

# CORPORATE CRIME RESOLUTION

*A resolution that a) supports the demands of the survivors of the Bhopal disaster, the world's worst industrial disaster and a heinous corporate crime; b) declares the anniversary of the Bhopal disaster, December 3<sup>rd</sup>, an annual Day of Action Against Corporate Crime*

**Whereas**, the leakage methyl isocyanate (MIC) and other poisonous gases from Union Carbide's Bhopal, India, pesticide factory on December 3rd, 1984, killed an estimated 8000 people in the first three days {1} and poisoned more than 500,000 {2};

**Whereas**, at least 120,000 people remain chronically ill {3}, and 30 people die each month from the long-term effects of the gases {4};

**Whereas**, the disaster was caused because Union Carbide had under-invested in an inherently hazardous facility located in a crowded neighborhood, used admittedly unproven designs, stored lethal MIC in reckless quantities, dismantled safety systems and cut down on safety staff and training in an effort to cut costs {5};

**Whereas**, numerous people including Union Carbide's own workers and design engineers had warned of the potential for a huge disaster in the factory {6};

**Whereas**, in 1987 India's Central Bureau of Investigation charged Union Carbide Corporation and its officials, including then-CEO Warren Anderson, with manslaughter among other offences {7};

**Whereas**, the Union Carbide Corporation and Warren Anderson have acted in contempt of due process and the rule of law by criminally "absconding" from the courts till date {8};

**Whereas**, 20,000 people in the vicinity of the Union Carbide factory continue to be exposed to carcinogenic and mutagenic chemicals abandoned by Union Carbide in and around its factory site in Bhopal during routine operations {9};

**Whereas**, Union Carbide Corporation has not come forward to clean up its toxic wastes, and its new owner, Dow Chemical, has argued that the polluted, not the polluter, should pay for the clean up {10};

**Whereas**, in February 2001, Midland, Michigan-based Dow Chemical acquired Union Carbide as a wholly owned subsidiary, despite warnings that all of Union Carbide's pending liabilities {11} would be assumed by Dow, as per merger law {12};

**Whereas**, the victims of the Bhopal disaster, which is widely acknowledged as the world's worst industrial tragedy, continue to wage a 19-year struggle for justice against one of the largest corporations on earth;

**Whereas**, the struggle of the Bhopal survivors is only one of many that people all over the world--of all races, religions, and economic backgrounds--are waging against the abuses of corporate power;

**Whereas**, the Bhopal disaster, a heinous corporate crime, is only one example of the abuse of the environment, human and labor rights by corporations around the world;

**Whereas**, corporations cannot be allowed to commit crimes with impunity, and in silence;

**Whereas**, the process of globalization underscores the need for people of diverse backgrounds, from all over the world, to join together in global solidarity and unity against corporate crime;

**Whereas**, whenever legal mechanisms fail to ensure that basic human rights are upheld and that criminals are punished, it is the responsibility of citizens and their organizations and institutions to advance the spirit of the law;

**Therefore, be it resolved**, that ORGANIZATION and its members declare December 3, the anniversary of the Bhopal Disaster, as the annual Global Day of Action Against Corporate Crime; and

**Further, be it resolved**, that ORGANIZATION supports the demands of the International Campaign for Justice in Bhopal, which seeks to have Dow Chemical release medical information relating to the toxicity of the poison gases, arrange for long-term medical monitoring, and medical, economic, and social rehabilitation of those injured, and clean-up of the toxic wastes and contaminated groundwater in Bhopal.

## Endnotes:

{1} Figure of 8,000 cited in *New Scientist Magazine*. "Fresh evidence on Bhopal disaster." December 2, 2002. Available at: HYPERLINK "<http://www.newscientist.com/news/news.jsp?id=ns99993140>" <http://www.newscientist.com/news/news.jsp?id=ns99993140>. Estimates come from independent relief organizations working in Bhopal immediately after the gas leak, and were based on evidence such as the number of funeral shrouds (*kafans*) sold by the local Cloth Merchant Association. See *Five Past Midnight in Bhopal*, Javier Moro & Dominique Lapierre, 2001, pgs. 365-366.

{2} Exactly 521,262 according to the Indian Council for Medical Research (ICMR). See *Five Past Midnight in Bhopal*, Javier Moro & Dominique Lapierre, 2001, p 366. Figure of 500,000 cited in *The New York Times*. "Bhopal Seethes, Pained and Poor 18 Years Later." Amy Waldman, September 21, 2002.

{3} *The Washington Post*. "India Seeks to Reduce Charge Facing Ex-Union Carbide Boss." Rama Lakshmi, July 8, 2002. According to The International Medical Commission, Bhopal, "it is our opinion that, if properly defined, categories of permanent damage, partial or total disability, could include about 200,000 survivors." *International Perspectives in Public Health*, 1996, Volumes 11 and 12, p. 27.

{4} According to The Centre for Rehabilitation Studies' (an office of the Madhya Pradesh government's Bhopal Gas Tragedy Relief and Rehabilitation Dept.) 1998 Annual Report, the mortality rate among the exposed community in 1997 was 6.70/1000, whereas in the unexposed community it was 5.37/1000, producing a figure of 665 deaths above the mortality rate in the exposed community - or approximately 50 gas related deaths per month. No official figures exist for subsequent years. Further, according to a 1987 ICMR report, the mortality rate in the exposed community was 9.98/100 and in the unexposed community was 6.03/1000, meaning approximately 150 gas related deaths per month in 1986. Assuming a steady ratio of depreciation in mortality of 6% per year, in 2003 there were therefore over 30 deaths per month due to gas exposure. However, it is worth noting that six monthly morbidity studies

conducted by the ICMR between 1987-1991 show that the number of people with gas related symptoms actually increased in that period.

{5} According to Union Carbide's own documentation, obtained through discovery in the New York civil suit. Much of this documentation is available online, at HYPERLINK "<http://www.bhopal.net/poisonpapers.html>" <http://www.bhopal.net/poisonpapers.html>. See also *New Scientist Magazine*. "Fresh evidence on Bhopal disaster." December 2, 2002. Available at: HYPERLINK "<http://www.newscientist.com/news/news.jsp?id=ns99993140>" <http://www.newscientist.com/news/news.jsp?id=ns99993140>. And: *The Financial Express*. "Global Funds Tell Union Carbide To Settle Bhopal Gas Leak Claims." Ajay Jain, December 5, 2002. Available at: HYPERLINK "[http://www.financialexpress.com/fe\\_full\\_story.php?content\\_id=23259](http://www.financialexpress.com/fe_full_story.php?content_id=23259)" [http://www.financialexpress.com/fe\\_full\\_story.php?content\\_id=23259](http://www.financialexpress.com/fe_full_story.php?content_id=23259).

{6} In May 1982, an American safety audit found a total of 61 hazards, 30 of them major and 11 in the dangerous phosgene/MIC units. It had warned of a "higher potential for a serious incident or more serious consequences if an accident should occur." Though the report was available to senior U.S. officials of the company, nothing was done. See *The New York Times*. "Union Carbide Had Been Told of Leak Danger." Philip Shabecoff, January 25, 1985. See also *The New York Times*. "1982 Report Cited Safety Problems at Plant in India." Thomas J. Lueck, December 11, 1984. Also: *The Christian Science Monitor*. "Confidential Indian report blames both US firm and subsidiary for Bhopal disaster." Mary Anne Weaver, March 26, 1985. And: *Time Magazine*. "Clouds of Uncertainty; For Bhopal and Union Carbide, the tragedy continues." Pico Iyer, December 24, 1984.

{7} Anderson and Union Carbide both stand accused of culpable homicide (manslaughter), grievous assault, poisoning and killing of animals and other offenses. See *The Washington Post*. "India Seeks to Reduce Charge Facing Ex-Union Carbide Boss." Rama Lakshmi, July 8, 2002. See also the *BBC*. "India to Extradite Bhopal Boss." September 6, 2002. Available at: HYPERLINK "<http://news.bbc.co.uk/2/hi/business/2240895.stm>" <http://news.bbc.co.uk/2/hi/business/2240895.stm>.

{8} Although the Indian Government published proclamations in *The Washington Post* (January 1<sup>st</sup> and February 21<sup>st</sup>, 1992) calling on Mr. Anderson and the Union Carbide Corporation (UCC) to present themselves before the court in Bhopal, neither has obeyed the summons. Both have been labeled "absconders" from justice by the Indian Government. Mr. Anderson disappeared shortly after Interpol released an international warrant for his arrest, and his whereabouts were unknown for more than a decade. *The Washington Post*. "India Seeks to Reduce Charge Facing Ex-Union Carbide Boss." Rama Lakshmi, July 8, 2002.

{9} In 1999 local soil and groundwater testing revealed mercury levels 20,000 to six million times higher than those expected, and other cancer, brain-damage- and birth-defect-causing chemicals at levels up to 50 times higher than EPA safety limits. (See *The Bhopal Legacy*, Greenpeace Research Laboratories, University of Exeter, November 1999, available at: HYPERLINK "<http://www.bhopal.net/documentlibrary/bhopal.pdf>" <http://www.bhopal.net/documentlibrary/bhopal.pdf>.) Testing published in a 2002 report revealed poisons such as 1,3,5 trichlorobenzene, dichloromethane, chloroform, lead and mercury in the breast milk of nursing women. (See *Surviving Bhopal 2002: Toxic Present Toxic Future*, published in January 2002 by the Fact-Finding Mission on Bhopal (FFMB). Available at: HYPERLINK "<http://www.bhopal.net/documentlibrary/survivingbhopal2002.doc>" <http://www.bhopal.net/documentlibrary/survivingbhopal2002.doc>.)

{10} Dow has argued that since it does not own the former Union Carbide factory site in Bhopal (the site was only leased from the Madhya Pradesh government, and that lease has expired), it cannot be held responsible for the contamination there. This stand is contradicted by the Hazardous Waste (Management and Handling) Rule of 1989 594(E), Section 3 Sub section (1) and Section 4(1), which stipulates that the producers of the contaminated waste are responsible for decontamination. The "polluter pays" principle is also enshrined in the Environmental Protection Act, passed in India in 1986. Ruling in *Vellore Citizens' Welfare Forum v. Union of India* (1996) 5 SCC.647, the Indian Supreme Court declared that, ". . . Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on." Elaborating on the "polluter pays" principle in *MC Mehta v. Union of India* (1997) 2 SCC 353, the Supreme Court ruled that "polluter pays" principle as interpreted by the Court means that "the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also of restoring the environment degradation." Nevertheless, Dow continues to argue that the Madhya Pradesh government is responsible for the cleanup (see the *Daily Environment Report*, No. 144, Monday, July 28, 2003). Additionally, an estimated \$200 million of Union Carbide's 1989 settlement (see footnote 17) remains undistributed to the victims. Although these funds exist solely to compensate the Bhopal victims for the loss of their health, their livelihoods, and their loved ones, Dow has suggested that the balance of these funds could be used to pay for a cleanup—turning the "polluter pays" principle entirely on its head. In summary, Dow has said both that local government should pay for the clean up AND that gas survivors should pay—the first is in contravention of lawful principle and common sense, while the second contradicts all notions of human decency. See *The Midland Daily News*. "Annual Meeting Draws Protests, Questions." Beth Medley Bellow, May 10<sup>th</sup>, 2002, available at: HYPERLINK "<http://lists.essential.org/pipermail/remember-bhopal/2002-May/000347.html>" <http://lists.essential.org/pipermail/remember-bhopal/2002-May/000347.html>. Also see this summary of Dow's 2002 Shareholder meeting: HYPERLINK "<http://lists.essential.org/pipermail/remember-bhopal/2002-May/000344.html>" <http://lists.essential.org/pipermail/remember-bhopal/2002-May/000344.html>.

{11} These liabilities remain despite a 1989 settlement between Union Carbide and the Government of India. The settlement—for \$470 million—resolved civil claims arising from the disaster, but did not address the environmental damage that Union Carbide's operations had left behind (see footnote 14). Nor did the settlement resolve the company's criminal liability, a product of criminal charges that have been filed against the company in the Chief Judicial Magistrate's court in Bhopal. The Union Carbide Corporation, like its former CEO, Warren Anderson, has been charged with culpable homicide. If convicted, Union Carbide can be sentenced to a fine which has no upper

limit. Such penalties are decided based on the magnitude of the crime (in this case, the world's worst industrial disaster), the stature and ability of the accused party to pay (Dow is the world's largest chemical corporation) and the current state of the victims. See *The Detroit Free Press*. "Group Seeks Dow Liability." Alexa Capeloto, May 8, 2003.

{12} See "Considerations in Taxable Corporate Acquisitions", Thomas C Lacey, Jr., October 29<sup>th</sup>, 1998, p. 2. Available at: HYPERLINK "http://www.butlersnow.com/library\_pdfs/1998\_v1n5\_pn.pdf" [http://www.butlersnow.com/library\\_pdfs/1998\\_v1n5\\_pn.pdf](http://www.butlersnow.com/library_pdfs/1998_v1n5_pn.pdf).