

Bhopal: the long flight from justice

Last December marked the 30th anniversary of the worst industrial disaster India has ever known. Three decades after Bhopal, among the survivors and their descendants, the wounds have not yet healed. Above all, these people continue to be haunted by the sense that justice has failed them.

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Children play cricket in the ruins of the Union Carbide factory in Bhopal, November 2009. Thirty years after the disaster, the soil and groundwater are still extremely contaminated.

Image: © Belga, AFP



On a hot and hectic street in the Indian city of Bhopal, the flames licked up the two giant corporate logos. The blue of Union Carbide and the red of Dow Chemical Company, with added skulls, were incinerated to nothingness within seconds.

Just a few metres away, across a high security wall, was the cause of the angry effigy-burning: the derelict and overgrown

pesticide factory that leaked toxic gas 30 years ago and has killed more than 25 000 people.

The disaster at Union Carbide's chemical works in Bhopal, in the crowded, poverty-stricken heart of India, on the 3 December 1984 was one of the world's worst industrial accidents. It has since become one of the world's grossest examples of environmental injustice.

Union Carbide and the US chemical giant that took it over in 2001, Dow, are fugitives from justice. Over the decades, they have repeatedly refused to appear before Indian courts to answer criminal charges against them. They have never apologised.

It is no wonder that they were targets for the fierce and passionate mass protests that took place in Bhopal on the 30th anniversary

Bhopal: timeline of disaster

3 December 1984: A tank full of 40 000 kilogrammes of highly toxic methyl isocyanate at Union Carbide pesticide plant explodes and showers the city of Bhopal, killing at least 3 800 people within hours.

7 December 1984: Union Carbide chairman, Warren Anderson, is arrested on arrival in Bhopal, bailed and then flown out of the country on the orders of the Indian government.

9 February 1989: Bhopal's Chief Judicial Magistrate issues a warrant of arrest without bail against Warren Anderson for repeatedly ignoring summons.

14 February 1989: Indian Supreme Court approves \$470 million settlement between Indian government and Union Carbide, causing civil and criminal legal actions to be dropped.

3 October 1991: The Indian Supreme Court agrees to reopen criminal cases against Union Carbide.

1 February 1992: Bhopal court says Warren Anderson has ignored four summonses and is 'absconding from justice'.

26 November 1996: Drinking from community wells is banned after they were found to be contaminated by Union Carbide chemicals.

6 February 2001: Union Carbide is taken over by the US chemical giant Dow.

28 August 2002: Bhopal's Chief Judicial Magistrate demands the immediate extradition of Warren Anderson from the US to face charges of culpable homicide.

22 November 2002: Documents released in a New York court case reveal that Union Carbide found contamination in soil and water around its Bhopal plant, but covered up the findings.

3 December 2004: An activist group, the Yes Men, pretending to be Dow executives, announce a \$12 billion compensation fund for the Bhopal disaster live on BBC television.

6 January 2005: Bhopal's Chief Judicial Magistrate summons Dow to appear in court to explain why its subsidiary, Union Carbide, had failed to face charges.

7 June 2010: Eight former Union Carbide managers in India are convicted for negligence leading to the Bhopal disaster.

29 September 2014: Warren Anderson dies in the US, still a fugitive from justice.

12 November 2014: Dow again fails to appear in court in response to another summons from Bhopal's Chief Judicial Magistrate.

3 December 2014: Thousands of protestors take to the streets of Bhopal for 30th anniversary rallies demanding justice from Dow.

of the disaster in December 2014. 'These days a corporation's image is everything so we wanted to hit them where it hurt most,' said leading Bhopal campaigner, Sathyu Sarangi.

'We thought we would profane their sacred,' he explained, sitting in the busy office of the medical trust he helped set up for disaster survivors. 'We want to give their executives ulcers. They have done huge damage to human health and the planet and have been getting away with it.'

Dow argues that compensation has already been paid to the victims and their families, and that it has no remaining liability for the actions of its predecessor, Union Carbide. But these arguments are angrily dismissed by campaigners.

Sarangi pointed out that the \$3.2 billion compensation settlement agreed by a Dow subsidiary in 1998 for health problems caused by silicone breast implants in the US was 100 times more than that given to Bhopal survivors in India. After a court tussle, Dow had also accepted liability for Union Carbide asbestos claims in the US, he argued.

Dow was guilty of 'double-standards' and 'environmental racism' because the value it put on lives in India was much lower than on lives in the US, Sarangi said. He also accused the company of employing 'dirty tricks' to defend its interests.

Fugitive from justice

For three decades the main target of Indian anger and effigy-burning has been the former US chairman of Union Carbide, Warren Anderson. Four days after the accident in 1984, he was arrested when he arrived in Bhopal. But he was then bailed and quickly flown out of the country with the backing of the Indian government, never to return.

In 1989 Bhopal's Chief Judicial Magistrate issued a warrant of arrest against Anderson for repeatedly ignoring summons. In 1992 the Bhopal court said he had ignored four summonses and was 'absconding from justice'. In 2002, the court demanded the immediate

extradition of Anderson from the US to face charges of culpable homicide.

But he ignored all that the Indian judicial system could throw at him, and stayed in his secluded homes in the US. On 29 September 2014, aged 92, he died at a nursing home in Vero Beach, Florida, still a fugitive from justice.

His notoriety, however, will doubtless live on, and could grow because of a new feature film. 'Bhopal: A Prayer for Rain', which stars the well-known West Wing actor, Martin Sheen, as Anderson, opened in the US and India in 2014, and is due in Europe.

In the film Anderson says that Union Carbide had 'plausible deniability' on the Bhopal disaster. Sheen has himself lent support to the campaign for justice for thousands of survivors who are still suffering.

With Anderson gone, Indian campaigners decided to mark the 30th anniversary by pointing out that, hated though he was, he was not the only person responsible for the continuing tragedy in Bhopal. In a loud, long and furious protest, activist groups use drum rolls to name and shame Dow, Union Carbide and more than 70 leading industrialists, officials, judges and others for failing to deliver justice to Bhopal survivors.

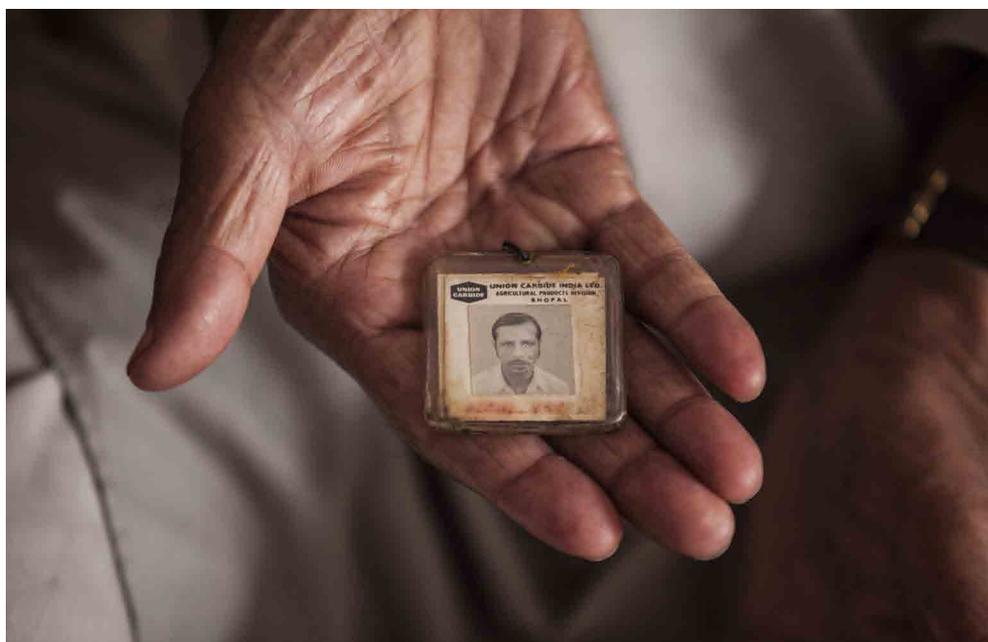
Like Anderson, Dow has ignored a series of summons from Indian courts to appear and answer charges. In 2005, the US company was summoned by Bhopal's Chief Judicial Magistrate to explain why its subsidiary, Union Carbide, had failed to face charges. As recently as 12 November 2014, Dow again failed to appear in court in response to another summons.

Compensation 'woefully inadequate'

Dow's behaviour has been lambasted by the human rights organisation, Amnesty International¹. The \$470 million compensation granted in 1989 was just 14 per cent what was asked for and averaged less than a thousand dollars per person, according to the group's secretary general, Salil Shetty.

'Several of those who have fought so hard for so long are aware they may now die without ever seeing justice.'

¹. Thirty years on from Bhopal disaster: Still fighting for justice, by Salil Shetty, Amnesty International Secretary General, 2 December 2014.



The families of the thousands of victims of the Bhopal accident have only received paltry compensation to date.

Image: © Belga

'This was a woefully inadequate amount which, I think, exposes a shocking level of indifference and contempt towards the victims in India,' he said. Union Carbide and Dow had been given a haven from justice in the US and displayed an 'arrogant contempt' for the Indian judicial system.

'Those who have survived have faced a three-decade-long marathon campaign having to fight every step of the way for the few reparations which have been offered; the most basic medical treatment, insufficient clean water and so little financial compensation it is insulting,' Shetty declared.

'Sadly, several of those who have fought so hard for so long are aware they may now die without ever seeing justice. But the fight is being picked up by new generations – their children, and their children's children – who

have been born with illnesses and exposed to ongoing contamination from the abandoned factory site,' he said.

Shetty accused Union Carbide of failing to take critical safety precautions at the Bhopal plant before the accident. 'As generations of survivors continue their fight for accountability, they have had to battle corporate spin to prove this was not a tragic accident but a disaster which could have been avoided,' he said.

History of leaks

According to campaigners, there was a leak of toxic gas at the plant in December 1981, which killed a worker. In January 1982 another leak put 25 workers in hospital, followed by another leak in March and another in October, which caused hundreds of local residents to go to hospital.

A Bhopal journalist, Rajkumar Keswani wrote a series of articles in the local press about alleged dangers at the plant, and an audit by US company experts was said to have found 61 hazards, 30 of which were regarded as major. In 1983 a local lawyer served a legal notice on the plant saying it posed a serious risk to health and safety.

The December 1984 accident started when a lethal gas used for making insecticides, methyl isocyanate, escaped from a tank at the plant. The regional government put the immediate death toll at 3 787, but survivors say the real number was more like 8 000.

The gas seared the lungs, and burnt the eyes of anyone exposed. In the three decades since, campaigners say the death toll has reached 25 000 'and counting' because of an epidemic of diseases caused by lingering water and soil contamination around the plant.

As many as 150 000 are still battling chronic illnesses, with tuberculosis and cancers 'rampant', they say. There are estimated to be 50 000 still living in the vicinity of the plant whose groundwater is contaminated by toxic chemicals and metals that have leached from hazardous waste dumps.

Bhopal: woken early to agony

When Rashida Bee woke at her home in the Indian city of Bhopal early in the morning of 3 December 1984, her eyes were watering. 'It felt like someone was burning chillies,' she says. 'We didn't know what was happening.'

Outside people were running, screaming that everyone would die, and her whole family got up and ran. 'My eyes were tight shut. I could not open them because of the pain. Whenever I did manage to squeeze them open, all I saw were piles of corpses scattered around.'

People were blindly running over the bodies, and Rashida joined them. 'That's when I heard an announcement saying that gas had stopped leaking from the Union Carbide factory. That was the first time I heard the name of Union Carbide.'

A leak of highly toxic methyl isocyanate from a pesticide plant run by the US chemical company, Union Carbide, spread over packed neighbouring communities and killed up to 8 000 people within hours. It burnt their retinas, tore their lungs, and suffocated them.

Rashida's friend, Champa Devi, was woken by a neighbour saying that everyone had to leave or they would die. 'The moment we opened the door, gas gushed into the house,' she says. 'We began coughing and our eyes burned. It was difficult even to breath. We rushed out of the house in whatever clothes we were wearing.'

She has never forgotten what she saw. 'People were running, coughing and screaming for death. I couldn't see a thing, except a hazy white mist and a mass of humanity ahead of us. Those who fell lay on the ground with no-one to pick them up.'

Champa got a lift to the hospital, which was overwhelmed with people crying and shrieking. 'Corpses were piled high, like sacks of wheat in a stack. Anyone who fell or fainted was thrown on the pile. The doctors had no clue how to deal with the situation or what medication to offer. I was scared.'

Dead bodies, dead bodies, dead bodies

There are thousands of memories of that terrible night, many of them movingly gathered together in the Remember Bhopal museum. Set up by survivor groups and campaigners, it opened in a suburb of the city in December 2014.

The museum was designed to pre-empt an official memorial planned by the Madhya Pradesh government on the site of the deserted Union Carbide factory. Survivors are opposed to the official memorial, blaming the government for some of the injustices they have suffered.

Local resident Ruby Parvez talks about how she still cries and trembles when she thinks about what happened. 'We were sleeping and I felt a burning sensation in my eyes, and felt dizzy,' she says.

'The burning sensation increased and we started to feel breathless. We started to panic seeing heavy smoke. Our neighbour said "wake up, there is a gas leak and we have to escape or we will die."'

Parvez fled, vomited and lost consciousness for a couple of hours. Her cousin, who was with her, died, along with many of her relatives. 'We were horrified by the sight around us. There were dead bodies everywhere. There were carcasses of animals all around.'

Another Bhopal survivor, 67-year-old Gangaram, was sleeping with his blanket over his face. 'When I came outside, thousands of people were running,' he recalls.

'Suddenly I started to cough and my eyes began to inflame. Then, along with my family, I started running in the same direction as everyone was running. From my house to the bus stand, there were dead bodies, dead bodies, dead bodies and only dead bodies.'

In the first room of the museum, there is a furry orange babygrow stretched out inside a black case. It was what little Sajid was wearing when he died in 1984, choking on the poison gas belching from the Union Carbide plant.

When his mother, Bismilla Bee, saw it at the museum opening three decades later, she couldn't stop the painful memories from flooding back. Oblivious of the activists, journalists and dignitaries crowded around her, she started shaking with loud sobs, rising and falling.

She had donated the babygrow to the museum, but seeing it on display unleashed an overwhelming grief. There are a series of other tragic personal reminders on show: a battered doll, an old cricket bat, a bridal dress, a walking stick, a stethoscope and a pair of crutches.

'I felt my life was empty and barren, and I was in a state of mental paralysis.'

Flames not flowers

Rashida Bee and Champa Devi, now in their late 50s, are two of the survivors behind the museum. More than most, they bear witness to the continuing cost of the Bhopal 'holocaust', as it's called in India. Lingering contamination from the accident is now reckoned to have killed 25 000 people and made many more ill.

Champa's son, unable to bear the agony of constant chest pain from the gas leak, committed suicide in 1992, and her husband died of bladder cancer in 1993. Her daughter was paralysed six months after the accident and, despite extensive treatment, still has a twisted mouth.

'I felt my life was empty and barren, and I was in a state of mental paralysis,' she recalls. 'But seeing the families around me, I soon realised there were many like me who had lost their loved ones to the gas. Life would have to go on. That's how I decided to dedicate the remaining days of my life fighting for justice for the Bhopal gas victims.'

Champa and Rashida, both raised in purdah without a formal education, are now two of the veteran leaders of the movement for justice for Bhopal survivors. They won the international Goldman Environmental Award in 2004 and donated the \$125 000 prize money to setting up the all-women Chingari Trust, which runs a health clinic for children of Bhopal survivors.

Chingari means the spark that starts the fire, and it's echoed in the rallying cry used by Champa and Rashida. 'We are the women of Bhopal, we are flames not flowers,' they say.

They help run a stationery factory to employ women survivors, and have formed a trade union to try and make sure they get fair pay and conditions. Surrounded by their fellow workers, they stood in the hot sun in the factory courtyard in December, sounding indomitable.

'It is the willpower of all the women combined that has never let us down,' declares Rashida. 'When tragedy brings suffering in your life, you should have confidence, and be strong. Keep fighting and you will find that you will win in the end.'

There are estimated to be 50 000 still living in the vicinity of the plant whose groundwater is contaminated by toxic chemicals and metals.

International solidarity

The campaign against Dow has been backed by trade unionists in India and from across the globe. A delegation of six trade unions from the UK was in Bhopal for the 30th anniversary to show solidarity with the survivors, along with activists from many other countries.

According to Eurig Scandrett from University and College Union in Edinburgh, if trade union concerns about safety and corner-cutting had been listened to, the accident would never have happened. 'Instead companies blame the workers and put their profits above the health of workers and the safety of the environment,' he said.

The Scottish Hazards Campaign, which aims to improve health and safety at work, described what happened in Bhopal as 'the worst industrial disaster of our time'. The campaign's spokeswoman, Kathy Jenkins, said: 'The commitment, strength and endurance of the people of Bhopal provide

inspiration to all of us to continue our struggles for safe workplaces.'

In a prepared statement, Dow described the 1984 gas release as a 'terrible tragedy' which should never be forgotten. 'Let's also not forget the facts or rewrite history,' said a company spokesman Scot Wheeler.

'The facts are that Dow was never in Bhopal nor is there any assumed liability as misrepresented by some groups. It is important to note that Dow never owned or operated the plant,' he said.

'Dow acquired the shares of Union Carbide Corporation more than 16 years after the tragedy, and 10 years after the \$470 million settlement agreement – paid by Union Carbide Corporation and Union Carbide India, Limited – was approved after review by the Indian Supreme Court in 1991.'

Wheeler added: 'As Dow never owned or operated the Bhopal facility, any efforts to directly involve Dow in legal proceedings in India concerning the 1984 Bhopal tragedy are inappropriate, misguided and without merit.' ●