

# **CORPORATE-STATE IRRESPONSIBILITY, CRITICAL PUBLICITY, AND ASBESTOS EXPOSURE IN LIBBY, MONTANA**

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**T**he story of asbestos exposure in Libby, Montana, should cement W. R. Grace's place in the annals of corporate irresponsibility. Although the company is perhaps better known for its toxic dumping in Woburn, Massachusetts (popularized in the movie *A Civil Action*), its record in Libby reveals a troubling disconnection between knowledge and action and serves as an exemplary negative case for scholars of corporate social responsibility.

But the story of Libby also reveals a lesson about the limitations of the *rhetoric* of corporate social responsibility (CSR). Libby reminds us that corporate wrongdoing is often accomplished with the help of the state. Thus, a rhetoric of CSR must have an interorganizational focus; it must demand social responsibility from the corporate body constituted in tandem by companies and the state agencies charged to regulate them. In the brief space allotted here, I want to illustrate these points in relation to Libby, and suggest that CSR rhetoric foreground and enact the notion of critical publicity to expose the exercise of corporate-state power.

## **THE MATERIAL EFFECTS OF IRRESPONSIBILITY**

In Libby, the unchecked exercise of corporate-state power produced devastating material effects. More than 200 human deaths

have been attributed to a vermiculite mining operation that ran for most of the 20th century a few miles outside Libby. The vermiculite deposit contains tremolite, a highly toxic form of asbestos, and the mining, milling, and distribution of vermiculite products exposed hundreds of workers and potentially thousands of Libby residents to asbestos for decades. Former miners, their family members, and even local residents who only had environmental exposures have died from asbestos-related diseases. The public health statistics are appalling. In the period 1978-1998, rates of mortality from asbestosis in the Libby area were 40 to 60 times higher than a normal U.S. population. A public health screening of more than 5,000 adult residents found that 18% of participants had lung abnormalities, compared to rates from .2% to 2% among normal populations (U.S. Agency for Toxic Substances and Disease Registry [ATSDR], 2000, 2001). Given the latency period of up to 40 years for asbestos-related diseases, the Libby area is facing a major public health problem for the next several decades.

Unfortunately, this situation was not recognized as significant by regulatory agencies until 1999, when journalists and local advocates brought these problems into the public spotlight.<sup>1</sup> However, corporate and government officials cannot persuasively claim that they lacked knowledge about asbestos problems in Libby prior to these reports. Documents from Zonolite (the first company to own the mine), W. R. Grace (which operated the mine from 1963 until its closure in 1990), and state and federal agencies show that company and government officials knew several facts about asbestos hazards in Libby as early as the mid-1950s but did little to eliminate those hazards.<sup>2</sup> They knew the vermiculite deposit contained asbestos, and that asbestos dust is toxic. They knew that processing vermiculite released amounts of asbestos into the workplace that often exceeded maximum allowable concentration levels. They knew that significant percentages of workers had lung abnormalities, and that workers in Libby and other locations that processed Libby vermiculite were getting sick from diseases related to asbestos exposure. And they knew that if information about asbestos exposure resulting from the processing of Libby vermiculite or the use of vermiculite products were to become public knowledge, the company could face significant financial costs, both from the threat of law-

suits and from declining product sales. In spite of this knowledge, public officials in multiple government agencies failed to act on this knowledge, and thus failed in their duty to regulate corporate activity and protect the health of workers and citizens.

Corporate irresponsibility in relation to Libby cannot be dismissed as the product of a bygone era. In the 1970s and 1980s, as national attention to asbestos problems grew, W. R. Grace officials influenced environmental and occupational regulations pertaining to asbestos, and Environmental Protection Agency (EPA) officials shelved a report documenting asbestos-related health hazards stemming from exposure to Libby vermiculite (Moss & Appel, 2001; U.S. EPA, 2001). More recently, Libby was added to the Superfund National Priorities List in 2002, but it is not clear how cleanup of the town or the mine site will be funded. W. R. Grace filed for Chapter 11 bankruptcy protection in April 2001, and the EPA is now suing the company to recover some of the \$60 million that already has been spent on cleanup. In addition, other creditors have filed suits alleging that W. R. Grace engaged in fraudulent transfers of several billion dollars prior to the Chapter 11 filing to shield company assets from asbestos claimants. Although such business practices are at the center of current corporate scandals, in the case of Libby, they are only one dimension of corporate irresponsibility. Indeed, for more than half a century, both company and government actions and inactions have produced terrible material effects in Libby.

### **ASSESSING IRRESPONSIBILITY: AN INTERORGANIZATIONAL AND RHETORICAL PERSPECTIVE**

The reader may note that I have shifted from a pointed indictment of W. R. Grace to a more comprehensive charge against the company and government agencies. I do so to underscore the central concern of this article. Although contemporary public discourse about corporate social responsibility usually (and appropri-

ately) focuses on the (in)actions of companies, situations like Libby show that the most egregious examples of corporate irresponsibility are best interpreted as situations coproduced by corporations and the state.

The case of Libby reveals an instance of insufficient tension between the company and government agencies. Persistent warnings from government inspectors that the mine needed “improved housekeeping” only strengthened the notion that the company was doing its job, just not quite up to government standards.<sup>3</sup> The failure of government officials to issue more stringent penalties allowed minor adjustments to be constituted by company officials as “improvements” in solving “the dust problem,” even as evidence of harmful effects on employees mounted.<sup>4</sup> Like other recent corporate scandals, then, the case of Libby shows that corporate actions are only partially the result of decisions made by corporate officials. To the extent that corporate decisions and actions are sanctioned by government officials, the “corporate” body from which “social responsibility” should be demanded must include the state as well as specific companies and industries.

From a rhetorical perspective, I am skeptical of whether the phrase “corporate social responsibility” is up to this task. By directing attention to the company as the locus of decision and action, it deflects attention from the interorganizational character of decisions that affect the environment and human health. Consequently, it obscures the role that government agencies play in legitimizing company decisions and actions.<sup>5</sup> Thus, to the extent that a rhetoric of corporate social responsibility situates companies as the locus of decision and action (and, therefore, in need of control), it is likely to encourage more (or more stringent) regulations as a way of enacting CSR. At least two problems emerge here. First, this rhetoric of CSR seeks solutions from the very government agencies that failed to regulate in the first place. Second, this solution is vulnerable to the charge of “big government” and is likely to be unpersuasive to mainstream audiences.<sup>6</sup> Both of these problems must be considered as contemporary advocates try to craft visions and policies of CSR that are effective, in all senses of that word.

## CRITICAL PUBLICITY

If government agencies indeed played a significant role in allowing the Libby situation to persist, then one has to wonder—as many have—how Libby “fell through the cracks.”<sup>7</sup> The answer to that question is far beyond the scope of this article; news accounts have told a certain version, although I suspect a more complex tale can be told. But again, the rhetoric fails us in terms of CSR. Playing with the metaphor, I would argue that the problem is not cracks in the system; the problem is that the cracks in the system were not large enough. Indeed, there were no cracks in the interorganizational relationships between government agencies and W. R. Grace. As a result, knowledge of asbestos-related hazards was firmly sealed within company-state relationships for decades, preventing public analysis of decisions and actions that had significant material effects on the environment and human health. Moreover, within a town like Libby, there was little incentive or reason to look for cracks, much less pry them open. W. R. Grace paid high wages, it was a major benefactor to local institutions, and several of its managers held leadership positions in the community. All these factors helped to limit the emergence of independent voices and whistleblowers in the community.

Although there are no easy solutions to these problems, I contend that a meaningful practice of corporate-state responsibility should attempt to foreground and enact critical publicity. This phrase is intended to resonate with Jurgen Habermas’s argument about the need to reclaim the critical function of publicity in contemporary society. For Habermas (1989), publicity functions critically to the extent that the exercise of state power is exposed and brought under control through civic debate. In the context of CSR that I have sketched, an emphasis on critical publicity foregrounds the need to place both corporations and government in the spotlight. Furthermore, it is precisely on the issues where states and companies exercise power together that critical publicity is needed most. As the case of Libby makes painfully clear, citizens cannot count on government regulation of industry by itself to protect public health or the environment.

Indeed, the recent wave of “corporate” scandals provides several more instances of questionable government-state relationships, further supporting the need for critical publicity. Whether it is the manipulated energy crisis in California, the Enron debacle, or the ongoing public problems related to asbestos exposure, these situations illustrate the magnitude of problems that stem from insufficient attention to the corporate-state nexus. Accordingly, vague demands for corporate responsibility miss the mark if they downplay the government role and focus narrowly on “evil” corporations or “greedy” CEOs. If we wish to retain the concept of corporate social responsibility at all, it must be constituted as a practice of critical publicity that examines the intersections of corporate and state power.

## NOTES

1. See Schwarze (in press) for an analysis of the rhetoric that exposed the situation in Libby.

2. I have generated the claims in the rest of this paragraph by analyzing internal company documents and reports from the Montana State Board of Health and the U.S. Public Health Service. See Schwarze (in press) for detailed support from these documents, which have served as evidence in various lawsuits against W. R. Grace. A narrative account that establishes similar claims can be found in Andrew Schneider's (e.g., 1999) reports in the *Seattle Post-Intelligencer*.

3. This phrase is used in a report from the state's industrial hygiene engineer to the manager of the company (Wake, 1964).

4. See Lovick (1965) for one example of management's framing of the situation. Regarding government inspections and enforcement, Schneider (1999) claimed, “Even though the language in some of the reports showed increasing frustration at the company's slow pace in getting the lethal dust under control, there is not a single indication that government inspectors ever threatened or even considered shutting the plant down.”

5. Indeed, the broader history of asbestos regulation in the United States is as much a story of government acquiescence to industry as it is a story of corporate nefariousness. Furthermore, the “revolving door” between industry and government, the existence of confidentiality agreements for health studies of industry facilities, and the financial support of politicians by industry all blur the boundaries between companies and state regulatory agencies (Brodeur, 1985).

6. In February 2002, a Pew Research Center poll reported that only 32% of Americans say the biggest “lesson” learned from the Enron collapse is “the need for more regulation” (Paul, 2002).

7. Beamish (2002) cogently analyzed how a similar, slowly developing environmental problem—the 38-year Guadalupe Dunes oil spill—failed to emerge as a salient issue, in spite of regulators’ awareness of the problem.

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