

The Evolution of Judicial Responses To Mineworkers' Claims for Health Damages: A Comparative Review

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Over the years, several claims have been brought by mineworkers against mining companies in respect of various health conditions. High profile cases include the earlier mercury and asbestosis claims, and the more recent silicosis cases. The technical issues arising in these cases have included the jurisdiction of the particular courts to hear the litigation, the prescription periods in respect of bringing the cases to court, the applicability of one or other piece of legislation or the common law to the specific claim, and the legal standing of the plaintiffs.

The manner in which courts have dealt with claims of mineworkers in respect of occupational health damages has evolved over the last century.

Some of the factors influencing this evolution are:

- Changing public policy and public awareness of occupational health issues
- The development of the common law regarding occupational health claims
- Stricter standards and legislation regarding health and safety in mining
- The emergence of constitutional democracies and justiciable constitutions
- The right of litigants to bring class actions
- Skills, funding and other resources that strengthen NGOs and trade unions

This paper seeks to review a selection of court judgments in respect of mining occupational health claims both in developed countries (like Australia and the United States), as well as in developing countries (like India and South Africa), in order to assess how judicial responses have developed and whether mineworkers are, in fact, better compensated in current times than they were in the past.