

THE PUZZLE OF MASS TORTS:
A COMPARATIVE STUDY OF ASBESTOS LITIGATION

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ABSTRACT

Exposure to asbestos—a naturally occurring mineral fiber with remarkable insulating properties—may cause diseases such as asbestosis, lung cancer, pleural plaques, diffuse pleural thickening, and, in rare instances, mesothelioma. Asbestos exposure has resulted in several million cases of asbestos-related diseases (ARDs), especially among workers in industrialized countries. The research explores the compensation of ARD victims in England, Italy, and Belgium and contrasts these countries' experiences to the same in the United States. The findings are that asbestos litigation is growing in all the countries studied and that the policy solutions that the US legal system and the European legal systems have implemented are remarkably different. While the compensation to the US asbestos victims has been provided under the paradigm of personal injury litigation, public insurance schemes have been the primary, although not exclusive, source of compensation for European claimants. Although such differences reflect the differences in the legal tools and in the institutional history of the two legal cultures, the litigation actors' preferences better explain the different developments. In fact, European lawyers have framed asbestos claims as occupational diseases thus seeking to expand workers' rights and social benefits rather than aiming to recover damages for personal injury cases occurred to their clients.

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