

Dow Unable to Shake Off Bhopal Legacy

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The Indian government's attempt to clear the Dow Chemical Company of its reparations obligations is highly immoral.

NEW DELHI, Jul 9 (IPS) - Try as it might Dow Chemical Company is unable to shake off the criminal liability it inherited for the 1984 Bhopal gas disaster and also responsibility to clean up toxic contamination at the site of the pesticides plant, originally owned and operated by Union Carbide Corporation.

Since 2001 Dow has fully owned Union Carbide and legally taken over its liabilities, including culpability for the world's worst industrial accident which killed over 3,000 people within the first week and inflicted enormous chemical damage upon more than 200,000 others. The injuries led to a further 15,000 deaths and terrible suffering among the survivors.

To make matters worse for Dow, voluntary agencies working on behalf of the survivors have turned up evidence that the government of "emerging economic giant" India has been trying to clear the multinational corporation (MNC) of its liabilities so that it can make large investments in India.

If these efforts succeed, the 49 billion-dollar United States-headquartered MNC, with operations in 175 countries, will be exonerated of its liability.

Union Carbide, some of its directors, including former chairman Warren Anderson, and its Indian subsidiary, stand charged before an Indian court with causing death by a negligent act.

Dow has been ordered by the Indian courts to clean up some 70 tonnes of poisonous residues which have contaminated the soil and groundwater at Carbide's pesticides plant and penetrated vegetation and animal tissues in the surrounding area. It must also compensate some 20,000 people who suffer health damage from exposure to contaminants in their drinking water and food.

Dow faces a lawsuit in central Madhya Pradesh state in which the Indian Ministry of Chemicals and Fertilisers has demanded a token deposit of 250 million dollars as initial payment for the costs of remediation (cleaning up).

Dow says it will not invest in India unless this claim is withdrawn and it is cleared of all its legal liabilities.

A galaxy of prominent Indian officials and industrialists, including Ratan Tata, head of India's second largest business conglomerate, are lobbying on Dow's behalf.

"It would be outrageous if this multinational corporation is let off its liability for a grave and continuing human tragedy", says Madhumita Dutta of the International Campaign for Justice in Bhopal. "That would only show that despite its high rates of growth and its claim to be emerging as an economic superpower, India still behaves like a Fourth World country, which puts corporate investment above the life and well-being of its own citizens."

Lobbying on Dow's behalf gathered momentum late last year, when the U.S. embassy in India urged the government to withdraw the claim on the corporation and Ratan Tata offered "to lead and find funding" for the "remediation" of the Bhopal site.

Tata is co-chair of the Indo-US CEO Forum, of which Dow president Andrew N. Liveris is also a member. Liveris has met Prime Minister Manmohan Singh at least twice.

Tata proposes that a corpus fund be established jointly by Indian and U.S. companies to clean up the site — on condition that Dow is exonerated.

The Forum and the U.S.-India Business Council demand that "legacy issues" like Bhopal be resolved through "dispute settlement mechanisms", which would "send a strong positive message to U.S. investors".

There are numerous links between Dow, the Tatas and former Indian and U.S. officials. Keshub Mahindra, former chairman of Union Carbide India, an accused in the Bhopal case, has served as director of several Tata companies. Former State Department official David Good, who has lobbied against Anderson's arrest, heads the Tatas' U.S. corporate office.

Tata's proposal found strong supporters in Planning Commission Deputy Chairman Montek Singh Ahluwalia and Finance Minister P. Chidambaram. They wrote to the Prime Minister's Office recommending that the Dow/Carbide liability issue be resolved out of court.

Commerce Minister Kamal Nath was even more brazen. He wrote to the PMO: "... with a view to sending an appropriate signal to Dow Chemicals, which is exploring investing substantially in India, I would urge that a group under the chairmanship of the Cabinet Secretary be formed to look into the matter ... in a similar manner as was done with respect to the Enron Corporation..." (A power plant built by Enron turned out to be one of India's biggest corporate scandals.)

As a result of this concerted effort, India's Cabinet Secretary recommended last April: "It stands to reason that instead of continuing to agitate these issues (Dow's legal liability) in court for a protracted period, due consideration should be given to the prospect of settling these issues appropriately. An important aim is to remove uncertainties and pave the way for promoting investments in the sector."

"The PMO files contain evidence that top-level politicians and bureaucrats are conniving with Indian and U.S. corporations to shut the book on the world's worst industrial disaster and its long-suffering victims", says Rashida Bee, leader of the Bhopal Gas Peedit Mahila Stationery Karmachari Sangh, an organisation of victims of the disaster.

"What is involved here is a blatant violation of the 'polluter pays' principle," says Satinath Sarangi of the Bhopal Group for Information and Action. "This is the law of the land both in India and the U.S. The government's willingness to undermine this principle and curry favour with Dow shows craven subservience to multinationals."

The Indian government has been remarkably indulgent towards the corporate interests involved in the Bhopal disaster and harsh on its victims. In his first reaction after the 1984 accident, India's ambassador to the U.S. was at pains to say the disaster would not affect India-U.S. relations, nor India's foreign investment policies.

The government did not succeed in bringing Carbide to trial in a U.S. court, but assumed the power of being the victims' exclusive legal representative. But it did not consult the victims while negotiating a paltry 470 million dollar settlement which freed Carbide of its entire civil liability.

The Indian Supreme Court upheld and enforced this settlement – often called Bhopal’s second tragedy.

The third tragedy unfolded when the compensation amount was distributed. Most of the victims received less than 150 dollars for extensive injuries and prolonged suffering. Even families of the dead got as little as 5,000 dollars. A good deal of the compensation was siphoned off by corrupt judges, bureaucrats and middlemen.

The government failed to conduct the criminal prosecution with any commitment. It claims it cannot trace Warren Anderson (whose address in a posh New York suburb has been widely publicised).

The victims will be re-victimised if Dow is allowed to walk away from its liabilities and obligations, activists say.

P.S.

* From Inter Press Service (IPS).