



BHOPAL 20 YEARS ON: GLOBALIZATION AND CORPORATE RESPONSIBILITY

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Abstract

The year 2004 marks the 20th anniversary of the worst industrial disaster in human history. Some 40 tonnes of methyl isocyanate leaked from a tank at the Union Carbide Corporation (UCC) chemical pesticide plant in Bhopal, India. The toxic cloud killed more than 20,000 people. Today about 150,000 are still chronically ill and hundreds of thousands of others suffer socially and psychologically. UCC accepted some moral responsibility for the disaster but rejected any legal responsibilities. In 2001 it was absorbed by Dow Chemical, which now states that it has nothing to do with what happened 20 years ago in Bhopal. The local Madhya Pradesh government and the Indian federal government have also let down the disaster victims. The financial compensation paid by UCC in 1989 has yet to be completely paid out to the claimants. The pesticide plant still exists and, in its current dilapidated state, poses an ongoing threat to surrounding communities. The Bhopal disaster, still unresolved after 20 years, raises questions about how multinationals operate. Globalization is an unstoppable process and multinationals play a prominent role in shaping it. They enjoy the advantages of increasingly borderless societies and economies but often seem reluctant to accept their social and environmental responsibilities. In the last two decades, partly because of what happened in Bhopal, governments and civil society have developed new values and greater expectations. Several international policy instruments have been created to make multinational operations more transparent, and responsible. They are a step forward. Their use, however, is still voluntary and this considerably weakens their potential usefulness. The role of various non governmental organizations (NGOs) as watchdogs of the process is useful and essential but ad hoc. Some NGOs, like the companies they monitor, lack accountability. In any case, the journey towards greater corporate transparency and accountability will be a long and slow one.

Introduction

At five minutes past midnight between December 2nd and 3rd 1984, about 40 tonnes of highly poisonous methyl isocyanate (MIC) leaked from a storage tank at a chemical pesticide plant in Bhopal, capital of the Indian State of Madhya Pradesh. The tank belonged to Union Carbide Corporation (UCC) an American multinational. About 3,000 people died that very night. About 4,000 more died during the following days and about 15,000 more died in the following years (Amnesty International, 2004, Greenpeace 2004a). An estimated 150,000 people, directly exposed to the MIC leak, live with chronic eye and lung diseases and the prevalence of pulmonary tuberculosis is higher among them than in the rest of the Indian population (Shama, 2002). Social dislocation and psychological distress must be added to the list of damages. Estimates of those affected range from 500,000 (Greenpeace 2004a) to 800,000 (Le Monde, December 2nd, 2004).

Double standards

In Bhopal, a densely populated city, UCC stored there huge amounts of highly toxic chemicals under conditions that violated its own safety standards and those in Europe and the United States at that time. These low standards were in contradiction with the UCC's own safety regulations (Amnesty International, 2004, Greenpeace 2004b). UCC also ignored several warnings about serious safety problems at the Bhopal plant during the months prior to December 1984 (Amnesty International 2004).

Low standards of safety and working conditions are all too common behaviour multinational companies, keen to cut costs of production and maximize profits. They are often abetted by poor countries' governments that are sometimes more concerned about attracting foreign investment than protecting the health of their citizens.

Justice denied

In 1989 the Indian government accepted an out of court settlement whereby Union Carbide paid US\$ 470 million in compensation. Arguably, this was an inadequate sum considering the number of victims, the death toll, and the disease and disability caused. To make things worse, very little of this money actually reached the victims and their families. About 30% of the claims have been rejected, about 16,000 claims are still pending and most of the successful applicants received only small portions of what they were awarded. By September 2004, only US\$ 140 million had been paid out. The remaining US\$ 330 million was still in the Reserve Bank of India (Amnesty International, 2004). The State Welfare Commission argued that the money could not be paid until all the outstanding cases were settled. It was only at the end of October 2004 that the Indian Supreme Court rejected this argument and ordered that compensation be given to about 570,000 victims and relatives of victims. It took a stunning 15 years to make this decision. Depending on the number of affected members, the families of the claimants will receive between US\$ 2,200 and US\$ 6,600 (BBC, 2004a).

The settlement accepted by the Indian government contained a clause granting immunity from prosecution to the Union Carbide executives. The Indian Supreme Court overruled this clause. However, 20 years on, neither Warren Anderson, the chairman of Union Carbide at the time of the accident, nor any other official, has been brought before a Court of Justice. His extradition from the USA to India has never been granted. As a matter of fact, nobody was ever brought in a court of justice for what came to be known as "the worst ever industrial disaster".

This is a blatant example of how difficult, if not impossible, it is to punish corporate crimes. In today's globalised world, multinational corporations are as powerful, and at times, more powerful, than many governments.

Aborted medical studies

In an apparent conspiracy of silence, a series of medical studies undertaken by the Indian Council of Medical Research, was prematurely terminated between 1992 and 1994 and the results were never published. Routine medical checks of victims have been suspended since 1992. The International Medical Commission on Bhopal (IMCB) set up in 1996, described as "appalling" the medical care and attention given to the exposed (Lancet 2000). This is in spite of the creation of the Bhopal Memorial Hospital and Research Centre (BMHRC), as part of the compensation package.

A continuing public health hazard

Twenty years on, the pesticide factory in Bhopal remains dilapidated, abandoned and as dangerous as ever. About 25,000 tonnes of toxic waste are still stored in the plant, with neither safety measures nor any plans to remediate the environment around it. This toxic waste continues to contaminate the air and the water sources upon which the Bhopal population relies. The environmental protection organisation Greenpeace found levels of various pollutants (carbon tetrachloride, chloroform, trichloroethylene, tetrachloroethylene (couldn't check this one) and dichlorobenzene) ranging from five to more than 600 times the limits set by the United States Environmental Protection Agency (Greenpeace, 2004a). The Madhya Pradesh Government has painted the contaminated wells and pumps in red. No other measures have been taken to prevent people from using those water sources and they continue to do so. According to Amnesty International, many people who were not exposed to the gas leak in 1984, have developed various disorders from exposure to contaminated water and other hazards (Amnesty International, 2004)

Toxic clouds of lies?

In 2001, Dow absorbed Union Carbide. Officially and legally, Union Carbide Corporation (UCC) no longer exists. Dow Chemical is the world's leading chemical group (Greenpeace 2004a) and rejects any responsibility for what happened in Bhopal 20 years ago. Even if they are legally correct, they are morally wrong.

Union Carbide still has a web site where one can find a few documents restating the firm's official position regarding the Bhopal disaster. According to one such document the Bhopal plant "... was owned and operated by Union Carbide India Limited (UCIL), an Indian company in which Union Carbide Corporation held just over half the stock" (Union Carbide, 2004a). In 1988 the High Court of Madhya Pradesh ruled that UCC was to be held responsible for what happened in Bhopal since it had control over the enterprise (Amnesty International 2004). Since there were several other shareholders in addition to UCIL, UCC was by far the majority shareholder. It is therefore difficult to accept UCC's denial of responsibility for the disaster. In the 1989 settlement, UCC accepted a certain degree of moral responsibility but rejected all legal responsibilities.

The official UCC position on what happened the night of December 3rd 1984 has not changed: safety measures were adequate and the accident was the result of sabotage by a "disgruntled worker". According to one of the documents on the website: "Shortly after the gas release, Union Carbide launched an aggressive effort to identify the cause. A thorough investigation was conducted by the engineering consulting firm Arthur D. Little. Its conclusion: The gas leak could only have been caused by deliberate sabotage. Someone purposively put water in the gas storage tank, causing a massive chemical reaction. Process safety systems had been put in place that would have kept the water from entering into the tank by accident" (Union Carbide 2004a). Union Carbide never identified the "disgruntled worker" who would have sabotaged the plant and the sabotage theory was even challenged by some of the Union Carbide managers (Amnesty International 2004).

In another document (Union Carbide, 2004b), Union Carbide states that an initial investigation concluded that a large volume of water "had been introduced into the MIC tank". Then, it says that a group of experts working for the Indian government reached the same conclusion. Finally, it reports the conclusion of the consulting firm Arthur D. Little calling it "an independent investigation". How it could be independent, having been commissioned by Union Carbide itself, is not explained. In addition, the statement misleadingly gives the impression that the experts working for the Indian government also agreed with the "sabotage" theory, which was not the case.

There are more examples of misleading presentation of facts. The Bhopal Memorial Hospital and Research Centre, was built with "money from the seizure of Union Carbide shares" (Shama 2002). Almost immediately after the accident, UCC sold its shares to its Indian counterpart, UCIL. In one of the documents (Union Carbide 2004a) it is stated that "The proceeds of the UCIL sale were placed in a trust and exclusively used to fund a hospital in Bhopal". No mention is made of the court order to build the hospital with the money earned from the sale of the UCC shares.

Corporate responsibility

Foreign Direct Investment (FDI) is a potentially important determinant of economic growth. In 2003 global FDI amounted to US\$ 560 billion. It declined globally but increased in Africa and Asia. Africa, however, received a very small share of it: US\$ 15 billion in 2003, up from US\$ 11.8 billion in 2002 (UNCTAD 2004). For years, rich countries and multinational Corporations have been urging poor countries to weaken rules and conditions governing labour and environmental standards. Because of the extremely uneven balance of power between rich Multinationals and poor governments many companies continue to operate in a situation of virtual impunity. There is "a massive concentration of corporate power in the global economy" (Oxfam 2004), and the Bhopal disaster is a painful reminder of this. But things may slowly be changing. Vocal and articulate calls for corporate responsibility are coming more and more often from various organizations (Greenpeace 2004b, Oxfam 2004). Both the public and corporate perception of "Corporate Responsibility" is changing. From a narrow financial perspective, the term has acquired a much wider meaning. As the leading business consultancy firm, SustainAbility puts it, the term now refers to "... a business approach embodying open and transparent business practices, ethical behaviour, respect for stakeholders and commitment to add economic, social and environmental value" (SustainAbility, 2004). The stark criticism met by companies such as Shell for the environmental damage linked to its operations in Nigeria, or Nike for condoning child labour in South East Asia, seem to confirm this trend. Concern about the disproportionate power and impunity of big multinationals is growing. Civil society in poor as well as in rich countries has been fostering new values and higher expectations and legal liability alone does not seem to satisfy them. The new and wider dimension of "moral liability" is gaining ground. Many NGOs are shifting their behaviour from merely attacking multinationals to challenging them in courts of justice. By respecting the letter of the law without respecting its spirit, multinationals may win in courts of law but lose in "courts of public opinion". This is no small matter, as suggested by the case of the 39 pharmaceutical companies that in April 2001 sued the South African government over the issue of production and purchase of cheaper, generic drugs. These rich and powerful companies had invested heavily in public relation campaigns and seemed to have the law (although a very debatable one) on their side. Nevertheless, they decided to withdraw because they were clearly losing their case in front of the "court of public opinion".

The United Nations Global Compact

The United Nations Global Compact, and similar initiatives described below, recognizes the need to regulate the activities of multinational companies. On January 31st 1999, UN Secretary General Kofi Annan, addressing the World Economic Forum, challenged political and business leaders to make globalization work for all people, not just for a tiny minority. The idea was accepted and the Compact was launched in July 2000. It is based on an open process whereby companies voluntarily agree to respect the Compact's 10 principles:

Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights.

Principle 2: Make sure they are not complicit in human rights abuses.

Labour Standards

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labour

Principle 5: the effective abolition of child labour

Principle 6: the elimination of discrimination in respect of employment and occupation

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility Principle 9: encourage the development and diffusion of environmentally friendly technologies

Anti-Corruption

Principle 10: Businesses should work against all forms of corruption, including extortion and bribery

The Global Compact clearly enhances awareness of the need for greater accountability by multinational corporations, but given the weakness of international laws and agreements, and the strength of multinational corporations, enforcing the 10 principles is not possible, and companies may join the compact just to improve their public image.

The OECD Guidelines for Multinational Enterprises

These guidelines were introduced in 1984 and have been revised several times, most recently in 2000 (OECD 2000, OECD 2001). They were approved by participants in a Ministerial level meeting of OECD member states whose theme was "Shaping Globalization". The guidelines are just recommendations made by governments to multinational corporations operating in their territory or from their territory. They provide voluntary principles governing the economic, social and environmental consequences of the companies' activities. They embrace a range of issues concerning multinational enterprises operations worldwide, including their contribution to economic, social and environmental progress to achieve sustainable development; respect for human rights; the promotion of local capacity building by creating employment and training opportunities; fair employment and industrial relations; non discrimination; abolition of child labour and of all forms of compulsory labour; transparent and regular disclosure of information on company activities; combating bribery and corruption; protection of consumers' interests; adoption of sound science and technology and promotion of technology transfer; fair competition and prompt and full payment of company tax liabilities. The guidelines are accompanied by a thorough description of implementation procedures and comments. They provide an instrument much more specific than the principles of the Global Compact. Their implementation also depends on the sense of responsibility and good faith of the corporations themselves.

The Global Reporting Initiative

The Global Reporting Initiative (GRI) was launched in 1997 as a joint initiative of CERES (Coalition for Environmentally Responsible Economies), a Non Government Organization based in the United States, and UNEP (United Nations Environmental Programme) a UN agency mandated to study and advise on environmental issues. GRI developed a set of guidelines for transparent reporting, by multinational corporations (and other concerned organizations) of their activities and their social, economic and environmental impact. The need for such guidelines stems from the consideration that a borderless global economy requires equally borderless structures of transparent and sound governance. Even if governments and non governmental organizations play an important role, multinational corporations are the driving force behind the globalization process. Hence, the need for new forms of accountability that credibly and thoroughly describes the effects of business activities wherever, whenever and by whoever they are carried out. The GRI guidelines are a framework for reporting the economic, social and environmental performance of any organization (the so called "triple bottom line"). They appeared for the first time, as an "exposure draft" in 1999 and their first official version was released in June 2000. The current revised and updated version was released in 2002 (GRI, 2002). The GRI guidelines are grounded in the following 11 principles: transparency; inclusiveness; completeness; accuracy; clarity; relevance; neutrality; timeliness; sustainability context; comparability; auditability. By using the guidelines in line with these principles, a company would be forced to expose its weaknesses and shortcomings. Consequently, it would be forced to try to overcome them. The guidelines don't shape a company behaviour but they could help to make it easier to measure its social and environmental effects.

A slow process

The growing influence of multinationals on economies, societies and the environment means all stakeholders must expect greater accountability and transparency. Yet, while multinationals still benefit from the advantages of a global market they often avoid accountability. The initiatives described above are only some of many voluntary instruments for encouraging corporate responsibility but, the road to achieving real accountability is still remains a long one.

Public opinion and NGOs

The quality and seriousness of the work of NGOs engaged in environmental protection and human rights activities is very uneven. Some do a commendable and serious job, others are just highly vocal but their accusations are not based on hard evidence. Many NGOs, like the companies they criticize, are not accountable to anybody for the professionalism of their actions (Mallaby 2004). This is a real problem often not sufficiently appreciated. Those championing accountability and transparency must be accountable and transparent too.

Conclusions

The "worst ever industrial disaster" occurred a long time ago according to Dow Chemical. However, its aftermath contains lessons for all those who value the protection of human life through international safety standards; the accountability of multinational corporations, not only to shareholders, but also to stakeholders; the respect of the spirit of laws, not just their letter and the primacy of human life over profit. Most of all, the story is far from over for hundreds of thousands of victims and their families who are still paying the price of what happened 20 years ago.

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