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DODGING RESPONSIBILITY

CORPORATIONS, GOVERNMENTS AND THE BHOPAL DISASTER

A HEALTHY ENVIRONMENT IS A HUMAN RIGHT

AMNESTY
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THOUSANDS OF PEOPLE, MOST OF THEM POOR, WERE KILLED BY A MASSIVE LEAK OF TOXIC CHEMICALS IN BHOPAL IN 1984. HUNDREDS OF THOUSANDS WERE LEFT ILL AND FURTHER IMPOVERISHED BECAUSE OF EXPOSURE TO THE FUMES. A QUARTER OF A CENTURY LATER THE COMMUNITY REMAINS RAVAGED AND IS STILL CAMPAIGNING FOR JUSTICE. THE DISASTER AND ITS AFTERMATH RAISE FUNDAMENTAL QUESTIONS ABOUT THE ACCOUNTABILITY AND MORALITY OF THE WORLD'S GIANT CORPORATIONS.

THE DISASTER

Shortly before midnight on 2 December 1984 thousands of tonnes of deadly chemicals leaked from Union Carbide's pesticide plant in Bhopal, central India. Around half a million people were exposed. Between 7,000 and 10,000 people died in the immediate aftermath and a further 15,000 over the next 20 years. Nearly 25 years later, the site has not been cleaned up, the leak and its impact have not been properly investigated, more than 100,000 people continue to suffer from health problems without the medical care they need, and survivors are still awaiting fair compensation and full redress for their suffering.

DRIVEN DEEPER INTO POVERTY

Most of the people affected by the gas leak were poor. Many of those who died were the sole or main wage earner in the family. Some families also lost their animals – a key source of income. Thousands of people lost their jobs or their ability to earn money because of health problems. Virtually all those affected by the leak were driven deeper into poverty.

An out-of-court compensation settlement of US\$470 million was reached between Union Carbide and the Government of India four years after the disaster. The Supreme Court of India upheld the settlement despite being challenged as inadequate by victims, civil society groups and others. Even then, survivors trying to access compensation faced numerous problems, including corruption, long delays and denial of appropriate appeal mechanisms. Not being able to get adequate and timely compensation continues to affect people's ability to recover from the tragedy.

The social stigma of being affected by the gas has had severe repercussions, particularly for women. Many became too sick to work and were perceived as a burden. For those who were unmarried, the label of "gas-affected" made marriage unlikely.

Although there were attempts by the authorities to provide medical services, support for new businesses, vocational training and new housing, these schemes have not amounted to real rehabilitation.

Bhopal is not just a human rights tragedy from the last century – it is a human rights travesty today. The interaction of powerful corporate interest, legal complexity and government failures and neglect has proved a huge obstacle to justice for the people of Bhopal.

Many people have had to pay for medical treatment that was meant to be free. Premises for industrial businesses lie empty and training centres for women have been closed. Housing built for victims of the leak, especially widows, lacks basic sanitation.

The Bhopal disaster shocked the world and raised fundamental questions about the accountability of corporations. While the people of Bhopal have struggled to obtain even basic relief such as clean water, the company involved has evaded accountability and obstructed the efforts of victims to secure reparation.

CORPORATE NEGLIGENCE

Even before the disaster, there was evidence of serious failures by Union Carbide at the Bhopal plant. The company stored a dangerous substance in bulk without adequate safety mechanisms. In particular, the company failed to set up a comprehensive emergency plan to warn local communities about leaks, even though it had such a plan in place in the USA. Such corporate double standards often place the human rights of the poor in developing countries at greater risk.

Union Carbide's response to the Bhopal leak raised fundamental questions about corporate responsibility, accountability and ethics. While thousands were dying in Bhopal as a result of exposure to approximately 54,000 pounds of methyl isocyanate (MIC) and 26,000 pounds of reaction products, company officials denied that MIC was toxic. To this day Union Carbide has not named the reaction products that leaked with the MIC, hampering efforts to treat victims. This behaviour contrasts with Union Carbide's response to a gas leak in West Virginia, USA, in 1985, following which it published a detailed list of reaction products.

In the immediate aftermath of the Bhopal tragedy, Union Carbide provided some support to relief operations. However, the company also sought to limit its compensation responsibilities and walked away from Bhopal without adequately cleaning up the factory site, leaving the victims to cope with the pollution.

GOVERNMENT FAILINGS

Under international law all states are obliged to ensure that companies do not undermine or violate human rights. Where corporate activity does harm human rights, the government



Cover image: The Union Carbide plant photographed in 2002, almost 20 years after the gas leak.

This page: Ink and watercolour painting, by Nepalese artist N.B. Gurung, showing the ongoing effects of the Bhopal gas leak.

should investigate and ensure appropriate sanctions and accountability measures are in place and enforced. The government must also ensure access to an effective remedy for the victims. On all fronts the government of India has failed to respect and protect the human rights of the people of Bhopal.

Despite the hazardous substances and processes used at the Bhopal plant, there is no evidence that the authorities took adequate steps to assess the risk to local communities or the environment, or to press Union Carbide to review safety mechanisms. State action since the leak has been inadequate; the compensation agreed was insufficient; the plant site remains contaminated; and the government has repeatedly failed to deliver on promises to the survivors and their families.

THE COMPANIES INVOLVED

In 1984 the Bhopal factory was part of the operations of Union Carbide India Limited (UCIL). Union Carbide Corporation (UCC) – a US-based company – owned 50.9 per cent of UCIL. UCC has consistently argued that UCIL is an entirely separate corporate entity. UCC has also repeatedly claimed in the courts that it was purely a US-based corporation and denies that it has “operations” in India or elsewhere outside the USA. However, UCC’s 1984 annual report stated: “Union Carbide Corporation’s business worldwide is conducted principally through the divisions, subsidiaries and affiliates listed below.” One of those listed was UCIL, which was also included in UCC’s consolidated balance sheet for the same year.

In 1994 Union Carbide sold its 50.9 per cent share of UCIL to MacLeod Russell (India) Limited of Calcutta, and UCIL was renamed Eveready Industries India, Limited (Eveready Industries). Union Carbide stated: “As a result of the sale of its shares in UCIL, Union Carbide retained no interest in – or liability for – the Bhopal site, and Eveready Industries continued to retain exclusive possession of the land under lease from the state government of Madhya Pradesh.” In 1998 Eveready Industries surrendered the lease on the Bhopal factory site to the state government of Madhya Pradesh – apparently at the request of the state government.

In February 2001 UCC became a wholly owned subsidiary of The Dow Chemical Company (Dow). Even though Union Carbide continued to be a separate legal entity, its corporate identity and all of its business is fully integrated with that of Dow. Dow Chemicals has publicly stated that it has no responsibility for the leak and its consequences or for the pollution from the plant.

WHO DOES THE LAW PROTECT?

The Bhopal tragedy provides a stark example of how the law protects powerful corporations but often fails the poorest people. Numerous efforts by campaigners to use the law to obtain redress and secure accountability have failed.

A criminal case in India continues 25 years after the tragedy. In December 1991 the Chief Judicial Magistrate in Bhopal ordered Warren Anderson, then Chief Executive Officer of UCC, to appear in court to face charges of culpable homicide not amounting to murder in connection with the gas leak. He did not appear. Efforts to extradite him from the USA have failed.

A public interest litigation case brought in 2004, seeking clean-up of the site and other rehabilitation measures, is still before the Madhya Pradesh High Court. Although



BHOPAL'S STRUGGLE FOR JUSTICE

The survivors of Bhopal have fought for 25 years for justice. Their unrelenting campaign for adequate clean-up, compensation and accountability has seen survivors and supporter groups, including children and people with disabilities, repeatedly make the 800-kilometre march from Bhopal to New Delhi. Activists have organized rallies, petitions and hunger strikes.

the High Court ordered the government to clean up the site, the government has not done so and legal arguments about liability have dragged on in the courts.

Efforts by the victims to get redress through the US court system have also failed. Union Carbide's legal team first argued that the Indian courts were a better forum for the case. The US District Court upheld the motion to send the Bhopal case to the Indian courts, on condition that Union Carbide submit to the jurisdiction of the Indian courts. Union Carbide appealed against

Bhopal survivors and supporters marching to New Delhi, 2006.

the condition. In a complete about-turn, the company then claimed in the appeals court that: "Indian courts, while providing an adequate forum, do not observe due process standards that would be required as a matter of course in this country."

The Bhopal disaster highlights how the law can be used by companies to protect their interests, and significantly disadvantages victims of those companies, particularly when transnational corporations are involved. Laws and systems that protect human rights need to evolve to deal more effectively with the realities of a globalized economy in which powerful transnational actors operate across state boundaries.

Amnesty International supports the campaign for justice in Bhopal and its members will continue to join survivors and activists to demand justice, accountability and an end to 25 years of human rights violations.

TAKE ACTION NOW

Amnesty International is calling for:

- The full establishment of the promised Empowered Commission on Bhopal by the Government of India, with adequate resources and capacity.
- Adequate measures to address the long-term impacts of the Bhopal gas leak including proper clean-up and remediation of the factory site, medical care, regular supply of adequate safe water for the affected communities, and economic rehabilitation.
- Urgent and decisive action by the Government of India to address the outstanding problems of compensation and accountability.
- All states to adopt stronger legal and policy frameworks at the national and international levels to hold corporations to account for their abuse of human rights.

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Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

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