



Worker dies *Thor managers arrested*

Two workers from Thor Chemicals have died from mercury poisoning. A number of others are ill. After a three year campaign, three managers have been arrested at the factory and charged with culpable homicide. ASHWIN DESAI and PETER AUF DER HEYDE report.

Thor Chemicals worker Peter Cele was only 22 years old when he died in July this year of mercury poisoning. As a result three company managers were arrested at the factory and charged with culpable homicide.

Cele worked just five months – from August 1991 to January 1992 – for Thor. He was a casual labourer in the company's mercuric acetate plant. During this time, he was at one stage sent home, apparently because his urine test showed a very high mercury content. Even while he was still working at the company, his gums became painful and started bleeding. His appetite dropped off and he became thin. Towards the end of 1991, he started having 'dizzy spells'. In January, he developed a tremor of his hands, mouth and eyelids and started to walk with an unsteady gait. He started to sleep a lot and his family had difficulty waking him in the mornings.

Peter Cele's condition deteriorated and he was admitted to Durban's King Edward VIII hospital in March last year. He slipped into a coma. Sixteen months later he died without regaining consciousness. A post mortem showed that he had died of mercury poisoning.

At the beginning of September Thulumuzi Shange (65), a painter at Thor, died. And the press reported another young worker had gone "beserk" – a classic symptom of mercury poisoning.

Signs of poisoning

Thor's mercury reprocessing plant dates back to the late 1970s. The plant, one of only five worldwide, reprocesses toxic waste from companies in the United States and Britain.

The plant is on the KwaZulu border at the source of a stream which runs into the Mngweni River. Two kilometres downstream, at Fredville, residents use the river for washing clothes and cooking utensils, and for swimming. As far back as July 1988 – long before Cele even started working at Thor – scientists discovered that water samples taken 40km downstream from the plant had a very high mercury level. They traced this to the Thor plant and

meetings were held with the company on the issue.

However, these meetings failed to change the situation. Further tests from the stream near the Thor plant showed levels as high as 1900 micrograms per litre, far higher than the recognised standard. In August 1989, an official decided to speak to the press and, for the first time, the public was made aware of the situation.

A South African environmental pressure group, Earthlife Africa, then started to look into the matter in more depth. Earthlife's Chris Albertyn said their investigations revealed that Thor workers were routinely tested and, in many cases, their urine showed high mercury levels. According to him, the World Health Organisation (WHO) and the South African Department of Manpower standard is 50 micrograms per litre. However, Thor was using 200 micrograms per litre as their standard, with 300 as the upper limit.

"Thor workers told us that some of their colleagues had 'gone mad' and were playing with imaginary toys, handing out money to administrative staff and showing a number of other symptoms quite contrary to their character," said Albertyn.

Dr Mark Colvin, working for Natal University's Industrial Health Unit at the time, found that some Thor workers had symptoms of mercury poisoning. Thor at first denied that any workers at the plant had been poisoned, but recently have admitted they were wrong.

In April 1990, Earthlife Africa and the Chemical Workers Industrial Union (CWIU) organised a demonstration outside the plant. CWIU Natal Health and Safety co-ordinator, S'bu Ngcobe, said this was the union's first attempt to recruit at Thor and workers soon began to join. "Thor Chemicals is very far away from everything and we just did not get around to going to the factory. But, after all these happenings, the workers joined us."

Later the company closed the part of the plant where the poisoned workers were working and retrenched the 15 workers employed there. The union has taken the

Management is suddenly nervous

For Colvin, the Thor case has highlighted the lack of adequate health regulations governing companies in South Africa. He says the Department of Manpower was not equipped to deal with occupational diseases and problems such as chemical poisoning. He points out that Davies' suggestion of a medical inspector to assist in such cases had not been acted upon. "The Department of Manpower doesn't have the staff or the resources or the training to deal with these problems."

According to Colvin, the old Machine Occupational Safety Act is inadequate. "Thor Chemicals did not even have to do the monitoring they did. Except for asbestos and lead workers, there was no compulsory screening for workers."

He says that the new Occupational Safety and Health Act, which will come into force from early next year, stipulates that workers in certain risk areas be monitored. It also covers more diseases and makes reporting and screening compulsory. However, it remains a "compromise between ideal legislation and the old act".

The whole case has also highlighted a lack of occupational health services. The only service available in Natal is a small clinic attached to the Industrial Health Unit. "Workers do not get diagnosed for occupational diseases. Even if they stagger into hospital with obvious occupational diseases, it is not noticed. In Thor's case, the junior doctor wrote 'Thor mercury' onto the file, but it was just not picked up. There is no awareness of occupational diseases," says Colvin.

While accidents cause production losses, occupational diseases are easy to ignore and typically only appear years after the exposure. Thor Chemicals, for example, was awarded a 4-star grading by the National Occupational Safety Association (NOSA) on the day the manpower inquiry began. "A company can cause its workers to be poisoned, but still receive a 4-star grading if they look after the safety aspects," Colvin says.

But Colvin sees a change. "For the first time management has been bust and I know a lot of industries where management is suddenly very nervous."

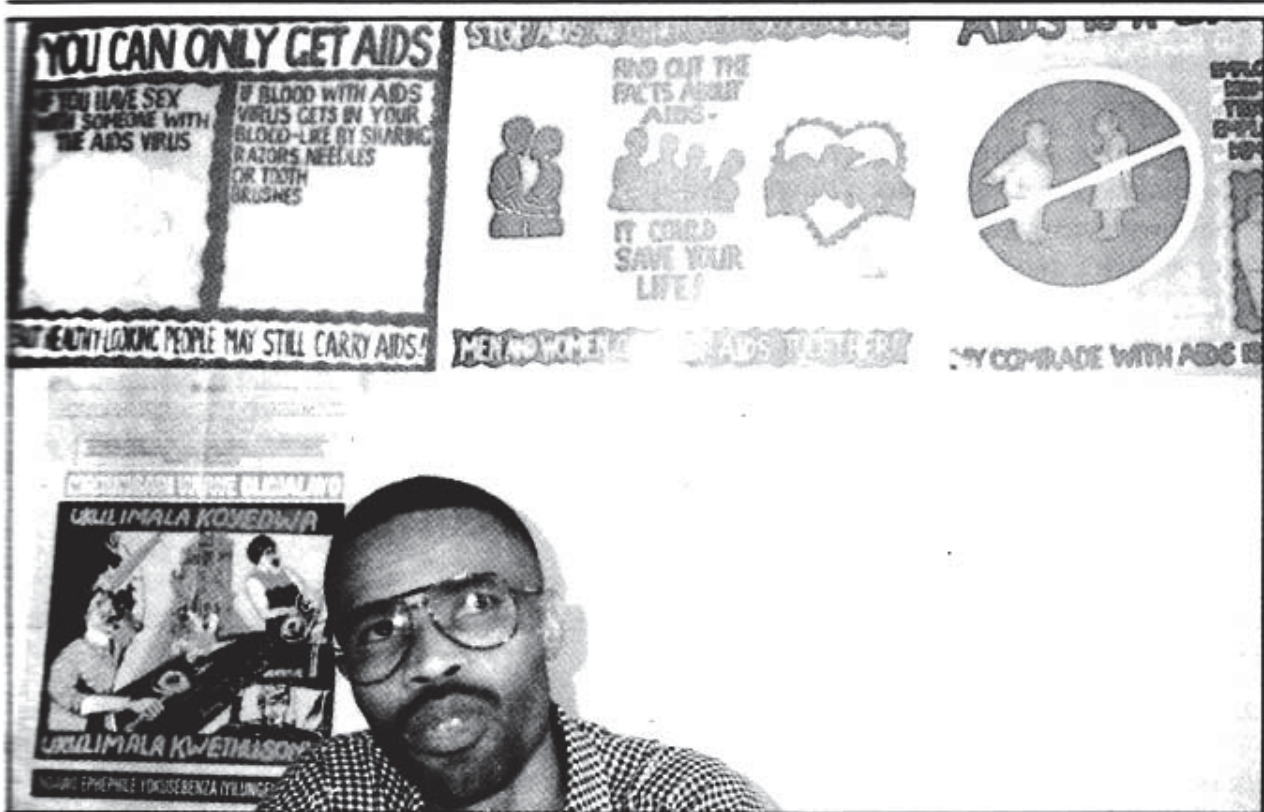
Unions can do more

Colvin says unions need to do more around health issues. Unions have not taken up health issues in a structured way and few have health and safety officers. "Workers and shopstewards are concerned about health and safety. But the organisers are not able to deal with the issue effectively, so they tend to pass it on to service organisations. They in turn do not have the organisational links to carry the issues through adequately."

Even when unions declare disputes over health and safety issues, these more long-term demands are traded off for more immediate gains, according to Colvin.

CWIU's Ngcobe says workers are pre-occupied with other issues such as wages. "But this has changed recently and Thor Chemicals certainly was one of the main reasons."

For Albertyn, access to information around health and safety is crucial. "This whole issue revolves around the right to know and to be informed. If a worker is dealing with something dangerous and doesn't know it, but someone else does, they have an obligation to tell him. The worker has a right to be told, because he might not know enough to ask the right questions."



CWU's S'bu Ngcobe: increasing union concern with health and safety

company to court over unfair labour practises. After lengthy negotiations between management and CWIU, the company agreed to supply the union with certain information and allow a site inspection and full medical investigation co-ordinated by Professor Anthony Davies of the National Centre for Occupational Health.

An independent enquiry

Davies released his findings in April 1992. He found widespread contamination at Thor Chemicals, which could result from workers' lack of proper training. Davies claimed that the proof was almost absolute that occupational exposure at Thor caused the poisoned workers' illness. His report criticised the sampling at the company and recommended an urgent and consistent implementation of a sampling strategy.

The report added that, given the overload of hospital services, it was essential that occupational diseases be kept to a minimum. Most occupational diseases are not treatable and once there has been excessive exposure, a progressive disease process might easily be set in motion.

Thor Chemicals managing director Steve Van de Vyver said they had no idea how the workers could have been poisoned. "We wish we knew. We have been working with mercury for 23 years and this is the first time something such as this has happened. There is no conclusive explanation for what happened. Thor Chemicals has always done everything that was required from us in terms of labour legislation, in fact we have done more than was required of us. We have received a 4-star grading from the National Occupational Safety Association (NOSA) and that is not awarded lightly."

It was only in July 1992 that the Department of Manpower launched their own investigation into Thor Chemicals. By then they were faced with a damning report by the independent inquiry, a growing list of poisoned workers and a massive public outcry.

The findings of this investigation were handed over to the Attorney General and he decided to prosecute three Thor Chemicals employees. This is believed to be the first prosecution of its kind in South Africa and the court case could have far-reaching

implications for workers.

Managers arrested

Van de Vyver, factory manager Gavin Daniels and chief supervisor William 'Bill' Smith were arrested at the factory and charged with one count of culpable homicide and 42 counts under the Machinery and Occupational Safety Act.

Van de Vyver says he welcomes the court case. "It will offer scientific explanations and we have always been model employers. We have nothing to hide," he said.

But the 106-page charge sheet tells a different story. It accuses the managers of having caused Cele's death by not undertaking routine biological tests while he worked in the mercury plant. They also allegedly failed to train employees in the handling of high risk substances.

The state also accuses the three of not ensuring that the deceased was removed from areas where he might have been susceptible to mercury contamination. This was despite the fact that he already showed high levels of contamination. In addition, Thor Chemicals failed to prevent contamination of the atmosphere and environment.

The other charges relate to the company's sampling. The state claims that Thor Chemicals sent incorrect results to the Department of Manpower and failed to remove people from their work place if their sample was higher than 200 parts per billion (ppb). In one case, employee J Hittler showed contamination of 1354 ppb – more than six times the recommended rate! In another case, the records show that an employee had a reading higher than the allowed limit for 17 out of 19 weeks, yet the company allegedly did nothing.

Workmen's Compensation

According to the CWIU's Ngcobe, the poisoned workers have no claim against the company in terms of the Workman's Compensation Act. 'In terms of the Act, the workers cannot institute action against the company unless there is gross negligence on



Thor's part. Cele's family has been paid a once-off sum of R5 000. Thor Chemicals has also paid compensation."

But, even if the poisoned workers receive compensation, for many it is too late – their health has been permanently damaged.

Earthlife's Albertyn believes that, should the three accused be found guilty, the workers could institute action against them as individuals.

Albertyn, along with CWI's lawyer, also plans to sue the British parent company on behalf of the affected workers. He said one of those charged, William Smith, was sent out as an expert by Thor Holdings to oversee the mercury operation "after Earthlife started agitating". This indicated a direct link between parent company and subsidiary.

Albertyn said the case will have a crucial effect on the future of multi-nationals in South Africa. "I don't think there is a precedent in South Africa where a multi-national has been charged for such misdemeanours. There are likely to be a number of other companies in South Africa in similar positions." ☆

Credits

We are indebted to Chris Albertyn of Earthlife; Mark Colvin, formerly of the Industrial Health Unit; S'bu Ngcobe of CWIU, and the management of Thor Chemicals for granting us interviews.