

# 1984-2005: Bhopal Lives On

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## HEALTH AND HEALTH CARE



Twenty one years after "that night", 120,000 gas-affected people remain chronically ill and in need of regular medical attention. Gas survivors suffered damage to their lungs, brain, kidneys, muscles as well as gastro-intestinal, reproductive, neurological and immune systems. Common symptoms range from chronic breathing problems to giddiness, weakness and eye problems. Obstructive airways disease, cancer, tuberculosis and mental illness are rife.

## ANOTHER GENERATION POISONED

But the gas disaster is not the only medical holocaust still happening. 20,000 people living around the abandoned Union Carbide factory suffer daily exposure to a range of carcinogenic and mutagenic chemicals from drinking water.

In one community, Annu Nagar, where 1,350 people use water from contaminated hand pumps, a recent Sambhavna Trust study found that:

- Every second person was suffering from a multitude of symptoms
- Commonest symptoms among all age groups were abdominal pain followed by giddiness, pain in chest, headache and fever
- Symptoms were most frequent among gas affected people who were also exposed to contaminated water.
- Of teenage females aged between 13 and 15, 43% had not begun their periods.

## MEDICAL NEGLIGENCE

Gas and contamination exposed people require rational, focused, ongoing medical care. In early 2005 four survivor organizations conducted monitoring meetings outside gas relief hospitals and collected opinions and suggestions from hospital users. The results of the monitoring suggest that what survivors are receiving is a travesty.

In Spring 2005 representatives of the Supreme Court appointed Monitoring Committee for Medical Rehabilitation of Bhopal Gas Victims paid surprise visits to five Bhopal hospitals intended for the care of survivors. Their observations echoed the opinions of users:

- A common shortage of medical specialists
- Staff absent from duty
- Medical equipment out of order and badly utilized due to poor maintenance and training
- Potential hazards to patients
- General poor quality of care
- Poor hygiene
- An absence of monitoring

## PROFITS BEFORE HEALTH

The MP govt. has proposed that, from September 15, 2005, health care facilities run for the use of gas survivors under the Department of Bhopal Gas Tragedy Relief & Rehabilitation, Government of Madhya Pradesh, be opened up to the general public through the creation of Rogi Kalyan Samitis [Patient Welfare Committees]. Under the scheme general patients will be able to use facilities upon payment of a fee. Only those with holding BPL [Below Poverty Line] family ration cards are to be offered treatment free of cost.

The opening up of the Gas Relief hospitals and clinics to the general public will cause significant damage to the provision of health care to people affected by Union Carbide's poisons:

- An already inadequate health care system will deteriorate further through overburdening
- By the logic of revenue generation, paying patients will take precedence, resulting in discrimination against poor patients
- Contamination affected people, often without BPL cards through no fault of their own, are being denied free treatment
- Hospitals will lose whatever focus they have on health care requirements specific to victims of toxic exposure.

## BMHT: HEALTH CARE WITH HARM

On July 2, 2005, management of the Bhopal Memorial Hospital Trust closed down the hospital in response to a strike called by junior doctors and other staff. On July 3, three gas survivors – patients of BMHT – died while being locked out of the hospital.

Striking doctors and staff declared their unresolved grievances with BMHT management to be a result of:

- Deliberate discrimination against gas survivors
- A coding system that prioritises private patients.
- Absolutely no training for staff on how to treat gas-specific problems
- Endemic corruption
- Severe shortages of professional staff
- Inhumane treatment of subordinate staff

## TOXIC CONTAMINATION

Thousands of tonnes of toxic waste remain in and around the Bhopal factory site, both above and under the ground, continuing to leach into local aquifers. The problem of aquifer contamination grows steadily worse the longer waste is allowed to lie as the pollution plume spreads farther, affecting as-yet-unaffected communities.

## CHEMICAL STOCKPILES

In November 2004, an International Team of Experts observed of the site:

- The remaining plants and buildings including the stockpiles contain multiple types of toxic organic and inorganic chemicals.
- Surface soil contamination exists mostly as residues of the pesticide production such as temik, hexachlorocyclohexane (HCH), sevin, naphthol, naphthalene and mercury.
- Solvents such as dichlorobenzene, carbon tetrachloride, and chloroform are highly likely to be present in the deeper sub soil.
- The ground water is contaminated by high concentrations of these solvents and some heavy metals.
- There are approximately 25,000 Tonnes of contaminated solid material at the site.

## MP HIGH COURT INTERVENES

On August 3, 2004, the division bench of the Madhya Pradesh High Court admitted a Public Interest Litigation by Alok Pratap Singh, filed against UCIL with regard to the contamination at the site. The High Court later served notices upon the Government of India, the Madhya Pradesh government, Union Carbide, EIL and The Dow Chemical Company in the matter.

A March 30, 2005 interim order directed the Government of India to constitute a five member expert committee to prepare a scheme and action plan for removal of the toxic wastes at the plant. The

subsequent 'Task Force' was comprised of Central and M.P. State Government departments and Indian scientific agencies.

## 'CLEAN UP' CRIMES



A small amount of pre-remediation work was begun in June 2005 by Ramky Pharma City Ltd upon instructions of the Madhya Pradesh Pollution Control Board. The operation was:

- Patently illegal, violative of India's Hazardous Waste (Management & Handling) Rules, 1989
- Violative of international standards
- Employed crude, dangerous 'technology'
- Exposed workers and gas affected populations already hypersensitive to chemicals to toxic pesticide dust
- Packaged waste in leaking drums and inappropriate bags leading to more seepage

## SURVIVORS INTERVENE

On October 29, 2005, following presentation of evidence concerning the reckless clean up activities, the MP High Court that directed four NGO's – survivor organizations and Greenpeace India - participate in the review and remediation of the work of repacking the temporarily contained waste.

The intervener organizations asserted:

- That they would not allow the disposal of hazardous waste unless the technologies proposed were safe and scientific and followed national and international guidelines.
- State government plans to dispose off part of the hazardous waste in a landfill to be dug near Peethampur, Indore and by incineration in Ankleshwar, Gujarat are "unscientific and unsafe"
- The work of rehabilitation of the contaminated soil and ground water in and around the Union Carbide factory to be too serious a matter to be entrusted to agencies such as the Pollution Control Board, known for its incompetence and corruption
- The final disposal of the toxic waste from Union Carbide, should be shipped to the USA or another OECD country at the expense of Dow Chemical, the present owner of Union Carbide

## POISONED WATER

Numerous studies describe how thousands of people living around the abandoned Union Carbide site are suffering direct exposure to toxic substances from their water supplies. A number of the observed contaminants are environmentally persistent, remaining in harmful concentrations for decades and readily moving between environmental media.

In 2002, the Fact Finding Mission conducted a contamination study that found that human breast milk samples in affected communities showed maximum concentrations of Volatile Organic Chemicals and a higher concentration of pesticide in breast milk, allowing the shortest route of exposure to infants who are most vulnerable to these kinds of carcinogens.

Properties of the observed contaminants include not just carcinogenicity but also neurotoxicity and potential damage to organs, with most being especially harmful to children and foetuses. Human exposure has already occurred at concentrations that could result in adverse and irreversible health effects.

## SUPREME COURT STEPS IN

In February 2004, some 14 years after survivor groups first found evidence of toxic contamination, the Supreme Court Monitoring Committee on Hazardous Wastes (SCMC) visited Bhopal and began an investigation. The SCMC recommended intervention by the Supreme Court.

On May 7<sup>th</sup> 2004, the Supreme Court issued an order requiring the M.P. government to "take steps to supply fresh drinking water in tanks or pipes particularly, taking into consideration, the fact that summer season has already set in. It shall be done expeditiously."

## LET THEM DRINK POISON...

An alternative fresh water supply is the only thing that will stop 20,000 people being exposed to lethal toxins on a daily basis. By August 2004, actual water supply to contamination affected communities was just 5% of the amount needed, as per UNESCO guidelines (50 litres per day per person), at 42,000 litres for the month.

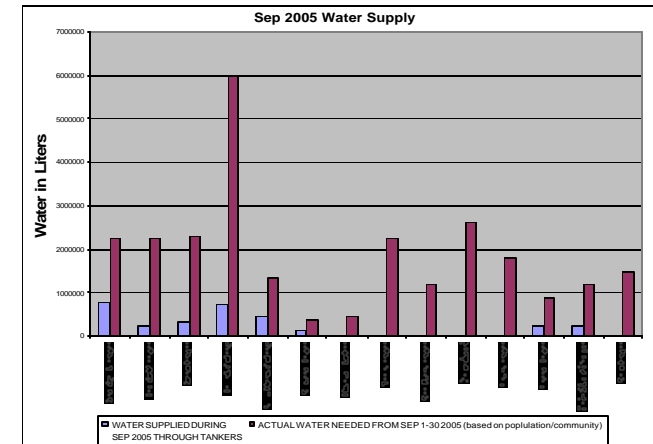
On March 9-10, 2005, SCMC member Claude Alvares visited Bhopal. At a meeting with MP govt officials it was agreed that:

- Communities with no access to good water would receive supplies
- To increase the water supply from 40,000 to 400,000 litres per day

- To involve the Local Area Environment Committee (LAEC) closely in supply operations
- That permanent water supply would be arranged within two years
- That plans for permanent supply would be submitted within four weeks of the Alvares report

A letter from the Chairman of the Supreme Court Hazardous Wastes Monitoring Committee formalising these commitments was sent on to the Chief Secretary of M.P. on April 22<sup>nd</sup>, 2005. The commitments were to be fulfilled within four weeks.

Nevertheless, the MP govt continues to flout the order of the Supreme Court until today. By September 2005, only 12.2% of the overall water requirement was being met (see graph). Six affected communities had still not received a drop of clean water in 18 months. 50% of the supply tanks in eight communities were leaking due to cracks and breakages.



## BREAKING PROMISES, BREAKING HEADS

On October 14, 2004, 350 women from the contaminated communities took over the offices of the Director of the Bhopal Gas Tragedy Relief and Rehabilitation (BGTRR) department, Bhopal Singh. The action resulted in an agreement between the Municipal Corporation and affected communities: for a specific amount of tanker deliveries per day; for community oversight regarding delivery and water quality; for installation of additional Syntex tanks; and for further weekly meetings to discuss supply. No promises have been kept.

Impatient of receiving the requisite supply of clean water, on May 17, 2005 representatives of contamination affected communities staged a protest at the offices of the Director, Bhopal Gas Tragedy Relief & Rehabilitation, Mr. Manish Rastogi.

Local police suddenly attacked the demonstration - which included small children - pushing some protestors downstairs, kicking some women in the chest and stomach and beating others with lathis (sticks). Five protestors, including two women, had to be treated in hospital. Five serious charges were then filed against seven participants. Amnesty International issued a statement expressing concern at the excessive and unnecessary use of force by Bhopali police. Amnesty also called for a proper investigation, which has yet to take place.



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## COMPENSATION

Since the Supreme Court's 2004 decision to release the remaining settlement monies, almost 500,000 claimants have received a second compensation payment, thus bringing the average compensation for injury to around 14 cents per survivor per day and falling – enough for two cups of tea.

Allegations abound concerning corruption on behalf of judges, lawyers and all kinds of middlemen.

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## LEGAL ACTIONS

In October 2005 Judge Keenan of the Southern District Court of New York refused to reconsider his previous dismissal of on-site claims in the suit "Bano v. Union Carbide Corp." and denied class certification. It's the third time Keenan has disregarded the opinion of the Second Circuit Court of Appeals. Another appeal has been filed.



The suit "Sahu v. Union Carbide Corp." regarding off-site remediation remains before the same court and is seeking class certification.

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## CRIMINAL PROCEEDINGS

### DOW SUMMONED

On Jan 6 2005 the Dow Chemical Company was, for the first time, summoned before the Chief Judicial Magistrate's Court, Bhopal, to explain why it's 100% owned subsidiary Union Carbide has not appeared to answer charges of culpable homicide. The "notice", issued by Anil Kumar Gupta, was passed onto the Ministry of External Affairs. A stay order granted Dow India Ltd by the MP High Court a few months later has stalled delivery of the notice.

### US GOVT PROTECTS ANDERSON

Documents gained in the US from a Freedom of Information Act request paint a dark picture of high-level State Department collusion to shelter Warren Anderson, former Chairman of Union Carbide, from India's request for extradition.

Correspondence reveals that former Secretaries of State Colin Powell and Lawrence Eagleburger, former Deputy Secretary of State Richard Armitage, US Chamber of Commerce President Thomas Donohoe, and lawyers for Warren Anderson and Union Carbide conspired to protect Anderson from the threat of standing trial in India for his role in the deaths of 20,000 Indian citizens. India's request for extradition was denied by the State Department in July 2004. India has yet to reapply.

### PROCEEDINGS AGAINST UCIL AND OTHERS

The prosecution has deposed almost all of around 180 witnesses. Defendants are likely to soon bring their own witnesses to the court of the Chief Judicial Magistrate.

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## DOW CHEMICAL COMPANY



The world's largest chemical producer, Dow inherited all outstanding liabilities relating to Bhopal when completing its 100% purchase of Union Carbide in February 2001, despite nearly two years of warnings and campaigns.

Among those misled during the takeover was the chief financial regulatory body in the US. During the administration of the merger, as part of their official filings to the Securities and Exchange Commission, Dow and Union Carbide officials stated: "there are no...criminal...actions, suits, claims, hearings, investigations or proceedings pending..No investigation or review by any Government Entity with respect to it or any of the subsidiaries is pending."

Although Dow accepted Union Carbide's asbestos liabilities in the US, setting aside fully \$2.2 billion to resolve all claims, Dow continues to maintain, contrary to US, Indian, and International Corporate Law, that it acquired the assets of Union Carbide without its liabilities.

### UNENDING PROFITS

The company recorded revenues of \$40,161 million during the fiscal year ended December 2004, an increase of 23.1% over 2003. The operating profit of the company during fiscal 2004 was \$3796 million compared to \$1751 million in 2003. The net profit was \$2797 million during fiscal year 2004, an increase of 61.7% over 2003.

In October 2005, Dow announced a 30% increase in third-quarter profit s, net income jumping to \$801 million in the July-September. Revenue rose 12 % to \$11.26 billion.

### DOW'S INDIAN OIL DEAL SCUPPERED

Dow's business expansion plans in India suffered their first serious setback in July 2005, when Indian Oil cancelled a technology purchase agreement with Dow after finding that critical submissions made by Dow were false. Dow had conveyed to the Indian Oil Corporation that the technology in question was a patented Dow technology, developed and marketed by Dow. However, Bhopal campaigners unearthed and presented evidence to the Government and IOC that confirmed that the Meteor technology remains a patented Union Carbide technology.

Dow, in its Global Public Report, noted that sales and operations in Asia account for \$3.3 billion in revenues. Dow has earmarked South Asia as a critical region for future growth of its global businesses. Dow retains four major subsidiaries in India, all of which look vulnerable to further protests.

### SHAREHOLDERS TARGET DOW

On November 30, 2005, Dow shareholders holding 4.5 million shares worth \$190 million filed a resolution with the company requesting that it address its outstanding responsibilities in 1984 Bhopal. The resolution was filed on behalf of The New York State Common Retirement Fund, the New York City Fire Department and Amnesty International USA along with Boston Common Asset Management and Sisters of Mercy Regional Community of Detroit Charitable Trust.

### OTHER TOXIC BUSINESS

In November 2005 Agent Orange victims from Vietnam made 30 day tour of the U.S. for at the invitation of veterans, Vietnamese

American and peace activists. More than 30 years after the herbicide was first sprayed, Vietnamese victims have not received one penny in compensation or humanitarian aid from the U.S. government or from Dow and other chemical manufacturers.

On October 21, the Saginaw Co. circuit court Judge certified the request of plaintiffs along the Tittabawassee river for class action status against Dow Chemical for the extensive dioxin contamination of people's backyards along the river floodplain. Dioxin – stemming from Dow's Midland, Michigan headquarters – is one of the most toxic substances known.

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## UNION CARBIDE

According to Dow, "Union Carbide remains as a subsidiary of Dow, with its own board of directors, and its own assets and liabilities." However, Carbide now operates as a supplier to Dow's businesses alone and retains a boardroom constituted of Dow managers and executives. Carbide's headquarters in Danbury, Connecticut have been sold to the pharmaceutical giant Boehringer. Within Dow's official regulatory filings, Carbide's business activities are said to "comprise components of Dow's global businesses rather than stand-alone operations." Essentially, Carbide is Dow is Carbide.

## TIPTOEING BACK INTO INDIA

Since its 1992 non-appearance in the ongoing criminal case, Carbide has been declared a fugitive from justice in India, seemingly escaping the jurisdiction of Indian courts for good in 1994 upon the sale of its shares in UCIL. However, India is too lucrative a market to ignore for long. In 2003, MM Global Services PTE, Ltd brought a suit against Union Carbide and Dow alleging violation of antitrust laws. The suit described how Carbide had effectively used MM Global Services from 1987 as a proxy to make sales in India. Following the takeover, Dow began selling Carbide's products in India directly, thus sparking the suit.

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## THE GOOD NEWS

The 21<sup>st</sup> year of one of the world's most enduring and unequal struggles for justice has seen a procession of remarkable victories:

1. Indian Oil's cancellation of its technology purchase agreement with Dow following a nationwide boycott of IOC's petrol pumps.
2. Vindication by the Supreme Monitoring Committee's on Waste and Health of years of campaigning on contamination and poor quality of hospital care.
3. Intervention status in the handling of toxic waste due to the PIL.

4. Obtaining a stay on the transfer of gas relief hospitals.
5. Dow is summoned to the CJM, Bhopal and Carbide to the MP High Court.

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## ACTIONS

### The Dow Chemical Corporation Must:

- FACE TRIAL: Ensure that Union Carbide and Warren Anderson present themselves in the Indian courts, and cease to abscond from the Chief Judicial Magistrate's court in Bhopal.
- PROVIDE LONG TERM HEALTH CARE: Provide for medical rehabilitation of the persons exposed to toxic gases and contaminated groundwater and their children. This includes medical care, health monitoring and necessary research studies. The company must provide all information on the health consequences of the leaked gases and contaminants in the ground water.
- CLEAN UP THE POISON: Clean up toxic wastes and contaminated groundwater in and around the Union Carbide factory site. Provide safe water to the community, and just compensation for those who have been injured or made ill by this contamination and/or have had their property damaged.
- PROVIDE ECONOMIC AND SOCIAL SUPPORT: Provide income opportunities to victims who can not pursue their usual trade as a result of exposure-induced illnesses and income support to families rendered destitute due to death or incapacitation of the breadwinner of the family.

### The Indian Government Must:

- STOP DOW – CORNING from starting a Silicone polymer production unit in Pune.
- SET UP A NATIONAL COMMISSION ON BHOPAL with the participation of non-government doctors and scientists and representatives of survivors for long term health monitoring, research, care and rehabilitation of the survivors of the disaster and their children at least for the next thirty years.
- TAKE IMMEDIATE STEPS TO SEND an amended request for extradition of Warren Anderson and for extradition of the authorized representative of the Union Carbide Corporation. Set up a special prosecution cell in the Central Bureau of Investigation to expedite the pending

criminal case against the Indian subsidiary and Indian officials of Union Carbide.

- ENSURE DOW'S LIABILITY FOR ON-SITE and off-site cleanup and payment of compensation for damage to health and property. Submit an amicus brief in US court in support in support of the plaintiffs.
- SET UP A PANEL OF SCIENTISTS for independent and expert assessment of soil and groundwater contamination. Publish ICMR toxicological and clinical reports.
- BLACKLIST DOW AND UNION CARBIDE for purchases by government departments.
- ENSURE THAT BMHT CONTINUES TO PROVIDE free treatment for gas survivors even after the 8-year deadline.
- DECLARE DECEMBER 3RD AS A NATIONAL DAY Of Mourning for the victims of industrial disasters. The disaster in Bhopal must be made part of textbooks in school and university education in the country.

### The State Government of Madhya Pradesh Must:

- SUPPLY SAFE DRINKING WATER through Kolar Pipeline in communities affected by Union Carbide's contamination.
- NOT SEND CHEMICAL WASTES from the Union Carbide factory for landfilling or for incineration.
- ENSURE FREE TREATMENT OF PATIENTS from communities affected by ground water contamination and persons born to exposed parents in gas rahat hospitals.
- NO MEMORIAL SHOULD BE BUILT without proper cleanup.
- PRESENT A WHITE PAPER ON EXPENDITURES made, programs carried out and results obtained in the last twenty years with regard to the relief and rehabilitation of the survivors.

### The United States Government Must:

- SEND WARREN ANDERSON AND AUTHORIZED representatives of Union Carbide to stand trial in the Indian court.
- RELEASE DIANE WILSON.