Uranium mining compensation

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• The first cases of lung cancer in Navajo uranium miners were in the early 1960s.

• Navajo widows came together and talked about their husband’s deaths and how they had died.

• From that time it took 30 years until the passage of the federal compensation act.
- Harry Tome, an early Navajo advocate, prompted the *Albuquerque Tribune* to run a cover story in 1973.
- Which led to the first legislation in the US Congress designed to extend black lung benefits to uranium miners.
- But the bill never passed.
In 1978, Tome began working with Stuart Udall, secretary of the interior under President John F. Kennedy.

Ultimately, Udall filed 2 lawsuits in 1979.

The case against the mining companies was thrown out of court in 1980 on the basis that workers were covered by workers’ compensation.
• A second law suit was filed by Udall in federal district court in Arizona, *Begay v United States*, that hoped that the trust relationship between the Navajo Tribe and the United States might overcome the judicial bias in favor of federal immunity from lawsuits.

• However, the court ruled in 1984 that the US government was immune.
• From 1979-1982 Navajos testified at congressional hearings around the southwest for a federal compensation program.
• The Radiation Exposure Compensation Act was finally passed in 1990.
• RECA was amended to correct serious flaws in 2000, after another prolonged period of advocacy.
Radiation Exposure Compensation Act of 1990

- Downwinders from above ground nuclear tests
- On-site workers at test sites
- Uranium miners
Radiation Exposure Compensation Act of 1990 – Uranium Miners

- Must have diagnosed lung disease.
  - lung cancer, pulmonary fibrosis, cor pulmonale, and moderate to severe silicosis or pneumoconiosis.
- 200 WLM for non-smokers.
  - Based on historical monitoring at mines.
- 500 WLM for smokers and 300 WLM for former smokers.
  - Based on medical records > 1 “pack year”.
RECA Problems: Exposure Error

- Error in exposure data not considered
- Holaday in 1969 wrote of the exposure records, “They do not represent the exposure of the miners…”
- Okay for broad epidemiological categories, but not for determining individual dose.
RECA Problems: Smoking

- Native American smoking for ceremonial purposes defined as smoker just like chain smokers.
- Analysis of risk based on mostly smokers, thus non-smokers should have lower doubling of risk.
RECA Problems:

- BEIR IV (1988), set the doubling of risk at 40 WLMs.
- Silicosis qualification based on radon exposure.
2000 Amendments to RECA

- Expansion of the respiratory diseases eligible.
- Expansion of the geographic area covered by the law.
- Expansion of compensation eligibility to above ground miners and mill workers.
- Elimination of the distinction between smokers and non-smokers.
2000 Amendments to RECA - 2

- Allowing for certified physician/patient documentation and appropriate tests for use in verifying a claim.
- Incorporating respect for Native American law, tradition and custom for survivor eligibility.
- Lowers the threshold for eligibility for miners and mill workers to 40 WLM.
Mill workers are eligible for compensation for renal cancer, chronic renal disease, and kidney tubal tissue injury. Adds a grant program for community-based groups for cancer screening, medical referral, and public health education.
How does this apply to Africa?
Thoughts

- In the US it took a looooong time.
- Lawsuits failed, but maybe because of peculiarities with US law.
- Organizing and advocacy combined with legal representation seemed to be key.
- Going after “deep pockets” (US Gov) worked.

- Maybe focus on suing EU companies or governments for African compensation?