
BHOPAL GAS TRAGEDY: A STATE/CORPORATE CRIME AND THE ROLE OF CIVIL SOCIETY

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Introduction

Bhopal's gas tragedy is an incident of unending human suffering.¹ The incident took place on 3rd December 1984 at Union Carbide India Limited plant in Bhopal city of Madhya Pradesh, India. A hazardous gas, namely methyl isocyanate, leaked into the air, resulting in the death and injury of thousands of people. An exact figure is still difficult to calculate, but an investigation revealed that around 8000 people died within two weeks of the disaster, and another 8000 died after that.²

Civil society can play an essential role in controlling crimes involving corporation and government because of the nexus between the former and the latter. The latter tries to protect the former for their own economic and political benefits. Bhopal is an example of a corporate crime where civil society played a pivotal role in fighting for the victims' justice. From rehabilitation to compensation, civil society played a dominant role to give the victims what they deserved.

This essay will examine the role of the state governments in the disaster and how in the discussed case, state authorities did nothing to stop the leak despite several warnings by the local press about the poor safety standards of the plant. It will also shed light on role of the civil society, their movement, how it gathered momentum and worked over the years to fight for the justice of the Bhopal gas tragedy victims. This article will also discuss the methods used by the organisations to campaign for justice and the achievements of the civil society organisations. Lastly, it will highlight the failures of the civil society movement.

¹ Derek Brown, 'The dead zone' (*The Guardian*, 21 September 2002) <<https://www.theguardian.com/lifeandstyle/2002/sep/21/weekend.derekbrown>> accessed 18 April 2021

² Ingrid Eckerman, *The Bhopal Saga Causes and Consequences of the World's Largest Industrial Disaster* (Universities Press India 2005)

Bhopal Gas Tragedy: - Brief Background and Role of State

During the early 1970's India was in the neo-liberal era. The state-led massive campaigns for foreign investments in India. The government's primary objective in a neoliberal revolution is to facilitate foreign investment and aid the businesses/capitalistic in their profitability. In such circumstances, the government tries to strengthen the capitalistic business hub at the institutional level.³ It is done to facilitate big corporations to invest in their country. In India, Union Carbide Corporation (UCC), a multi-national company, was invited to construct a plant for the production of Sevin. The corporation chose to set up its plant at Bhopal, a city in Madhya Pradesh. Bhopal was centrally located and here, transportation of necessary goods was feasible. Although the factory was built back in 1969, a separate plant of MIC was built in 1979.⁴ This pesticide, Sevin was very commonly used in farms for the control of pests. For its production, the corporation used a highly toxic and hazardous chemical, namely methyl isocyanate (MIC).

During the intervening night of 2nd and 3rd December 1984, there was a chemical reaction between water and MIC in the tank. The safety valve of the tank got damaged because of high intensity of the reaction and led to the leak of 41 tonnes of MIC gas in the air.⁵ The leak resulted in the death of thousands and internal injuries to another thousands of people of Bhopal. The disaster is considered one of the deadliest industrial disasters in the entire world.

The various independent investigators who investigated the disaster have suggested that the corporation's wilful negligence caused the disaster, and the gas leak in the atmosphere could have been prevented if the corporation had not acted negligently. The investigators say that the corporation were having a knowledge of the faulty safety standards of the plant and that this fault could trigger a chemical reaction between methyl isocyanate (MIC) and water.

On the other hand, the government showed a callous attitude by not keeping an eye on the safety standards of the company and by ignoring its departments' recommendations on the company's safety standards.⁶

Thus, it can be argued that the leak was not an accident of which the corporation was solely

³ David White, 'Regimes of Permission and State-Corporate Crime ' [2014] 3(2) State Crime Journal State-Corporate Crime Special Issue 237-246

⁴ Ingrid, The Bhopal Saga Causes and Consequences of the World's Largest Industrial Disaster (n 2)

⁵ RK Bisarya and Swaraj Puri, 'The Bhopal gas tragedy—A perspective' [2005] 18(4-6) Journal of Loss Prevention in the Process Industries 209-212

⁶ Edward Broughton, 'The Bhopal disaster and its aftermath: a review' [2005] 4(6) Environ Health

responsible, but the state's apathy played an essential part in allowing the disaster to take place. Thus, we can say, the disaster was caused by the law-breaking corporation and aided by the government⁷ and therefore, cannot be called as a simple accident. If we look through the lens of Kramer and Michalowski (famous criminologists), the Bhopal gas disaster was a state-corporate crime, where both the government and corporation worked jointly to pursue a common goal, i.e. capital accumulation for former and profitability for the latter.⁸ The Bhopal gas disaster also qualifies to be called a state-facilitated crime. i.e. When the governments do not pursue proper regulations to stop any corporations from carrying aberrant business pursuits.⁹

The state had a duty to stop the deviant activity. One such activity that the state had to regulate was regulating and looking at safety and maintenance regulations. The corporation was facing huge loss and was not able to pay decent salaries to its employees. Many employees working on the technical side had quit their jobs. To compensate for the losses that it had incurred, the corporation paid less attention to the plant's safety standards.¹⁰ The local press of Bhopal reported in 1982 and 1984 about the poor safety standards in the plant. The press reports were a fair warning for both the government and the corporation of a potential gas disaster. However, none paid heed to the press reports. Neither the government nor the corporation took any significant steps to improve the safety standards of the plant.¹¹

The state has an abysmal track record both before and after the tragedy. The state had no standard operating procedure in place in case of any industrial disaster taking place; it also failed to check the industry whether it was following the safety guidelines to prevent any disaster or accident, and issues related to the post-disaster rehabilitation and relief efforts. The state only tried to shift the blame on the corporation to hide its incompetence.

The Madhya Pradesh state government's Industrial Safety and Health Department was in charge of ensuring that the Bhopal plant took appropriate steps to ensure occupational safety and guard against potential risks from hazardous substances or processes. As per the report of Amnesty

⁷ Sharon Hartles, 'Bhopal State-Corporate Crime continues to unfold, (1984 – Present), 35 years and counting' (The BSC Blog, 3rd December 2019) <<https://thebscblog.wordpress.com/2019/12/03/bhopal-state-corporate-crime/>> accessed 18 April 2021

⁸ Corteen Karen and others, *A Companion to Crime, Harm and Victimization* (Policy Press 2016) 224-225

⁹ Ronald Kramer and others, 'The Origins and Development of the Concept and Theory of State-Corporate Crime' [2002] 48(2) *Crime and Delinquency* 263-282

¹⁰ B Bowonder, 'An analysis of the Bhopal accident' [1987]2(3) *Project Appraisal* 157-168

¹¹ *Ibid*

International, the said department had documented at least six incidents at the plant before the gas tragedy. Following each of the incidents, inspections were carried out by the department. They suggested recommendations for the corporation, but the department did not follow up on whether the corporation accepted its recommendations.¹²

The presence of Warren Andersen (UCIL Chairman) at the site of occurrence raises serious questions about the governments involvement in the disaster. He was allowed to leave the country, allegedly in a government aeroplane, is one more example of foul play by governments for trying to protect the corporation. Mr BR Lall, the Former Joint Director of CBI (Central Bureau of Investigation), later confessed that even CBI was influenced by the Ministers of Central government for not pressing for the immediate extradition of Warren Anderson.¹³

It can be safely concluded from the above cited incidents that the state government in Madhya Pradesh and the central government in India lacked any political will to discipline Union Carbide and played an enabling role in the disaster. In the name of capital accumulation and economy of the state, the governments played a key role in bringing the corporation to Bhopal. The state lowered their incorporation rules, safety standard rules and facilitated the opening of the corporation and putting the lives of hundreds and thousands of people at risk.

Rise of Civil Society Movement

Before moving to Bhopal Civil Society Movement, the definition of civil society movement needs to be understood. The scholars describe social, civil society movements as informal or formal contacts between a diverse community of individuals, parties, or associations involved in common political or cultural goals.¹⁴ The fundamental principles which civil society movement should follow are:

1. A sustained organised public effort making collective claims to achieve some common goal,

¹² Amnesty International , 'INDIA: CLOUDS OF INJUSTICE: BHOPAL DISASTER 20 YEARS ON' (*Amnesty International* , 29 November 2004)<<https://www.amnesty.org/en/documents/ASA20/015/2004/en/>>accessed 18 April 2021

¹³ Headlines today, 'Bhopal gas tragedy: How Warren Anderson got away from our grasp' (*India Today*, 1 November 2014)<<https://www.indiatoday.in/india/north/story/bhopal-gas-tragedy-warren-anderson-union-carbide-dow-chemicals-rajiv-gandhi-congress-arjun-singh-225398-2014-11-01>> accessed 18 April 2021

¹⁴ Mario Diani and Bison Ivano , 'Organizations, Coalitions, and Movements' [2004] 33(3/4) *Theory and Society*

2. Use of different forms of techniques, methods or modus operandi to put forth their demands, goals,
3. And commitment (either their own or their constituents) to a cause.¹⁵

Dissatisfaction with the responses of Union Carbide, the state government, the central government and most importantly, a Government- Corporation nexus in the disaster led to a wave of growing anger amongst the people and the anger simultaneously culminated in formations of civil society and NGO groups.

The immediate responses of the civil society were filing of compensation suits against Union Carbide (India) in the District Court in Bhopal, claiming damages up to Rs. Four hundred thousand for wrongful deaths and somewhat less for injury-unprecedented amounts in India. The Legal Aid Society reported having assembled data preparatory to bringing 36,000 more cases.¹⁶ The civil society followed different modus operandi for achieving different objectives. The organisations were working independently from each other. Most of the organisations had prioritised their campaigns for meeting their four demands--- 1) Medical rehabilitation of survivors; 2) Economic Rehabilitation for Survivors and Compensation for families of deceased; 3) Impartial and Independent investigation of the disaster; 4) Punishment for the culprits. Although there were other demands also, the above demands were stressed more than others.¹⁷ The organisations used wide variety of strategies for mobilising their cause. At both the local and national level, the traditional Gandhian¹⁸ model of protest was followed. It included the *jail bharao andolan* (fill the jails movement), *rasta/rail roko* (road/rail blockade), *bhook hartal* (hunger strike), *dharna* (sit-down strike), and *padyatra* (walking tour).¹⁹ The civil society movement took different turns at different intervals which could be categorised as per different intervals. Firstly, from 1985-1989, the civil society movement was concerned about the health of the survivors, relief, and rehabilitation programme. During this time, massive health clinics were set up for proper medical aid to the survivors. The court battle at the United

¹⁵ Stephen Zavestoski, 'The Struggle for Justice in Bhopal: A New/Old Breed of Transnational Social Movement'[2009] 9(3) Global Social Policy

¹⁶ Marc Galanter, 'Why So Little Has Happened in India after the Bhopal Tragedy' [1985] 20(2) Texas International Law Journal 273-294

¹⁷ Thomas Mac sheoin, 'Justice for Bhopal! And No More Bhopals! Three decades of national and international campaigning Author links open overlay panel' [2015]97(1) Process Safety and Environmental Protection 3-12

¹⁸ After Mohan Das Gandhi-Indian Freedom Fighter.

¹⁹ Thomas Mac sheoin, 'Internationalising the struggle for justice in Bhopal: balancing the local, national and transnational' [2014] 6(2) Interface: a journal for and about social movements 103-129

States and Indian jurisdictions had just begun during this time. Then, from 1989-1991, the civil society made every effort to prevent the meagre settlement between the UCC and the Government of India. The movement strongly condemned the role of the government of India in the settlement claim. The government's role in the settlement was considered as a sell-out of the victim's struggle. From 1991 onwards, there was a movement for proper and equal distribution of compensation amount. During this time, a long-term action plan was carried out for the rehabilitation of the survivors.²⁰ The struggle by the local organisations continues to the present day. Since the outbreak of Covid-19 in India, the Bhopal NGO's have once again taken a proactive role who allege that the survivors are more vulnerable to Covid in comparison to other people. As per Reuters news, COVID-19 victims die at a rate of 6.5 times higher than those not exposed to the gas disaster.²¹

Domestic Civil Society Movement

Had the domestic civil society not stood up at the right time, the corporate-state crime may have gone unnoticed. The media, particularly the video broadcasting media, was under the control of the state government. At the time of disaster there were only two broadcasting channels i.e. All India Radio (AIR) and DoorDarshan (DD) both of which were state controlled by state and were used to promote mostly the government's relief activities and ignoring the state facilitated corporate crime perspective.²²

Only after a massive spontaneous protest by the people of Bhopal that attracted wide media attention and the first time the coverage talked about the joint responsibility of the Indian government and UCIC in the disaster. The spontaneous protest started when some 1000 people of Bhopal, mostly survivors, tried to march towards the factory to burn it down. The protesters were leaderless at this time and had no road map ahead. The people also protested in different government offices, calling for immediate medical and financial relief for the victims and bringing the culprits of the crime to the task.²³ The other essential and immediate response was

²⁰ Stephen Zavestoski, 'The Struggle for Justice in Bhopal: A New/Old Breed of Transnational Social Movement'(n 15)

²¹ Reuters Staff, 'Victims of Bhopal gas tragedy say pandemic has worsened their plight' (*Reuters*, 3 December 2020) <<https://www.reuters.com/article/us-india-bhopal-anniversary-idUSKBN28D2HN>> accessed 18 April 2021

²² Shalini Sharma, 'Indian Media and the Struggle for Justice in Bhopal' [2014] 41(1/2) *Social Justice* 146-168

²³ Satinath Sarangi, 'The movement in Bhopal and its lessons ' [1996] 23(4) *Social Justice* 100-108

filing a legal case against UCIL. This was done with the help of local committees and members of the local bar. The local committee also started collecting data on loss of lives and injured persons.

The spontaneous protest after the disaster led to the formation of local/domestic civil society for the justice of Bhopal gas victims. The lead was taken by two organisations that were formed within weeks of the disaster. *Zahreeli Gas Kand Sangharsh Morcha* (Poisonous Gas Episode Struggle Front) and *Nagarik Rahat Aur Puranvas Committee*. The former was predominately concerned about the relief and rehabilitation of the victims, while the latter stressed political and legal interventions.

More small and big organisations within India joined hands with the local civil society during the coming time. They fought for the cause of Bhopal gas victims, which led to the formation of numerous organisations for the justice of Bhopal. Five types of groups and organisations evolved after the disaster. Each group carried a distant activity like 1) apolitical relief and rehabilitation; 2) Those collecting information on technical, legal, and political and disseminating that information; 3) Trade unions that mobilised solidarity among workers and worked for their rights; 4) groups working for international collaboration and international solidarity and Lastly, organisations that organised local relief efforts and typically relied on political campaigns..²⁴

Civil society, as we know, involves people from all sections within the society, including the womenfolk. When we talk about the civil society movement and Bhopal, women took a significant lead in the civil society movement. The women who otherwise do not take the lead in political and social activities in the Indian Society took a very keen interest in the movement for justice for Bhopal gas victims. The women organisations are credited for raising the voice for fair compensation, medical treatment, and against government inaction and raised their voice for their personal rights. They organised numerous protests for getting their demands met by the authorities. The women organisations also served as a face and foundation for creating a survivor viewpoint in the global debate over the Bhopal gas disaster.²⁵

²⁴ Micheal Anderson, "Litigation and Activism: The Bhopal Case" [1993] 12(11) Third World Legal Studies

²⁵ Bridget Hanna, Bhopal: Unending Disaster, Enduring Resistance . in Feher and others (eds), Nongovernmental Politics (2007)

Two important personalities among women organisations, Champa Devi Shukla and Rashida Bi, the founders of Bhopal Gas-Affected Women Stationery Workers' Union, won the prestigious Goldman Award (also known as the "Green Nobel prize") for their activism in 2004. They founded the Chingari Trust with their prize money to finance medical and surgical treatment for children born to parents exposed to gas, grant fellowships to women activists battling corporate crime, and create a scholarship programme for gas-affected children.²⁶

The civil society movement became a powerful opposition to the government and its policies. The movement launched series of agitations, sometimes adopting hard-line strategies, including a protest demonstration to the Chief Ministers of Madya Pradesh residence. The rally would attract thousands of people.

On the other hand, the state used varied responses like having meetings with protesters, concession of some demands, bribing off some civil society leaders. Some civil society members had to face some harsh repression from the state authorities like detention and harassment.²⁷

Fight for Compensation/Litigation

“Whatever little compensation we have received so far is thanks to the struggle that survivors have waged for years, neither the central government, the state government or the companies have given us justice.” Hazra Bee, Bhopal survivor and activist, Union Carbide Gas Affected Women's Collective.²⁸

Compensation for the victims of the Gas disaster was one of the basic objectives of the civil society moment. The compensation could be made possible by aggressive lobbying by the civil society and actively participating in the litigation proceeding. Concerning Bhopal, there were two jurisdictions where cases were filed on behalf of the victims—first being the courts in the United States of America and the other at the Indian Courts. In American courts, a battery of

²⁶ Ibid

²⁷ Thomas, 'Justice for Bhopal! And No More Bhopals! Three decades of national and international campaigning Author links open overlay panel' (n 17)

²⁸ Amnesty international, 'INJUSTICE INCORPORATED: CORPORATE ABUSES AND THE HUMAN RIGHT TO REMEDY' (*Amnesty International*, 7 March 2014) <<https://www.amnesty.org/en/documents/POL30/001/2014/en/>> accessed 18 April 2021

American Lawyers represented the victims. The lawyers had travelled to India and sought to represent the victims in U.S courts. Although the civil society movement did not involve itself in the litigation in the U.S, but they actively participated in Indian litigation.

The bar associations played a very active role in the civil society movement. The Madhya Pradesh Congress Legal Aid Committee (an association of pro-bono lawyers) filed 120 lawsuits against Union Carbide. 300,000 in damages for those who died and Rs. 205,000 in damages for those who were injured. Furthermore, the concept of Public Interest Litigation was recently developed in Indian legal jurisprudence; it was used in the Indian Supreme Court to file lawsuits against the Indian government in the Supreme Court, demanding INR 500,000 for each claimant, plus an INR 50,000 temporary relief payment.²⁹ In toto, an estimated 6500 cases, both civil and criminal, were filed by the victims and survivors. The Indian government enacted the Bhopal Gas Leak Disaster (Processing of Claims) Act of 1985 in response to a slew of lawsuits filed in the United States and the Indian Court seeking compensation for injuries. The Bhopal Act gave the Indian government the authority to manage all claims resulting from the Bhopal tragedy "quickly, efficiently, equitably, and to the best benefit of the claimants."³⁰ In India, the litigation kept on lingering from court to court. UCC had preferred an appeal before the Supreme Court of India against the compensation order of Madhya Pradesh. Even as the hearing was taking place, Chief Justice Pathak of the Supreme Court suddenly ordered a \$470 million "settlement" compensation payment on February 14, 1989. Both parties agreed to the agreement right away, prompting accusations of a "staged" settlement designed to deflect criticism of the Indian government's handling of the case by adding the judiciary's seal of approval.³¹

The settlement brought an immediate civil society outcry. Several demonstrations and speeches echoed the growing consensus that the settlement was intolerable on several levels: 1) firstly, the amount of relief was considered insufficient, 2) the groups in Bhopal were denied access to the decision-making process about the terms of the settlement or its impending distribution. The settlement was widely criticised by civil society, who immediately called for a protest march to the Supreme Court of India. Thousands of women participated in the march. The

²⁹ Rajeev Dhavan, 'For Whom And For What--Reflections on the Legal Aftermath of Bhopal' [1985]20(2) Texas International Law Journal 295-306

³⁰ Tim Covell, "Bhopal Disaster Litigation: It's Not over Yet"[1991] 16(2) NORTH CAROLINA JOURNAL OF INTERNATIONAL LAW

³¹ Ibid

protesters sat outside the Supreme Court as a mark of protest against the settlement. International media and solidarity widely covered the protest started to pour in worldwide for the victims.

To alter the compensation award, civil society groups organised political support, both informally and through legislative channels.³²

Achievements

The aggressive lobbying and activism by the civil society groups forced the government to make an important decision related to the compensation. The government accepted the demands of the civil society groups and made the following announcements. Firstly, the government declared that the settlement amount was unsubstantial to meet the situation's needs; secondly, the government declared that interim relief shall be provided to the victims and while calculating the relief amount and mode of disbursing the amount, the government declared that civil society would be invited for the consultation process. Thirdly, the government did not accept any bilateral settlement. Lastly, the government would support the contentions of the civil society in the review petition pending in the Supreme Court.³³

Apart from this also, civil society has accomplished a great deal. Like through their legal and extra-legal interventions, the government provided much-needed financial aid, amended the questionable settlement order, strip criminal protection from Carbide and its officials, and enact most government relief and rehabilitative initiatives.

Above all, they have kept the memory of Bhopal alive in the public eye by marching and rallying for justice and a better deal for the survivors.³⁴

Failures/Drawbacks

Although the civil society movement achieved a lot for the victims, there were serious allegations of corruption against some movement members. There have been instances where the funds which were received for the rehabilitation of the victims were embezzled. Many corruption cases are still pending against the administrators of these civil society

³² Micheal Anderson, 'Litigation and Activism: The Bhopal Case' [1993] 12(11) Third World Legal Studies

³³ Ibid

³⁴ Reuters Staff, 'Victims of Bhopal gas tragedy say pandemic has worsened their plight' (n 21)

organisations.³⁵ It raises a serious question mark on the legitimacy of these organisations to work for the Bhopal victims.

Likewise, the civil society organisations were making inaccurate surveys and the findings of the report very contradictory with each other. The doctors have criticised the civil society organisations for making a hype of the situation by following unprofessional surveys.³⁶

One more serious allegation against civil Society was that they were used as a political tool against the government by the opposition parties. As a result, they were not having any independence and impartiality. Even some NGO workers joined active politics by using the plight of Bhopal victims as a launching pad for starting their political careers.

Conclusion

Civil Society has a vital role to play whenever a corporate crime takes place. The nexus between the governments and corporations can make it impossible for bringing perpetrators of such crime to justice. Civil Society acts as a pressure group to force the governments and corporations to act against delinquent officials. The Bhopal gas disaster teaches us how the Civil Society and other organisations resisted the corporate crime and kept the issue alive amongst the people within Bhopal and all over the world. The fight for justice continues even today, and the credit should go to the Bhopal civil society.

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³⁶ Betwa Sharma, 'Bhopal Gas Tragedy: 'New' Victims' [2006] 41(17) Economic and Political Weekly 1613-1616

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