5. THE ETERNIT FACTORY AT CASALE MONFERRATO

Fabrizio Meni

The Eternit factory was built in Casale Monferrato, in the North of Italy, in 1906. Progress and modernity broke into the secular rhythms of the Monferrato hills and countryside, which were made of poverty, starvation, wrinkles and hard work under the sun. The location was perfect for an asbestos cement plant: in a territory famous for its clay, a necessary ingredient for cement production, and 100 km from Balangero, the site of the largest chrysotile asbestos mine in Western Europe.

It was a modern structure that opened up unexpected employment opportunities. In a world that had known emigration as the only alternative to destitution it was the “American dream” at home: a well-paid job with set working hours which also left time to take care of the garden or the small vineyard, a stable future for the kids – no longer the necessity to slave in the fields or the marl mines. Eternit was the very image of man’s victory over nature: it produced only a limited range of products, but had created “artificial stone.”

Leaflets publicized uses for the marvellous new fibre-cement in henhouses, hutches, prefabricated houses, iceboxes, pre-fabricated schools and gyms, etc., and, of course, all of them accompanied by the adjective “rational,” a real password to the future. In Monferrato, everything that was “Eternit” was “good”: the children used waste product from the plant to build their tree houses, the adults to mark off the borders of their gardens or level their backyards. Sacks full of scrap, so-called “polverino” (dust), the most dangerous to one’s health, were given away free, to be used indiscriminately, as a reward for workers undertaking work already known to be dangerous to health.

The workers did piecework as was common in other cement factories in the area and in the mines in the hills; they were hired by the day and often waited hours for work, and this way their working day was incredibly extended. However, at the beginning of the century, work – whether in a factory, in a mine or on the land – could be compared to the labours of a beast of burden. Society was divided into two main categories: a well educated elite, which held the power, and a mass of ignorant and subdued people who could only count on their own strength and long hours of hard work, which combined meant exhaustion.

Stylized image of the Casale Monferatto Eternit plant in the 1920s. AFeVA archive.

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The elite could not only read and write they also spoke the national language. By contrast, the mass of manual workers were for the most part illiterate and communicated in dialects not recognized outside their local area: viewed by the elite as work animals with no language, but expletives, whispers or curse words. Today it doesn’t seem believable that such a separation was justified by unquestioned anthropological beliefs. The elite assumed intellectual and spiritual superiority since the weary masses were regarded as being inherently stupid with no perception of a spiritual life. But along with the introduction of paid work in industry, came a sense of worth for the workers. The working-class felt like a bearer of values and for a while thought it was contributing with its own work to the construction of a better world for the future.

There was then a special kind of pride in working in a factory, a pride now consigned to the realms of industrial archaeology. This growing sense of being “a producing class” led workers to question the division of traditional society, though there was no real change in the division of labour until the 1960s, in Italy. The older generations that worked side by side with the younger ones, even in the 1960s and 1970s, retained a sense of reverence toward the elite that commanded them, ready to call them “gentlemen” with a certain respect, recognizing a condition that they thought to overthrow (not destroy) only in their dreams.

Those who worked at the Eternit factory, however, felt privileged compared to those who had to slave in the fields, who were already old when they turned forty or who rotted hunched in the mines. Never mind if doing the factory job they could die. They accepted death with the same resignation with which they were born. Whatever happened, they “the beasts” could expect to die before their time. It didn’t really matter to them if it was the “polvere” (dust) that accelerated the process. They said they would have died anyway, that was all. At most, people spoke generically about diseases. Usually the diagnosis for Eternit labourers was acute exacerbation of chronic bronchitis, the heavy smokers’ illness. They also spoke about cancer, but they normally associated the illness with their job – an existential condition. One works, gets sick and then dies. In a field, in a mine or in a factory; it didn’t really matter.

Actually, getting ill because of work could be a source of pride, like an award for bravery: “I have the ‘polvere,’ you know,” like a confession shouted with dignity, as if “dust in the lungs,” on top of giving you the right to extra pay and hope for an early retirement, was also the mark of one who worked hard and strived and sweated to earn a living.

By contrast, the Eternit “owners” represented the prototype of contemporary capitalism. In the 1980s, the Schmidheiny family owned Eternit factories in 16 countries with more than 23,000 workers, and an annual income of around 2 billion Swiss francs. For three generations the Schmidheinys strived to show themselves as deeply animated by a sense of duty comprising those ingredients that, according to Weber, combine the capitalist spirit with Calvinist ethics. However, seemingly following the principle that “money has no smell” many of their actions were at odds with any moral code: their economic success in Nazi Germany thanks to Hitler’s help, the use of a concentration camp for forced labour in the Berlin Eternit factory, the exploitation of black workers treated like slaves in the South African mines during apartheid, or the way in which they got the chance to rebuild Nicaragua with asbestos cement after the country was destroyed by the civil war and the earthquake in 1976, with the financial help of future dictator Somoza.

Even the last representative of the dynasty, Stephan Schmidheiny, now on trial in Turin, is a worthy heir: he starts his career very early running Everite, the South African factory, in the worst years of apartheid. When he takes control of the whole company, in 1975, Schmidheiny is only 28, but already an astute businessman.

By 1991 Schmidheiny had disposed of Eternit’s asbestos mines and many factories that made asbestos products, hoping to walk away from responsibility for the catastrophic damage that he and his family’s company had caused through the years. The Italian Eternit company, in which the Schmidheiny family had a substantial shareholding, in addition to their control of policy, and in which the Belgian Baron de Cartier de Marchienne was an executive director, and the Belgian Eternit a major shareholder, finally declared bankruptcy in 1986. The Casale Eternit plant was abandoned with all its poisonous contents and the last 350 workers lost their jobs. Shortly afterwards, Schmidheiny changes his image and retires to start writing books about the environment and green economy like a perfect anti-globalization farmer. He has been UN Representative for Sustainable Development, a Clinton adviser, professor of economics at several universities, founder of the Swatch company, a shareholder of UBS and Nestle; but most importantly, he is one of the richest men on the planet.

It is an indisputable fact that Schmidheiny finally switched to non-asbestos production, but he did so really slowly, claiming for years that there was no material that could replace asbestos. Even though govern-
ments were worried about increasing public awareness of the dangers of asbestos, the influence of the asbestos industry was strong enough to delay European asbestos bans—1992 in Italy, 1993 in Germany, 1996 in France—despite the mounting evidence provided by health professionals.

The strategy adopted in the last ten years of asbestos cement production in Casale was for Eternit to apparently cater to workers’ concerns by improving working conditions, thus creating the image of a caring company. Yet it denied that asbestos caused mesothelioma for years and dismissed as subversive, union battles in defence of workers’ health. What has come to light at the trial in Turin is that Eternit concealed evidence of the hazards of asbestos and hired a public relations agency to monitor and investigate the activities of unionists, anti-asbestos activists and prosecutors.

The workers knew very well, however, that working conditions were terrible and that they risked their health— they had known this for the best part of a century. Most of the women worked in the moulding department, shaping and cutting the various products made there by hand. “We used to wear a ‘foulard’ on our hair so that it didn’t get covered with too much of that white dust.” Wagons full of sacks of asbestos arrived at the railway station in Casale; then the wagons had to be unloaded manually onto carts which were then taken to the processing departments. The asbestos was stored in very high silos and taken later from the silo doors by pitchforks, to be processed.

Then there were the machines used to separate the fibres prior to being amalgamated with cement, fed with raw asbestos by hand. It was said that even the vineyards around the factory were white because of the dust.

Till the early sixties the initiatives taken by the unionists inside the factory were restricted to making requests that the management was inclined to perceive as “deliberately aggravating,” that is, pressing for masks, filters, fans and any other form of protection from that dust. Usually, the solution to these annoying people was the “Kremlin,” the department with the harshest and unhealthiest conditions, the place where unionized workers ended up: it was a department for the finishing of tubes, with piles of turnings and very low ceilings. Dust filters were installed toward the end of the sixties, but that just displaced the danger: in fact, at night the filters were opened and the wind carried the dust over the town.

In the sixties, public opinion supported the factory because it had brought jobs and money for many families; industrial action could only monetize injuries, but even this was appreciated by the workers who accepted the risk in order to guarantee the future welfare of their children. “Why did it take us so long to find out that asbestos is carcinogenic? Because of anti-union, anti-worker and anti-communist bias. In Casale, only some doctors and few people from the environmental association were on our side” says Bruno Pesce.

The idea of “closing the factory” was seen as a crazy plan that would lay thousands of jobs on the line; it would have meant cancelling that “American dream at home” that Eternit represented. Thus, in pressing for action, the union had to overcome both the distrust of the workers who didn’t want to risk their jobs, and the hostility of local people who did not want to support a commitment against the main economic resource of the area. However, this attitude changed when people started dying systematically, even men and women who had never had anything to do with the factory.

In 1988, the “Associazione esposti all’amianto” (Association for people exposed to asbestos) was founded in Casale; this was later changed to “Associazione Vittime” (Victims Association), when not only the correlation between asbestos and mesothelioma was proved, but also that mortality in Casale was much higher than in the rest of Italy.

However, even when confronted with this dark scene of deaths and asbestos-related cancer, there were still people arguing that the most important consideration was to defend capitalism—the bringer of wealth, comfort and progress; though capitalism and its guiding principle—free trade—imply a series of conditions that had been disregarded by the Belgian-Swiss multinational.

Free trade must be based on democracy; if it is to be truly free, it must support freedom of information and expression. Now, manipulating information, silencing the voices of scientific research, spreading false rumours passed off as scientific data, disseminating publications and providing training courses for architects and engineers to encourage them to use asbestos instead of traditional materials—that is not behavior that follows the guiding principles of capitalism.

If in the light of Selikoff’s findings in the 1960s, linking occupational asbestos exposure to lung disease, Eternit had switched to the production of non-asbestos fibre cement, the company would not have gained such an advantageous position in the construction industry. And Stephan Schmidheiny would probably not have become one of the richest men on Earth.
In Casale Monferrato nowadays, in the area that was dominated for a century by the Eternit “factory of death,” there is a large expanse of concrete with just a few remnants of buildings – funereal industrial archaeology. This is the result of a unique decontamination process following the closure of the factory in 1986 and demolition in 2006; a task requiring enormous effort from local institutions since no help was forthcoming from the manufacturers that had profited from asbestos-cement production in Casale for 80 years (an estimated 23 million tons of asbestos cement was produced in Casale).

Since the end of the seventies, the period for which reliable figures are available, around 1,700 people from Casale Monferrato have died from asbestos-related diseases. Moreover, it is estimated that until 2030 almost 50 inhabitants of Casale Monferrato will die every year from such diseases, the majority from mesothelioma. It is a disaster comparable to Chernobyl in that, for many years now, asbestos-related diseases have struck down citizens and ex-Eternit workers, indiscriminately.

In Europe alone, a person dies of an illness directly caused by exposure to asbestos every five minutes. According to a European Union study, by 2030, around half a million victims of asbestos-related diseases are expected in Europe.

The same cynical and ruthless capitalism experienced by the people of Casale Monferrato, with such tragic consequences, remains in other countries, to which asbestos cement production was transferred. The industry is still using the same arguments in these countries that we heard so long ago: that “scientific” studies demonstrate the safety of white asbestos, that “controlled use” is safe use, that incorporation into a cement matrix renders lethal asbestos fibres harmless. No doubt prices have been kept low, by minimizing production costs, turning a blind eye to parameters of safety and environmental protection, and not prioritizing workers’ health and rights. However, we in the West are not supposed to care about this, or the fact that asbestos production is rising: it is now being used far away – in China, India, Vietnam….

Asbestos products are cheaper than safer substitutes because the industry continues to operate hazardous production facilities with few, if any, health and safety measures and off-loads its liabilities for the diseases it causes onto the at-risk workers and communities. As it was in the 20th century in Italy, so it is today in many developing countries – workers paying with their lives for the privilege of working for asbestos companies.

September 2011
6. ASBESTOS ACTIVISM IN CASALE MONFERRATO
“OUR STRUGGLE FOR JUSTICE, DECONTAMINATION, RESEARCH”
Romana Blasotti Pavesi, Bruno Pesce, Nicola Pondranò

The trial of top management figures from the Swiss and Belgian Eternit multinationals finally started in Turin on 10th December 2009. (In Italy, the Eternit multinationals owned five asbestos processing facilities: a large factory in Casale Monferrato and smaller facilities in Cavagnolo, Rubiera, Bagnoli and Siracusa.) We, the victims in Casale, have been waiting for the top management of the Eternit group to face justice for 25 years, a long period of passionate struggle during which we won cases against local managers and campaigned for the national asbestos ban, which was achieved in 1992. The Italian General Confederation of Labour (CGIL) and the Association of the Asbestos Victims’ Families (AFeVA), have always pursued, stubbornly and uncompromisingly, three main aims: justice, decontamination and research.

On trial in Turin are the Swiss tycoon Stephan Schmidheiny and the Belgian Baron Louis de Cartier de Marchienne; both are charged with willfully and knowingly neglecting safety rules and willfully causing permanent environmental damage. The case has attracted worldwide attention and is by far the most significant of the handful of criminal actions indicting asbestos industry executives.

What makes this trial unique is the sheer size of the judicial effort and the number of victims involved: the painstaking inquiry led by Public Prosecutor Raffaele Guariniello has resulted in a dossier running to 200,000 pages and nearly 3,000 asbestos victims have been named. Running in concert with the criminal trial is a civil suit involving around 6,000 people seeking compensation from Eternit: asbestos victims and family members. Of the victims identified in the trial, around two thirds have already died; with 75% of these deaths being recorded in Casale Monferrato, where environmental exposure has led to 500 deaths of residents from mesothelioma, while occupational exposure has caused the deaths of more than 1,000 workers from asbestosis, lung cancer and mesothelioma (recorded up to 2008). To these horrific figures we can add about 1,000 people who have died since 2007; Eternit will have to answer for these deaths in a further trial.

In Italy, more than 1,000 mesotheliomas per year are being recorded. Just in Casale Monferrato alone, a small town of 36,000 inhabitants, up to 45 cases a year are diagnosed; significantly, only 20% of those now being diagnosed with mesothelioma were former asbestos workers. Hopefully the number of deaths will soon start to decline.

Photo from documentary: Dust - the Great Asbestos Trial
Members of the public gallery weigh every word of the proceedings - most are relatives of victims.

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Leading up to what has become the biggest trial in Europe centred on “mass asbestos fatalities,” there has been a relentless effort to combat asbestos hazards, concentrated on two fronts: union action to protect workers’ health and individual rights, and collective action to protect not only workers but the whole community.

Of particular importance in campaigns on behalf of the workers has been the role of the workers’ union, especially the local union branch (Camera del Lavoro) in Casale, and INCA-CGIL, (the CGIL’s welfare society). Gaining official recognition and compensation for occupational asbestos-related diseases proved to be contentious and involved complex medico-legal procedures. Although the first asbestosis case had been recognized in Casale in 1947, it was 1987 before mesothelioma alone (occurring without asbestosis) was recognized by the Industrial Injury Compensation Agency (INAIL).

Collective action within the plant and outside, led initially by the Trade Unions, soon drew the support of environmentalists and asbestos victims. Local Authorities, however, did not join the campaign till the 1980s.

Below is a synopsis of the fight against asbestos in Casale Monferrato, a community struggle which has contributed to launching the trial of the Eternit executives.

1st Stage: the 1960s
In the 1960s, arduous, dusty or noisy work conditions were normally used as bargaining chips to get wage improvements. Consequently, the negotiation of “cash settlements” to resolve problems arising from working conditions was a normal occurrence.

It was difficult to press for changes in working practices and quite unthinkable to question the use of a raw material, such as asbestos, for health reasons. It was considered “normal” for workers to get ill and eventually die: after all they “were but workers” and their superiors at that time were inclined to accept that “survival of the fittest” was the natural order of things for the working class.

2nd Stage: the 1970s
1968 was not only famous for student protests; with the development of the process which was intended to lead to the unification of the unions and the approval of new legislation (aka the Workers’ Bill of Rights in 1970) millions of workers all over Italy fought to improve the working environment and to safeguard workers’ health in factories. In Casale, this struggle was helped by a significant commitment of doctors and researchers to both minimize risk to workers and to ascertain new cases of asbestos-related diseases as they arose. In this era, all trade union platforms included specific demands, originating at plant level, concerning environmental and health issues in the workplace. There were some improvements at the Casale factory.

3rd Stage: 1979-1998
The real struggle against the continued use of asbestos started in the 1980s, when an industrial economic crisis led to a change in public opinion and trade union efforts to improve workplace health and safety were no longer as effective. In 1986, Eternit shut down its operations in Italy. By this time, because of its role in promoting workers’ rights (particularly, since the end of the 1970s) the union had achieved a degree of credibility and “authority” amongst the workers – only much later would it win the respect of the public. Actually, the transition from action to improve conditions to a full questioning of the asbestos risk was not easy. However, in Casale there was no real clash between advocates of job protection and environmentalists – between workers and a trade union which was by then working together with the environmental associations towards the common objective of eliminating the use of asbestos. Of course, the workers were very worried about their jobs and it was pertinent to remind some environmental activists that a worker’s pay packet was not an “optional extra” but a basic need.

This 3rd stage can be divided as follows:

• 1979
Thanks to the work of Nicola Pondranino, who was then the new person in charge of the INCA-CGIL office, and Dr. Daniela Degiovanni that led to asbestos-related diseases and the consequent right to benefits being recognized by INAIL, there was a strong development of medico-legal procedures (persons sufficiently disabled to receive benefits from INAIL were entitled to seek further compensation in a civil court). There were hundreds of cases, with the majority having successful outcomes.

• 1981-1983
When INAIL accepted a request by Eternit to be exempted from paying an insurance premium to cover asbestosis/silicosis risks (implying that the factory was risk-free in that respect), it was decided to sue in the civil courts. The outcome of this suit was a verdict confirming asbestos risks in all the Eternit workshops, and including some worrying references to pollution within the town itself. Following an appeal by Eternit this verdict was finally confirmed by the High Court in 1989.
• 1984
INCA and CGIL local union office (camera del lavoro) organized the first conference on asbestos-related diseases.

• 1986
Eternit went into receivership and then bankruptcy: after 80 years' activity and having had, at times, nearly 2,000 employees, Eternit decided to throw away what was by then a “squeezed lemon,” leaving 350 workers jobless and failing to keep the promise of a new plant and the possible conversion to “asbestos free” technology. Then came a proposal from SAFE (Eternit France) to re-open the plant employing asbestos again, but the trade union turned it down.

• 1987
The first epidemiological study (by Turin University and the Casale Local Health Authority) revealed a virtual massacre: 200 deaths due to asbestos exposure among Eternit workers. Further research, this time on family members and local residents, was conducted. As a result, Mayor Riccardo Coppo banned asbestos in the Casale area: it was the final blow to any attempt to reconcile us with asbestos.

• 1988
The Association of the Asbestos Victims' Families (AFeVA) was founded and its chairmanship given to Mrs Romana Blasotti Pavesi, a passionate activist who has lost both her husband and daughter to asbestos disease. This was followed by the formation of the Asbestos Lawsuit Committee which drew together the main local associations in the struggle against asbestos.

• 1989
A second meeting entitled “No Asbestos” was organized by CGIL in Casale Monferrato. Here, they put forward a draft proposal for legislation to ban asbestos and to establish a national fund for all asbestos victims, i.e. covering both occupational and environmental exposure. CGIL supported the proposal on a national level and involved the CISL and UIL trade unions. Six months later they presented a common national platform for the banning of asbestos.

• 1992
After three years of sit-ins in front of the Parliament building in Rome, demonstrations and petitions, Act 257 was approved. It banned asbestos throughout Italy. The Act was a big success but it provided no funding for victims.

• 1993
Following eight years of committal proceedings, the first criminal lawsuit against the top management of Casale Eternit s.p.a. got under way. The end result was disappointing: though the defendants were found guilty, on appeal the acceptance of extenuating circumstances resulted in a decreased penalty – not one of them spent a day in prison. Moreover, statute of limitations considerations meant that 800 injured parties – sick or dead workers – were excluded from claiming damages in this trial. Luckily, compensation of about €3.6 million was obtained for those who were eligible. (In 2010, with the closing of the bankruptcy proceedings, €5.5 million was added.)

• 1998
The decontamination project for 48 villages and towns in the Casale District commenced, thanks to public funding.

To date, decontamination has been completed on all public buildings and the former Eternit plant, which was demolished in 2006, exactly a century after it had been built. In that same place there will soon be a public park and a project of urban reconversion named EterNot, which will greatly improve the Ronzone neighbourhood. While over 50% of private sites have been decontaminated, there are still 500,000 square metres to decontaminate in the town. Aid grants cover 50% of the cost of replacing asbestos roofs and 100% of the cost for decontamination involving friable asbestos. For some time now, the amount of pollution in Casale has been the same as other towns. If the Local Authority handles the remaining decontamination successfully, in a few years' time the District of Casale might be the most completely asbestos-free area in Italy.

Our aims of achieving justice for victims and decontaminating the local environment have been firmly pursued over the years and partly fulfilled. Nevertheless, we cannot ignore the fact that there are still problems which have not been solved. Outlined below are our next challenges in fighting asbestos.

Establishing a National Fund for Asbestos Victims
Reference should be made to the French example (the compensation scheme operated by FIVA). Funding should be financed by both public and private contributions. It should grant equitable compensation to all asbestos victims, covering both occupational and environmental exposures, with acceptance of such compensation not exempting the guilty party (the polluter) from criminal liabilities.
No to a Reduction of Penalties

Italy officially has over 2,000 asbestos-related deaths a year, as well as about 900 industrial accident fatalities. In spite of these dramatic data, the Italian Parliament is taken up by wholly different matters! By implication they are accepting the dreadful toll of industrial injuries. We need, on the contrary, to adopt greater rigour and commitment, to strengthen inspections and supervision, and relaunch the role of trade unions to provide safeguards. Don’t let us forget that deaths from occupational illnesses and cancer are often silent deaths, in that they are infrequently the subject of public debate, even though victims suffer terrible pain and distress.

The Fight against Mesothelioma

Further scientific research and treatments are required. Exchanges with other countries are needed to develop more successful and accessible treatments (and therapy protocols). With this aim, in 2007, the Piedmont Region and the Ministry of Health decided to set up a Regional Asbestos Research Centre in Casale specializing in such areas as: the environment, health care, and IT (to set up a database of asbestos court cases, for example). We have made renewed requests for this project, which has a Scientific Committee headed by Prof. Benedetto Terracini, to be given the green light.

New European Policy

We need a more active role to be played by the EU and other international organizations in global efforts to ban asbestos (still not banned in around 75% of the world’s nations), and in the environmental decontamination of Europe. We also need new EU Directives to make it easier to identify liability and facilitate compensation procedures.

The avoidance of responsibility by multinational companies when they damage people’s health or the environment is unacceptable. The possibility of legal actions and investigations to determine the damage must be extended. Since multinational companies, such as Eternit, have very complex organizations, we also need to simplify international procedures for investigations and the use of letters rogatory when submitting requests to foreign courts – it must be made easier to obtain compensation when lawsuits involve cross-border judicial systems.

Finally, by cooperation at an international level, national laws concerning the environment, health, compensation and welfare should be rationalized and made to conform to globally accepted norms.

We think that the current lawsuit against the Eternit top management will shed light on what led to the slaughter we have witnessed – expose an economic system that allowed easy profits to be made, with those making such profits apparently impervious to the harm they were inflicting on workers and communities. We are sure that the investigation carried out by PP Guarniello and the members of his team is in itself a huge contribution to this international battle of civilization.

August 2011
7. A Trial with Far-reaching Implications

Laurent Vogel

On 4 July 2011, Turin public prosecutor Raffaele Guariniello concluded his statement of case by calling for 20-year jail sentences against the two men in the dock – Swiss billionaire Stephan Schmidheiny and Belgium’s Baron Louis de Cartier de Marchienne.

The Turin trial is special – obviously not for being the first time the asbestos industry has found itself in the dock, but rather due to the conflation of three things:

1. It is the outcome of nearly half a century’s direct worker action for criminal justice driven basically by Eternit’s Casale Monferrato factory workers.
2. It is a criminal trial focused on the social and public policy import of cancers caused by work.
3. It is the first time that representatives of the Eternit group’s top decision-makers have been indicted for the consequences of what they have done in a particular country. This gives the trial transnational importance.

A Trial Crowning nearly Half a Century of Direct Worker Action

One thing that sets the Turin trial apart from other trials is its storyline of workers and the population of Casale Monferrato forming a collective actor. In many other cases, especially in class action litigation in the United States, a collective actor tends to emerge as the result of legal action. "Victimhood" becomes a clustering force built up by the momentum of a trial. The Casale Monferrato situation is very different. Awareness of the dangers of asbestos grew out of direct worker action that gradually became radicalised and spread to the community as a whole. It was a process punctuated by lawsuits of one kind or another – not all successful – but was not shaped by them.

By and large, the monumental investigative work carried out by the justice administration authorities could only be done because of the collective memory developed with its own means of recording and investigating facts. Direct worker action found ways of taking critical ownership of the reality of work. It produced alliances between workers and scientists. It challenged the establishment’s take on reality. This self-empowerment through knowledge comes through with clarity in the detail with which the trial was able to delve into the history of working conditions, the business organization and the health impacts of Eternit’s business. It was an indispensable foundation for an innovative reinterpretation of classical legal concepts like causality, liability and deliberate tortious intent.

The wide-ranging judicial investigation unearthed 2,969 cases – more than 2,200 deaths and some 700 cancer sufferers. The roll of death in Casale Monferrato reads: around 1,000 Eternit workers, 500 local residents and 16 sub-contract workers. Added to those are some 500 cases in Bagnoli near Naples, 100 in Cavagnolo in the province of Turin, and around 50 in Rubiera in the province of Reggio Emilia. The liability of Eternit’s boardroom for the deaths of 11 Italian workers who had worked in Switzerland will also be looked at. This part of the case was one of the hardest to put together as the Swiss National Accident Insurance Organization (SUVA) long refused to hand over the records until it was forced to do so by a Swiss court order.

Eternit’s Casale Monferrato factory started up in 1906. Located near the Balangero mine, it was a major production centre for asbestos cement goods, especially the renowned corrugated sheeting synonymous with the name Eternit. The Balangero mine’s output could not keep up with production demand. Casale Monferrato had the dubious claim to fame of sourcing its asbestos supplies from countries in four continents – Brazil, Canada, South Africa and Russia. Up to 1980, the asbestos bags were unloaded and slit open by hand, and their contents forked into huge silos. The production process at this stage differed little from peasant farmers’ hay-gathering techniques. So severe was the pollution that the factory seemed shrouded in a permanent haze. During the second world war, US bombers’ repeated attempts to blow up the strategically important Po bridge failed, with pilots reporting a bizarre atmospheric phenomenon whereby the small town seemed to be enveloped in thick white clouds in all seasons.

Eternit was a paternalistic business, and offered its workers free asbestos cement “tiles”. The bags the asbestos had come in could be taken home and used to harvest potatoes. Local people were free to take the

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factory spoil to use for roof insulation, or garden paths. It was a soothing paternalism when works medical officers gave assurances that working with asbestos carried no risks. Workers who voiced concerns might be provided with largely useless protective equipment. But it turned harsh and repressive when challenged. One production shop universally known as the Kremlin was situated in a canal-side building on its own. This was where exposure to asbestos was the highest. It was where the tubes and pipes were finished, turned at breast height in a very low-ceilinged room. This is where management put activists from the Italian General Confederation of Labour (CGIL) to work. Few workers exiled to the Kremlin saw their 60th birthday.

The first workers’ struggles against asbestos-related health damage date from the 1950s. Recognition of occupational diseases came in dribs and drabs: the first case of asbestosis was recognized only in 1947. The workers’ growing realization was stonewalled by the company’s constant denials. Since Eternit was adamant that the work was not dangerous, even the most basic protective measures were considered too costly. In 1961, the workers’ discontent turned to strikes and protests that were savagely put down by the police. It would take another 20 years for the company to yield for the first time to union demands.

Bruno Pesce, who headed the Casale Monferrato labour federation from 1979, focused union demands on health protection. A wave of strikes and shop-floor meetings followed. The unions won the right to have a study on harmful exposures carried out by the Pavia institute of occupational medicine, with union involvement and oversight. Union reps would tour the plant with the researchers and technicians, pointing out where samples should be taken. The field work took 40 days, and found very high levels of exposure to asbestos. The employer’s response was two-pronged: an attempt to break workers’ unity by claiming that improvements could be made, but only if comparatively high danger money payments (24,000 lira a month for the workers most exposed to asbestos dust) were scrapped; and setting up an employer-controlled occupational health service whose first newsheet cautioned workers against smoking! This provoked a two-hour down-tools. The CGIL union decided to hire its own well-qualified doctor, Daniela Degiovanni, who helped uncover the monstrous truth: hundreds dead of mesothelioma and lung cancer; thousands more suffering lung diseases and other asbestos-related conditions.

In 1986, the factory shut down when Eternit’s local subsidiary went bankrupt, but the toll continued to rise. The latency period between exposure to asbestos and the development of cancer may be up to forty years. And so polluted was the environment that most of the population of Casale Monferrato were constantly exposed to high levels. People in Casale Monferrato are still dying from asbestos: new mesothelioma cases are currently running at around 40 a year, and epidemiologic projections suggest that this will continue until 2015-2020. Casale Monferrato has a population of around 35,000.

At an international conference held in parallel to the trial in March 2010, Bruno Pesce retraced the history and singled out the key features of the direct action movement.

The approach throughout the 1950s and 1960s was to monetize the risks. Workers focused on the physical strain of work, the high noise levels, and dust-filled workshops with the main aim of getting compensation in the form of higher pay. There was no question at the time of looking for an alternative to the production of asbestos-containing materials.

From 1968, the struggles took a more radical turn. An alliance was formed between union reps and doctors conscious of their social and political responsibility for tackling disease. Work organization became central to the agenda. There was no specific demand to scrap asbestos, but a growing conviction that the bosses should not have the sole say on production objectives and methods. It was a time of creative ferment and critical thought which in Italy more than elsewhere in the world was to engage the heart and soul of an entire generation of the labour movement.

Unlike in other factories, local environmental demands and workers’ interests in terms of jobs and wages coalesced in the 1980s. The factory shop stewards’ committee would organize the growing community opposition to the Eternit group – an alliance fostered by the CGIL trade union confederation’s relentless attempts to get the occupational diseases recognised, and the first actions for damages against Eternit from the early 1980s sparked by INAIL’s (the Italian social security system’s occupational accidents and diseases branch) acceptance of a reduced risk premium on asbestosis despite Eternit’s systematic failures in primary prevention.

In 1986, Eternit’s Italian branch folded. The promised industrial redeployment never happened. A French Eternit affiliate offered to take over the factory provided it could carry on using asbestos. The union rebuffed the approach and backed the local council ordinance banning any production with asbestos in the Casale Monferrato area.
A first trial in 1993 found only local company managers in the dock. The Supreme Court of Appeal found the case proved for the death of one worker only, and imposed a very light sentence. Charges relating to all the other deaths were found to be time-barred.

**Exposing Workers to Carcinogens can be a Crime**

The Turin trial is unlike many asbestos-related lawsuits in common law countries where the main aim is compensation for victims. Criminal intent is not at issue in tort actions on liability, which are purely financial. The claimants argue that they have suffered loss that can be assessed in monetary terms. They give evidence that the defendant is at fault and that a causal link exists between that fault and the loss incurred. If they prove their case, they are awarded compensation ... provided the defendant is still solvent. Many multinationals have successfully escaped having to pay compensation through complex arrangements, whereby subsidiaries in countries where they were particularly exposed have filed for bankruptcy. The company that caused the loss may even get away without paying the compensation itself if it is insured.

To be sure, the dividing line between civil and criminal liability in some countries may be less hermetic where punitive damages are awarded. In certain conditions—which may differ between legal systems—the particular severity of the fault introduces a punitive element that is decided by a public authority (a court) and turned into private revenue (victim compensation). In a recent trial in Mississippi, for instance, a jury ordered Chevron and Union Carbide to pay $322 million to a worker exposed to asbestos while working on drilling wells for the oil industry between 1979 and the mid-1980s [1]. The worker suffers from asbestosis and must use an oxygen assisted breathing system. This is the highest single payout to an individual in an asbestos case in the United States.

That being said, criminal impunity has symbolic political and social significance since it implies that where asbestos is concerned, mass murder is not seen as a sufficiently serious violation of public policy to be considered a crime.

The Turin trial is the latest in a series of prosecutions for exposing workers to asbestos. What is new, however, is that the charges differ from indictments in previous cases. The Italian criminal case law on asbestos can be very broadly summed-up as follows [2].

Most indictments have been on charges of manslaughter or negligent injury so as to look at the criminal liability of employers in individual situations of workers suffering from asbestos-related diseases. Trials have focused both on diseases that can be considered as specifically resulting from exposure to asbestos (mesothelioma and asbestosis) and cancers that have a range of possible causes but for which there is epidemiological evidence showing a high probability that exposure to asbestos is implicated (mainly lung cancer). Reference to epidemiological data prevents the causal relationship being vitiated because no cancer carries the "signature" of a particular exposure. In a landmark ruling in 2002, the Supreme Court of Appeal held that there was no requirement to prove the precise mechanism of carcinogenesis in each individual, and that a high logical probability could be deduced from epidemiological data and statistics [3].

Sentences have generally been based on three provisions of the Italian Penal Code. Article 40.2 specifies the criteria of causation that must be considered in criminal matters. It provides that “failing to prevent an event where there is a legal duty to do so is equivalent to causing it.” Article 589 contains the offence of manslaughter while Article 590 criminalizes culpable injury to the person.

The legal duty to ensure a healthy and safe workplace derives from a body of health and safety at work legislation. There is a fairly consistent body of case law to say that such a duty of safety existed where there was sufficient scientific knowledge about the consequences of exposure to asbestos. The Supreme Court of Appeal was clear that an employer’s duty of care included taking all technically possible preventive measures and was not limited to mere compliance with statutory limit values.

The Turin trial’s take on what law applies to the facts is different. It is based on two types of offence.

Article 434 of the Penal Code contains the offence of malicious commission of a disaster, i.e., a tortious act or omission which caused an outcome foreseen and desired by the person committing it.

Article 437 deals more specifically with working conditions and concerns the malicious removal or omission of protection against disasters or injury in the workplace.

More than technical issues about the definition of offences, this approach focuses on the collective aspect of business, technical and work organization choices by Eternit top management. “Disaster” as a concept goes beyond just multiple unlawful deaths and may well af-
ford better insights into the full implications of an Etermit-style process of capital accumulation.

One further thing must be said. As with developments in French case law, this asbestos trial is not a case unto itself. The criminal case law on asbestos meshes together with that dealing more generally with all the hazards of work. To argue this further is beyond the scope of this article, but reference can usefully be made to the landmark trials on the Porto Marghera cancers from exposure to vinyl chloride which culminated in a Supreme Court of Appeal ruling of 19 May 2006 [4].

Where work accidents are concerned, it is worth mentioning that on 15 April 2011, the same Turin court currently sitting in judgement on Etermit’s top executives handed down a 16½ year prison sentence to Herald Espenhahn, managing director of the multinational ThyssenKrupp, for a fire which led to the deaths of seven workers. Four other company executives received jail terms of 13½ years. To be sure, this case is different, but the legal arguments around the notion of intent could set a precedent on which the court will rely when deciding the Etermit case.

**Group Top Management on Trial**

In the Turin dock stand Stephan Schmidheiny and Belgium’s Baron de Cartier de Marchienne. Stephan Schmidheiny comes from a family prominent in Swiss economic and political circles for almost a century has been the biggest shareholder in Etermit. It has managed to forge the most varied networks of alliances. During World War Too, the Nazi authorities supplied it with slave labour for Etermit’s Berlin factory. Art collector, philanthropist, and the driving force in many networks to promote a new green capitalism, Stephan Schmidheiny has been a leading light of an employers’ association – the World Business Council for Sustainable Development.

Stephan Schmidheiny played a key role in the Etermit group’s asbestos industry branch from the mid 1970s, where he established a policy of risk denial and double standards on a world scale, delaying the elimination of asbestos in the least developed countries. As Sergio Bonetto, a lawyer for some of the victims, puts it: “Unfortunately for them, Swiss industrialists are meticulous: everything was written down and centralized. For example, we have proof that in Switzerland, all the asbestos samples were controlled and that production parameters were set by dust contamination standards that differed with the country” [5].

Baron de Cartier de Marchienne is a doyen of the Belgian economic establishment who held executive responsibility in the Belgian branch of Etermit (subsequently renamed Etex), and direct management responsibility for Casale Monferrato from 1966 to the early 1970s.
The Turin trial has brought much evidence to show how the two arms of Eternit management - Belgian and Swiss – tried to airbrush away the dangers of asbestos and stave off a ban. On Schmidheiny’s watch, Eternit saved money by cutting down on preventive measures while spending on PR. A police search of the offices of lobbyist Guido Bellodi found that from 1984 Stephan Schmidheiny put money into misinformation campaigns in Italy. A journalist infiltrated the Casale Monferrato asbestos victims committee and Judge Gaurinello was put under surveillance [6]. Papers found show that Eternit "invested" in buying scientists, prominent politicians and trade unionists, and journalists.

The Turin trial stands in marked contrast to the apathetic criminal justice systems of Belgium and Switzerland where the same industrial group wrought similar havoc. The Casale Monferrato story is not much different to that of other Eternit group factory towns like Payeene in Switzerland and Kapelle-op-den-Bos in Belgium. The legal inaction in both countries is not down to significant differences in the criminal law, as by and large the same offences charged in Italy are found in Belgian and Swiss law. The differences stem much more from the social dynamic around what Eternit was doing, rising from the labour movement to the media and government. Nothing has dented the respectability surrounding the Eternit group’s ruling families in their countries of origin. Fortune brings its own fame and Stephan Schmidheiny’s conversion to green capitalism has earned him more bouquets than brickbats.

August, 2011

References


2. A recent study reports forty verdicts in prosecutions for exposing workers to asbestos in Italy. The first dates back to 1984. Cases have increased over the past decade. See S. Zirulia, Monitoraggio di procedimenti giudiziari relativi agli effetti dell’amianto sulla salute ed espolorazione della possibilità di realizzare una banca dati, Casale monferrato, 2011. For a more detailed but older example, see A. Di Amato, La responsabilita penale da amianto, Giuffrè Editore, Milan, 2003.


8. Interview with Prosecutor Raffaele Guariniello

Niccolò Bruna and Andrea Prandstraller

What makes this trial special?

The Eternit case is special because of the sheer size and numbers: the number of plants involved, the number of injured parties. Nevertheless, it is only one of the many cases concerning work-related and asbestos-related cancers we have dealt with over the years. The Eternit case is part of a far reaching legal action we have been pursuing for over 15 years with the creation of an Observatory on occupational cancers. We have already studied over 25,000 cancers and have unsurprisingly found asbestos-related occupational tumours associated with several companies, including Eternit.

What has the role of the victims’ organizations been in commencing proceedings?

The contribution being made by the victims and their organizations is essential as they provide information and knowledge. However, we proceeded because, in accordance with the law, we had to.

Occupational exposure to asbestos, it is often said, has not been subject to legislation in Italy, as is the case for many other countries. This is not completely true: we have an Act which dates back to the early 1900s, mandating health and safety rules to be applied to teenagers and women working with asbestos. Legislation was not lacking: there were regulations; and in Italy we have had general rules on industrial health since 1927, revised in 1956.

In the 1940s there was a law which decreed compulsory insurance to compensate workers for asbestos-related diseases, especially for asbestosis; the law included an obligation to monitor asbestos workers’ health.

What is the charge against the defendants?

The criminal case against the Eternit executives includes the following charges: manslaughter, actual bodily harm, causing a disaster, failure to comply with safety rules and negligence. The choice to proceed with the accusations of “disaster” and “failure to comply with safety rules and negligence” was made because the length of time it would have taken to obtain medical expert reports for the huge number of injured parties and victims involved might have had statute of limitations consequences. Consequently, we decided to proceed with the most serious offenses.

At first the proceedings against Eternit involved local and national Italian managers, why?

Because we had not realized there was a connection between the Italian plants and individuals who had worked abroad. When informed that some workers who had worked in Switzerland had come back to Italy to die, we widened our accusations to include foreigners. Starting from these cases, we found out that Eternit had plants in Switzerland; and that’s where the owners were. Consequently, we started asking questions about the relationship between the plants and the ownership; gathering data and elements that, according to the prosecution, would prove the soundness of our charges; no longer against the national managers but also against the owners and the majority shareholders of the company.

How long did the preliminary investigations last?

The preliminary investigations took some years because we had to collect rogatories in Switzerland and that was hard; in some cases it took up to 4 years. These are the procedures that our Swiss colleagues evidently have to follow. There have been some appeals presented by the concerned parties against the admission of the rogatories, I understand.

Our experience in asbestos-related cancer cases dates back many years. Currently there is a vast amount of case law (jurisprudence): it was very innovative when we started but today it is well known, there are issues and problems which have already been addressed by jurisprudence. So we just have to follow this path.

There are two specific problems associated with the case. Firstly, the huge number of injured parties; not only workers but people, members of the community, who have never entered an asbestos plant. Secondly, the offences involve defendants who live and work abroad, and are linked to several different plants. This implies

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1 This interview was conducted on August 9, 2010; the transcript was translated from Italian by Elena Pertusati.

2 Niccolò Bruna (email: nic.bruna@gmail.com) and Andrea Prandstraller (email: a.prand@libero.it) are documentary filmmakers.
the need to explore what we call the company’s industrial policy; in order to demonstrate the prosecution's charges we need to reconstruct a clear picture of this policy.

And what is the prosecution's hypothesis?

Let’s say that key decisions were not made in Italy but at the Company's headquarters, and therefore they applied to their global asbestos empire, not just to Italian plants but to all interests under the control of the majority shareholders.

The fact that there were meetings of managers from several different plants who met to discuss problems made us realize what was going on; we could actually “see” the industrial policy of the corporation in its entirety.

How do you think you will demonstrate this thesis?

Evidence is very important, but even more important are the documents we acquired: what moves us is truth, the pursuit of truth, so we are open to any truth.

One aim of this trial, an objective we pursue in all trials of this type, is to obtain a ruling which may lead to compensation of all the asbestos victims. It is clearly not the main objective in a criminal proceeding but it’s something we care about. It is an objective for any industrial accident, for any occupational disease. Compensation won’t save anyone's life, but it can be a relief for the family and this is an important result.

Then of course there is the problem of criminal liability. We have many laws on occupational health. They are excellent on paper, but very often they are totally ignored and very little is done to have them enacted. What does this mean? It means that many companies think they can ignore them; the feeling is that, even if you break the law, you will never be held responsible.

Well, I think we have a precise duty, we have to fight this feeling of impunity when disregarding, even flaunting the law. We must make it understood that there are laws and that one can be held criminally liable if you disregard them.

Corporate social responsibility is very important and I can say that after many years of work in this field, much progress has been made since the 1970s and the awareness of health and safety has evolved. However, what I find very negative in Italy, indeed anywhere, is apathy, the passiveness displayed by institutional monitoring agencies (watchdogs).

I think it is inevitable that if the institutions of a country fail to make their presence felt, this or that company may think that they can break the law without suffering the consequences. That, in essence, is the situation we have to deal with. In this trial, as in many others, we are brought to the realization that the watchdogs have failed in their surveillance, very often they have simply forgotten to follow things up. That this is still happening is one message this trial is sending to the establishment.
Once there was an asbestos problem in Italy, there is still an asbestos problem in many countries. When you fail to deal with a problem, when you stop monitoring – this one as well as others for the future, such as electromagnetic fields, which we still know very little about – then you can't complain 20 or 30 years later, asking yourself “Why all these deaths, why are all these people sick?”

The history of asbestos is emblematic because it is the story of a lack of prevention which could have been implemented.

First of all there is the regulatory aspect: asbestos has been banned in some countries, not in others. This lack of consistency puzzles us. I think it is clear that organizations such as the International Labour Organization (ILO), of which most countries are members, do not condone the use of asbestos that continues in many states. Either those who have banned it or those who haven't banned it are wrong; the patchwork picture of regulation we see is unacceptable.

Instinctively, we now consider the banning of asbestos as normal. So when we learn of a country where asbestos is still employed we are surprised and ask ourselves: “How is this possible?”

Of course, we face judicial as well as regularity inconsistencies. We are holding a criminal trial involving a company that has asbestos plants in many other countries. I am not aware that any of these countries have started proceedings apart from France, where they are encountering serious difficulties. Again a confused picture which is unacceptable. Why do we have these proceedings going ahead only in Italy and not elsewhere?

*What's your personal interest in following these cases?*

Just this morning I learned of a new case of pleural mesothelioma in a worker who used to work for haulage contractors: well, that alone was enough to make me think: “Why was there no prevention?” It's not the huge number of cases which astonishes me but the fact that there was no prevention, with very serious consequences. We have cases of people who have never worked with asbestos but who worked in plants where asbestos was present. It's these depressing stories in which one person is brought down by the actions of another that I see as dramatic and upsetting, in addition to the huge number of cases.

Certainly, in this case the main focus is on the disaster caused (hence the charge), not only in the work environment but also in the community.

An expert from the Piedmont Region told us that every year 50 people die, of which 10 would have worked at the plant, but not the remainder.

*What do you think of the defendants?*

It's difficult. Generally I form an opinion of people, especially of defendants, when I cross-question them, which hasn't happened so far. I am waiting for the chance to do so. It will be really interesting to hear what they have to say, in order to shed light on the facts and achieve a just outcome. We mustn't have prejudices; it's important to listen to all sides to be able to reach a balanced judgment.

However, defendants have the right not to answer questions. Whether to answer or not is a defensive strategic choice.

*Don't you feel you are a minority when compared to the defence, so numerous and well equipped?*

No, we have a solid organization. In fact, I wish the Turin Public Prosecutor's office could serve as a national prosecutor's office, since elsewhere in the country there is no comparable organization.

*Is the length of the trial foreseeable?*

No, although when we started we thought it might last years; now [seven months into the trial], thanks to the very balanced and fair guidelines given by the court, we can envisage a reasonable length for the proceedings.

August 9, 2010
9. Dispensing Justice to Eternit’s Victims – The Franco-Italian Experience

Annie Thébaud-Mony

Appendix: The Civil Suit Within the Criminal Trial in Italy

Sergio Bonetto

On September 24 of this year, 2011, while the trial of an emblematic case involving two Eternit industrialists continued in Turin, the Association for the Defense of Asbestos Victims in the Taranto Department, France (ADDEVA 81) unveiled a stele in memory of workers and other victims of the Eternit factory in Terssac, near Albi in France (see box below). On that day, and with complete impunity, the heads of the factory were “celebrating” its fortieth anniversary! And yet in Terssac as in Casale Monferrato, asbestos has killed many people.

This text examines the strategies being used in France and Italy for obtaining justice for asbestos victims, and attests to the urgency of creating a full-fledged international criminal court for cases involving workers and the environment.

Excerpts of a speech delivered on September 24, 2011, by Jean-Marie Birbes, President of ADDEVA 81

1971-2011: Forty years: a history, our history, made of suffering and struggles but also comrades and hope.

The 1970s: The inter-union collective of the two Jussieu universities [University of Paris 6 and University of Paris 7] and women workers at Amisol decide to join forces to alert French society to the dangers of asbestos. The scandal breaks. Eternit France, headed by the Cuvelier family, is part of a network of European Eternit companies ...

July 1996: Monsieur Barot, then labor minister, announces the banning [of asbestos] as of January 1, 1997. That same year, the national association for the defense of asbestos victims (ANDEVA) is founded. ANDEVA grew out of the synergy of revolt, the revolt of professors’ widows, who filed a lawsuit at Gérardmer, and of workers and retirees with asbestos-caused diseases: workers at Amisol, in the naval yards, at the Arsenal, Eternit, Everite, in the steel industry, together with association activists, unionists, journalists and a few occupational health professionals and researchers. And in 1996 our Association too was created. ...

The problem of the criminal responsibility of the [company] directors in place at the time remains to be dealt with. The first lawsuit was filed in 1996 by comrades at the Thiant factory, backed by the CGT’s Construction Federation. Some time later, lawsuits filed by the widows of Terssac factory workers were approved for trial by the state prosecutor in Albi, who transferred the case to a judge in the public health section of the Paris court.

This is what is at stake in our combat today.

In France: the shift from “inexcusable offense” (faute inexcusable) to “anxiety damage” (préjudice d’anxiété)

When the scandal of asbestos-injured workers first surfaced in France, worker-victims of asbestos and their lawyers chose the strategy of filing a civil suit for “inexcusable offense” on the part of an employer – an infrequent move in France before that time. Victims suffering from an officially recognized occupational disease or their legal successors can sue an employer if they can prove he or she has committed what is called an “inexcusable offense,” implying a deliberate breach of official safety and hygiene regulations. In its legal decisions of February 28, 2002, concerning “inexcusable offenses” by employers who processed or used asbestos or asbestos products (decisions considered historic in France), the Court of Cassation chamber in charge of judging labor-related cases put an end to the myth that the company heads in question were unaware

1 Translated from French by Amy Jacobs.
2 Annie Thébaud-Mony PhD, Association Henri Pézerat: santé, travail, environnement. Email: annie.thebaud-mony@wanadoo.fr
of the dangers of asbestos, demonstrating that those dangers were already known in France at the turn of the century [1]. Worker-victims of asbestos and their families have won thousands of “inexcusable offense” cases in French courts since 2002.

Faced with a wave of such cases, the public authorities decided in 2000 to create a fund for compensating asbestos victims, the FIVA. The law stipulates that the FIVA may turn around and sue employers for “inexcusable offense” when there is reason to believe such an offense has been committed. While the FIVA has enabled asbestos victims to obtain compensation who otherwise would only have obtained it after extremely long trials, it also definitively curbed the filing of “inexcusable offense” lawsuits by asbestos worker-victims, thereby transferring the burden of compensating those victims from the industries who committed the “inexcusable offenses,” and should therefore have to pay for them, to a common fund for occupational injuries and diseases called “ATMP” to which all employers contribute, and to the state. Eternit even managed to get out of paying anything at all in “inexcusable offense” cases won by its former employees by getting the courts to have “inexcusable offense” claims paid by the common ATMP fund due to errors in the procedure for officially recognizing that the victims in question had an occupational disease. As for FIVA suits against employers, they brought in less than 4% of the overall total of €2,782 million paid out by that fund to asbestos victims from 2003 to 2010. Clearly asbestos companies in France have not been forced to bear the financial burden of compensating the victims for whom they were responsible.

In 1996, Eternit workers and their families also filed a suit in the criminal court. This case is still in the pre-trial investigation stage. At a hearing in 2005 held as part of the French parliament’s asbestos fact-finding mission, the investigating magistrate Marie-Odile Bertella-Gefroy, coordinator of the public health section of Tribunal de Grande Instance of Paris (the rough equivalent of a county court), challenged the attitude of the public prosecutor’s office in the following terms: “The fact that the public prosecutor’s office never itself opens a preliminary investigation is a problem: it is never the issue of the public health disaster itself or all the people affected by it in a given company [that gets handled] but only the file of a single victim or several victims, as in the contaminated blood scandal [contamination by the AIDS virus of blood used in transfusions]” [2]. In France, then, no prosecutors have opened any pre-trial investigations against those responsible for the asbestos-caused health disaster.

But other means have been used to bring the matter before the criminal courts. In a suit against the multinational corporation Alsthom for “endangering others’ safety,” the corporation and its directors were ordered to pay damages for “causing anxiety” to employees exposed to asbestos. This decision has become a legal precedent. According to the court-approved definition, “anxiety damage” is “damage caused to a victim by knowing that he or she has been contaminated, regardless of the nature of the contamination (biological, physical or chemical), when that contamination carries with it the risk that a life-threatening pathology will appear in the near or more distant future” [3]. In cases of causing “anxiety damage” the company’s criminal responsibility is recognized and the company itself must pay all related damages.

In Italy: suing bosses of the multinational corporation Eternit for their criminal strategy

The Eternit trial in Turin represents a judicial turning point in the international history of cases against asbestos industrialists. It targets the strategic behavior of a few heads of multinational asbestos firms, those who organized the international-scale disinformation campaign on the health effects of asbestos that led to disaster not only in Italy but everywhere that asbestos was being used. The conditions for compensating Italian victims in this case are described, in the appendix to this article, by Sergio Bonetto, a lawyer for some of the private parties associated with the public prosecution.

Here I will just indicate some points of comparison with the French situation. Firstly, in Italy it is the public prosecutor himself/herself, independently of the political authorities, who takes the case to court. Secondly, the criminal case bears on the responsibility of a production system and an overall type of work organization that extends far beyond local or national boundaries. The accused are international-level decision-makers who deliberately exploited the fact that the health effects of asbestos appear only after a certain time lapse. Lastly, any damages granted in this trial must be paid in full by the companies associated with the accused industrialists. The judges in Turin should be reaching their decision in the coming months, whereas in France we are still waiting for an actual trial to begin 15 years after the victims’ lawsuits were filed.

Conclusion

Whatever the differences between the French and Italian strategies, the judicial progress made, thanks to the committed involvement of a wide range of different
actors in the two countries, suggests the urgency of taking industrialists to court at an international level. The market for asbestos is flourishing in India, China and many other countries. This industrial crime will only cease when the impunity of the people running these companies is shattered. This is what we must fight for in the years ahead.

October 2011

Appendix

THE CIVIL SUIT WITHIN THE CRIMINAL TRIAL IN ITALY³

Sergio Bonetto⁴

The civil suit within the criminal court trial in Italy is regulated by the penal code. This means that the penal system principles determine the limits within which a private party can act within a criminal trial.

Above all it should be specified, especially for readers familiar with legal systems in English-speaking countries, that the Italian system, like most systems of Roman and Napoleonic origin, is based on the compulsoriness of engaging in criminal proceedings. That is, through the penal code or specific laws, the state defines all conduct it considers criminal and sets minimum and maximum sentences. If such conduct has occurred (and the judicial authorities are made aware of it in any way), then a criminal investigation must be conducted. The institution qualified to conduct such investigations is the Public Prosecutor’s office.

These are secret investigations, in which the Prosecutor is entirely independent and at liberty to use, guide and assign specific tasks to the criminal investigation department and any technicians and specialists he or she deems necessary. In this phase, private persons who deem they have been harmed by the offense in question can appoint a defense lawyer who may in turn furnish documents and information to the Prosecutor, thus indicating the names of people familiar with the acts under investigation. The Prosecutor is under no obligation to use such documents or to hear persons with knowledge of the acts in question.

All persons heard by the Prosecutor are interrogated without legal assistance (not to mention the presence of the lawyer for private party-victims associated with the Prosecutor), unless the Prosecutor himself informs one or several witnesses that an investigation is under way against them. In that case, only indicted persons can have a defense lawyer and the victim cannot participate in the interrogatory.

When the investigation is complete, the Public Prosecutor’s office must have the results evaluated by a judge, making available to him or her all the documents collected in the investigation process. At a special hearing in which both defendants’ and private plaintiffs’ lawyers actively participate, the judge has to decide whether the necessary conditions have been met for taking the case to trial or if instead further investigation is necessary or the case should be dismissed. A trial is held only if this first judge finds that the necessary conditions have been met. Trial judges are different from the one who decided the case could go to trial.

Another characteristic of the Italian penal system which distinguishes it sharply from others (particularly systems in English-speaking countries) is that in Italy only physical persons can be held criminally responsible.

The penal code can only be applied to physical persons. No legal entity (organization, company, institution, association or party) can be charged with a crime or sentenced.

A company cannot be indicted or sentenced for murder or pollution of the environment; only the person running the company at the time the crime was committed can be so indicted or sentenced. However, companies and legal entities in general can participate in the penal process, either as victims or as civil entities responsible for the harm caused by the defendants. In the first case, legal entities assume the status of private parties to the prosecution, like any private person. In the second case and with the court’s permission, private plaintiffs can bring legal entities that are financially responsible for the damages caused by physical-person defendants into the trial.

Clearly, then, penal action by the state, action against physical persons accused of violating criminal law, is at

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³ Appendix translated from Italian to French by Laura Centeneri; then translated from French by Amy Jacobs.
⁴ Sergio Bonetto: lawyer representing a number of plaintiffs in the Turin trial; email: ser.bonetto@bonettonapoli.eu
the center of the Italian penal system. No other parties – crime victims, persons who have suffered damages, companies financially responsible for defendants’ conduct – are considered necessary components of the case. On the contrary, and at the extreme, they are often thought of as impediments because in these trials only two main actors are absolutely indispensable: the public prosecutor (la publica accusa) and defense lawyers for the accused. In fact, the accused are not even required to take part in the trial, since all that is required is the presence of lawyers with the necessary powers of attorney. If the defendants have not hired their own lawyers, the Court appoints them a lawyer as a matter of course.

This arrangement creates obvious disparities in how the different parties are treated, especially when the number of “non-indispensable” parties is high. Given that, for the system as a whole, having the trial proceed properly is a higher priority than any demands by “accessory” parties, it often happens that those parties find themselves limited in number or that the Court refuses to hear witnesses, let documents be produced or let those parties or their lawyers have the floor for more than a few minutes.

The reason justifying this disparity is the presumed difference between the demands that private parties may make and the state’s prerogative to exercise its fundamental punitive role. Indeed, in criminal trials, private parties associated with the prosecution can only claim compensation for the injuries they have suffered. They can only claim in the criminal trial what they could sue for in a civil case. They are only allowed to be present in the criminal trial for reasons of “procedural economy”; that is, to ensure that a single trial – the criminal one – will fulfill the state’s function of punishing criminals and meet claims for compensation by persons who have suffered from that criminal’s conduct.

If it appears likely that assessment of the damage claims of private parties to the prosecution will slow down the criminal trial, then the criminal court can decide not to recognize those parties’ claims and to send them instead before a civil court, which will examine them in relation to civil law only after the criminal case has been definitively concluded.

An important clarification is required here: “definitive conclusion” means the definitive sentence, which in Italy is determined only after three judicial levels (gradi di giudizio) have intervened: the court, the appeals court and court of cassation. From five to ten years is usually required for all these levels to reach their consecutive decisions.

The alternative available to private parties in a criminal case is to take their case to civil court from the outset. In this case, it is up to the suing party to prove all its assertions against the party being sued; legal costs are high; there is of course no publica accusa, and such trials generally take much more time than criminal court cases.

It has been rightly claimed that the Italian trial system does not adequately protect crime victims and more generally those who have suffered a wrong (damage?). But that’s the system.

To sum up, anyone who thinks they have suffered harm due to a crime has to act in person if they wish to collect damages; they can interfere only slightly in the criminal trial process and have no influence on the sentence. On this point also, victims (i.e., private parties associated with the prosecution) can have only an indirect role.

Having paid out damages already is a mitigating circumstance for persons convicted of a crime, but it in no way exonerates them from sentencing if the court finds them responsible.

The state never surrenders its punishment prerogative. If the victim states that he or she has been fully compensated and the court finds that compensation adequate (congruo), the base sentence alone is reduced. On the other hand, if the court finds that compensation amount too low, it will not take the act of compensation into account. The opposite also holds: if a convicted defendant refuses to pay damages, this is considered an aggravating circumstance and the base sentence can be raised.

This arrangement is fairly complex and I have given only a rudimentary description of it. There are many possible complications I have not mentioned, but in general it can be said that crime victims are not likely to obtain any material results in a reasonable length of time.

It is clear that victims’ choices in such a context are always difficult and debatable. The difficulties increase when there are a great many victims suing for damages and not all of them are in the same situation, as in the Eternit trial in Turin.

**An example: prescription in criminal cases and civil suits**

In criminal cases the prescription period is the amount of time the state has to obtain definitive recognition of
the defendant’s guilt. In Italy it is determined at the end of the trial on the basis of the real sentence, and in general it corresponds to the theoretical sentence times 1.5. For example, a 10-year sentence equals a 15-year statute of limitations. If the acts for which the defendant was indicted occurred more than 15 years before he is convicted, then prescription or statute of limitations applies (it may also take effect during the trial process itself). This mechanism explains how Berlusconi could be found "responsible" in four cases without being sentenced: the crimes of which he was accused were already prescribed. In cases where the defendant is acquitted due to the statute of limitations, victims of the crime can sue for damages in the civil courts – that is, if their claims have not themselves been "prescribed."

The prescription period in civil cases is timed from the moment a victim becomes aware that there has been damage and that it is possible to identify someone as responsible for it. Usually, in such cases, the victim has ten years to file a written claim for damages. In civil suits the prescription period can be "extended" indefinitely if the claim is renewed every ten years. If the victim takes the case to court, the prescription period is definitively interrupted and trial time does not count.

Once again, the reality is much more complicated than this description of it, but even from the aforementioned rules it is obvious that it is virtually impossible to make realistic predictions about how a trial will come out – there are too many variables.

In the Eternit trial in Turin, for example, it is reasonable to assume that even if the accused are convicted and sentenced as criminals, not all victims and associated private parties will be compensated. It is very likely that some will not be, because they will not have been able to demonstrate the reality and impact of the damage (due to the extremely tight restrictions the court imposes on presentation of evidence by private parties to the prosecution). Others will not be able to do so because the prescription will have kicked in (there are cases in this trial that date back to the 1970s!). Obviously I hope this will not happen. I am simply making a reasonable prediction – I hope it will prove wrong.

In any case, in addition to the fact that it is extremely hard to predict whether one’s claim to damages will be recognized, there is the unpredictability of how much time will be needed to actually obtain payment, since the two defendants in this case are foreigners. It may be that when all the trials, criminal and civil, are over, those defendants will spontaneously refuse to pay damages, a situation which would then require getting a civil execution order in Switzerland and Belgium. The time and cost entailed should this occur cannot be calculated at the present time.

So much for the very real uncertainties that private parties to the prosecution are facing in this case. As always in such cases (e.g., multiplaintiff suits against fraudulent banks), any offers to settle on the part of the accused and the companies responsible for paying damages are considered with the greatest attention.

In the Eternit case, for example, the “Belgian side” (criminal defendant plus civilly – financially – responsible company) have never made any offers. So here the case will have to go through the entire process just described, with the hope that the Belgian defendant, 88 years old, does not die in the meantime or get himself certified unable to testify, for then the criminal case against him would be dismissed in accordance with the above-cited principle that a criminal case can only be filed against physical persons.

The “Swiss side” of the case is different. There the defendant, through the intermediary of various companies implicated in the case as civilly responsible, has made several partial settlement proposals, probably to appear less “extremist” than the Belgian defendant; also to settle most individual cases for fairly low amounts of money.

Shortly before the court debates began approximately two years ago, the Swiss defendant made a unilateral settlement offer to the workers and citizens of Casale Monferrato, an offer then extended to the same groups in other locales implicated in the case. That offer is complex but in substance the proposal was to pay a certain compensation amount immediately to some of the victims suing for damages through the Association of Asbestos Victim’s Families of Casale Monferrato – recipients identified by chronological criteria of length of residence and real employment – in exchange for their abandoning all civil suits against the defendant S. Schmidheiny and any claims against the various Swiss companies involved.

The amount for individuals is very low, approximately 5% of what the court might recognize and limited to €60,000 per family, but it has been accepted by most of those concerned and the money has already been paid out.

Furthermore, in the last few months the Swiss defendant has offered to pay damages of €2 million to the smallest of the municipalities involved (Cavagnolo, approximately 3000 inhabitants) so that the city can pay for asbestos decontamination and cleaning activities.
The town Council of Cavagnolo has accepted this offer, arguing that the money could be used immediately and estimating that the amount was equivalent to two years’ city expenses. It may be that other settlement proposals will be made to other private parties to the prosecution before the trial ends.

This type of settlement has certainly not had a great effect on how the case is proceeding: individuals and cities who initially sued both defendants but have now been paid damages by the Swiss one are now suing only the Belgian defendant as parties to the public prosecution in the criminal case. Given that they have received only partial rather than total compensation, the sentence the prosecutor is calling for against the Swiss defendant has not been reduced and remains the same as for the Belgian defendant: 20 years.

On the basis of the preceding description, it is important to stress that “big trials” have to cope with realities that may not be very “poetic” and are in fact full of uncertainties and risks. And for the victims the final result is never guaranteed.

To establish uniform procedures in all countries and guarantee trial length and concrete results for victims, it is important to act in favor of setting up an international court competent to judge crimes that bring about environmental disasters.

October 2011

References

10. THE CRIMINAL TRIAL OF STEPHAN SCHMIDHEINY IN TURIN, ITALY

Barry Castleman1

The Schmidheinys are one of Switzerland’s wealthiest families, their fortune founded on a vast cement production empire. Stephan Schmidheiny was only 29 when he inherited part of that empire – the Eternit asbestos-cement company – in 1976. Though resigned to the eventual abandonment of asbestos, he continued to run Eternit subsidiaries in Europe, South America and South Africa for varying lengths of time through the 1980s, whereupon some were sold off or closed and others converted to non-asbestos fiber-cement production.

Italy is practically the only country in the world where business executives have been prosecuted and imprisoned for toxic corporate crime. In the latest of such cases, Italy’s most famous prosecutor, Raffaele Guariniello, has indicted Stephan Schmidheiny and Baron Louis de Cartier de Marchienne of the Belgian Eternit. They faced a range of charges: manslaughter (for killing Italians with asbestos dust in Italy, Switzerland, and Brazil), failure to comply with safety rules, negligence, and causing an environmental disaster. At the outset of the trial, Guariniello called for sentences of 12 years on conviction.

It is noteworthy that, in the course of his lengthy investigations, the Italian prosecutor had little success in getting the Swiss government to turn over records of factory inspections and compensation for occupational disease of Eternit workers, and other relevant documents.

As the criminal trial loomed closer, Schmidheiny’s representatives tried to settle the civil claims of some people, at the same time requiring that they remove themselves from the criminal case; they were generally offering people only €30,000-50,000. Around the time Guariniello decided not to prosecute Stephan’s cement billionaire brother Thomas Schmidheiny, on the basis that he had no direct connection with the asbestos-cement business, Thomas donated €3,000,000 to victims in the town of Casale Monferrato, home to Italy’s biggest Eternit factory. This was used for cancer research, payment to lawyers, and restitution of the town itself.

The trial started in December 2009 and, when I gave my evidence in November 2010, was expected to finish in mid 2011. It followed 10 years of investigation starting in 1999 and, initially, trial was scheduled to take place only on Mondays (towards the end of the trial there were to be two sessions some weeks). If convicted, Schmidheiny would be able to appeal to two more levels of the justice system in Rome and remain free during such appeals under Italian law.

It was the people of Casale that brought me to Turin to testify. I was there to provide a global perspective on what went on in the asbestos industry, and draw attention to documents implicating Eternit. Much of what I had to contribute was based on what the US and UK industry leaders did – we have seen their documents in US legal cases. But since Eternit avoided the US market, possibly in some cartel deal with the others, most of what we know about Eternit comes from Johns-Manville (J-M) and Turner & Newall (T&N) correspondence and documents mentioning them in some way.

In the courtroom, the translator and I took our place immediately in front of the three judges, and the proceedings started without the formality of swearing me in as a witness. They asked to see my passport, recorded my name, and we began. The translation turned out to be even worse than I realized at the time; the audio recording showed that both key questions and answers were defectively communicated. (Journalistic reports in La Republica criticized the court for not providing a sufficiently competent translator.)

The Eternit documents I introduced included a 1950 letter from the Swiss parent group, then run by Ernst Schmidheiny, to the Eternit subsidiary in Holland, which discussed articles on asbestosis. I testified that anyone reading the literature on asbestosis in 1950 could hardly avoid coming across data and comments also linking asbestos to lung cancer. From the Johns-Manville archive came a report by consultants for J-M on a 1971 interview with Max Schmidheiny and his associates at his villa in Switzerland. Schmidheiny and his associates were critical of Johns-Manville President Burnett for placing the first vague health warnings on sacks of asbestos exported from J-M’s Quebec mine,

1 Barry Castleman, ScD, Environmental Consultant, Garrett Park MD, USA; email: barry.castleman@gmail.com
starting in 1969. (The Eternit men were said to have suggested, as an alternative, to change to dust-free sack materials!)

Later in 1971, the transcript of the International Conference of Asbestos Information Bodies (from the T&N archive provided by the International Ban Asbestos Secretariat), which Eternit people from four countries attended, shows a growth of national asbestos industry propaganda and lobbying offices at that time. Only one such group existed in 1969: the Asbestos Information Centre. This UK group shared offices with experienced tobacco industry damage control specialists Hill & Knowlton. By 1971, there were asbestos industry groups in 11 countries including the US. The UK speakers detailed the role the UK asbestos industry played in blunting the impact of government regulation and influencing the text of materials the government issued on how the public and institutions should assess and deal with asbestos exposures. In warning all the others to prepare for trouble, one of the British speakers observed that things were still “relatively tranquil” in Belgium, Italy, Germany and France. The presentations show that problems were raging over asbestos in the UK, US, and Holland: as a mortal hazard to asbestos factory workers and shipyard workers, over resulting union demands, publicity about the public at large being endangered, increased insurance costs, and the increased attentions of government inspectors and regulators.

The industry set up an umbrella group in 1975 to coordinate its defense internationally. A 1978 Asbestos International Association memo records a discussion about warning labeling. It describes how the recently introduced UK “Take Care with Asbestos” label had been adopted in several countries as acceptable to the authorities, and notes the view that when use of some health warning label became unavoidable this should be the style selected. That, it was observed, was preferable to being required to use a label with a skull-and-crossbones symbol or the word “cancer.” At the end, Etienne van der Rest of the Belgian Eternit was recorded as requesting that the British do their “utmost” to avoid having warning-labeled asbestos products shipped into Europe.

Last, an exchange of letters from van der Rest to T&N executive Harry Hardie in March 1980 starts with van der Rest whining that T&N was starting to use a “cancer” warning label on asbestos goods and asking what the justification was. Hardie replied that European asbestos-cement producers had no idea how things were in the asbestos litigation in the US.

[I first met Etienne van der Rest at a conference in Washington in 1977 after speaking about “Hazard Ex-
port,” featuring the asbestos and chemical industries. He was a very tall, pale, cadaverous-looking man, who came over to me and reached down and put his arm around me as he spoke. If you were making a movie, you couldn’t beat this guy for casting as a character personifying evil. When later I saw the 1978 document showing him trying to keep UK-warning-labeled asbestos products from coming into Europe, I wrote to him asking how he could live with himself doing such a thing. The only other time I saw this guy was at the 1986 hearings on the US EPA’s proposed rule to ban most uses of asbestos. There, the Eternit men argued that a US ban on asbestos-cement pipe would be disastrous for poor countries needing it to supply drinking water. I walked over to van der Rest and said that I had always attributed most of the human suffering in the world to the imbalance in power and wealth, but after hearing from Eternit that day I realized it was all because of the lack of asbestos-cement pipe. I can only wonder what van der Rest felt when he lay dying from mesothelioma years later. His Belgian company doctor also died from mesothelioma, I was told.]

The defense lawyers had no time to question me that first day and asked for two weeks to read my book on the history of the asbestos industry. Like it was a surprise! I told the judge I would be able to stick around another week, and he ordered that we continue then.

During that week, I met repeatedly with the prosecutor and his staff, and with the lawyers for the victims in Casale Monferrato (the community most devastated by Eternit’s activities in Italy). At their requests, I prepared a 3½ page summary of what I had tried to tell the Court (which was professionally translated into Italian), and we discussed what additional questions the lawyers might ask me when the trial resumed.

Prosecutor Guariniello has an extensive network of academic consultants and other experts in medicine, epidemiology, industrial hygiene, and accounting. He hopes to institutionalize a judicial entity charged with investigating occupational fatalities that are criminally caused. He has epidemiologists looking through government statistics looking for occupational cancers. This case is something of a breakthrough in charging the foreign owner-executives, not just local managers. It involves legal-accounting detective work in tracing responsibility to the corporate owners for conditions at their factories.

The new court translator, Victoria Franzinetti, did a great job, and the second trial day went well. When none of the lawyers moved for its admission, I offered the judges the summary I had written. The Italian trans-
lation of that and my Curriculum Vitae I handed to each
of the three judges. When he requested one, I stepped
over to Mr. Schmidheiny’s lead lawyer and handed him
an Italian translation of my summary. It was the
defense’s turn to cross examine me. As I had suspected,
Schmidheiny’s main lawyer rose and said he had no
questions. A lawyer for Etx, the Belgian Eternit, there
for civil claims (there are civil claims for damages
wrapped up inside the criminal case), for reasons best
known to himself, asked me for dates of the van der
Rest documents I had submitted to the court the week
before. So, this time with a good translator, I again
described these to the judges in some detail and gave the
date of each.

The deputy prosecutor then asked me for the story of
internal corporate discussions in the US about putting
the first mild health warnings on asbestos-containing
boards. This was illustrated with internal Johns-Man-
ville memos from 1958 and minutes of the Asbestos
Cement Products Association in the period 1968-70. In
its first health standard, OSHA required warnings on
these products in 1972. But in Europe, the Eternit
companies made these products through the 1980s and
appear to have never bothered to put health warnings on
asbestos-cement sheets and pipes.

The burden on Eternit in this case is to have done what
was technically feasible to protect people both in their
asbestos plants and in the surrounding neighborhoods.
So I cited parts of the 1969 UK asbestos regulations and
1972 OSHA asbestos rules, to show what other major
firms were required to do while Eternit was doing little
if anything to protect workers and plant neighbors ex-
posed to its pollution in Italy. I noted the UK and US
requirements for wastes to be disposed of in imper-
meable containers.

Guariniello and the chief judge each asked one ques-
tion, and then I asked to speak. I offered to answer any
question the court might have by correspondence, and
said I might send additional references to support points
made in the trial. Lastly, I thanked them for the won-
derful translation. After I left the room, I handed a copy
of my book to one of the scientists working with Guar-
iniello to take to him. It was inscribed with respect for
his efforts to prosecute corporate criminals of the as-
bestos industry. It was all over in an hour and a half.

It was widely agreed that the defendants had missed
their chance by not all telling the court that they would
have no questions for me at the end of the first
Monday’s proceedings. They would have been better
off sending me home then. But it is also believed that
the defense lawyers are doing all they can to prolong
this trial, then expected to run for another year, so that
may explain their actions. Schmidheiny’s fleet of law-
yers, public relations hacks, etc. is estimated to cost
about €10 million a year.

Supplemental Statement to the Court

Upon reflection, I wrote a summary for submission to
the court that elaborated on points made in my second
trial day, focusing on the issue of warning people about
the dangers of asbestos as having central importance.
The apprehension of US asbestos companies about their potential product liability (which would eventually devastate them), even before US federal regulatory agencies were created to protect workers and the environment, goes at least as far back as the 1950s. Soon after it was created by the Congress, OSHA required warnings on products such as asbestos-cement sheets and pipes in its 1972 asbestos regulations (saying that breathing asbestos could cause “serious bodily harm”).

In contrast, the lack of product liability law in Europe and the lack of warning label requirements in European workplace asbestos regulations enabled manufacturers in Europe to avoid warning workers and the public at no financial risk. Eternit executives accordingly weighed in repeatedly against the use of health warning labels and even tried to get UK firms to not export labeled asbestos products to the continent in 1978. Apparently, Eternit went on making these products through the 1980s and never placed health warnings on them or in product brochures. It appears to me that the prolonged ignorance of workers and the public at large was vital in the expansion of markets for asbestos products after the 1930s, by which time the lethality of asbestos dust was well established medically. I quoted a 1975 Union Carbide internal memorandum saying that it would be “between serious and fatal” to the asbestos business to place warnings on sacks of asbestos using the word “cancer.”

I also attached material submitted by the Swiss Eternit Group at the 1986 EPA hearings on banning asbestos in the US. This included statements that the firm regarded worker and environmental protection as the responsibility of top management. One excerpt attached to the company’s testimony came from a 1984 asbestos industry report purporting to describe the best technology available in US asbestos-cement manufacturing plants. “All three asbestos cement pipe manufacturers visited have full time engineers and industrial hygienists devoted to minimizing asbestos dust exposure in all work sites.” Fully automated, “totally enclosed” asbestos bag opening machinery was also described in this excerpt. Airborne asbestos fiber measurements were reported. Eternit’s submission of this to EPA, I thought, invited comparison with conditions at Eternit’s own plants in the mid-1980s.

**Conclusion of the Trial**

In closing arguments in July 2011, the prosecutors said they had re-evaluated the evidence as it came out in the trial and were now asking for Schmidheiny and the Barr- on to be sentenced to 20 years each (rather than the 12 years originally sought), based on willful and intentional negligence by the executives and owners of Eternit supporting indictment for willful environmental disaster. They also noted that the disaster was ongoing, with new casualties occurring every year, in addition to the nearly 3000 victims named in the court proceedings.

The judges seemed anxious to complete the trial and limited the remaining civil damages plaintiffs’ lawyers to 15 minutes each orally, with the balance of their statements to be submitted in writing.

In his closing statement, Schmidheiny’s lawyer made none of the usual excuses (Schmidheiny didn’t know asbestos was dangerous or thought it less dangerous than it turned out to be, he thought his plant managers were doing a better job to protect people). Instead, he seemed to ridicule the “sacrosanct” principle of rehabilitation through punishment for things done 25 years ago when “a person” is not the same as he was. This suggested that Schmidheiny’s philanthropy should take precedence over how his fortune was made. The lawyer’s ramblings about the erosion of principles of law in Italian courts compared the persecution of Schmidheiny to acts of the Nazis and Guantanamo. The defense lawyer also claimed that the diagnostic methods used in some of the victims’ mesothelioma cases did not employ state-of-the-art techniques.

Guariniello replied that he had never before asked for 20-year sentences in a case of this kind, but this time he had to because of the enormity of the damage caused and the “intensity of the vicious criminal intent over time.” The prosecutor also pointed out that there was a complex media organization paid to hide Schmidheiny’s role, also involving spying on trade unions, magistrates, and victims’ groups “which the defense carefully avoided mentioning.”

Meanwhile, legislation to better protect the corporates in Italy from criminal prosecution wound its way toward enactment. This would allow endless delays in completing the trial as defense lawyers would be able to call as witnesses virtually everyone touched by the case. Guariniello urged that this case be tried under existing law even if the new law came into force before the trial concluded, and the judges seemed to be anxious to finish the trial, too, before legislative changes came. As it turned out, the feared legislation was sidetracked by the economic and political crisis that rocked Italy in November 2011.

November 18, 2011
11. ETERNIT VS. THE VICTIMS

Laurie Kazan-Allen

The plans, strategies and moods of the Casale Monferrato campaigners as well as the efforts of individuals charged with holding Eternit’s executives to account were meticulously monitored by a network of informants, so-called “local PR correspondents,” and consultants. The extent of the super-web of Eternit-paid advisors, dubbed the “Italy Team” in confidential corporate files, is revealed in the extensive archive of sensitive memos, briefings and telefax messages seized by police during raids on the Milan office of the global public relations company of GCI Chiappe Bellodi Associates (Bellodi).1 From the premises at 16 Carducci Street, Guido Bellodi coordinated an operation which reported on developments in Casale Monferrato, including the efforts of community activists, the vacation plans of key litigators, the resources available to Italian prosecutors, statements by members of the prosecution team, the affiliations of local politicians and members of the Government of the Region, the latest epidemiological publications, press coverage and filming by Italian and foreign journalists. A “Quarterly Report about the Italian Eternit case” dated September 29, 2000 goes as far as remarking on the participation of community leaders at the world’s first Global Asbestos Congress:

“A Casale delegation attended the recent asbestos Congress held Sept. 17-20, 2000 in Osasco, Brazil. It included the Mayor Mr. Mascaroni, Mrs. Degiovanni (oncologist of ASL 21 and member of the asbestos team), Mr. Pesce and Mr. Pondrano (CGIL). Prof. Terracini was among the speakers of the epidemiology panel.”

The fact that Guido Bellodi had a seemingly endless number of individuals to carry out his orders indicates the vast financial resources which his paymasters were willing to throw at the challenge posed by the mounting death toll of former Eternit workers and local residents. Nowhere in any of the files I read was sympathy expressed for those whose lives had been destroyed by the company or its affiliates.

The ultimate aim of the audacious Bellodi defense strategy was to “have the maximum possible guarantee that everything is and will be under control.” Time after time, the need to ensure that the epidemic of Eternit-caused deaths resulting from the operations of the Casale Monferrato asbestos-cement factory remained just a local story was stressed.3 The rigorous implementation of a communications plan which delineated specific roles and tasks to those on the Eternit payroll was the bedrock of the public relations campaign “to face the Casale issue.” Deviation from the strategies contained in the company’s master plan, known as “The Bible,”4 could result in “a clever journalist writing an in-depth story on (sic) a major media in Italy or abroad,”5 warned Bellodi. A memo from June 1992 indicates how Eternit’s PR commandments were rolled out on a daily basis; it is of interest to note that the layout of the text shows a demarcation between levels 1 and 2 which are in the public relations area and levels 3 & 4 which are in the “No Communication Area”:

“Strategic Objectives in Italy

The strategic orientation of our PR-policy has been carefully devised and laid down over the last years. I think it is valid and should not be altered:

First target:
Try to keep the issue on LEVEL 1 [diagram shows level 1 as controlled by Eternit (Italy) (in receivership); initials assigned to this level are GB in cooperation with MM].6

2 The documents available to us for study which were confiscated by the police at the Bellodi offices (the Bellodi files) and later submitted as evidence during the Turin trial were written in Italian, English and German and cover the period from 1992 to 2002. The pdf files we have obtained often contain a mixture of documents. Citations of relevant files will be made according to the original classifications: Bellodi_Doc_125-148.pdf (p 40).
4 Bellodi_Doc_182A_T Crosotto.pdf
6 GB: Guido Bellodi; MM: Maurizio Maresca
**Second target:**
Try to keep the issue on LEVEL 2, e.g. when media reports in Switzerland or Germany force us to leave LEVEL 1. [Diagram shows level 2 as controlled by NUEVA AG (Thalwil) formerly: Swiss Eternit Group; initials assigned to this level are FS in cooperation with IH.]

**Third target:**
Avoid at any rate to allow the issue to spread to LEVELS 3 or 4. The essential precondition is that all inquiries (sic) are consistently directed to LEVELS 1 and 2 and that no comment on the subject is made in any way whatsoever above these levels. [Diagram shows level 3 as controlled by ANOVA AG (Hurden); no initials are assigned to level 3. Level 4 is controlled by STS; no other personnel are listed at level 4.]

**Recommendation:**
Even today (June 1992) it seems quite possible that the issue can be confined to LEVEL 1 (LEVEL 2 at the most) if everybody involved strictly sticks to the objective. That is what we should try to achieve.”

To achieve the objectives set for Eternit’s troops of lawyers, public relations advisors, industry consultants and academic experts, working parties were set up. The membership of these bodies drew on in-house talent such as personnel from Eternit AG, Eternit S.p.A., the Swiss Eternit Group, Nueva Ltd., but also bought in talent from outside companies like GCI Chiappe Bellodi Associates and Buro für Mediebberatung (Bonn) and hired independent experts and contractors as needed. To facilitate communication amongst those involved, contact lists were drawn up with details of business and home addresses, and office and home telephone and fax numbers. The names of participants in some of the key Eternit groups are noted below:


- **PR Team** (nickname “Team Stampa”): Coordinator: Guido Bellodi; Press Officer (Milan) Andrea Barbieri; Press Officer (Rome) Roberto Maria Zerbi; Environmental [Issues]: Emilio Costa (Genoa) and Ulrich Gruber

- **Crisis Management Team:** Wolfgang Schurer, Dr. Gero Buttiker, Dr. J. Kaeki, Dr. Benno Schneider, Walter Anderau, Hans Thoni, F. Sommer, Leo Mittelholzer, Guido Bellodi

- **Legal Team:** International – J. Drolshammer and Italy – Prof. Alberto Bosio, Avv. Ubaldo Foppiano, Avv. Maurizio Maresca

- **Local PR correspondents:** Rossanna Revello (Genoa), Maris Cristina Bruno (Casale Monferrato), Rino Labate (Messina)

The incredible precision with which the Eternit defense was conducted is well illustrated by the almost forensic division of tasks amongst members of the legal team. Key personnel were asked to develop legal strategies to: counter allegations made by the victims; “overcome or to avoid the corporate veil,” avoid liability for environmental damages in Italy and Switzerland and help minimize Eternit’s liability to third parties such as the Italian government agency, INAIL. Other legal professionals and consultants were charged with: uncovering and/or exploiting jurisdictional loopholes, designing corporate exit strategies such as the setting up of trust funds, archiving company records and identifying potential expert witnesses, representing Eternit employees in other Italian trials i.e. those in Cavagnolo in 1995 and 2000, establishing a fund to pay the legal fees of beleaguered Eternit executives, liaising with Eternit lawyers from the Belgian Eternit Group and other sister companies and studying the evolution of legal precedents such as those emerging from the Seveso case which might impact on Eternit’s position.

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7 FS: Frank Sommer; IH: Ida Hardegger.
8 It is of relevance to note that in none of the Bellodi files I read was mention made of Stephen Schmidheiny. In at least four instances, however, the initials STS were found in the paperwork and they are believed to stand for Stephan Schmidheiny. In a confidential memo written on September 1, 1994, the final section heading is: “Public relations aspects – Relations with Belgium Group.” The notes under this title state: “Different options in case of developments: (a) strong attacks in the press against the Group/STS related with Casale; (b) direct involvement of the Group/STS …”
9 Bellodi_Doc_123_T Martac.pdf
10 Bellodi_Doc_101_T Zaffiro.pdf
11 Bellodi_Doc_108.pdf (p. 3-4).
12 Bellodi_doc_127.pdf
The Bellodi network was well aware of the need for constant input from on-the-ground sources; in the pre-internet age remote access to news on local developments was not possible through the click of a button. Information contained in monthly reports from “local PR correspondents,” which was circulated to Bellodi–Eternit personnel not only kept them up-to-date but also provided impetus for future defensive actions. Feedback from Casale Monferrato was gleaned by the continuous monitoring of news releases, keeping current on local gossip and the infiltration of meetings held by AFEVA, the group representing asbestos victims and family members from Casale Monferrato, and AFLED (l’associazione famigliari lavoratori Eternit deceduti: The Association of Dead Eternit Workers), the organization which preceded it. An individual named in the Bellodi files as having undertaken some of these tasks was freelance journalist Maria Cristina Bruno; there may have been others. Commenting on the infiltration of AFEVA by Maria Cristina Bruno, AFEVA’s Bruno Pesce said:

“She spied on us day after day, year after year, attending all the union meetings, asking questions on the proceedings... Schmidheiny was paying the Bellodi practice which paid its informer(s)...”

Transcripts of briefings by Maria Cristina Bruno, which have been translated from Italian, are attached as Appendices A and B. They are a mixture of tattle-tattle, recyling of Casale Monferrato media coverage and, what appears to be, inside knowledge of current developments. Documents seized by the police reveal that whatever the quality of Bruno’s reports, they were widely circulated to members of the “Italy Team.” One of her reports, dated October 6, 1993, is occupied with news of scientific developments:

“The detonator is about to be triggered on the figures relating to the epidemiological study and environmental sampling. The trade unions are concerned and are trying to increase awareness and public opinion on the severity of the problem or at least how bad the problem is.

I have heard they are trying to gather information on the companies that currently operate in the province and that are still using asbestos.

The aim of their work is for INAIL [a government agency providing occupational insurance and welfare] to be concerned or involved directly. Data have not yet been submitted or made public. The trade unions have been informed of the results and currently the data are with the health district and with the doctors who are studying the asbestos-cement issues. As well as the information I have enclosed I was unable to acquire any more detailed information. The doctors have an embargo and are not releasing any information of any kind.

The health district is currently awaiting the Ministry’s go ahead to be able to publish the data. Currently there are problems which are linked to the funding of such project which has been promised a number of times but has not yet come through. While waiting to give you further information best regards.”

In the covering note by Guido Bellodi, which was circulated to Gero Buttiker, Ferdinand Elsener, Erich Heini, Ulrich F. Gruber and Frank Summer on October 6 along with the text of the “report received today from our correspondent [Bruno] in Casale,” Bellodi warned “the situation might have alarming developments.” The speed with which valuable knowledge was being gathered and disseminated to Eternit’s “Italy Team” was truly impressive. Within just a few hours of a November 30, 1993 trade union assembly on Casale’s asbestos issue, a typed four-page report detailing presentations by named speakers, discussions and plans for future action on behalf of the injured was being circulated through the company’s network.

The issue of Eternit’s liability for the clean-up of asbestos pollution in Casale Monferrato and elsewhere was regarded as high priority. Commenting on a paper by Italian epidemiologists, in 1995 Dr. Ulrich Gruber, a long-time Eternit insider, wrote: “In conclusion, the pa-
per is a very dangerous one because it suggests that Eternit has been polluting the entire city of Casale…”

Proposals being considered by municipal, state, regional and central authorities to decontaminate Eternit’s former warehouse in Casale Monferrato and the Po riverbanks, where vast amounts of asbestos waste had been dumped, were assiduously monitored by the company. Typical comments in the Bellodi documentation about the environmental ramifications of Eternit’s Italian asbestos-cement operations are noted below. While the English in these passages is sometimes a bit hard to follow and is often grammatically incorrect, the sense of what is being said is clear:

- “The interest towards the asbestos issue is still alive and especially the first point might well represent the risk to become a wider and serious environmental issue. The most pessimistic forecast would be that, in case of reclamation of the whole town of Casale, the Italian State could well try to take the relevant funds out on the (sic) ‘responsible’ for the pollution. From our point of view this means that the situation could become rather worrying.”

- “A ‘supercomitato’ (Supercommittee) was constituted in order to face the all (sic) environmental problems in Casale. Such a Supercomitato promoted a meeting with the representative of the Government. They met the Minister to the Environment, Matteoli, and the Direttore General, Clini (June 23rd). Concerning the bonification [decontamination] of the places there is a strong debate. The actual Mayor is contrary to use state financial aids (in order to avoid negative publicity) while the others are in favour.”

- “The expert reports of the Court (not yet officially disclosed) and the Municipality inspections would show that all the Targia area (Sicily) is polluted with asbestos dust.”

- Regarding an ongoing criminal investigation in Siracusa related to the Eternit factory: “It seems that the Public Prosecutor in the Pretura is investigating concerning the abusive and unauthorised discharge and illicit stockage of asbestos waste within the factory and or on the seabed in front of the factory.”

- “The Environmental department seems to have decided to push for the environmental actions. The Director General has sent to Siracusa his own representative. Such action, suggested also from the political forces – Forza Italia (Mrs. Prestigiacomo) and Rete (Mr. Piscitello) – at the national level, could be initiated also within the criminal proceeding sub A.”

- “Work for cleaning up the [Casale] Eternit factory was finally started in late August (2000). Work for removal of asbestos sheets from different public buildings is in progress… No development for the time being about the environmental pollution issue [in Sicily].”

Eternit’s carefully devised strategy for keeping a lid on the Italian asbestos scandal worked. Even as the number of deaths grew, new ways were found to divert attention from the company’s culpability. Lawyers continued to thrive as did spin doctors and Eternit informers. Unlike the fortune of asbestos conglomerates in the U.S. and the UK, Eternit balance sheets seemed impervious to compensation claims from the company’s victims. The two men accused in the Great Asbestos Trial must have felt secure that they would never see the inside of an Italian jail. Whatever the outcome of this trial and the appeals which will no doubt follow, Eternit has been exposed as a criminal enterprise dedicated to the pursuit of profit at whatever cost to the workforce and local community. As for the part played in this humanitarian disaster by Stephan Schmidheiny and Jean-Louis Marie Ghislain de Cartier de Marchienne, that will be judged by the Turin Court.

November 2011
Report by Maria Cristina Bruno

Maria Cristina Bruno piazza Castello 11 15033-Casale Monferrato (Al)

Casale Monferrato 02.09.1993

Guido Bellodi
Chiappe Bellodi Associates
Via Carducci, 16
20123 Milan

Object: Eternit Monitoring

As usual, I am sending you a report on the press for July and August. The Monferrato, which is a local newspaper that is published twice a week whose director is Marco Giorcelli has published the following articles:

July 6, 1993
The Casale Deputy (MP) for the “Rifondazione” [the Refounding Communist Party] Angelo Muzio is still involved in the asbestos problem from a legal point of view. In the meantime, the asbestos problem is still also being discussed in the Province of Alessandria at the Building School [this was one of the technical and vocational schools where skilled workers for the building and construction industry were trained].

July 13, 1993
More early retirement applications by former Eternit workers. The Casale case is also discussed at S.A.C.A.

July 16, 1993
The lower chamber [the Chamber of Deputies in Italy; roughly the equivalent of the House of Commons in Britain] voted on a decree for pensions for former Eternit workers.

In the debate following MPs from Casale Monferrato spoke. Angelo Muzio from the Refounding Communists, Alda Grassi from the Northern League.

July 27, 1993
On the July 27, 1993 the same “Asbestos Decree” was voted on in the Senate. It was approved and everyone was pleased and there were comments by Angelo Muzio who was the MP for the Refounding Communists.

The Stampa [Il Stampa] newspaper reported the news on the page of the Province of Alessandria and also published the following articles:

• July 9, 1993: Delays in the settlements for former Eternit workers.
• July 11, 1993: The lower chamber of Parliament is examining the decree on asbestos.
• July 20 1993: Delays with regional funding for the decontamination of the former Eternit warehouses.
• July 24, 1993: Senate approves the decree on asbestos.

The “Vita Casalese,” a local Catholic weekly directed by a priest called Don Paolo Busto, published:

• July 29, 1993: The Senate approved the asbestos decree.
  [This piece contains] very positive comments by Angelo Muzio, who is local Deputy belonging to the Refounding Communist Party.
• August 26, 1993: The decontamination of the former Eternit warehouse is still blocked.
  [This piece explains that the reason for this delay is] because of the lack of regional funding which was approved but never provided. [It also states that] we’re all very pleased by the approval of the decree on asbestos [and includes] comments by the INPS [Italian Pension Agency].

I have enclosed the above listed documents and also I am enclosing a copy of the decontamination and reconversion project of river Po banks which the Department of Environment of Casale has prepared. The project has been criticised several times by the Northern League and is currently blocked.

As far as other news is concerned, unfortunately, I can’t really give you any other information due to the holidays but I will be sending you any other information as soon as possible.

Nothing more to add. Best regards,

Dr. Maria Cristina Bruno

24 Translated from Italian.
25 The Italian phrase “monitor Eternit” has been translated as Eternit Monitoring.
26 S.A.C.A: Società per azioni Cemento Amianto (Asbestos Cement Ltd. shareholding company).
Report by Maria Cristina Bruno

Appendix B

Telefax

From: Maria Cristina Bruno piazza Castello 11 15033-Casale Monferrato (AL)
To: Dr. Guido Bellodi/ cc: Maurizio Maresca
Pages: 1 + 3
Object: The object of this communication is to report on the articles which were published yesterday in the paper Il Monferrato and le Stampa
Casale Monferrato, 06.10.1993

The detonator is about to be triggered on the figures relating to the epidemiological study and environmental sampling. The trade unions are concerned and are trying to increase awareness and public opinion on the severity of the problem or at least of how bad the problem is.

I have heard they are trying to gather information on the companies that currently operate in the province and that are still using asbestos.

The aim of their work is for INAIL to be concerned or involved directly. Data have not yet been submitted or made public. The trade unions have been informed of the results and currently the data are with the health district and with the doctors who are studying the asbestos-cement issue. As well as the information I have enclosed I was unable to acquire any more detailed information. The doctors have an embargo and are not releasing any information of any kind.

The health district is currently awaiting the Ministry’s go ahead to be able to publish the data. Currently there are problems which are linked to the funding of such project which has been promised a number of times but has not yet come through. While waiting to give you further information best regards.

NB: The figures referring to the epidemiological data highlight an incidence of an increase of mesotheliomas amongst non-directly exposed citizens that is to say amongst the community or population or residents who were not directly exposed [to asbestos at work].

Maria Cristina Bruno

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27 Translated from Italian.

Niccolò Bruna and Andrea Prandstraller¹

The “Great Asbestos Trial” of the film’s title opened in Turin on December 10, 2009. At last, thousands of Italians whose families had been decimated by the ravages of asbestos diseases and surviving disease victims could see some hope of justice. In the course of the trial the prosecutor called for sentences of twenty years for key directors of the multinationals responsible for the release of lethal asbestos dust; more than six thousand injured parties sued for damages; lawyers from across Europe were empanelled to assist the prosecutor. “Great” was not an exaggeration; there had been no such trial greater.

With the commencement of the trial we were able to proceed with what would be the major part of our film. We had waited a long time – our project had been conceived in 2006 – but the families of victims had endured decades of delay. And they had done so with remarkable dignity and resilience. It was for them and the victims, whose daily struggle to salvage what they could of normal life during the brief time left to them was so poignant to watch, that the film was made.

In the beginning we were quite naïve. We thought, like most Europeans, that asbestososis and mesothelioma were diseases of the past; after all they were caused by exposure to asbestos fibres and the use of asbestos had been banned, hadn’t it? But research for the film showed us that the truth was just the opposite: the asbestos industry was still in full swing, particularly where economic activity is currently strongest – China, India, Brazil. In India, we discovered, asbestos use was rocketing.

This was a dilemma. Apart from covering the trial itself, we had intended to focus on the victims of Casale Monferrato, the municipality that had borne the brunt of the asbestos-disease onslaught in Italy, but now felt a responsibility to spread our net wider.

Seventy per cent of the world’s population lives in countries where asbestos consumption is a daily fact of life. We felt obliged to unveil this dramatic reality to Western audiences. To do this, it was decided to film in two essential locations where awareness of the asbestos hazard was at a far earlier stage than that in Europe. The production crew would explore the asbestos reality in Brazil, a key supplier, and India, the world’s biggest importer of asbestos.

In Brazil we found great differences between States and even regions within States with regard to asbestos regulations. The country, of course is vast, with a wide range of ethnic groups and cultures. However, it possesses only one asbestos mine, so we decided to head to the remote area where it was situated. Conditions at the chrysotile asbestos mine in Minaçu, the biggest one in Latin America, presented no health hazard to the workers according to the company, the company doctor, the representative of the company’s trade union and the local institute that represents the asbestos industry. And yet, members of the Brazilian Association of Asbestos Victims (ABREA) and a Senior Labour Inspector documented the horrific impact exposure to asbestos has had on Brazilian workers. Indeed, Labor Inspector Fernanda Giannasi said that the wording of the labels on asbestos-cement roofing panels which warned workers handling these products not to breathe in the hazardous fibres was an absurdity.

In India, we were denied access to many asbestos-cement factories, but finally gained entry to a facility owned by Visaka Industries, a major producer of asbestos-cement roofing. We were also granted an interview with Dr. G. Vivekanand, Vice Chairman of Visaka Industries, medical doctor and a Member of Parliament, who told us that the conditions at his factory were perfectly safe. Throughout our trip to India, we observed broken pieces of asbestos-cement panels littering the countryside and slums and encountered a widespread ignorance about what asbestos is and the hazard it represents to human health.

At the Turin trial, the accused – Swiss tycoon Stephan Schmidheiny and the Belgian Baron Louis de Cartier de Marchienne – were notably absent in person but represented by a phalanx of lawyers and advisers. However, the number of these individuals was dwarfed by the throng of relatives of victims that we saw filling the courtroom on each trial day (the hearings initially being held weekly, on Mondays, then, towards the end of the

¹ Niccolò Bruna (Email: nic.bruna@gmail.com) and Andrea Prandstraller (Email: a.prand@libero.it) are documentary filmmakers.
court proceedings, twice weekly). We filmed them stoically making their way to court by bus, many in their eighties, determined to see justice for those in their families whose lives had been needlessly cut short.

Wilfully causing an environmental disaster is one of the charges levelled against the defendants. Well school headmistress Luisa Minazzi knew what that meant. As we filmed her going about her daily life, watching her brave determination to live being battered by the unrelenting advance of her mesothelioma we saw only towards the end her optimism waver. In the film she represented the thousands in Italy, probably millions worldwide, who had travelled this same road. But she was our friend, the loss personal.

The trial told us about the beginnings and the end of Eternit in Italy. In the early days the foreign capitalists had been welcomed. Hard and unpleasant as the work was in the Casale factory, it still paid better than other employment in the area. But then we heard from workers and heroic union figures who had led action to combat the rising tide of disease, first in the factory then in the wider community. They told of the ever more frequent death notices posted at the factory gates. Now their employers were charged – in addition to causing an environmental disaster – with wilfully and knowingly neglecting safety rules. Workers at the factory in the early days saw little evidence of any safety precautions. We found some archive footage, which we incorporated into the film, showing the totally unprotected exposure of workers to vast quantities of fibres.

As the trial progressed we became convinced, in our own minds, that the use of asbestos by Eternit in its Italian plants (Casale Monferrato, Rubiera, Bagnoli, Siracusa and its subsidiaries in Cavagnolo and Oristano) was consciously criminal. We interviewed international experts who documented Eternit’s strategy for manipulating public opinion and influencing official policy, not only in Italy but worldwide. Eternit’s public relations campaign was, we were told, so successful that no one questioned the company’s timetable for phasing out asbestos technology in Italy. No one knows how many lives the delay in ending asbestos-cement production in Italy has cost.

The whole of Western Europe has now banned asbestos – Italy as long ago as 1992, six years after the closure of the Casale Eternit plant. Why has the European experience not had more impact on Asian and Latin American asbestos policies? With limited overseas screen time available this is not a question we could address in full, but it is hoped that the audience will be able to gain some insight into this wider question, when viewed against the backdrop of the tragic recent history of Casale revealed in the film.

The documentary will be shown on major television networks in Belgium, Germany, Switzerland and France in November 2011 as well as at international film festivals and on other TV channels in 2012. As filmmakers, we hope that our work will reach millions of people. They will be the ones to consider the evidence and make their judgment as to the guilt or innocence of asbestos executives past and present.

October 2011

A milestone in the trial. AFeVA supporters gather outside the Turin court after the last hearing before the summer break of 2010.