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Restorative responses to harms caused by asbestos companies

Respuestas restaurativas a daños causados por
compañías de amianto

Marília de Nardin Budó¹ y Brunilda Pali²

Abstract

This article highlights the relevance, the potential, and the limitations of environmental restorative justice in addressing the harms experienced by asbestos victims. Starting from case studies related to three different subsidiaries of Eternit in Belgium, Italy, and Brazil, the article identifies some of the main challenges to understand the harms caused by asbestos from the perspective of the victims, the problem with their identification, and to identify whom the perpetrators are. The last section is dedicated to pondering how the demands for justice by the people affected to asbestos-related diseases meets strong difficulties, but they also offer some perspective of restorative responses.

Keywords

Asbestos; environmental restorative justice; environmental crimes, environmental harms, victimisation

Resumen

Este artículo destaca la relevancia, el potencial y las limitaciones de la justicia restaurativa ambiental para abordar los daños experimentados por las víctimas del amianto. Partiendo de estudios de casos relacionados con tres filiales diferentes de Eternit en Bélgica, Italia y Brasil, el artículo aborda algunos de los principales retos para entender los daños causados por el amianto desde la perspectiva de las víctimas, el problema de su identificación y la individualización de quiénes son los culpables. La última parte está dedicada a reflexionar sobre cómo las demandas de justicia por parte de las personas afectadas por las enfermedades relacionadas con el amianto encuentran fuertes dificultades, pero también ofrecen algunas perspectivas de respuestas reparadoras.

Palabras clave

Amianto; justicia restaurativa medioambiental; delitos medioambientales; daños medioambientales, victimización.

1 Federal University of Santa Catarina. Contact: marilia.db@ufsc.br.

2 University of Amsterdam. Contact: b.pali@uva.nl.



Introduction

Qui muore una persona per volta...
Ma uno per uno sono tanti, se li conti, sono veramente tanti...³

These words, spoken by a woman in Italy, who lost her 33 years-old brother just 7 months after he was diagnosed with mesothelioma (Budó, 2019), provide important insights into environmental harm and victimisation. Day after day, the areas contaminated by factories that use(d) asbestos register new cases of harmful and deadly diseases, such as asbestosis, lung cancer and mesothelioma (World Health Organisation, 2014).

In Europe, asbestos was most commonly used in factories throughout the 20th century. Asbestos was considered by the industry as the “magic mineral”, on account of it being flexible, incombustible, indestructible, and cheap. Nevertheless, despite its “magical” qualities, since the early 1900s there has been scientific evidence about the relationship between exposure to asbestos and various diseases (Mendes, 2001), starting from the case of textile industry in England, the mining of asbestos in South Africa and the asbestos-cement factories in Europe and United States. However, even if the scientific consensus about the harms caused by asbestos was reached decades ago, the long-standing denial about the harms has had many repercussions depending on the region in which they have emerged (Budó, 2021). The World Health Organisation (2014) calculates that at least 107,000 people die every year in the world because of asbestos-related diseases (ARDs), which are provoked by the aspiration of small particles of the fibre. Furuya et al. (2018) claim that this number is underestimated and that the real number is more likely 255,000 deaths a year.

Between the dialectical process of awareness and denial about asbestos-related harms in the public discourse, asbestos victims have organised themselves in a global movement to dispute not only the industry’s claims about asbestos and its impacts but also to demand reparation, accountability, and justice. The global asbestos ban is one of the central demands of the movement, considering that most of the exposures and denial that people in the global North experienced in the ‘70s and ‘80s are still being experienced today in the global South (International Ban Asbestos Secretariat, 2022).

Since 2005, Europe has banned all types of asbestos, and nowadays more than 60 countries in the world have also prohibited its extraction and commercialisation because of its hazardous effects on human health. However, largely

3 “Here dies one person every time...But one by one, they are many, if you count them, they truly are many” (own translation).



due to the theory of asbestos differentiation –a theory elaborated in the 1980s which supported the idea that chrysotile, one of the asbestos types, could be used safely –, the ban of asbestos in most parts of the world is still delayed (Tweedale & McCulloch, 2004). Although global asbestos production fell from 2.1 million tons in 2012 to 1.4 million tons in 2015, more than 2 million tons of asbestos are currently consumed each year throughout the world (Asbestos.com, 2020). According to Algranti et al. (2019) approximately 80% of the global population lives in countries where asbestos has not yet been banned, mainly in Asia. And even if the use of the fibre were to cease today, the incidence of ARDs would only start decreasing 20 years from now (Collegium Ramazzini, 2016).

In this article, we explore the possibility, potential, and limitations of applying restorative responses to address asbestos-related harms. The data used for this research was collected through interviews, itinerant soliloquies, document analysis and literature review. The empirical research on the asbestos-related harms and victimisation was coordinated by the first author between 2016–2022. The cases studied were Casale Monferrato (Italy), Kappelle op-den-Bos (Belgium) and Osasco (Brazil). All the interviews carried out in Casale Monferrato (2016) and in Osasco (2018) were authorised by a Research Ethics Board through *Plataforma Brasil*, the system of the National Research Ethics Council in Brazil. The interviews were preceded by an informed consent, which had also a confidentiality clause. Because of this, all the participants' names in these two case studies were changed to pseudonyms. In total, there were 14 in-depth interviews and 2 itinerant soliloquies⁴ conducted in Casale Monferrato, and 15 in-depth interviews conducted in Osasco. The participants were ex-workers, their relatives, and activists of victims' movements⁵. The case of Kappelle-op-den-Bos was studied through documents and victims' narratives that were already published, and because of this, in this case we do not use pseudonyms (see Jonckheere, 2021; Van Buggenhout & Budó, 2022).

4 The technique defined as “itinerant soliloquy” is partly inspired by the explorations of visual anthropologist Andrew Irving (2011); it intends to contribute to the decoding, along the way, of how spaces become places, within the concrete complexity of the dynamic relationship between social actor and living space. The participants were invited to take the researcher to a “significant” place having some bearing on their social perception of socio-environmental harm. They were then asked to walk around the place and to express aloud the stream of consciousness which might arise while crossing it (Natali & Budó, 2019).

5 Both cases were studied in a wider project coordinated by first author and called *Crimes of the powerful and social harm: the processes of asbestos victimisation from global North to global South*, in which other researchers were also engaged. In Osasco's case, researcher Alexandre Marques Silveira carried out the interviews. In Casale Monferrato, the interviews were carried out by Marília de Nardin Budó. The Itinerant soliloquies were also performed by first author with the collaboration of Lorenzo Natali. Interviews were also done in Cerdanyola and El Prat de Llobregat, in Catalunya, Spain, but these results will not be addressed in this article.



Even though the cases are different, they share many features that make them comparable. For example, the exposure to asbestos in all cases was due to a factory of asbestos-cement roofs, water pipes and other products in the territory, and whereas the contamination was recognised in the workplace, there is evidence of environmental exposure to asbestos as well. In all the three cases, the companies were not using asbestos anymore at the time of the research, and in the cases of Casale Monferrato and Osasco, they were even closed for a long time. In Osasco's case, even though the facility was closed in that city, the company still exists and is currently the owner of an asbestos mine in another region of Brazil. In Belgium, the company Eternit does not use asbestos anymore, but it is still in operation.

In what follows, we first start with describing the specific features of victimisation in asbestos-related harms and giving a detailed account of who the victims of asbestos are. Next, we describe who are the perpetrators, while highlighting the complexities and limitations of this concept in large-scale crimes and harms. In the next section, we analyse victims' perceptions of harm and their demands for justice, in order to tease out potential links with ideas of environmental restorative justice. We then move on to identify, based on the research, the potential of environmental restorative justice to asbestos-related cases.

Who are the asbestos victims?

People impacted by asbestos do not always recognise themselves as victims (Natali & Budó, 2019; Silveira & Budó, 2022). There are several characteristics of asbestos-related harms that make victimhood difficult to recognise or to prove. Firstly, victimisation in these cases is not the direct result of interpersonal violence, but of more long-term insidious processes. For example, ARD symptoms often show up 30 to 40 years after exposure. Secondly, the harms experienced are often temporally and spatially distant from their source (Whyte, 2018; Budó, 2021). Thirdly, victimisation is difficult to recognise due to the 'amorphous character of the harming behaviour [...], its repeat and normalising manifestations' (Aertsen, 2022, p. 673), and due to the fact that the harms are simultaneously a key source of economic security (Natali, 2010, 2016). These are characteristics already found in research on environmental corporate crimes (see Hall, 2018; Hall & Varona, 2018; Forti et al., 2018; Aertsen, 2018).

Asbestos victims are often more numerous than those officially recognised. The ARDs are generally considered occupational diseases, especially *asbestosis* and *mesothelioma*. Since the existing medical studies about ARDs were conducted with workers or ex-workers in asbestos mining and in the industry,



it is the workers who are considered victims in the first place. They are mostly (now) elderly men and a few women who worked in these facilities between the '40s until the '90s of the 20th century. Notwithstanding, the experience of asbestos victimisation is considerably wider. In all the three cases, the participants reported that the workers used to go home after work every day with clothes impregnated with asbestos dust. Due to the sexual division of labour, the wives were severely exposed when they washed those clothes, and many of them died because of ARDs. For example, one of the participants in Osasco told that “*sometimes I got home with my clothes dirty, hugged the kids, played with them [...] I didn't know... they never told us that asbestos could kill*” (Silveira & Budó, 2022, p. 320). Other people were also exposed to asbestos dust because of the “gifts” of asbestos remnants the factory offered to the workers, “gifts” which circulated for example among friends and relatives. Still in the case of Osasco, another participant told that they used asbestos waste for confectioning carpets and other household utensils (Silveira & Budó, 2022, p. 320). As a result, there is probably a huge underestimation of ARDs in other people, especially women. In Belgium, one of the emblematic cases is that of Françoise Jonckheere, who got mesothelioma because of the asbestos exposure she had while her husband worked at Eternit in Kappele-op-den-Bos. Her husband and two sons also died of mesothelioma, and currently the other son, Eric Jonckheere, who is also the president of the Belgian Association of Asbestos Victims (ABeVA), was diagnosed with the disease (Jonckheere, 2021).

In some cases, the factories deposited the asbestos dust in the territory of the city, by giving it to the municipality. An example of this environmental contamination appears in Enrico's itinerant soliloquy, in Casale Monferrato:

“... here, this courtyard here was completely covered of asbestos dust... therefore, thinking of my illness, I have had mesothelioma for the last three years and I am being treated for it. Surely the first asbestos fibres I breathed were from my childhood, when I was 4 or 5, I breathed them here, because we played in the dust...” (Enrico, 2016 – Casale Monferrato, cf. Natali & Budó, 2019, p. 714)

The environmental contamination of asbestos led therefore in many cases also to young people getting ill and dying. This, for example, is the case of Luigia's brother, from Casale Monferrato. She indicated that people who lived far from the factory and who had no contact with the workers thought that it was the workers who used to die early due to a respiratory illness. However, detailed information about this strangely named deadly disease had never reached the communities. Her brother worked in a bank and got ill two years after the factory went bankrupt, so it took some time for them to make the connection:



“For us it was nothing. [...] He never stayed in bed. In the seven months from his diagnosis until his death, he no longer worked, but continued his life at home, doing the accounting for the basketball team. We were all convinced that he could be cured.” (Luigia, 2016 – Casale Monferrato, cf. Budó, 2019, p. 504).

At the time, in the ‘80s, even though mesothelioma was not even explicitly diagnosed, and the death certificates masked the problem, the family of Luigia insisted that the diagnosis of pleuritic mesothelioma appeared on the death certificate of the young man.

In addition to those exposed in the factories, inside the workers’ houses and in public places where there is asbestos dust, there are other silent victims. This is the case of people who were contaminated due to the use of asbestos in many products, such as roofs, tables, and walls. Teachers, post officers, and other workers developed the ARDs without even knowing that they were being exposed to the fibre. These products are still present in many public and private buildings where asbestos was regularly used to avoid fires. Asbestos contamination continues therefore to be everywhere, even in countries where the fibre is already banned.

In territories that are severely contaminated, as it is the case for Casale Monferrato, each citizen can possibly be the next one diagnosed with a deadly ARD. As Rossi (2010, pp. 86–87) explains,

“There is also a new fear, in an unreal situation, dominated by the dismay of whole generations grown in a scenario made of dusts, with the rhythms marked by the factory shifts, who now find themselves orphans and widows of Eternit, because of Eternit. In conclusion, the town really still has to come to terms with a tragedy which has not totally discovered yet.”

One of the most repeated expressions in the victims’ narratives is “we have the Damocles sword above our heads”. The following quote from a Casale Monferrato’s citizen reveals this idea:

“The disaster has not yet reached its apex, every week an inhabitant of Casale dies. By now, they are the majority of the dead of mesothelioma. Here they are those who have never set foot at the Eternit. 70% are ordinary citizens, unfortunately, therefore teachers and workers in any other sector, housewives, pensioners, in short, anybody” (Matteo, 2016 – Casale Monferrato).

In the global South, in countries where asbestos has not been banned yet, there is currently still the same kind of exposure that was reported by workers in Europe before the ‘90s. People are still working with the fibres without effective protection to inhalation, and with no or with insufficient information about the risks. In all cases, the most exposed people are already the most vulnerable ones. In addition to the human victims mentioned above, the territory



as a social construction derived from culture, sociability, tradition, and nature can also be considered as a victim (Santos, 2006; Killean, 2022). Many cities in the world were inaugurated as a result of asbestos mines. This is for example, the case of Asbestos, a city in Québec, Canadá, in which the biggest asbestos mine in the world was operating until 2016. In Brazil, the only active asbestos mine today can be found in the small city of Minaçu, that depends almost exclusively on the activities of SAMA, the mining company. Recently, news of a blue asbestos mine, closed 60 years ago, in Wittenoom, an aboriginal territory in western Australia, revealed complex problems to be discussed about contamination, exposure and environmental racism (The New York Times, 2022)⁶.

Who are the perpetrators?

The asbestos case and all the complexities involving the harms caused by the industry throughout the 20th and 21st centuries have been studied in many disciplines and fields of research, including in the field of criminology, where it is studied as a state-corporate crime. According to the criminological literature, state-corporate crimes are included in a broad definition of crimes of the powerful (Barak, 2015; Tombs, 2005; Tombs & Whyte, 2015). State-corporate crimes are illegal or harmful activities that are a collective product of the interaction between a corporation and a state agency, in a joint effort (Kramer, Michalowski & Kauzlarich, 2002, p. 269). Being of interest of maximum profit for both actors, the corporations influence the political economy through the (de)regulation of state agencies, having the power over the law in their benefit. “The economic and political power tend to protect the offenders from the label of ‘criminal’, which invariably stigmatise people prosecuted by the criminal law” (Clinard, Quinney & Wildeman, 2015, p. 195). In this sense, the crimes of the powerful are associated with the combination of people, capital, economy, and policy for the achievement of determined goals in a system of control organised to preserve the structures of property and power (Barak, 2015).

To comprehend who the perpetrators are, in a case such as the asbestos one, it is also necessary to deal with the ways in which businesses organise themselves so as to avoid liability. The economic organisations usually are structured as corporations, a fiction created exactly to allow profit to be detached from its harmful consequences (Whyte, 2020). The corporate person, in almost all senses, is legally independent from its directors, shareholders and investors, while also being the one who forms contracts with employees and deals with

6 See at <https://www.nytimes.com/2022/09/29/world/australia/wittenoom-asbestos-mining.html>.



consumers, supply chains, etc. For Whyte, the use of contract law as the basis for the corporation's legal authority is problematic for addressing environmental harm because "the consequences of corporate activity for the environment are generally not included in commercial contracts" (Whyte, 2020, p. 41). Therefore, the real costs of corporations' ventures are understood as externalities. Whyte argues that even if it would be possible to estimate these costs, there are cases in which the damages are so great that they could and should not be reduced to a financial number, such as ecocide, the global climate crisis, or genocide. As green criminologists point out, the costs of socioenvironmental harms are frequently known only many years after the economic activity has stopped (South, 2014). Sometimes, the corporation has already moved to another region or country. The more peripheral a state is in the global economic relations, the more it will be vulnerable to corporations' power (Böhm, 2020; Goyes, 2019; Aniyar de Castro, 1980).

As we already mentioned in the introduction, the extraction, use, production and commercialisation of asbestos in the world has been challenged by science and victims' movements. Nowadays, more than 60 countries have already banned the fiber from their territories, even though asbestos products are still in the roofs of private and public buildings, in the brakes of metros, trains and other transports, behind the walls of many houses etc. Moreover, even in countries where asbestos has already been banned for more than 20 years, the peak of ARDs is far from being reached.

The interviews presented in the previous section were collected in different territories, each with their own policy on asbestos regulation. In Europe, the asbestos ban occurred only in 2005. However, some of the European countries had already banned the fiber at that point. The two European countries studied in this article are in this category: Italy, in 1992, and Belgium, in 1998. Understanding the political and judicial processes behind those bans is important to discuss the responsibility of the state and the role of victims and unions' movements in struggling against scientific denial, and, of course, against the industry lobby.

Differently from Europe, in Brazil only the blue asbestos was banned by law in 1995. The same law regulated the limits for the exposure to white asbestos (chrysotile) based on the so-called "controlled use", under the "theory of asbestos differentiation" or "amphibole hypothesis"⁷. Such theories have been supported by the international lobby through institutions such as the Interna-

7 The differentiation between the two asbestos types (blue and white) is consensual. Scientists of all affiliations agree that blue asbestos is more harmful than the white one (chrysotile). However, it does not mean that white asbestos has no risks. For an analysis on the scientific controversies about the fibre differentiation, see Budó (2021).



tional Institute of Chrysotile and the Brazilian Institute of Chrysotile, among others. These institutes, funded by the industry, fund scientists compromised with industry interests. Budó (2021, p. 81) sustains that the theory of “safe controlled use of chrysotile”, elaborated by scientists in the global North decades ago can travel in time and distance to the South, thanks to the “international division of scientific labor”.

A legislative ban was discussed in Brazil from 1996 to 2001, but after public hearings and a report full of denial, it was rejected (Budó, 2021). Six states banned regionally the fiber since then, but the state laws had their constitutionality questioned in the Brazilian Supreme Federal Court by the Confederation of Industries. In response to those initiatives, the Public Minister of Labor questioned the constitutionality of the federal law that regulates asbestos in the country. In November 2017, the Brazilian Supreme Federal Court declared the unconstitutionality of the article 2° of the law 9055/1995, in the name of the right to health. Notwithstanding, the decision was not actually enforced, and some appeals are still pending judgment (Clemens, 2020). In 2018, Brazil was the third highest exporter of asbestos in the world. Only in 2019, the mining company SAMA started a process called “hibernation,” firing 400 employees and suspending the activities of the Canabrava mine in Minaçu-Goiás. However, in February 2020, the company published a note stating that it would restart processing the minerals already extracted before the suspension of the mining activities, thanks to a state law approved by the parliament of the state of Goiás, permitting the extraction of asbestos exclusively for exportation (Goiás, 2019). Ronaldo Caiado, the same federal representative in the parliament who wrote the report to reject the law for banning asbestos in 2001 is now the author of the state law of Goiás, where he is currently the governor, and got re-elected in 2022.

Since 2017, many companies have been forced to replace asbestos with other less harmful fibres and to spend a lot of money on individual compensation. Economically, asbestos is no longer so important to the internal market, having been restricted to the region of the Canabrava Mine in Goiás for the purposes of export. As long as the Brazilian Supreme Federal Court decision is not actually enforced, the country seems to be following the same pathway that some countries of the global North went through: exporting harm, but now from the global South to other parts of the global South.

Asbestos has been mined in Brazil since the 1930s, when the Swiss, Belgian and French companies started “[...] exporting the Eternit process to other continents in their efforts to win new markets, especially to places with potential asbestos reserves, like Brazil, thus guaranteeing its supply through acquisition of mining companies” (Giannasi, 2012, p. 65). Thus, the first factories



of asbestos-cement products were multinationals installed in the country (e.g. the French Saint Gobain in 1937; the Swiss Eternit in 1940). According to Giannasi (2012), on January 30, 1940, Eternit do Brasil Cimento Amianto S.A. was organised as a partnership between the owners of the Swiss Eternit and the Belgian Eternit.

The asbestos mine that is still in operation in Brazil is controlled by a giant Brazilian company, Eternit/SAMA. The complete nationalisation of the company occurred in 1996, when Eternit bought the Saint-Gobain part of the SAMA (Amaral, 2020). Eternit itself became Brazilian in the same period, but the details of this transaction are not well-known. The multinational capital of the mining company was sold exactly when asbestos was going to be forbidden in the European Union. In Osasco (Brazil), the factory Eternit was installed in 1940, in a neighborhood of São Paulo, that emancipated in 1962, after a fast process of urbanisation and the installation of many other industries. This plant closed in 1993, leaving an enormous environmental liability.

Even with the closure of the Osasco's plant, the company has expanded and comprehends not only the factories of roofs, water pipes and other products, but also the mining company SAMA, where asbestos is still extracted. Eternit "do Brasil" is nowadays 100% Brazilian. This process of nationalisation is one of the tools used by multinationals to avoid being held accountable for the harms caused. Selling the still profitable local companies made them not lose any money to compensate the harms to the workers, to the environment and to the citizens in general⁸.

"Upon its "withdrawal" from the asbestos business, the Swiss Eternit left an immense social and environmental liability in Brazil, for which it did not spend a dime either to compensate the victims or for environmental rehabilitation of the degraded areas. It left this initially to its successor-in-interest, the transnational SaintGobain group, and later, with the exit of the French, to the recently founded and nationalised Eternit S/A, which became and will be held answerable for this tragic and troublesome inheritance. While it ran the company, the Swiss group never recognised nor officially informed the health authorities of any case of occupational illness caused by asbestos" (Giannasi, 2012, p. 68).

Eternit do Brasil was originally the same Eternit from Italy, the former Swiss company that fabricated different asbestos-cement products. Its name came from the Latin word "*aeternitas*", referring to the fact that asbestos and cement were seen as the perfect combination for a light, cheap and timeless material. According to Giannasi (2012), the name was given in 1901 by the inventor of this combination, the Austrian Ludwig Hatschek, when he got the

8 Daniel Lambo's documentary recorded in Belgium and India, "Breathless" represents this process very well.



patent. This idea and conviction were always present in the managers' discourse. For example, Etienne van der Rest, former president of Eternit in Belgium, formulated this idea when asbestos risks were already known: "*Cement and asbestos is the best combination and it would be an act of stupidity to restrict its uses in any which way*" (Jonckheere, 2017, p. 32).

The asbestos risks were not known by the owners in the first half of the 20th century. In fact, most of them were also hugely exposed to the fibre. The problem is that when studies started relating these diseases to asbestos exposure, most of the owners made the decision of starting a campaign of denial. There are many documents proving the knowledge they had about it (see Bocking, 2004; Camargo Jr., 2009; Michaels, 2008).

In Belgium, Eternit is still in operation, but it does not use asbestos since its prohibition in that country. As Laurie Kazan-Allen (2012) says, Belgium is one of the origins of what she calls the "European asbestos royalty", composed by three families: the Emsens, the Schmidheyns (Switzerland) and the Cuveliers (France). In Belgium, one of the biggest asbestos facilities is located in Kapelle-op-den-Bos, a small rural village in the province of Flemish Brabant. Many of Eternit's factory workers (occupational victims), their spouses and children (para-occupational victims) as well as inhabitants of the village (environmental victims) died due to asbestos exposure at work or in the area.

In Italy, the Eternit factory in Casale Monferrato was a Swiss-Belgian multinational. In 1947, the first official case of asbestosis was recognised in this factory (Rossi, 2010). Only in the '70s people discovered that asbestos was the cause of the rare cancer called mesothelioma, known as "the tumor of Casale" (Rossi, 2010). Between 1964 and 1986 the official data – certainly underreported – showed that 117 workers died of lung cancer, 89 of asbestosis and 43 of mesothelioma (Magnani et al., 1995). Since 1976, the factory was owned by the Belgian Louis de Cartier de Marchienne and the Swiss Stephan Schmidheiny. In 1984, an expert report made in the factory thanks to the claims of the CGIL (Confederazione Generale Italiana del Lavoro) and the factory council, proved that the environment was contaminated. Because of this, 60% of the people who died of mesothelioma never went to the factory, differently from asbestosis and lung cancer (Altopiedi, 2011). In 1986, the Eternit factory in Casale went bankrupt, and the mayor banned asbestos from the territory of the town. However, people were still dying, so the struggle continued to be for compensation, punishment and for the banning of asbestos in Italy, now with the participation of the citizens. In 1998, years after the asbestos ban in Italy, victims and relatives joined with ex-workers and unions to create the Association Relatives Victims Asbestos (AFeVA) (Rossi, 2010), the protagonist of the struggle that made the experience of Casale so particular (see also Ruggiero & South, 2013).



Focused on three pillars, “Justice”, “Decontamination” and “Research”, the association leads thousands of people in their battles. The most famous of them has been the role AFeVA played as a civil part in the criminal court case against the former owners of the factory for environmental disaster. They were condemned to 16 years in prison, and to the payment of 200 million Euro. In 2012, the Court of Appeal confirmed the conviction. However, in November 2014, the Supreme Court declared the expiration of the statute of limitations. This decision brought inconformity to the victims, reported also in a previous article, where one of them states: “is homicide still a crime in Italy?” (Natali & Budó, 2019, p. 719). The struggle did not stop, and the prosecutor proposed another criminal court case against Stephan Schmidheiny, the only former owner of the factory that is still alive. In this new court case, called “Eternit bis”, he has been accused of voluntary manslaughter of 392 people citizens, among ex-workers and residents of Casale Monferrato. These court cases are unprecedented, as it is difficult to identify those who are responsible for companies’ harms, and this identification is necessary for applying criminal law.

From all this information, we identify as perpetrators of the harms a wide range of people and institutions. First, the most visible people are the owners of the companies. Even though there was not strong scientific awareness about asbestos risks before the 1960s, since then, an important campaign to deny the risks and to avoid preventing the harms was the main strategy adopted by asbestos industry throughout the world. Second, we must understand the dual role of the state. On the one hand, its role in colluding with the companies in causing harm, by being negligent, avoiding the political initiatives to ban the fiber. On the other hand, its role in protecting victims and making corporations accountable for their actions. We can also talk about the responsibility of the scientists, who were paid for decades to create controversy in the scientific literature, with many kinds of research misconducts, which could be understood under the category of occupational crime (Budó, 2021; Friedrichs, 2002; 2010; Faria, 2018).

The amplitude of people and institutions that directly or indirectly caused the harms, or that allowed harm to be spread through denial is a huge challenge to deal with perspectives of justice for the victims. Specifically, in relation to the companies, we must address the many escape ways they use to avoid liability.

First, they always use the argument of legality. If the state did not forbid or regulate the use of a raw material attending to the most credible research studies, why should the companies avoid using them? Stephan Schmidheiny, for example, argues in his defence that he was not the owner of the factory before the 1970s, and that it is not true that the scientific consensus about asbestos risks



already existed before 1986 when the factory of Eternit in Casale Monferrato closed. One way to challenge this argument is using the proofs we already have to show how the same companies funded conflicted studies to influence this omission of the state, avoiding, thus, regulation and also compensation. The consequence is what the first author called in another article *spreading harms to the future and to the past* (Budó, 2021, p. 92).

Second, time is an important tool used to avoid liability. As we saw, in the case of Casale Monferrato, the company declared bankruptcy in 1986. Even though the asbestos dust still can be found in the buildings and in the environment, most people that are discovering to have asbestos in their lungs and pleura nowadays were exposed to it before that time. When the first criminal conviction against the two owners was released, one of them was already dead. The other is an elderly man that has constructed a strong environmentalist reputation since the early 1990s. The declaration of the statute of limitations at the end of that criminal court case in Italy in 2014 can be seen as a symbol of how time can be used to avoid liability. Declaring bankruptcy, moving to other countries, and selling the company to local managers are important strategies that multinational companies have used in the last decades in the asbestos case. These are all huge challenges to be well developed in forthcoming works.

Asbestos victims' experiences of harm and demands for justice

Empirical studies carried out in different countries with former workers of asbestos-cement companies, and their relatives, have shown that the risks of asbestos exposure were not a topic of awareness or debate among workers until the '70s (Natali & Budó, 2019; Altopiedi, 2011). Even during this decade, the strategies of denial and disinformation were revealed through numerous court cases, mostly in the United States. Internal documents from the companies showed that the owners were the first to know about the risks and to prevent the workers and the society to be informed (Lilienfeld, 1991). This context of lying and denial has deeply affected the perception and also the *demand for recognition and truth* that victims nowadays are looking for. A former unionist and current activist of a movement of asbestos victims in Italy says:

“This was visible in original documents from Eternit, not from the prosecutor's office or the plaintiff's office, but through minutes of meetings, etc., where it showed not only that they knew, that they were the first to know about the epidemiological facts, about the mortality, no? [...] They were the first, the first, the first to know. And they were the first to intervene to try to force the attention of the institutions, of the deliberative bodies of the various countries, so as to avoid as much as possible laws that restricted the use of asbestos [...] And he told the 35 managers, “Please do not panic!” The news must not reach



the workers, and we must defend the continuity for economic benefits, we must defend the continuity of asbestos use. And on that day, they produced a real vademecum of questions and answers distributed then to all plant managers, to all the managers in the world of Eternit, who were present in about 60 countries, where there were eventual questions from journalists, from doctors, from trade unionists and so on with the related answers on risk, mortality on safety, questions and answers. And this was all to defend as stated to the bitter end as long as it was an important economic benefit to use asbestos. If there is no planned malice in this, there is no malice at all. [...]” (Matteo, 2016 – Casale Monferrato).

From victims’ perspective, the decision of non-complying with the recommended safety measures to deal with the discovered carcinogenesis of asbestos means that the owners and managers acted intentionally to continue with the use of asbestos despite the known risks. This idea of intentionality brings, on the one hand, ambiguous feelings towards the company, and, on the other hand, a strong demand for truth and recognition. These ambiguous perceptions were also due in part to the economic and social status that the workers had in society as a result of working in such factories. Because of the above-average salaries, the good relationship with colleagues and managers, and the feeling of being part of a process of industrialisation, modernisation, and development that such factories represented, theirs were considered very good jobs. The economy of whole cities and regions depended on these factories.

Similar perceptions and ambiguities are also described in an ethnographic study conducted with ex-workers of SAMA, an asbestos mining company in Minaçu, Brazil pertaining to group Eternit (Amaral, 2020). Since the company is still in operation, and the city was developed around the asbestos mine, the economic pressure is still huge and challenging for those who want to defend public health in that territory. Amaral (2020, p. 253) shows that the ‘family’ atmosphere created by SAMA with social and health assistance, cultural and recreational activities are used as tools to affectively connect the asbestos workers to the company, a process which Waldman (2011) has called *family ideology*. This process has been reported in all cases studied. The *family ideology* appears in the victims’ narratives as an important feature that leads to the ambiguity in the relationship with the company.

In the case of Osasco, it also leads to *dissimulation*, a process in which the asbestos victims understand that the peaceful and pleasant work environment provided by the company served as a tool for hiding the risks of asbestos exposure. By maintaining affective ties, it seemed more difficult for the workers to ask questions about their own health. From this comes also the feeling of betrayal and astonishment when discovering the truth. The quotes below are from former workers in Osasco and Casale Monferrato:



“Nobody ever said anything. Nobody knew anything. They pretended that it didn’t affect the lives of human beings. Nobody ever said anything about the risk” (Josivaldo da Silva, 2017 – Osasco).

“We didn’t know anything. Every year SESI came. SESI came with a little truck a trunk to do x-ray plates. Every year it came, it would pull into a corner of the firm there. And we would go there one at a time, and do the plate there and so on. Our relationship with the manager and everyone was great. But nobody opened their mouths. Nobody made us aware of anything. What revolts us today is this. We were deceived [...]” (Alberto Pereira, 2017 – Osasco).

“The most difficult thing is to create consciousness about these things here... then moreover, the consciousness has to be, it has to come out, yes, from the pollution here in Casale specifically, of the cement-asbestos, but the consciousness about what the industry does to its citizens who live where the industry is or to the people who work inside... the fields are vast... because the industry in order to make profits doesn’t look at [such situations] much... rather it exploits situations, it even tries to delay the specific attentions that must go to people’s health because it has to make money... and that’s the thing that bothers me the most....” (Enrico, 2016 – Casale Monferrato)

As we can see from the quotes, *disinformation* was an important tactic to avoid raising and consolidating critical awareness about the harms and risks. Marketing campaigns, the construction of controversy in the medical literature through the funding of research, denial about the causality of exposure to asbestos and disease: these were some of the techniques of disinformation that allowed these companies to continue in operation.

The case of Casale Monferrato is very interesting when it comes to the process of awareness about the huge public health problem created by asbestos. A strong union and a group of citizens whose relatives died because of environmental exposure joined forces since the ‘90s to make pressure to the company and to the municipality to ban asbestos from the city.

“But at that time, throughout the ‘90s, when many people thought that by then the fight was over or it would, all things considered, be over because the factory was closed, then in ‘92 we even got the law that banned asbestos nationwide, after a long battle as I have already mentioned. So, by then what was left to do? And many people were saying to me, what is left? What is there still to do? By now the factory is goneYou brought the law home, together with the others with the three or 21 CGL national unions, [...], a beautiful achievement, quite unique on the international scene, with provisions for the workers. And ... what is then the matter? The matter is that unfortunately people still continue to die, regular citizens above all, more and more than the workers who have already died, more than a thousand had already died, in short there are data actually that are of an exceptional gravity, of an exceptional drama. In a town like ours now the deaths have exceeded ... since long the two thousand.” (Matteo, 2016 – Casale Monferrato).



In all the cases studied, the formation of a social movement of victims and ex-workers was determinant to provide the needed individual and collective awareness about asbestos risks and the political pressure towards the asbestos ban. For example, the Belgian Association of Asbestos Victims (ABeVA) was created in 2000 by relatives of victims and sympathisers with the main objectives of “improving the current situation of the asbestos victims in Belgium and to prevent new dramas by avoiding future contaminations” (ABeVA, 2022).

Because many victims remain silent or are not even aware of the origin of their illnesses, the main objective is the protection of asbestos victims. Even the perception about who is a victim in these cases appears to be the result of the political movements, as in the quote below, told by the son of an ex-worker who died with mesothelioma.

“You say to yourself ‘I am unfortunate’. It’s what I call victimism, you say ‘poor me, I got it, I’m unlucky’. But then when you understand that what happened is not misfortune, but that there are variables that favor the disease, because if not, clearly everyone would die otherwise, however at some point you think: but this can be attributable to criminal conduct, there is someone who did this. And at that point you say to yourself “Ah, but I am not unfortunate, I am the child of a crime.” The perception changes, i.e., sociologically, it’s less about victimism. That realisation of recognising yourself as a victim in this sense is paradoxical. You give up victimism when you recognise yourself as a victim.” (Giacomo, 2016 – Casale Monferrato).

Following the pathway of Casale Monferrato, in Brazil the creation of the Brazilian Association of People Exposed to Asbestos (Associação Brasileira de Expostos ao Amianto), in 1995, made visible the suffering of the victims (Moura, 2019). The strategy of the companies of individualising the cases and offering small compensations in exchange for silence started to be challenged when the victims organised themselves collectively.

The victims’ narratives are also full of ideas of what could be understood as justice in cases of environmental exposure to asbestos. First of all, victims ask for truth and recognition from the companies and those responsible, in admitting and recognising that they knew about the risks and still continued exposing the workers and the citizens in the entire territory. Second, and tightly related to the first, they ask for responsibility-taking and accountability from those responsible, as can be discerned from the quotes below:

“So the struggle continued because the justice system that had taken some interest in our matter. [...] But also because it was necessary, as far as to the responsibility for this tragedy, it was necessary to go and investigate the role of the Swiss-Belgian multinational, which had not been done anywhere in the world. And it was necessary to bring out the responsibility of the real masters, the real owners of the multinational, which we later got confirmation that the last two masters were the Belgian barons Louis de Cartier de Marchienne



and the other one was the “tycoon” as you want to say the Swiss billionaire Stephan Schmidheiny, who from his father had gotten all the asbestos branch while his brother Thomas got all the cement branch. It was one of the richest and most important multinational corporations in the world [...] We wanted a process that considered, precisely, as I said, the citizens among the victims of the disaster, but among those responsible above all the real bosses, those who determined the policies to be used in the confrontation of asbestos, safety, etc.” (Matteo, 2016 – Casale Monferrato).

A third and equally important demand transpiring from the narratives and accounts of victims is the demand for reparation, which often translates in financial payment to individual victims; in funding research to develop new medical techniques to cure asbestos-related diseases; and in funding for asbestos removal in public and private buildings.

“We can’t turn anyone [who died] back, however justice would be that there is, that at least the culprit acknowledged his culpability. He could also say “I didn’t know”, that is, I also accept that he says “I didn’t know”, however now that you know, since you have the money, try at least to repair the damage. That is, justice would be that, you have to be able to at least get rid of everything [asbestos] that is left there, and then continuing with the research, In fact... the research is really making remarkable progress [...]. Justice is to really see the culpability of those who have done wrong being recognised, to have the money to be able to repair the damage and then support the research, to have the possibility to know what we can expect now. Because the past damage is past now, it’s gone” (Luigia, 2016 – Casale Monferrato).

In relation to reparations for example, one of the central outcomes of the work of ABeVA in Belgium has been the establishment, in 2007, of the Asbestos Fund (AFA). ABeVA considers the fund for asbestos victims as “an unquestionably partial and incomplete realisation, but a huge step already in the right direction” (ABeVA, 2022). However, the AFA generates also several criticisms. The main issue with the fund relates to the lack of liability which is embedded in the immunity clause; once the victim accepts the compensation, (s)he cannot sue the company anymore. Furthermore, the fund is financed by the state and all Belgian companies, whether or not they ever used asbestos. This means that a company like Eternit does not need to acknowledge explicitly the harm they caused, neither financially nor in front of the courts. As such, this “socialisation of the damage” through a fund financed by the public authorities and all employers deviates from ‘the polluter pays’ principle. According to the association, companies like Eternit, which intentionally deceived the public and the authorities for decades, should be held fully accountable.

Compensation for lives that have been lost and destroyed has its own importance, but does not answer the complex needs for justice that victims articulate. Many victims have become very engaged with memorialisation practices that aim to remember those that have died, but also with initiatives that are



steered towards prevention, non-recurrence, and care for younger generations. For them, the notion of justice is very central to their lives and the lives of their communities.

“But we cannot let go. As I have already said a hundred times, every week the new victims tell us: “don’t give up, go on, we do not want to have died in vain”. I believe that each citizen that is aware and that has some democratic and civic sentiments that bend towards justice, cannot ignore the fact that this battle must be pursued to the very end for justice, for the reclamation of the whole territory, for a health care, which we also managed to transform, in particular through the specialisation of our hospital as well, which is not a hospital of national character, but we joined the one in Alexandria, which has all the specialties, a hospital, a hospital company, let’s say so autonomous, in the sense that it has its own management...[...] each tumor is an unjust punishment for any human being, but this is one of the most unjust tumors that there are because it should not have been here” (Matteo, 2016 – Casale Monferrato).

Envisioning environmental restorative justice responses to harms caused by asbestos companies

“Our systems of justice require us to isolate individuals or entities, to limit our enquiries to fixed moments in time. Sometimes, these reactions have positive outcomes. Mostly though, they don’t. And even if compensation for harm is finally paid (on the assumption that money somehow fixes dead fish, polluted land, or cancer), often it is delayed for years, fails to account for trauma to people, communities and other species, and lacks genuine apologies or evidence of a true understanding of the harm done.” (Forsyth, Pali & Tepper, 2022, p. 2)

As the quote above highlights, and as made clear so far in the chapter, the current justice systems have not paid sufficient attention to the claims and experiences of victims of asbestos. At the same time, those demanding criminalisation and punishment for corporates often forget the bitter truth: that the criminal justice system deals unfortunately with an utterly insignificant amount of corporate crime and harm. Of course, asking to shift this balance is an important part in the struggle for justice, as made clear by critical criminologists and also by social movements, but realising that there might be more potential in innovative justice approaches, such as that of environmental restorative justice, is also an important task for scholars, practitioners, and those affected (Forsyth, Pali & Tepper, 2022; Minguet, 2021).

Our intuition is that environmental restorative justice can be particularly suitable to address asbestos-related harms, because it ‘starts the search for justice based on questions around who and what has been harmed, who is accountable for that harm, how to protect those harmed, how to repair the harm,



and how to ensure its non-recurrence' (Pali & Aertsen, 2021, p. 5). Despite this initial intuition, the work done so far in this article to identify in their full complexity the stakeholders of asbestos-related harms, both those suffering from them and those who have caused them and/or are still causing them, and especially to identify the many layers and facets of the meaning of justice in such cases, is essential groundwork in the envisioning of environmental restorative justice responses. In what follows, we will use that groundwork in our discussion of whether we can envision environmental restorative justice responses and under what conditions we can do so.

Environmental restorative justice is 'a promising new branch of the restorative justice tree' (Forsyth et al., 2021, p. 36). In its broadest understanding, restorative justice is a global social movement and an alternative paradigm of justice, fundamentally concerned with transforming the way contemporary societies view and respond to harm, crime and wrongdoing (Johnstone & Van Ness, 2007). Environmental harms and injustices enable new conceptions and practices but also raise specific challenges that are not present, or that manifest differently, in the other domains where restorative justice has been used (Forsyth et al., 2021). Essentially, a restorative ethos and praxis to environmental harms is both past and future oriented as it calls attention both to the necessity to repair the harms that have been done to the environment, to its human and other-than human inhabitants, and to communities and future generations, and to build different relational and ethical systems that prevent future harm (Pali & Aertsen, 2021, p. 6). Environmental restorative justice asks us to take seriously the relevance of relationality in the aftermath of harm and wrongdoing. Said differently, 'if *retributive* justice focuses on perpetrators' offences, and *restitutive* justice focuses on victims' losses, *restorative* justice focuses more on the relationships amongst perpetrators, victims, and other community members, relationships damaged by wrongdoing and in need of an ameliorative response' (Almassi, 2022, p. 204; Walker, 2006b, pp. 210-211). Even though the term itself has obvious limitations, the approach generally taken by many scholars and practitioners engaged with this field is broader than the term suggests and 'accommodates conceptions of justice that deal with humans (environmental justice), with ecosystems and biospheres (ecological justice), with more-than-human animals and plants (species justice), and with climate change and its associated injustices (climate justice)' (Forsyth, Pali & Tepper, 2022, p. 3).

In what follows, based both on research conducted with victims of asbestos (Natali & Budó, 2019; Silveira & Budó, 2022) and on the emerging field of environmental restorative justice, we try to elaborate on the potential of this approach for addressing asbestos-related harms. We follow especially an encompassing blueprint of environmental restorative justice that is based on six principles identified by the moral philosopher Margaret Urban Walker (2006a,



2006b) which are: 1) repair of the harm and wrong, 2) placing the needs of those harmed and wronged at the centre of restorative justice, 3) demanding responsibility taking from those who have harmed or wronged, 4) creating a process of ownership, participation and dialogue, 5) offering those responsible the opportunity to reintegrate without stigma, and finally 6) seeing transformation of structures, processes and values.

Margaret Urban Walker's (2006a, 2006b) moral philosophical approach has been mainly used for its potential to promote restorative and reparative justice-oriented (intergenerational) climate justice (Jones, 2022; Almassi, 2020, 2022). Her work has been deemed useful for restorative justice because her approach to ethics focuses on relationality, responsibilities, and repair. Most importantly, her analysis of ethics and morality include factors such as colonialism, exploitation, historical injustices, and racism which create relationships between distant actors (Walker, 2006a, 2006b). In such contexts, she identifies a profound distortion of relationship, which prevents those responsible from recognising their own complicity and from acknowledging the need for apology (Walker, 2006a, 2006b). As Jones (2022) argues, the central aim of restorative justice in such cases is to correct this distortion and reset the moral compass to achieve what Walker calls moral adequacy (Walker, 2006b, p. 209).

The principle of repairing the harm and wrong

“Restorative justice aims above all to repair the harm caused by wrong, crime, and violence” (Walker, 2006b, p. 208)

All restorative processes must begin with the recognition of the harm caused by a wrong, crime or injustice and the necessity to repair them. From such a perspective, the extensive and long-term harm caused by asbestos on people's and communities' lives, health and wellbeing by the companies, but also the suppression of, or misinformation about the harmful effects of asbestos by companies, and the failure of states to protect their citizens and offer immediate protection through regulation, justice, and wellbeing constitute profound harms, wrongs and injustice. Asbestos-related harm has been for very long minimised and 'presented by those in power as 'inevitable' or as 'collateral damage' in the pursuit of economic development and progress' (Aertsen, 2022, p. 673). As a result of lack of adequate reaction, those harmed lose trust in government, the justice system and corporations (Bolívar, Guerra & Martínez, 2022). Any restorative approach therefore needs to centralise acknowledgement of those previous harms and injustices, but also foreground those ongoing and likely to occur in the future.

Harms, wrongs and injustices do moral damage to our human relationships and that calls for a process of moral and relational repair. Restorative



justice requires a commitment to repair, or to any other radical actions by those who caused or enabled harm that achieve tangible outcomes to address victims' needs (Jones, 2022). In many cases of environmental harm, including in cases of asbestos-related harms, focusing solely on punishing the perpetrator could be meaningless if there is no consequent repair of the harm, restoration of broken relations, and if there is no reassurance that the harmful behaviour will not happen again. Reparation processes need to refer to a guarantee of non-reoccurrence and find ways to avoid harms being repeated in the future. Restoration does not mean putting the parties back in a position as though the harm or the wrong had never occurred. As Walker (2006b, p. 209) writes

“It is not always possible, nor it is always desirable, to restore any relationship between those who have done harm and those who have suffered at their will or from their carelessness. In any case however, it is necessary to attempt to restore morally habitable conditions for those wronged within their supporting network of relationships and in their communities”

As Walker's moral account of repair suggests, the payment of damages cannot address all the harm and the wrong committed, although compensation and restitution will often be a necessary part of repair. Many types of loss, such as loss of life and loss of hope, cannot be compensated, and call for symbolic as much as material reparations. Relational and emotional healing and repair is central to all restorative justice (Forsyth et al., 2021).

The principle of centering the experiences and needs of the victims

“Restorative justice makes central the experiences and needs (material, emotional, and moral) of victims” (Walker, 2006b, p. 208)

The second principle places the needs of victims or of the harmed at the centre of restorative practice. People and communities impacted and harmed by asbestos are not a single homogenous unit with identical perspectives and needs. Given the devastating health impacts, which lead to premature death, depression, isolation, victims have many primary human needs (e.g. material, health, wellbeing, mourning). Another set of needs that relates to the wrong and injustice that they go through, can be related to justice needs (e.g. recognition, participation, voice, validation, and offender-accountability). Environmental restorative justice needs to find processes and reach outcomes that respond to the articulated needs of the harmed.

Restorative justice has the potential to expand notions of harm and victimhood, as it is not bound by a legal, hierarchical and exclusionary understanding of harm and victimhood. From this perspective, all harms (even those that are invisible and rarely considered) and all victims of environmental and



corporate harm (whether they are human, or more-than-human, communities, future generations and the environment), could potentially be taken into account and given a space within restorative processes (Forsyth, Pali & Tepper, 2022, p. 6). As shown by the research conducted with the victims of asbestos, the question of who a victim of asbestos is, remains a challenging one. Creating open, restorative oriented processes, which put victims' narratives and testimonies at the center stage is therefore hugely important in articulating those complexities. Most of the victims of asbestos remains invisible, sometimes even to themselves. Criminal justice processes are oriented mainly towards punishing the offenders and providing compensation for those who are legally recognised as victims, for example the workers who died as a direct result of inhaling asbestos, but fail to recognise as victims the women who suffered as a result of touching the clothes, the carpets, and those in the community who inhaled the dust. Victims in restorative processes are not bound to fit their narrative to legal categories, to compete for recognition, to quantify their pain, but can talk about the impacts of asbestos in their lives in their own words and in their own time. According to Forsyth et al. (2021), environmental restorative justice must develop practices that ensure that disempowered or quietened community members have their voices heard, and that enable participation by large numbers of impacted people.

The principle of responsibility and accountability

“Restorative justice insists on genuine accountability and responsibility taking from those who are responsible for harm, ideally directly to those who have suffered the harm” (Walker, 2006b, p. 208)

Being held accountable for creating harm and for healing harm is central to environmental restorative justice. In the cases of asbestos, those responsible for the harm are many, but all are responsible in different ways, at different moments, for different reasons. The international companies and the local ones, the state, scientists, civil societies, media, international bodies, the global North, even communities themselves; all have responsibilities. These different degrees and types of responsibilities can extend to actions or inactions such as: creating long-term and massive harms, concealing the truth about the effects of asbestos, instrumentalising science to legitimise harm, subsidising and investing in harmful industries, failing to regulate and to punish, excluding voices and stories and minimising concerns and needs of the victims from justice processes, failing to protect and assist victims and their families with their needs. Accountability in restorative justice goes beyond legal breaches, requiring a willingness from those holding power to accept responsibility for their actions or inactions, to explain and make transparent their decisions and to be responsive to harmed



people and communities (Forsyth et al., 2021). Accountability in the context of environmental restorative justice also ‘requires placing genuine power into the hands of those harmed, to reject, modify or co-design the proposed solution of those taking responsibility for harm’ (ibid., p. 35)

In the asbestos cases, the main difficulty in inviting perpetrators in restorative processes relates to the fact that those perpetrators do not see themselves as responsible. This failure to take responsibility is visible by strategies of denial and avoidance of liability. But those strategies are also born because of the accusatory, criminalising and individualising approach that is often sought and proposed by our justice system, instead of creating larger collective processes that are built on truth-telling, responsibility-taking, and repair. If we, as societies, moved away from the idea of justice as simply punishing one individual at the top of the harm causing organisations, towards a justice that creates broader processes that would involve the state, the affected communities, many local owners and managers who were also affected, different processes could be born with more expanded truth telling and responsibility.

The principle of a shared restorative process

“Restorative justice seems to return ownership of the resolution of the wrong, crime, and harm to those primarily affected and those who can in turn effect meaningful repair: to those who have done wrong or are responsible for harm, to victims, to the immediate communities of care of victims and offenders, and to larger affected or interested communities”
(Walker, 2006b, p. 208)

The fourth principle concerns the participants in restorative processes, asserting that ‘ownership of the resolution’ should be shared between the harmed, the harmers, the enablers and the concerned. As Forsyth et al. (2021, p. 30) write, ‘restorative justice requires direct participation by the individuals or corporate representatives who have caused harm or enabled it to occur’. This ensures that the affected community talks directly to people who have the positional power to effect change within corporations or governments. Environmental restorative justice can create safe and structured spaces and processes for all stakeholders to tell their stories and hold difficult conversations around what has happened and what must happen in the future to ensure accountability, repair, and non-repetition (Forsyth et al., 2021).

It is clear that the victims of asbestos are looking for a dialogue and for answers and actions that relate to those responsible and not only for compensation or criminal conviction. Simply telling their story of harm is meaningless if that story is not heard, recognised, validated and if there is no response in return.



The fact that victims feel their trust broken and betrayed, is even a stronger reason to conceive of dialogue-oriented spaces in these cases that address the profound relational and moral harm that victims experience. And the harmers must hear the stories of the communities and sit with the uncomfortable feeling of what they have done or not done. When at its best, storytelling ‘illuminates structural or systemic factors that resulted in the particular harm and its impacts, widening the circle of responsibility’ (Forsyth, 2021, pp. 32-32).

Pali & Aertsen (2021, p. 6) argue that restorative justice should be conceived ‘as distance-reducing and power-sharing mechanisms’, making the ‘offender more vulnerable and empowering the victim’. Distance is often the cause of the harm. It can be created by the differences in experience (e.g. those who have profited and profit from causing harm are rarely directly victimised by its impacts); by lack of access to socio-economic capital (for example there is a huge disparity between corporations and affected communities’ access to legal and financial resources); by different temporality (e.g. the impacts of past generations’ harms on current and future generations); and by space (e.g. those impacted by harm are often situated differently in terms of geography from those who benefit by such practices).

The form of restorative spaces and processes can range from Restorative Circles, Restorative Assemblies, to Truth and Reconciliation Commissions (Jones, 2022; Aertsen, 2022). Whatever the precise practices applied, it is clear that the processes designed to address harms of asbestos needs to be long-term, sustainable, and collective. In envisioning such processes, care must be taken in translating restorative approaches to a corporate harm context, in which balances of power are substantial. In this context, White (2017) for example, advocates for the use of another approach he calls ‘reparative justice’. White (2022, p. 40) writes,

“Reparative justice means getting the powerful to repair the harm and making it serious enough in terms of the penalty or sanction so as to dissuade them from doing the harm in the future. Reparative justice draws on some elements of restorative justice, such as repairing the harm, but it addresses this key issue of power by deploying measures designed to hurt the reputation, economic bottom line and/or resource allocations of these entities, such as publication orders, enforced remediation plans, stop-work injunctions and fines scaled to the size of the organisation.”



The principle of reintegration without stigma

“Restorative justice aims at offering those responsible for wrong and harm the opportunity through accountability and repair to earn self-respect and to be reintegrated without stigma into their communities”
(Walker, 2006b, p. 209)

Even though restorative justice places victims’ needs and repair at the centre, it can be a challenging approach for some victims because it is a balanced approach, aiming at the same time at the reintegration of the offender. Restorative justice benefits therefore not only the harmed and the wronged, but also the harmers and the wrongdoers. It serves as a vehicle for ‘reintegration of the wrongdoer into the community within which the wrongdoer caused harm’ (Wessels & Wijdekop, 2022, p. 75). Walker (2006b, p. 217) writes that those who have a reason to feel shame or regret are given an opportunity in restorative processes to demonstrate respect for victims and to affirm self-respect and moral competence by participating in setting right a wrong or offering an apology.

This can lead to their reintegration ‘without stigma’ into their community (Walker, 2006b). Reintegration without stigma refers directly to Braithwaite’s (1989) theory of reintegrative shaming. In this theory, Braithwaite contrasted stigmatising shaming which in his view is characteristic of criminal justice system, with reintegrative shaming which is characteristic of restorative justice. Whereas stigmatisation constitutes degrading, disrespectful and perpetual shaming, reintegrative shaming communicates disapproval within a continuum of respect for the offender; the offender is treated as a good person who has done a bad deed. Reintegrative shaming therefore means that public disapproval of the offense is combined with communicating trust in the offender’s willingness to improve.

The problem with the idea of reintegration and especially with reintegrative shaming, is that they are developed mostly with individual offenders in mind and not with corporations. When it comes to crimes, wrongs, and harms of corporations and states, rather than being too punitive and stigmatising, the difficulty of our justice systems is actually securing meaningful penalties and ensuring accountability for state and corporate wrongdoing (White, 2022).

The principle of transformation

“Restorative justice seems to build and strengthen individuals’ and communities’ capacities to do justice actively, and not to surrender justice to experts, professionals, or “the state”, which should play facilitating roles”
(Walker, 2006b, p. 209)

By doing justice actively, individuals and communities become more political, conscious of their ability to seek fundamental change to societal struc-



tures and relationships. In Braithwaite's words, while 'disputing over daily injustices is where we learn to become democratic citizens' (1999, pp.77-78). Citizens can, through restorative justice, improve the social conditions that are linked to the origin of the crime, in particular, by strengthening relations and collective commitment. Deliberations and processes that allow community members to discuss and reflect upon possible connections between the crime and social conditions, can contribute towards raising awareness and strategies to address more systematic issues (Pranis, 2001).

We clearly saw how in all the cases discussed here, it was the formation of a social movement of victims and ex-workers that brought individual and collective awareness about asbestos risks, who changed perceptions and discourses about who is a victim, who challenged the strategies of the companies of offering small compensation in exchange for silence, and who raised political pressure towards the asbestos ban. Asbestos-related harms are not discrete problems but intertwine with other global and local injustices, giving restorative justice both the opportunity and the obligation to amplify common voices and shared struggles for justice and transformation. As Aertsen (2022, p. 686) writes,

"Restorative justice can also offer special opportunities for society, in particular for developing its social capital and civic interconnectedness; a space is provided for ongoing norm clarification and democratic, political debate (Dodge, 2009; Dzur, 2011), and for citizens to explore and to challenge, for example, a culture of extractivism (Bolívar et al., 2022) and, more generally, 'the morality of commerce, or socioeconomic inequity, or the temptations of great wealth, or the responsibilities of the powerful, or what "represents the law of the land", in a purposeful and meaningful way' (Chiste, 2008, pp. 99-100)."

Conclusion

This article had the objective of promoting an encounter between the asbestos case, developed in previous empirical research with asbestos victims in three countries, and the emerging perspective of environmental restorative justice. There is no doubt that this is an effort full of complexities and challenges. The analytical tools we have to discuss crime, victimisation and restorative justice are still mostly connected to interpersonal violence, and the alternative ways to deal with the conflicts in society usually leave aside the characteristics of state-corporate crimes. We need to recognise that the amount of socioenvironmental harms caused by the asbestos industry is a product of voluntary deliberation of continuing the use of the fibre after knowing about its risks. Making these decision-making processes and those who took them public is necessary to acknowledge that the harms were not an accident that could not be avoided.



Thus, recognising the causation of harms and challenging denialism is the first step in envisioning a new perspective of justice.

When it comes to understand who the perpetrators are, other difficulties appear, such as: individual denialism, nationalisation of formerly transnational or multinational companies, the complicity and/or lack of autonomy of the state against powerful companies, corruption and bankruptcy. Another challenge is to understand the many levels of responsibility in those cases to reach also the people who helped with the concealment and thus with the spread of the harms, such as the scientists paid by the industry to produce conflicted studies attesting the safety of the fibre.

Regarding to the victims, the asbestos case brings important insights to understand victimisation and demands for justice. From ex-workers and their families, to the citizens that experienced environmental contamination and the consumers who bought asbestos products, there are different levels of harms and recognition in the systems of justice. However, two common characteristics must be addressed: first, the difficulties for the asbestos victims to identify themselves as such in the face of denialism and propaganda; second, the role played by the victims' movements in this awareness both about harms and victimisation. The politicisation and collectivisation of this process is the core of the development of different demands for justice. Some of the achievements that can be considered inside a policy of reparation are the following: the asbestos ban in Europe and the SFC decision in Brazil, the asbestos fund in Belgium, the memorialisation process in Casale Monferrato, and some individual and collective court decisions on compensation. At the same time, the victims' demands are also organised in terms of repairing what can be repaired from the past harms, but also helping to deal with the harm in the present through investments in research for obtaining medical treatment for ARDs and de-asbestos of buildings. More than that, there is an important demand that is common to all cases: the need for acknowledgment from the companies. The demand of a criminal conviction also appears in the victims' discourse, mostly in the case of Casale Monferrato, where a criminal trial is still in process.

Starting from those demands for justice that are quite diverse and not strictly punitive, we believe that an environmental restorative justice that is anchored in the six principles identified by Walker (2006a, 2006b), tailored carefully to the specificities of the asbestos-case, and used in solidarity by the victims' movement, activist scholars, concerned citizens and civil society, could hold a promise.



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