

Human rights lawyer blasts compensation system for asbestos disease sufferers

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A significant challenge facing asbestos-related disease (ARD) sufferers is South Africa's "antiquated" and "dysfunctional" compensation system, says human rights lawyer and activist **Richard Spoor**.

The benefits prescribed by the Occupational Diseases in Mines and Works Act have not increased since 1994, says Spoor, noting that, while the nominal value of the benefits has increased by 25%, the real value has declined by about 80%.

And, in line with the Compensation for Occupational Injuries and Diseases Act, there is no pension payable to the family of a deceased beneficiary of compensation payments after his or her death.

Inadequacy

Spoor says the inadequacy of the compensation system has resulted in many ARD sufferers "living in a shack, with a bottle of morphine and dying in the heat".

Spoor says that there is unequal treatment between mineworkers and industrial workers in South Africa, and that change or improvement to benefits has been stalled as a result of disagreement on whether the Chamber of Mines or government should foot the cost of improved benefits.

Spoor states: "Government is not listening to the sick and disabled mineworkers, widows and orphans. Parliament is not listening. "Civil society must become more aware. The problem lies with legislation, which is fundamentally the same apartheid legislation that is in operation today, which is discriminatory against unskilled workers.

"This compensation does not cover a fraction of the real loss and harm suffered, and, as a result, workers' families and the broader communities are plunged into poverty. "And in South Africa, no one dies of asbestos – they die of cardiovascular diseases.

"Foreign lawyers are astonished that injured and diseased workers have so few rights, and this, combined with the limited presence of lawyers in the occupational health and safety field, created the notion of responsibility without accountability.

"The absence of accountability results in employers finding no need to improve health and safety in the workplace, and workers then carry the cost of the resulting injuries and diseases. "There is no accountability in the South African justice system. We have to change the law. It is too archaic," he says.

Spoor continues: “Changing the law is simple. The basic principle that needs to be taken into account in reforming the system is that employers must take responsibility for the consequences of unsafe working environments, and that also entails responsibility for the loss and harm caused by occupational health diseases.”

He says an approach similar to the ‘polluter pays’ system should be applied to occupational health diseases, and that South Africa needs to revise compensation models, and look into new laws for compensation for occupational health injuries and diseases.