

THE BHOPAL CASE: A DEVELOPING COUNTRY PERSPECTIVE

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Viewed in retrospect, nearly ten years have passed since the occurrence of what has been described as the "world's worst industrial disaster" or the "seminal environmental event of the decade".¹ It would not be mere hyperbole to describe the events that occurred just after midnight on December 3, 1984, in the city of Bhopal, in Madhya Pradesh, India, as an "industrial Hiroshima".² The forty tons of highly toxic methyl isocyanate (MIC) that escaped into the atmosphere, from a storage tank at the Bhopal pesticide plant killed more than 3500 persons, and injured around 200,000 others. Families and communities belonging to the already impoverished population in the region, were disabled and dislocated.

In the aftermath of the Bhopal catastrophe, divergent views were expressed on the question of who should bear the responsibility for the disaster. The four possible repositories of liability were Carbide (India); its shareholders, including Carbide (U.S); the victims; and the regulatory authorities possibly including the Governments of India; Madhya Pradesh; Bhopal, and the United States.³ Many victims filed claims for compensation. To ensure that claims arising out of the disaster were dealt with speedily, effectively and equitably, the Parliament of India enacted the Bhopal Gas Leak Disaster (Processing of Claims) Act of 1985, or the Bhopal Act. By virtue of this legislation, the Government of India took upon itself the role of *parens patriae* and acquired the exclusive right to represent all claimants. Shortly after the enactment of the Bhopal Act, the Indian Government in April 1985, sued Union Carbide Corporation,⁴ the parent company in the United States, which owned 50.9% of the stock of Union Carbide India Limited, the Indian subsidiary. The lawsuit was filed in the United States District Court, Southern District of New York, which however, declined to hear the case, on the basis of *forum non conveniens* i.e. that the United States was not the appropriate forum, and the case should be heard in an Indian court. This was the inception of a sequence of events that was to follow: a sequence of events that resulted in the effluxion of time; and for the victims of Bhopal, this could only mean prolonged suffering.

In September 1986, the Union of India sued Carbide in the Court of the District Judge, Bhopal, for the Indian equivalent of US \$ 3 Billion in damages.

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