

## Slow-Motion Justice for Bhopal

by Praful Bidwai

THE Supreme Court judgment ordering the government to disburse Rs 1,503 crore of compensation money lying with the Reserve Bank of India (RBI) to the victims of the Bhopal gas disaster is a significant, if long-delayed, victory for the survivors of the world's worst-ever industrial accident. It is an acknowledgment by India's highest judiciary that the magnitude of destruction wrought by the catastrophic release of toxic chemicals from the pesticides plant in Bhopal was far worse than first thought 20 years ago.

Indeed, the Supreme Court itself underestimated the havoc by a factor of five while approving a settlement between the government and Union Carbide Corporation (UCC) of the US in 1989. >From the initial estimate of 3,000 deaths, the toll climbed to 15,310 by last October, as determined by the Bhopal Gas Tragedy Relief and Rehabilitation Department.

Equally important, society at large seems to have recognised the colossal nature of the injustice visited upon Bhopal's victims although that comes 20 years after the event. This is also the meaning of a recent judgment of a New York court ordering Dow Chemicals, which took over UCC's assets, to clean up the huge toxic residues in and around the Bhopal plant at its expense. The victims had to go on hunger strike in June to get the Indian government to issue a mere no-objection certificate to the US court. In reality, these people have been re-victimised by the UCC over the years through continued poisoning of their water supply by the residues. They can now hope to get clean drinking water.

While this judicial and social recognition is welcome, the Supreme Court judgment falls well short of meeting the requirements of true justice. Again, most of the victims will be paid paltry sums such as Rs 25-30,000 for a lifetime of suffering and disability. Yet again, the worst-affected people, long unable to work thanks to grave and irreversible lung damage and other disorders, will be denied even the barest minimum needed for their medical treatment.

The Rs 1,500 crore to be disbursed broadly equals the money distributed in the past among 5.54 lakh claimants. That's what remains of the \$ 470 million (originally equivalent to Rs 710 crore) paid to the government by the UCC under the 1989 settlement. This was withheld from the victims. The seemingly large size of the sum available today is explained by the depreciation of the rupee vis-a-vis the US dollar (from Rs 15 to Rs 45) and the accumulated interest. The additional 'compensation', then, only makes up for the devaluation of what was long due to the victims.

If UCC's victims have finally received a small measure of recompense for their suffering, it's not because of the benevolence of the courts or governments, not because 'the system works', but because of their own heroic effort. Their struggle has been truly valiant, indeed epochally so. Their strong collective experience has empowered them. Above all, it has helped them recover their human dignity and rise above victimhood.

Since December 1984, I have personally witnessed how broken widows with no future, or children who were forced to become heads of their orphaned families at the age of 9, and day-labourers who lost their only asset 'ability to work', all turned into strong human beings, great activists, tireless

campaigners and capable organisers. This self-empowerment through collective struggle is the single greatest achievement of the people of Bhopal and their transformation from victims to victors.

We must see Bhopal in perspective. It has experienced not one tragedy, but three. The first was the 1984 accident caused by flawed plant design and gross negligence, which poisoned 1,50,000 people with a deadly chemical cocktail, including super-toxic methyl isocyanate, causing both acute injury and long-lasting disorders. The second tragedy was the manifestly unjust out-of-court settlement of 1989, after the victims were deprived of their right to independent legal representation.

The third, prolonged, disaster was the way their claims were settled. Ninety-five per cent of them received a disgraceful Rs 15,000 for a lifetime of physical and mental suffering, multiple disabilities, and humiliation by a callous medical profession and a corrupt bureaucracy and magistracy. Families of the dead got just Rs 1 lakh: even rail accident victims get more. Putting such a low value on human life speaks poorly of Indian society.

The Supreme Court itself let the victims down by approving the \$ 470-million settlement in return for extinguishing Carbide's civil and criminal liability totally. It's only two years later, when hearing a corrective petition by the V P Singh government, that the criminal charges were restored. But these didn't even lead to Anderson's arrest. The Indian embassy in Washington failed to serve the warrant on him because, it claimed 'outrageously' that he couldn't be located! This, when Greenpeace activists had published his address!!

The Centre washed its hands off the Bhopal victims' relief early on. The Madhya Pradesh government was put in charge of relief and rehabilitation despite its appalling record of callousness, incompetence and corruption to the point of obliterating the patients' history of exposure to methyl isocyanate.

In 2002, another challenge emerged: collusion between the Indian and United States governments to dilute criminal charges filed against Union Carbide's former officials. Thus, the ministry of external affairs asked the CBI to amend the charges against Anderson from culpable homicide not amounting to murder (304-II of IPC) to committing 'a rash and negligent act' (304A), which only carries 2 years' imprisonment. The Bhopal victims killed, maimed or scarred for life for no fault of theirs were being again asked to sacrifice their rights at the altar of NDA-promoted Indo-US 'strategic partnership', 'investor confidence', 'the right climate' for foreign investment, 'market sentiment', etc.

The Bhopalis beat back the challenge. They are clear: they might never receive adequate compensation. But the world should not forget that a multinational corporation which practised double standards of safety, and was abysmally negligent in plant design and operation, was responsible for their grievous and unending suffering. That's the very least that justice demands. Carbide's officials must not be let off the criminal liability hook. The victims must know who heaped mountain upon mountain of injustice, ignominy and humiliation upon them.

The struggle for full justice still lies ahead. But what the victims have achieved is significant. The very fact they have held hundreds of dharnas, hunger-fasts and demonstrations before the Supreme Court, and have never been browbeaten by the worst of adversity, speaks of their indomitable spirit. Indeed, their organisations have succeeded where most NGOs and voluntary groups usually fail: preserving functional unity despite differences. The latest litigation was initiated by 36 individuals, each representing a gas-affected ward, cutting across different organisations, but including prominent activists like Champa Devi and Rasheeda-bi, the deserving recipients of Goldman Environmental Award for 2004.

The Bhopal victims' struggle for justice hasn't ended. But what they have done will continue to inspire millions across the world and remind us of how far we have to go to create a safer world where thuggish corporations addicted to super-profits and contemptuous of human beings cannot rule

unfettered. Wherever people struggle against tyranny and for human dignity, the Bhopal example will energise them.