imminent. In many respects such a meeting should have been a success, yet the mood before the meeting was angry. People believed that it would be another extension. They were tired of waiting for their money. All the claimants in Griquatown had previously been informed of how much they would receive and this information had also angered people. The comments made by claimants at the time of the meeting included: 'They got so much, but they are only paying out R8000 to some people. They make false declarations, they lied to the people' and 'I am very unhappy, he said that 80% had pleural plaque and only 20% get real money. Now I'm getting only R8000'. Rumors flew about the town and most of them concerned money. People said, for example, that R129 million was paid out by Cape plc, but that R90 million of it was not being paid out to claimants.

People in Griquatown experienced this court case as an entrenchment of their oppression, rather than as an example of injured workers successfully holding a corporation accountable for its abusive and exploitative work practices. As is clear from the above quotes, their relationship with their lawyers was fraught with tension. They saw themselves as being, to a large extent, dependant on the lawyers and unable to shape the outcomes according to their needs or desires. At moments when emotions were particularly fraught and tensions were running high, and in the long days of waiting for a settlement, they saw themselves as having been cheated by the lawyers. In an indication of the desperation and violation people experienced, one woman commented that 'he [a lawyer] come to enrich himself by gambling with sick people's lungs'.

Understanding local perspectives of litigation:

Although dissatisfaction with lawyers' actions and judges' decisions are not unusual in the world of asbestos litigation (Walker & LaMontagne, 2004), they are seldom cast in terms as emotive and negative as these. Many claimants in the neighbouring town of Prieska did not share these views. They saw the court case as a victory, or perhaps a pyrrhic victory. They might have been disappointed that they did not receive more money, but they did not see themselves as having been cheated. These sentiments were not therefore widespread amongst the 7500 claimants dispersed throughout South Africa and may have been specific to Griquatown. In order to explain why people felt this way, it is necessary to consider three factors: a) cultural understandings of money in everyday contexts in Griquatown, b) the history of asbestos payments in the area and c) the way Griqua people think about asbestos money. Ultimately Griquatown residents were bitterly disappointed in the legal process, in part due to cultural interpretations of money that related particularly to Griqua identity and in part due to way in which claimants were marginalized from the legal process.

a) Cultural understandings of money in an everyday context

Because most people survive through pensions, Griquatown is often described as a 'pension town' or as 'having a pension culture'. It is more lucrative to receive a pension than to be employed: in the late 1990s, for example, an old or disabled person would receive a pension of R470 per month whereas a job on a farm would pay only R270 per month. Pensions were also more secure than ordinary jobs which tended to be informal with no contracts and of short duration. The result is that whole families survive off pensions and, in this situation of extreme poverty, people have little control over their own money. As the following example demonstrates, people battle to retain any sense of private property.

Maria Pieterse lived alone in her two-roomed, sparsely furnished house. She survived on her old age pension and the occasional benefits derived from conducting initiation rituals. Maria's grandchildren and various nieces and nephews resident in Griquatown came to stay with her each time she received her monthly pension. Once the money was spent, they returned to their own families. In addition, her children, who periodically visited from Johannesburg, encouraged and persuaded her to buy alcohol. If she refused, they stole her money and returned to her home drunk and abusive. These demands and impositions were so bad that that she often left her house and went to live on a nearby farm, where a farmer allowed her to live in one of his houses.

This inability to keep her money for her own use and perhaps to save some it is only one example of a process that recurs at all levels and in a range of ways in Griquatown. On pension payment days people who received pensions are overwhelmed by requests: one person asks for half the fruit the pensioner has bought, another for R10 for electricity, a third for a loan which will never be repaid. Then there are those looking for 'companionship' and for someone to pay for the drinks. Some people admitted that they did not like carrying their shopping home as they were unable to get all their purchases home. People also could not protect personal items such as clothing. At funerals

people would wear each other's clothing, often without permission, and often relatives from out of town would simply pack some one else's jacket or skirt and take it home with them. I recall my own amazement when, giving someone a lift back to Kimberley, she called out from the car window that she had packed her cousin's jacket and would henceforth be wearing it.

This attitude is possible because the residents of the town see themselves as all being related. Within Griquatown people distinguish between *boorlings* who are people born in Griquatown and therefore are all descended from the original Griqua people who settled here in the early eighteenth century, and *inkommers* or newcomers to the town. This division was also a class hierarchy: *inkommers* occupy all the well paid jobs and *boorlings* survive on pensions. The *boorlings* (and many *inkommers*) are all related to each other, in complex and multiple ways that could not always be accurately traced, and Griquatown is seen as one extended family. Being Griqua was seen as something passed down the generations, they said: 'the Griqua cause goes from generation to generation, this is a lifelong cause'. Ideas of kinship, place and belonging were therefore powerful and important resources. Although this means it is impossible to save money or to own private property, it also means that you were always nestled within this extended family where, although people are desperately poor, they will always take care of you.

b) The history of asbestos payments in Griquatown

In a context such as this, large sums of money become extremely important. They allow people to extend their houses, to erect gravestones, to buy furniture and so forth. Ironically, having provided jobs and a reasonably lucrative income between the 1960s and the 1980s, asbestosis payments provide this kind of financial relief for many people in the 1990s. People who had lived in the vicinity of asbestos mines, but had not been employed and who now suffer from *mynstof* (lit. mine dust, asbestosis) are eligible to receive a state pension if they have more than 40% damage to their lungs (or what is known as second-degree illness in South Africa). This provides a small but steady monthly income of R470 per month. People who had been employed at the mines and who now suffer from *mynstof* are able to receive compensation from the government run Medical Bureau of Occupational Diseases (MBOD). The MBOD pays compensation for asbestosis, mesothelioma and lung cancer (Myers, 1981: 241) and distinguishes between 'first degree' asbestosis or pleural plaque (it used these terms somewhat interchangeably) and 'second degree' infection (which could comprise of asbestos infection plus additional damage to the lungs, either tuberculosis or smoking), which people understood to refer to the increased severity of *mynstof*. Although the payment could either be made as a lump sum or on a monthly basis, I have only met one person who chose to receive it on a monthly basis. Everyone else has chosen a single payment. This, in conjunction with the categories of 'first' and 'second' degree asbestosis, meant that most people in Griquatown had received two asbestos compensation payments prior to the Cape plc court case. Ouma Mol, for example, was paid out R11 000 and R6 000 for asbestosis. Because compensation was tied to length of employment at the mine and wages during employment, it was possible to receive far more than this example. Other people received payments ranging between R9 000 and R19 000 (in the years 1989 to 1996). The compensation received from the Cape plc case did not use the South African categories of first and second degree asbestosis. Instead people were compensated for mesothelioma (R63 000) for interstitial asbestosis (R40 000), for pleural effusion (R27 000) and for pleural plaque (R8000). This meant that the bulk of the claimants received R8000. Some people who believed that they were seriously debilitated through *mynstof*, and who had received the

MBOD's second payment as 'proof' of their illness, were categorized as having only pleural plaque and they received the minimum R8000. In circumstances such as these it is possible to see why people felt cheated of the promise that they would receive large sums of money. As one person commented 'he [the lawyer] fought against the Bureau because he said it paid too little. Now I'm only getting R8000. He made a case against the Bureau because the Bureau belittled us. He said the Bureau paid too little, but they [the lawyers] are paying far less'.

c) Cultural understandings of asbestos payments

In a context where it has become impossible to secure good, well paid jobs and to save money, asbestos payments come to assume immense cultural importance. Asbestos payments are a very important source of income and many people have been genuinely disappointed to discover that they were not suffering from asbestosis or *mynstof*. Ironically perhaps, there was also a degree of status associated with the receipt of *myngelde* (lit. mine money). Asbestosis sufferers were considered to be rich and hence valuable to their families. Stories about *mynstof* and the associated large sums of money, such as the two related below, circulated throughout Griquatown:

Example 1: When Joseph Bankies died from mynstof, his descendants received R34 000 in compensation from the MBOD. It was agreed to share the money between his descendants and his brother's children. In recounting what happened with the money, people explained that three gravestones costing R10 000 each were erected, Joseph's daughter got R10 000, each of the six grandchildren received R4 000 and with the remaining money, two more gravestones were purchased (note that this equals R84 000 and not R34 000).

Example 2: Oom Dirk was taken ill shortly before he received his contribution from the Cape plc case. During this time he often referred to his mynstof money. He, like many others in Griquatown, had often wondered how the money would be delivered. In discussions, people spoke about hiring a delivery truck to fetch the money because they believed it was too much to fit into a car. As Oom Dirk became increasingly ill, he began to believe that he had received his money. He related the following tale: The money was delivered to the Griquatown bank by helicopter because there was so much that it could not fit into either a car or a delivery van. The Bank Manager called Oom Dirk and told him he would be the first to collect his money. Oom Dirk described how politely the bank manager spoke to him and how, when he left the bank, his pockets were bulging with money. Then, on exiting the bank, he met his wife and he gave her the money to go shopping in Kimberley. She returned with nothing but a hat. In the final days before his death, Oom Dirk frequently called his wife and asked her what she had done with all his money.

What are we to make of these two stories? In the first one, far more money is spent than is actually available and in the second one, pockets bulging with notes end up buying a hat. The ideas contained in these stories are like those described in millenarian movements in Melanesia where 'cargo' in the form of immense social wealth is delivered by the gods or ancestors. Burrige sees this religious activity as characteristic of social stress and fundamentally concerned

with power – or rather with the moral use of that power – and with politics. He points out that although such movements – or in this case such stories – are often thought to be bizarre; they generally make sense in terms of trying to explain people’s everyday experiences. Millenarian movements arise in situations where there is no apparent correlation between skills, hard work, honesty – the values taught by society in general – and who gets regular employment, good jobs, and makes money.

Millenarian movements also have a religious component. This religious component is particularly important in Griquatown where people believe that it is God who ultimately metes out punishments or rewards, and therefore Griqua people’s energies are better used worshipping him than seeking retribution. Appropriate Griqua behaviour, is therefore, to ‘fold your hands (or pray) and wait’. In time, God’s actions will ensure that people who have sinned will do penance and those who have been sinned against will receive consolation, if not in this life then in the next.

Conclusion

The concern over asbestos compensation is intimately wound up with a range of factors that affect people’s lives: it is related to their immediate poverty and their inability to save, it is linked to the history of asbestos payments in South Africa and it is ultimately tied up with how people think about themselves and their identity. If the apocryphal stories above tell us anything, it is about the importance of descent and place. In the first story, asbestos payments were being used to erect gravestones, to cement the relations between this large extended family of Griqua *boorlings* and the people from whom they were descended and drew their identity. The second story tells of emptiness, of how the place in which people have cemented their identity is barren and, even when presented with a helicopter full of money, is unable to develop or use this money in ways that preserve or increase its value. Rather, the money is eaten, shared and lost, rather like other items of personal property. In this context, the Cape plc compensation payments were received as ‘bitter cargo’. Cultural interpretations of money – and in particular of asbestos money – were the criteria by which they judged this case. Not being involved in the process, they did not follow the legal debates. They did not see the court case as a means of enforcing corporate social responsibility. The money did, as lawyers and NGOs believed, make a difference but not in the ways they expected.

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