

CRITICAL ANALYSIS: BHOPAL GAS TRAGEDY

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INTRODUCTION

Bhopal Gas Tragedy, where more than 40 tons of methyl isocyanate was leaked into the atmosphere due to faulty safety systems of Union Carbide, is still pictured as the worst violation of Right to clean environment and Right to health in our country. The horror that ensued after this leakage is still a nightmare for the citizens of Bhopal. With an estimated figure of around 8.5 lakh people in Bhopal more than 4000 people died on spot and almost half the population suffered temporary or permanent disabilities.

Taking into consideration the large number of victims and to ensure that UCC was held adequately liable, Bhopal Gas Tragedy Act was passed which authorised the government to represent all the victims in any legal proceeding that took place.

The incidents that took place after this, point towards how environment has always taken a lower hand in all of our battles.

COMPENSATION

As per the original suit instituted in the US courts, UCC was to pay a total compensation of \$3.3 billion. This calculated amount just included the compensation to be paid to the victims of the disaster. The inadequacy of this amount is to be pin pointed at the fact that no amount for environmental damage was sought by the government. This case was shifted to the Indian courts for ease of proceedings. In another turn of events, UCC's liability was fixed through an out of court settlement between the government and UCC, where in UCC was to pay \$470 million in full settlement of all claims. This amount did not only lack in taking into

consideration the environmental damages but also could not compensate the victims of the disaster.

DISPOSAL OF THE LEFTOVER WASTE

After the horrifying incident of leakage of tank number 610 into the atmosphere, the entire focus of the citizenry and the government was directed towards reversing the effects of this tragedy on human population in Bhopal. What remained out of question for a very long time was that there existed another container of MIC still lying in the property of UCC in Bhopal. In 2004 an activist filed a PIL in the Supreme Court regarding the tank and other toxic waste lying around in that area. The Supreme Court ordered DOW Chemicals, a subsidiary of UCC, to clear it out. UCC on the other hand defended itself with the argument that the settlement discharged them of all liabilities arising out of the incident. The court then ordered the government to clean up the waste and dump it at Pithampura, MP. This was heavily protested by the citizens of that area, after which the panchayat of that area strongly opposed it. After this opposition, it was then in talks to be shifted to Gujarat, but was opposed by the Gujarat government as well. The central government upon the suggestion of an expert committee agreed to strike a deal with an incinerator firm in Germany, which due to repeated extensions by the Indian government, never took place. After this fiasco, the government has resorted to tender based clean-up of the area.

To bring it down in one line, that tank along with other toxic waste is still lying at the former plant, waiting for Bhopal Gas Tragedy to repeat again and destroy the ecological balance of the city completely. It comes across as a very bizarre incident that for 20 years the government was just sitting on the existence of such a poisonous substance and waiting for a private multinational to clear it out. Not only is this gross negligence but also a complete violation of the precautionary principle, for which the government has no defence. Such is the importance of environment in our society.

CRIMINAL PROCEEDINGS

The criminal proceedings against UCC was nothing but a mere formality, the final judgment came out in 2010 for an incident that took place in 1984. Warren Anderson, the chairman of UCC was already declared an absconder by the Indian government. The rest of the 7 accused were charged with mere punishments. An interesting aspect here, is that 2010 bench couldn't even give a varied judgment as the SC had absolved UCC of any liability in regard to murder. An important aspect to be noted here is that UCC was only held liable for offenses under Part 15 of Indian Penal Code which deals with offenses against human body. No charge was levied under Part 16 of the IPC or the Air Act, 1981 or any other legislation pertaining to environment which was in force at the given time. This is a clear depiction of how we treat environment as per our convenience and how in a tragedy on such a huge level, we have completely ignored the irreparable damage caused to the environment.

ANALYSIS

This is just one of the thousands of incidents where in environment takes a back seat in not just our day to day lives but major instances and disasters as well. Such tragedies and incidences bring us to question the reason as to why is Right to clean environment is bought under the purview of fundamental rights, when neither the judiciary nor the government is willing to work for its achievement. The meaning of existence of law is only when it is actually implemented as per its word. It is understandable that there does exist a certain amount of discrepancy in the actual word of law and its implementation. But it is the extent of this discrepancy that is posing a problem for us. Be it be the Bhopal Gas Tragedy or case of River Yamuna being considered as the most polluted river and still being a source of drinking water for thousands settled around there, or any other environment related case, it proves to us again and again that this gap between the law and its implementation is continuously increasing. It is high time that we as citizens and the government of the country take cognizance if this increasing gap. By not taking adequate measures, not only are we destroying our own future but of our upcoming generations as well.