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*Md. Anisuzzaman*



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## The Mercenaries of Mass Murder: An Inquiry into a Corporate Crime

Tapan R. Mohanty\*

*The recent developments in the study of criminology has certainly broadened its horizon and has brought a whip of fresh air in the conceptualization of crime and criminalization of conduct. The doctrine of absolute liability in torts law and reflections of critical criminology have been responsible in redefining the roles and corporations as indicators of development and extensions of prosperity in capitalist society. However, the disaster in Bhopal and catastrophe of Chernobyl in consonance with a host of similar events of industrial holocaust brought an abrupt end to forward march of industrial capitalism. In fact, in the context of India, it can be said that the enactment of Environment protection, Act of 1986 and Public Liability Insurance Act are the response to the Bhopal Gas Tragedy. However, as often happens with the victims of mass disaster in this part of the world, the perpetrators of the largest industrial genocide went scot-free with minor compensation while the victims who managed survive are still fighting for justice. The story of Bhopal has become the powerful symbols of melee between the civil society, the leviathan state and the goliath multinational corporations, a momentous milieu of grassroots socio-environmental movement. In this article an effort has been made to map the multitude of dimensions associated with this macabre event. It is important to note that even twenty years after the event the trauma and tremors, the shocks and the solitude, the criminality of the act and the callousness of the authorities continue to haunt the victims. With the passage of time, the wounds have shown the signs of recovery but evidence of the conspiracy are slowly and surely fading forcing us to take recourse in a different methodology to recreate the history and refurbish the evidence. A small sample was taken for empirical investigation, primary and secondary data were scanned and focused interviews were conducted with important and professional eyewitnesses in order to arrive at a valid conclusion. It would be pleasing to share the results of the study so that critical comments can invited and a sense of awareness can be generated among the discerning readers about the issue and its implication in these critical times.*

### Introduction

Time flies and along with it takes away our memories of trials, travail and tribulations but some wounds somehow manage to weather the storms of time and continue to haunt our body, mind and spirit. Despite

running the risk of being trapped in rhetoric and hyperbole it can be said that these are 'critical mass' in human life. These experiences are close to consciousness and determinants of our future reactions and reflections. These are not mere events or punctuation marks in text rather they are recognisable imprints, deeply encrusted and engraved in time and history.

One such event in human history in general and in the history of Bhopal in particular is the day when a miasma of noxious fumes from the Union Carbide factory enveloped the city, turning it into a city of death, devastation and destitution. The event and the date have left indelible marks in the minds of the rich and poor, prince and pauper, patrician and plebeian alike. It is their date with world history albeit with a lot of pain, anguish and pure terror.

"It is unlikely that anything momentous will occur following the government of India's belated request to the US government to extradite Warren Anderson, Chairman of Union Carbide Corporation at the time of the Bhopal disaster almost 20 years ago. Nonetheless, the government's action as well as other developments on the issue is an indication that Union Carbide's criminal negligence that has caused so much human and material damage may be prompting a growing concern over corporate responsibility and so laterally perhaps leading to a more sensitive perception of the implications of the Bhopal disaster for those who survived."<sup>1</sup>

This article delineates some key issues involved with the Bhopal gas tragedy. From the survey of secondary literature as well on the basis of analysis of information obtained from various players associated with the tragedy. It is revealed that there is more to BGT than meets the eye. It is this belief that led me to realize that Bhopal should not be allowed to remain as a mere footnote in the history of chemical disasters rather we must use it as a grave reminder to our consciousness, of our efforts to underscore the results of our acts. Bhopal gas disaster will continue to torment not only its victims but also any sensitive human being and it would be only pertinent to underline some of our observations. In this chapter we have tried to identify some cases of callousness, tales of victims and lacunas in the system. But more than these, there are also efforts in dwelling on human concerns and capturing them.

### Research Methodology

No research can be possible without a proper method. In fact, the whole gamut of empirical research with sophisticated quantitative techniques and tabular representation owe its origin to the prevalence of positivism

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1. ... ..

in social sciences. Emile Durkheim's<sup>2</sup> magnum opus *Le Suicide* bears testimony to sociologists' excursion to scientific method. The success of science both as a discipline and vocation is credited to its tremendous ability of being logical, coherent, predictable, verifiable, testable etc. This archetypical understanding of science led to a revolution in social science research forcing it to seek credence through empirical validation.<sup>3</sup> To quote K. Pearson 'there is no shortcut to truth except the gateway of scientific knowledge'<sup>4</sup> and it is this article of faith that determined the design and dynamics of social research for many a decade to come.

In this study we have used some of these techniques besides other alternative means of data collection. Fieldwork was preferred as the method of study and multiple methodological inputs as well as techniques were used to bolster our observation and substantiate the study. The project has three main parts namely, theoretical, methodological and substantive. Theoretically we have examined the issue of development, environment and rights. Similarly, from the perspective of methodology, we have followed a multiple tradition approach rather than being restricted to monocentricism. As far as substantive issues are concerned we have dealt with morality of market in general and multinationals in particular, poverty and progress as well as development versus environment. The study was based on the assumption that these issues are interrelated and has been made discrete due to lack of understanding and vision; they hence ended up being a bane rather than a boon.

This hypothesis is tested empirically in the setting and the following tools and techniques were used to collect, collate, simulate and correlate data. A brief description of methods used and procedures followed is given to facilitate and re-examine these points.

### Hypothesis:

The hypotheses in our study are as follows:

1. The worst affected in the disaster were poor and homeless. Hence it may be construed that poverty is an important determinant of human survival and it was the poor who bore the brunt of tragedy in comparison to the rich.

<sup>2</sup> Emile Durkheim (Tr.) J. A. Spaulding and G. Simpson. 1951. *Suicide*. New York: Free Press.

<sup>3</sup> See generally, Malcolm Williams and Tim May. 1996. *Introduction to the Philosophy of Social Research*. London: Routledge.

<sup>4</sup> K. Pearson. 1911. *The Grammar of Science* (third edition). Pgs:1, London: A and C Black.

2. Enormous flaws in legal redressal system as far as the victims of BGT are concerned.
3. The lessons of tragedy have not been learnt and the recent development in environmental laws and strategies of sustainable development are to an extent the result of this tragedy.

### Tools of Data Collection

Tools and techniques like observation, questionnaire, interview schedule, focused interview, interviews etc. were used to obtain information from various segments of respondents and materials were also collected from primary and secondary sources. Further, it may be mentioned that elementary and higher statistical and computational packages were used to stimulate the data and analyse them.

### Bhopal in Text and Context

Human society is stratified and hence hierarchical but more than that a deep divide of sentiments, emotions and feelings separates an individual from others, a group from other groups and a society from another. Writing on human society, Shakespeare wrote that man is like every other man, man is like some other man and man is like no other man. In fact, it is the coexistence of similarities and differences among human beings that makes the study of social sciences so interesting and important. Reflecting on this MacIver and Page wrote that 'society is cooperation crossed by conflict'.<sup>5</sup> This can be substantiated in various ways from our observation of BGT. BGT was not just a human tragedy but was also a gold mine for many. It was an opportunity to earn money, turn famous and grease palms. People those were busy minting money while UCC was making profits were also raking moolah when life was snuffed out of thousands of Bhopalies. The post-disaster relief, rehabilitation and litigation did not skip their attention. The money that was made available to console and compensate the victims in hours of their personal grief rarely reached them. For many the whole operation was a chance to be sized by both hands. In the ensuing pages, efforts are made to substantiate some of these allegations on the basis of primary data, secondary sources and our observation of realities coupled with experiences from the field.

<sup>5</sup> See R. I. MacIver & Page. 1965. *Society: An Introductory Analysis*. New Delhi: Macmillan.

### Interaction through Interviews: Lens and Loquacity

The people whom we interviewed are not only from Bhopal but were also eyewitnesses of the event. All of them were involved in the relief and rescue operation in the immediate scenario and three of them were associated with the operation on their official capacity. More importantly all of them were also victims of this tragedy in the one or other particularly Mr. Shastri who is still suffering from the corneal disorder due to the effects of the lethal MIC gas. Interestingly, despite tremendous difference in terms of age, professional qualification and degree of involvement one can find a fine thread of similarity and substance that we have tried to weave into text in the few following paragraphs.

According to these people, the government and the UCC must share the blame on account of concealing information and must be tried for criminal breach of trust. They described rather vividly their encounter with victims and their sufferings even though they had personal problems to attend and the possibility of being exposed to the escaping gas. They were categorical that most of the people who died and suffered were poor and slum dwellers and invariably criticized the method of distribution of compensation for different reasons and felt that the division of Bhopal into various segments on the basis of exposure to gas was arbitrary. All of them found fault in the policy in allowing UCC to set up a hazardous industry in the vicinity of residential areas and emphasized post-disaster efforts and of course, were dismayed with the politicization of the episode. Mr. Siddique was categorically glad that on the basis of Supreme Court order the government has facilitated the creation of Bhopal Memorial Hospital and Research Center (BMHRC) to provide free medical and referral services to the victims.

Mr. Singh gave a rather graphic and gory detail of events of that night and criticized the role of government officials, political leaders and unscrupulous middlemen while heaping praise on common men and voluntary organizations. According to him, as soon as reports of gas leak came to him he rushed to the spot in order to assess the situation and prevent further damage. But he could not scale the boundary wall of UUC building as a thick cloud of smoke choked his lungs and things turned hazy for him. The miasma of MIC was so dense that even powerful neon lights were looking like lamps. He also saw the mad rush to move away from gas cloud and the consequent mayhem. He was quick to point out his experience of helplessness in the event of the tragedy, where senior officials chose to leave the place rather than leading from the front and he had to wait nearly for an hour to receive exact orders from high-ups just to tell the people to use soaked cloths on their eyes to protect them from exposure to gas. He, however, averred with our hypothesis that a maximum of the victims belonged to poor categories

and it was also attested by the employment and income profile of the victims submitted by them before the Gas Relief Commission.

Prof. Patel narrated the event from the deep recess of his memory and recalled his time with the victims as a young doctor. The chaos at the hospital, the pillage of people in the dormitory, the sight of people collapsing before his eyes, the belching, retching and bellowing and the aftermath, a pool of saliva, froth and foam. His tale that started with the macabre scene of the frantic search for medicines, doctors and above all the desperate effort to revive people in the absence of any knowledge of cause and of any antidote was mesmerizing.

Looked through the framework things gradually fall into place making it a cognizable perspective. Union Carbide plant represented the victory of man over nature; it was a technological development that intended to surpass the vagaries of nature. Sevin, the output of UCC, is a pesticide that was intended to weed out harmful insects from fields. It was expected to open new vistas in 'Green Revolution' making life worth living for millions of farmers across the world. UCC also symbolized India's path towards attracting larger foreign direct investment and bolstering its nascent capitalism.

Along with the free flow of capitals desperate people suffering from the pangs of poverty weaved their imagination for a better, ordered and comfortable lining. They felt that big machines, sleek houses and busy looking officials were ides of fortune. For the poor and illiterate people the very presence of this monumental building was the passport to prosperity. In their gullible mind they had taken it for granted that this remarkable structure that symbolized technological supremacy will weep out their poverty and despair through its magic wand. Alas! Only a few people were then aware of the side effects of technology and those few knew dreaded to imagine. For those who died in the event of gas leakage it was a tragic end to their dreams, to their faith on technology and their belief in divinity. It sounds horrific but the fact was that a factory which once took pride on its safety measures and jealously guarded its security measures did not care to sound an alarm and prepared no evacuation to meet the contingency despite having problems of gas leakage on previous occasions<sup>7</sup>.

The figures from Table-1 (see annexure-II for detail) clearly depict that a huge 94 per cent of respondents were not aware of the danger. The meager few who had some notion of the danger had never given a hard thought to it and were permanently under the shelter of 'illusion of safety'<sup>6</sup> that was provided partly by the action of the government and mostly practiced and preserved by the community.

<sup>6</sup> See Kai Erickson, 1976. *Everything in Its Path: Destruction of Community Life in Buffalo Creek Flood*. New York: Simon and Schuster.

The government simply cannot hide its irresponsibility and obligation despite the principle of 'sovereign immunity' in the event of such a huge loss to people and property. One important aspect of governance is a political obligation, which binds the State and its citizens in a contract. The State has the responsibility to provide safety, security and to look after the welfare of its citizens in general and in a democratic nation-state in particular. In a political discourse it is mandatory on the part of the State to secure the life and liberty of the citizens and more so in a democratic country under an elected government. But facts illustrate a scenario that is contrary not only to the ethics of political obligation but also to a theory of minimum state responsibility.

The UCC was allotted a plot for its production unit (factory) in one of the densely populated areas of Bhopal and this acts smacks of official apathy and raises questions about pay-offs. The old Bhopal, which boasted of colonial architecture, congested markets, small business houses, and busy lanes and by lanes crisscrossing overpopulated houses was certainly not meant for housing a factory that manufactured highly toxic chemical compounds. Further, the railway station, the bus terminus, banks, regional transport office were also located in this area. As a result of these establishments, old Bhopal was the hub of city life and a beehive of activities. There was constant inflow of population to the area particularly of migrants who came from various parts of the country to the State capital in search of fortune. But throwing all caution to the wind and norms of town planning through the window the State government permitted the UCC to establish its plant a stone's throw from the railway station which is a major junction connecting the entire range of westward and southward traffic with the central.

The availability of work in the station and the laying of new railway tracks besides the construction of factory brought hordes of underprivileged people to the area and clusters of slums developed and they slowly surrounded the factory. The issue of the danger posed by the pesticide plant was raised in the M. P. Assembly in December 1982. Mr. T. S. Niyogi, labour minister in the Arjun Singh government stated, 'A sum of Rs. 25 crore has been invested in this unit. The factory is not a small stone, which can be shifted elsewhere. There is no danger to Bhopal, nor will there ever be'. Similar confident notes were also issued from the Chiefs of UCC, Bhopal but sufferers were others whose agonized screams and painful wails were submerged in the sound bites of people in power.

The slum clusters, which came up near the carbide plant, were Jai Prakash Colony, Kenchi Chola, and Oriya Basti etc. And what followed later is history. In India, land is highly valued not only in terms of money but also in terms of social prestige and psychological satisfaction and there are sharks everywhere in the country with the intention of using

Chief Minister of the State Mr. Arjun Singh announced a package for the people of slum areas that the government would issue pattas (lease) to the slum dwellers thereby recognizing their right to occupy and own that piece of land. This was against all norms of city planning and even against electoral ethics but politicians rarely think ahead of their time and never beyond elections. In the end what was meant to be political a stunt turned to a holocaust for these hapless people dwelling in their huts. This crucial move on the part of the government ended up being fatal to many and the government of the day must own its responsibility for this act of omission. By hoodwinking the public in implicating Anderson and Company for culpable homicide the government cannot absolve itself from the charges of criminal conspiracy and breach of trust.

In May 1982, the Safety audit team which reported directly to the UCC headquarters in Danbury, stated that in the report of the Bhopal plant there were 'a total of 61 hazards, 30 of them major and 11 of them in the dangerous Phosgene/Methyl Isocyanate units'. This report was marked Business Confidential and only senior officials were privy to its contents. The Company was also forewarned of the possibility of a runaway reaction involving an MIC storage tank three months prior to the Bhopal leak by its safety and health Inspectors based in its Institute at West Virginia. Had the warnings in this report been heeded and the suggested action plan implemented, the Bhopal disaster could have been averted. UCC never send this report to Bhopal.

Similarly, on the night of the disaster when people poured into hospitals in their last ditch effort to save themselves, from the agonizing experience, the doctors on duty called up the Medical Officer on the plant to guide them. They were told that the gas is like tear gas. 'Just wash with water'. J. Mukund, the Works Manager and J. B. Browning, Director of Health, Safety and Environmental Affairs, UCC, continued to refer to the poisonous chemicals that had till date, killed people roughly in excess of 10,000, as 'nothing more than a potent tear gas'.

The Table-2 gives a glimpse of evidence to suggest the criminal intention of UCC brutally exposed in the event of its knowledge of the vulnerability of its plant and the risk it posed for the nearby inhabitants. But despite this they preferred to conceal the information rather than reveal it and take corrective steps. Is this a civilizational norm? Is it less than murder? I wonder why the government did not try these devils in special courts. Forget Anderson, the mercenary from a distant land but what about our own conmen? Are they any better than aliens? The answer lies in the way everybody wanted to bury the hatchet. It was a larger conspiracy where from the government to the company officials; all were co-conspirators and everyone in the end was busy counting currencies, furnishing, and fabricating mountains of lies, half-truths and concocted theories.

These observations can be substantiated on the basis of some other facts as well. It is a well-known fact that when a company is in financial trouble, it chooses to overlook safety system after retrenchment of employees. In normal circumstance, and in normal factories it may be acceptable, but when a factory whose slight defect can wreak havoc it is unthinkable and if it indulges in such activity, it is more than plain killing. Let's look at the facts. As part of UCC's economy drive, the management at Bhopal plant has switched off the refrigeration unit to save about Rs. 700/ per day, thus allowing the gas to have a runaway reaction. In such hazardous chemical industry experts prescribe fortnightly inspection of valves, pipes, pumps, etc. and replacements every six months in plants dealing with corrosive chemicals such as MIC. At Carbide's Bhopal plant inspections were rare and replacements were postponed up to two years.

Similarly, the culture of stuffing the factory with an understaffed, under-trained and over-worked maintenance staff and the resulting laxity was to be blamed for the disaster. While in West Virginia plant all the vital systems had backups and were automatically linked to computerized alarms and crisis control systems, the Bhopal plant not only lacked all these sophisticated system but its sole manual alarm was switched off.

It may be noted that the UCC plant at Bhopal stored higher quantity of gas than the required limit. For instance, all over the Europe the maximum permissible storage limit of MIC is half a ton while at the Bhopal plant, the US company's management overrode the wishes of the management of its Indian subsidiary and kept the storage capacity hazardously high at over 90 tons. On the night of the disaster, 67 tons of MIC was stored in two tanks.

As the title of the chapter suggested, many benefited from the tragedy as well. For an example, after the tragedy at Bhopal, in the financial maneuvers that took place during the 'takeover' battle of Union Carbide, the company gave its shareholders a \$33 bonus dividend plus \$30 a share from the sale of its battery business, and gave its top executives a total of \$28 million in 'golden parachutes' to foil future takeover attempts. After news of the \$470 million settlement, Carbide's stock actually increased \$2 a share. The then Chairman of UCC Mr. Robert Kennedy who owned 35, 000 shares in the company, personally benefited \$70 000.

### Compensation Machinery: Clouds of Corruption

The process of claims filed by the victims takes place in special courts established for the purpose of distributing the money received from Carbide under the settlement package. To receive compensation, a victim has to obtain a medical certificate, which puts her/him into

various categories, graded on the seriousness of the injury. On the basis of the certificate, the victim files her claim before the special court.

Serious charges of graft have tarnished the integrity of the distribution machinery. Media reports point out to numerous instances of kickbacks paid by victims to government officials, a racket involving counterfeiting of claims and even corruption by a compensation-disbursing judge. Some of our respondents did reveal their encounter with middlemen and narrated specific incidents involving payment of bribes to various government and private persons but were unable to give details and were unwilling to identify the concerned persons as well.

Looking at the way *babudom* functions in this part of the world the charges do not seem farfetched though not laced with proofs. These unlettered and hapless people were easy victims of duplicity and forgery. As far as counterfeiting of claims is concerned it needs no substantiation for the simple reason that the number of claims exceeded the number of population resided in Bhopal at that point of time in affected areas. When the notice for claims was published, people flooded the offices with hotel bills, hospital records, and travel tickets etc. to justify their presence in the city on that fateful night and anyone in India aware of its social reality knows how they are obtained. Though we do not have concrete records to substantiate our evidence but our claim is based upon the number of interviews we conducted and information gathered through various sources.

According to the Sambhavana Trust, Bhopal, Rs. 850 crores have been paid to 320, 000 claimants as of November 1998. A balance of Rs.100 crores remains to be distributed. More than 90 per cent of the claimants have been paid a sum less than Rs. 25, 000 (\$600) for personal injuries. From these modest awards 'nearly Rs.10, 000 have been routinely deducted against interim monetary relief paid by the government from 1990'.<sup>7</sup> The remaining sum does not begin to cover claimants' medical expenses, much less than to provide for future expenses. However, on October 2004, the Supreme Court of India decided to pay the compensation to the victims on pro-rate basis from the UCC's settlement money of \$430 million dollars that was deposited with the Reserve Bank of India. This process of distribution of compensation money is still underway though it was expected to be over by the end of April 2005 (the author was a member of the Committee that was entrusted to supervise the compensation work).

Over the years the Supreme Court has overseen the distribution of settlement of funds<sup>8</sup> and interim relief for victims.<sup>9</sup> The Court has also spent much time and resources over the construction of a hospital at

<sup>7</sup> The Bhopal Gas Tragedy: A Report from the Sambhavana Trust. 15 (1998).

<sup>8</sup> Indian Red Cross v. Union of India, 1992 (2), SCC 53.

<sup>9</sup> Bhopal Gas Peerit Mahila Udvog Sangathan v. Union of India.1995 Supp. (4) SCC 481.

Bhopal. In 1992, it issued directions for the transfer of settlement funds from Supreme Court registry to the Welfare Commissioner,<sup>10</sup> and has since occasionally intervened to ensure that the victims receive compensation quickly.<sup>11</sup> In 1996, the Supreme Court upheld the award of Rs. 150, 000 to the parents of a four-month-old girl who died in December 1986. The child was born seriously disabled, nearly two years after the gas leak. The court relied upon the evidence of the doctor who had deposed on the adverse effects of the gas before the Deputy Commissioner. The doctor had treated patients after the MIC gas leak and found that newly born children suffered adverse effects even where the pregnancy was post gas leakage. The mother of the girl was one of the victims of the gas tragedy.<sup>12</sup>

One hopes that the Bhopal Gas Tragedy will never be repeated. But if a similar situation were ever to arise, would it not behove the authorities not only to provide the victims with social and rehabilitative services, including health care, education, welfare, housing and job training, but also some financial planning services. Many victims have been reported to have given their entire settlement awards to unscrupulous dealers, middlemen and other predators. During the 1990s, Indian courts were confronted primarily with two legal matters related to the Bhopal disaster. The first is the continual pressure from activist groups to bring criminal proceedings against Carbide Chairman Warren Anderson, mentioned earlier, and against officials of Union Carbide of India Ltd. (UCIL). On 13 September 1996, the Supreme Court concluded that the acts or omissions of Carbide officials on the night of the gas leak could not amount to culpable homicide, although other criminal charges might apply.<sup>13</sup>

The other main issue was the creation of the Bhopal Hospital Trust. To meet the needs of the gas victims, the Supreme Court, on 3 October 1991, ordered the government of India to construct a 500-bed hospital. The costs of the hospital construction and operation for eight years were to be borne by Carbide and UCIL. Carbide refused to put up the money but it was ultimately supplied by the Bhopal District Court's attachment and eventual liquidation of UCIL's share when criminally charged Carbide officials failed to turn up in court to face trial.

Shortly after the Bhopal District Court attached Carbide's UCIL shares, Carbide registered a charitable trust in London to provide medical relief in Bhopal. Sir Ian Percival, a former UK solicitor-general, was named as sole trustee. Carbide pledged its shares in UCIL to the Bhopal Hospital Trust, even though the Bhopal District Court had ordered that the money

to construct the hospital must come from Carbide's own coffers. But in February 1994, Sir Ian was able to persuade the Supreme Court to allow him to sell the attached shares in UCIL to enable the trust to build the hospital.<sup>14</sup>

Sir Ian died in April 1988. Financial accounts of the trust submitted to the Supreme Court show that between 1995 and 1998, Sir Ian spent Rs. 10 crores (US\$2.5 million) from Bhopal Hospital Trust funds to refurbish his London office, pay himself large trustee fees, and support his travel and office expenses. In his four years as sole trustee, Sir Ian also persuaded the Supreme Court to use additional UCIL assets to expand the hospital to 500 beds and to add a cardio-thoracic unit—even though the international medical committee on Bhopal submitted an affidavit to the Supreme Court charging that Sir Ian's plan had no medical justification. Not only was there no need for more hospital beds, but also the greatest need was for out-patient services and community healthcare facilities. Also, there had been no cardiac disease reported amongst the gas-affected victims. The most commonly reported ailments were respiratory, neurological, neuro-psychological and ophthalmic diseases.

Survivors organization has pointed out that Bhopal may already have more hospital beds per capita than anywhere else in the world and that another hospital is not needed, except to shore up Carbide's image. Survivors want to take control of the Bhopal Hospital Trust funds to administer appropriate health care among gas-affected people.

Students of the Bhopal Litigation may question whether a trust set up by a proclaimed absconder should be accorded recognition by any judicial or governmental body in India. Clearly, the Supreme Court seems to have been unduly impressed by Sir Ian Percival's status and reputation. It gave him what he asked for, and apparently looked the other way at his self-dealings.

### Market, Capitalism and Profit: Accumulation and Anchorage

Looking at the loss of interrelation and interaction among the inhabitants of Bhopal in the aftermath of gas tragedy one is tempted to draw an analogy with Kai Erickson's powerful depiction of a similar event in Buffalo Creek, West Virginia in the wake of a terrible disaster. In order to capture the social loss of the community rather to describe the death of the community as well as to express the length and limit of this loss, Erickson has used the metaphor 'loss of communality'. For him the disaster not only affected the psychosocial metabolism of individual

<sup>10</sup> Union Carbide of India Limited v. Union of India, AIR 1994 SC 101.

<sup>11</sup> Krishna Mohan Sukla v. Union of India, 1995 (6) SCC 129.

<sup>12</sup> S. Said-ud-din v. State of Madhya Pradesh, 1996 (3) Scale 28 (SP).

<sup>14</sup> Union Carbide Corporation Ltd v. Union of India 1994 (1) Scale 811.



residents but more than that it murdered the community itself. Brining a distinction between community and communalist he draws our attention to the geographical limits of the community and transcendental interactive simulations in communality. He goes on to describe that community was a safety net for the people of Buffalo Creek. It protected them from personal tragedies and natural fury so much so that they were able to overcome their loss but the flood that devastated the areas not only took away their human and material valuables but also annihilated their communality, the bedrock of life in Buffalo Creek. Though we do not have the liberty of voluminous data, technical sophistication and moreover necessary linguistic competency to capture the scene and compare it with Buffalo Creek but we did feel a strong desire to do that. We sincerely believe that our research will extol many scholars to undertake similar kind of study and open new avenues in the corridors of 'sociology of disaster'.

Psychological studies conducted after the event in Bhopal do point out traumatic syndromes and few cases that we carefully examined did reveal contents of 'loss of communality'. The context differs drastically between Bhopal and Buffalo Creek but a near similar parallel can be drawn between the community of Oriya Basti in Chhola and the people in Creek. The Oriya community though was dominated by migrant labourers from Orissa was not a mono-ethnic residential complex rather there were members from diverse communities, but they did share a harmonious relationship that transcended the barriers of caste, religion, language and region as described by Lapierre and observed by us.

People lost faith in God, government and their own gullibility. Many survivors left the place forever, a large number of them were too numb to react and others are still living in their past unable to cope with the reality even after so many years. The poignancy of the situation can be observed from the following passage that provides a close look at the fact and figures. According to an April 1986 report of the Indian Council of Medical Research (ICMR), in addition to the eye and respiratory problems there is evidence of widespread multi-organ involvement, coma, gastrointestinal disturbances, lesions in the central nervous system, psychological trauma, behavioural disorder, more frequent aborted foetuses and retarded intrauterine growth of babies born to exposed mothers.

*The New York Times* (July 27, 1986) reported that 86,000 people were permanently injured, one third of them severely. The report mentioned 56 still births, 91 infant deaths with the first week of birth, 355 spontaneous abortions, and long term damage to liver, kidneys, blood and nervous system of victims.

Another survey reported that 25 per cent of the severely affected population studied showed signs of mutagenesis—an indicator of some

Toxicology Research Center had found evidence of damaged immune systems in survivors, making them vulnerable to infection. The study showed chromosomal changes as well (*New York Times*, October 30, 1985). In September, it was reported that studies have shown long-term damage to lungs of the affected persons (*TOI*, September 6, 1986). On September 26, 1986 following a meeting of ICMR doctors, Dr. Krishnamurthy reported that a majority of victims have corneal opacity (blurred vision) (*TOI*, September 27, 1986). Similarly, a CBS news programme reported that scientists estimate 20 per cent of those exposed to the gases have permanent damage to their lungs and respiratory system. The same programme also reported that in 12 per cent of victims tested, genetic damage has been found. (*CBS Sixty Minutes*, May 3, 1987).

In the aftermath of the disaster what is left in Oriya Basti is existence rather than living. A life without its charm and in this context one needs to forget about quality of life. Here quality of life has a different meaning as we are not talking about the physical quality of life defined in terms of availability of portable drinking water, sanitation, healthcare and primary educational facilities but only a social life. This life is defined as 'community life' to what Erickson calls 'communality', community life where interrelation and interdependence crisscross the banalities of business and join the members into a complex of shared lifestyle. Community becomes an extension of self, family and neighbourhood. It leads to the anthropogenic existence of community life making it *sui-generis*. Community gives identity to an individual and protects him from dangerous outside world; it creates a sense of safety in his mind, how illusionary it may be. Today, community life in Oriya basti lay in tatters and is bereft of all fellow feeling and mutual dependence. Like any other slums, it is ravaged by frequent conflicts, petty politics and of shady activities. A makeshift temple of Lord Jagannath, the reigning God of Orissa welcomes the visitor at the entrance that signifies not the assertion of communal identity but of their cultural affiliation. There is no gathering of community members in front of the temple in every evening to discuss life's problems and enjoy the evening but to discuss what has left only a ritual to pay homage to the God. It is ritual rather than social.

As far as the role of poverty and continuous harassment of victims is concerned one need not go beyond the territory. It is a common fact that medicines for gas victims are supplied free of cost and Bhopal Memorial Hospital and Research Centre (BMHRC) with its outreach centres is providing free treatment but facts reveal a different reality. Many victims complaint of unavailability of drugs, doling out of ineffective drugs and one can see a series of private drug stores right in front of Jawahar Hospital for gas where medicine is supposed to be supplied free of cost. Another impact of poverty is that even medicine is supplied free and of

good quality it lost its sheen when taken in a malnourished condition. Administration of antibiotics and powerful drugs requires vitamins and a minimum level of nourishment. Due to poverty victims rarely meet their daily demands of food, let alone a balanced diet and healthy food habit.

In the end, it can be said that poverty begets poverty and dehumanises life but poverty does not come alone. It is usually accompanied by greed, which is often described as 'profit'. One man's greed at times snatches away other man's need and one's profit is based on the other's prerequisites. This argument will become clear in the context of following discussion based on Gandhi's book.

Even in the times of information and communication revolution and in the era of ascendancy of capitalism, Gandhi's *Hind Swaraj* has incredible importance. This small but significant contribution delves rather deeply into the dynamics of man-nature relationship and explores novel sense of environmentalism. It criticizes industrialization and abhors mutilation of nature and mechanization of society. Gandhi was a critique of the cult of mammon and also of capitalism. He was against the capitalist syndrome of profit maximization and of unbridled consumerism. Interestingly, he valued labour and promoted entrepreneurship but visualized a harmonious relationship between the employer and the employee much to the chagrin of Marxism. He propagated 'trusteeship' to overcome the antagonism between two warring classes. But what is important is his lesson on development, responsibility and accountability. Gandhi did not encourage unabashed profit maximization; he advocated use of resources only to the extent that needs are met.

In contrast to his thought, UCC represented the ugly face of corporatism, of exploitation and criminal negligence. It was interested in making profits and preferred money over men. This led to low level of maintenance, poor training facility and curtailment on safety mechanism. Much in the consonance of Marxian description of capitalist exploitation UCC went on creating detail labour, reducing maintenance cost and disregarding norms of safety though it was aware of the nature of the chemicals and its hazards too well. All these indicate that MNC was only interested in minting money and making tall claims on development, transfer of technology and investment. We have interpolated a table that depicts various industrial disasters in the world over a period of time and forces us to rethink our priorities and reposition our belief in the modern technology.

In the background of recent revelations the company ought to be tried for 'culpable homicide' apart from other clauses. They were aware of facts but persisted with problems rather than solving them, thus making them guilty of criminal negligence. In a recent editorial article, *the Economic and Political Weekly* observed that, "the case against UC and Anderson could well be considerably strengthened by the discovery of internal documents of the UCC brought into the public arena in the

ongoing class action suit initiated by survivors in New York State. These papers reveal that the company, in attempt to cut costs, had chosen to use unproven technologies in the manufacture of Sevin, its major product and that the plant in Bhopal had been through 'only a limited trial run'.

The editorial goes on to add that 'over the years it has become increasingly evident that the spewing of toxic gases in December 1984 continues to take its toll of human life and the environment. A conservative estimate puts the death count at 16, 000 today, but very likely it is many times more than that. Early studies hinting at damage worse than what had been acknowledged then systematically sidelined and ignored are finding corroboration today...a scientific study that showed that the exposure had resulted in significant cases of chromosomal damage, although linkages between abnormal birth and exposure could not be drawn because of constraints imposed on the study that prevented the collection of adequate material. A more recent limited study of children and adolescents appears to indicate selective growth retardation. There has since been accumulated considerable evidence of the continuing environmental contamination in Bhopal with high proportions of known carcinogens.' Hence we have titled this chapter as Mercenaries of Mass Murder as an epithet to these acts of unbridled accumulation and subsequent negligence that wreaked havoc in Bhopal.

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### Annexure- I

#### Identity of the Interviewees

- Lalit Shastri (Journalist and author of the book Bhopal: An Eyewitness's Account)
- Aziz Ahmad Siddique (Lawyer and Managing Trustee of BMHRC)
- Abdul Jabbar (Acitivist)
- Prof. Rajesh Patel (Professor of Orthopedics, Gandhi Medical College)
- Mr. Sukhbir Singh (Retired Police Officer)

### Annexure- II

Table 1. Awareness of Danger

Awareness	No. of respondents	Percentage
Yes	3	6
No	47	94
<b>Total</b>	<b>50</b>	<b>100</b>

### Annexure- III

Table 2. Documented Union Carbide Corporation Toxic Incidents Worldwide, 1973-1985

- Ponce, Puerto Rico (1971): One worker was killed by the leakage of Benzene gas at a Carbide petrochemical complex. One other worker was seriously injured. Reportedly, three workers were killed as result of a similar occurrence in 1972.
- Antwerp, Belgium (February 10, 1975): Six workers were killed in an explosion at a Carbide plant, Twenty-five others were injured.
- Bhopal, India (November 24, 1978): An intense and costly fire occurred within an alpha naphthol storage area of the Union carbide Plant.
- Bhopal, India (December 26, 1981): A deadly phosgene gas leak resulted in the death of the plant operator.
- Bhopal, India, (January 1982): A Phosgene gas leak seriously incapacitated 28 people.
- Bhopal, India (October 5, 1982): Methyl isocyanate based gaseous production seriously injured four plant workers. Several members of neighbouring colonies suffered serious respiratory difficulties as a result of the accident as well.
- Taft, Louisiana (December 11, 1982): A storage tank containing acrolein exploded resulting in the evacuation of 17, 000 individuals. Many cases of adverse health effects were reported following the accident.
- Marietta, Ohio (1983): A Carbide Corporation landfill was found to contain 30 times more than the allowed safe level of dioxin contaminants by the Environmental Protection Agency.
- Bhopal, India (December 2-3, 1984): A runaway reaction of Methyl isocyanate in a Union Carbide pesticide plant resulted initially in the death of 2, 500 to 10, 000 individuals. Upward of 2, 00, 000 people were injured.
- Institute, West Virginia (Aug 11, 1985): Toxic gas leaked from a Carbide pesticide plant despite the addition of new safety systems, which were retrofitted in reaction to Bhopal tragedy. One hundred and thirty five people were hospitalised. The toxic released was aldcarboxime and methyl chlorine.
- South Charleston, West Virginia (August 26, 1985): A poisonous hydrochloric acid leak occurred causing road closures but no reported injuries.

Sources: Anil Agarwal, Juliet Merrifield, and Rajesh Tandon, "No Place to Run: Local Realities and Global Issues of the Bhopal Disaster", Highlander Centre, New Market, Tennessee, 1985 and other media reports.