

N.D. JAYAPRAKASH

*Bhopal Gas Leak Disaster:  
UCC's Heinous Crime and  
Response of the Indian State*

The inhabitants of Bhopal became victims of the world's worst industrial disaster when on the night of 02/03 December 1984 a huge toxic plume engulfed about two-thirds of the city for over two hours before dissipating. The highly poisonous gases had leaked due to exothermic reactions that took place in an underground storage tank, which contained nearly 41 tonnes of methyl-isocyanate (MIC), an extremely volatile and noxious chemical. The said storage tank had been installed at the pesticide plant of Union Carbide India Limited (UCIL), a subsidiary of Union Carbide Corporation (UCC) – a U.S. multinational company, which then held 50.9 per cent of shares of UCIL. The immediate human death toll, according to official figures, was around 2500 while the Indian Council of Medical Research (ICMR) subsequently declared that residents of 36 of the 56 municipal wards of Bhopal, i.e., approximately about 600,000 of the nearly 900,000 people of the city, may have suffered injuries in varying degree. It is estimated that the death toll has since gone above 20,000. The impact of the disaster on flora and fauna in the affected area was equally staggering.

## THE MARXIST

On 03.12.1984, the SHO, Hanumangunj Police Station, Bhopal, who observed people dying around the UCIL plant due to escape of some poisonous gases from the factory, registered a case *suo moto* under section 304-A (causing death by negligence) of the Indian Penal Code (IPC). He arrested five officers of the plant – presently accused Nos.5 to 9 – including J.Mukund, the Works Manager and S.P.Choudhary, the production Manager. On 05.12.1984, the Government of India (GOI) set up a scientific committee headed by Dr.S.Varadarajan, the then Director General of Council for Scientific and Industrial Research (CSIR), to study the scientific and technical aspects of the disaster and to prepare a report. On 06.12.1984, the Madhya Pradesh (MP) Government instituted a probe through a judicial commission known as the '*Bhopal Poisonous Gas Leakage (1984) Inquiry Commission*' headed by Justice N.K.Singh – a then sitting judge of the MP High Court.

On 07.12.1984, Warren Anderson (Chairman - UCC), Keshub Mahindra (Chairman - UCIL), and V.P.Gokhale (Managing Director - UCIL) – presently accused Nos. 1, 2 and 3 respectively – were arrested on arrival at Bhopal. Several cases were registered against them under sections 304 Part-II, 304-A, 426, 429, 278, 284 and 120-B of IPC. However, after detaining him at the posh Union Carbide Guest House for barely six hours, Anderson, was released on bail of Rs.25,000. He was immediately flown to Delhi by a State Government aircraft and allowed to leave the country supposedly on condition that he would appear in court whenever summoned. Subsequently, accused Nos. 2 and 3 were granted bail by the MP High Court on 13.12.1984. Accused Nos. 5 to 9 were also granted bail by Sessions Court of Bhopal on 15.12.1984. (All the accused have been out on bail ever since).

In January 1985, the Indian Council of Medical Research (ICMR) undertook the task of identifying the toxic gaseous products and studying their effects on human health. For coordinating some twenty-odd medical research projects, the ICMR also established the Bhopal Gas Disaster Research Centre (BGDRC) at Bhopal. Concurrently, in January 1985, the Tata Institute of Social Sciences (TISS), Mumbai, in collaboration with the MP Government and several schools of social work from neighboring states, undertook the task of carrying out a comprehensive house-to-house survey in the

36-gas affected municipal wards of Bhopal to identify the victims and to collate necessary data. Furthermore, on 08.08.1985, the GOI set up the “*Scientific Commission for Continuing Studies On Effects of Bhopal Gas Leakage On Life Systems*” headed by Dr.C.R.Krishna Murti, former Director of the Indian Institute of Toxicological Research (IITR), for conducting studies on the toxic effects of the disaster on life systems.

Immediately after the disaster, scores of organizations and individuals from across the country arrived in Bhopal out of concern for fate of the victims and for offering assistance in the relief and rehabilitation work; a team from the Delhi Science Forum (DSF) was among them. DSF was also the first organisation to bring out a report on the disaster.<sup>1</sup> According to its findings, there was little doubt that the U.S. multinational company had installed obsolete and unreliable safety-systems for its Bhopal plant. What was most shocking was that much prior to the disaster even the sub-standard safety-systems at the plant had been shut off for reasons of economy or for maintenance. The Report pointed out that economy measures were also responsible for a manning policy, which depleted the plant’s experienced and trained personnel, and led to stationing of untrained personnel in critical areas of the plant.<sup>2</sup> Moreover, unlike UCC’s parent plant at Institute, West Virginia, USA, computerized monitoring and control systems had not been provided at the Bhopal plant. All these discrepancies persisted despite the fact that the MIC unit at Bhopal began its operation in 1980, while the MIC unit at Institute had been in operation since 1966.

What has subsequently become evident is that even if all the safety systems were in working order, a major disaster may not have been averted because the safety systems in place at the Bhopal plant were under-designed in relation to the amount of highly toxic material (MIC) stored there. That is, unlike those in its parent plant at Institute, the safety- systems that had been installed at Bhopal were not designed for total containment.<sup>3</sup> Moreover, unlike the Bhopal plant, the Institute plant not only had a computerised automatic warning and alarm system in place but also had an emergency evacuation plan for the population of the town. These facts point to the adoption of double safety standards on the part of the UCC management, who had designed and set-up the Bhopal plant.

An Investigation Team from UCC's corporate headquarters had visited Bhopal soon after the disaster to inquire into the circumstances and causes that had led to the gas leak. According to the Investigation Team's Report, on the night of 2/3 December 1984, all the critical safety systems at the Bhopal plant had either been shut off or were dysfunctional:

- (1) *"The VGS had been removed from an operating mode to a standby mode on October 23, 1984..."* [p.11];
- (2) *"Prior to the incident, the flare tower had been removed from service for maintenance work and was not operating at the time of the incident"* [p.11];  
and
- (3) *"The temperature of MIC in Tank 610 before the incident was at 15° to 20°C as compared to the requirement of about 0°C... The refrigeration system provided to cool the MIC in the storage tanks had been made non-operational in June, 1984."*[p.23]<sup>4</sup> [Emphasis added]

The refrigeration system was shut off at the peak of summer when the maximum temperature in Bhopal usually crosses 40°C. For the next five months – till the time of the disaster – over 85 tonnes of MIC had been stored in a highly dangerous way in total contravention of the prescribed safety norms. It seems rather strange that for five months UCE (Hong Kong) and UCC (USA) were unaware that the most critical safety-system was not in operation at the MIC unit of the Bhopal plant. The subsequent shutting off of the VGS and the dismantling of the flare tower only compounded the problem. Even assuming that the UCIL management had acted on their own and had not informed its regional and global headquarters about the shutting off of the safety systems, what prevented UCC (USA) from alerting its subsidiary unit in Bhopal about the warning it received on 11.9.1984 about the possibility of a "runaway reaction" in bulk MIC storage systems?<sup>5</sup>

"IT CAN'T HAPPEN HERE!"

After the UCC Investigation Team had completed its presentation Jackson Browning, UCC's Vice-President for Health, Safety, and

Environmental Affairs, also addressed the press. However, he confined his remarks to the Institute plant's eighteen-year record of safe operation:

*Could the same thing happen here? That's the question people asked in December [1984], and the question that many are still asking. We said 'no' in December based on our experience at Institute, our understanding of the process, and our confidence in our safety systems and procedures. Now, after the investigation, we are even more certain of our answer based on comprehensive analyses of what happened in the tank in India. We can confidently say: It can't happen here.*<sup>6</sup>

Jackson Browning then went on to add:

*What if somehow the unthinkable happened, and contamination of the magnitude that occurred at Bhopal were to happen at Institute? What would happen then? First, I'll talk about the underground storage tanks. We would get a reaction, but a controlled reaction. The reason is that the temperature of stored MIC is always maintained below 5 degrees centigrade – and when I say always, I mean precisely that – the temperature is never allowed to go above 5 degrees, and it is normally kept below zero degrees centigrade. ... If refrigeration failed to keep the temperature of the liquid under 5 degrees centigrade, operators would begin pumping the liquid at top pump capacity of 60,000 pounds an hour to the emergency vent scrubber. The MIC would be completely destroyed in the scrubber before the temperature and the pressure in the tank increased sufficiently to open the safety valve.*<sup>7</sup>

The system operated safely for 18 years at Institute, while at Bhopal the system crashed even before completing 5 years of operation! In other words, a Bhopal type situation "can't happen here" and was "inconceivable at Institute" precisely because the safety-systems that had been installed at Institute was far superior to the one that had been installed at Bhopal. The MIC stored at Institute was almost always maintained below zero-degree centigrade and was never allowed to go above 5°C under any circumstances. Even if it ever did, there was the high temperature alarm set at 5°C in place to alert the operators for taking corrective steps. Whereas in the Bhopal plant:

*The contents of the tank were being stored at ambient temperature, which varies approximately from +15°C to +40°C at Bhopal. The temperature of*

## THE MARXIST

*MIC in the storage tanks for most part of the year was higher than the high temperature alarm setting, i.e. +11°C. Indeed the temperature of the material in the tank was higher than the maximum of the range of the temperature transmitter, i.e. +25°C. In such circumstances the actual temperature was not known and the transmitter was of no value. Further, provision of 'rate of rise in temperature' alarm would have invited the operator's attention to the start of such a reaction. No such provision was made.<sup>8</sup>*

At the Institute plant, an emergency high capacity scrubber (VGS) remained in operation and could neutralize MIC at the maximum rate of 60,000 pounds per hour.<sup>9</sup> At Bhopal, the installed low capacity scrubber (VGS) could neutralize MIC at the maximum rate of 21,000 pounds per hour<sup>10</sup> and even that service could not be utilized in time, as it was not in operation mode at the time of the disaster. At Institute, the flare always remained in operation to take care of any emergency. At Bhopal, the “*flare had been out of service for a month, in violation of Indian air pollution regulations. The flare pilot light was routinely extinguished when the plant was not operating, even with large amounts of MIC stored!*”<sup>11</sup> What else does all these gross violations of safety precautions prove other than the adoption of double safety standards on the part of the UCC management, which had overall control over the Bhopal plant?

### EARLY WARNINGS

Production of MIC commenced at Bhopal in February 1980. On 25.12.1981, plant operator Mohammed Ashraf Khan was killed after being exposed four days earlier to a leak of phosgene gas (a highly toxic chemical used for producing MIC). On 09.02.1982, another phosgene gas leak caused 16 workers to struggle between life and death for several days. Due to rising incidents of accidents, a “Safety Week” was organised from 10 to 16 April 1982 at the Bhopal plant during which at least 10 accidents were reported. Following the recent spate of accidents, UCC (USA) was forced to send a team of safety experts to India to carry out an Operational Safety Survey. In their confidential report, the UCC team, which carried out the survey in May 1982, had warned that a leak could occur due to “*equipment failure, operation problems or maintenance problems.*”<sup>12</sup> But UCC’s “Safety-Survey” team did not comment on the basic design defects of

the safety system that UCC had installed at the Bhopal plant or question operational irregularities like keeping the refrigeration unit shut off most of the time and operating it only intermittently during transfer of MIC from the tank into the SEVIN pot.

It was Raajkumar Keswani, a Bhopal based editor and publisher of a Hindi weekly titled "Report", who sounded the earliest clear warning of an impending catastrophe in Bhopal. In the lead article titled "*Please Save This City*", which was published on 17.9.1982, Keswani tried to warn the residents of Bhopal of the imminent danger from the UCIL plant and about the possibility of a genocide being unleashed at Bhopal. Two weeks later, on 01.10.1982, Keswani published yet another warning in the same weekly with the headline: "*Bhopal you are sitting on the mouth of a volcano!*" But, because UCIL had such pervasive influence in Bhopal at that time, very few people were willing to heed Keswani's unequivocal warnings. Yet the alarm that Keswani had raised was timely. On 05.10.1982, MIC did escape from a broken valve and had seriously injured four workers. People living in nearby colonies also experienced burning sensation in the eyes and had breathing trouble, because for the first time toxic gases had leaked into their homes. The residents ran away to save their lives and returned only after several hours. Luckily the leak was controlled in time before it caused further damage.<sup>13</sup>

The rising sense of insecurity forced Shahnawaz Khan, a Bhopal based lawyer, to serve notice on the UCIL management on 04.3.1983 complaining about the danger, which the UCIL plant posed to the lives of the workers at the plant, to the population living in the nearby areas and to the environment. In his written reply dated 29.3.1983 to the notice sent by Shahnawaz Khan, UCIL's Works Manager, J.Mukund, had made tall claims:

(1) that "*all precautions are taken for safety of persons working in the factory as also those living in the vicinity*"; and (2) that "*your allegation that the persons living in the various colonies near to the industrial area remain under constant threat and danger, is absolutely baseless*".<sup>14</sup>

Despite making such self-righteous assertions, Mukund, who is currently accused No.5, had the temerity to shut off all the three critical safety systems of the MIC unit at Bhopal with or without the apparent knowledge of UCE (Hong Kong) and/or of UCC (USA).

## THE MARXIST

He had shut off the refrigeration system as a cost-cutting measure in June 1984 at the peak of summer when the MIC unit was continuing to produce MIC. He had shut off the VGS in October 1984 soon after the MIC unit had stopped production after 85 tonnes of highly toxic MIC were stored in the MIC storage tanks. Mukund then dismantled the flare tower for repairs. These highly callous and criminally irresponsible steps were taken in deliberate violation of all prescribed safety norms for handling MIC.

## THE ERUPTION

The first leak of MIC was noticed on 02.12.1984 supposedly at about 23.30 hours in the MIC structure area near the VGS. The operators on the ground level in this area felt the presence of MIC in the atmosphere due to irritation of their eyes. The operators who informed the plant superintendent and the supervisor that there was an MIC leak were advised to spray water around the point of leakage. Around 00.15 hours on 03.12.1984, the rupture disc of the tank that was set at 40 psig burst under intense pressure and the Safety Relief Valve (SRV) opened. Soon the field operator noticed gaseous cloud coming out from the stack. The siren was reportedly sounded around 00.30 hours and the plant personnel were alerted about the gas leak. From around 01.00 hours, water was sprayed to neutralize the gases but apparently it did not reach the top of the stack from where the gases were coming out. Around 03.00 hours, the SRV of Tank 610 is reported to have sat back, which stopped the further flow of gas through the stack. The maximum temperature and pressure that the mixture underwent in the tank during the violent reactions had a direct bearing on the types and toxicity of the reaction products that finally came out of the tank. According to the Varadarajan Committee, "...*the mechanical examination of the tank indicates that the pressures may have reached 11 to 13 kg/cm<sup>2</sup>g with the corresponding temperatures in the range of 200 to 350°C.*"<sup>15</sup>

The amount and types of materials forced out of the tank have not been determined exactly. According to the UCC Investigation team: "*However, based on the heats of reaction, about 40 percent of the MIC reacting would release enough heat to raise the temperature of the*

*tank and vaporize the remaining 60 percent of the MIC.*" The UCC Team further added:

*"In order to discharge most of the contents of the tank within two hours, the pressure had to average 180 psig. At these conditions, material would be discharged at a rate of 40,000 pounds per hour: 29,000 per hour of vapor and 11,000 pounds of solid/liquid mixture. Approximately 54,000 pounds of unreacted MIC left Tank 610 together with approximately 26,000 pounds of reaction products."*<sup>16</sup>

Neither the senior managers of UCC nor of the UCIL can by any stretch of imagination claim that they were unaware of the disastrous consequences of criminal mismanagement. These officials had prior knowledge that MIC is an extremely lethal material and that any release of the toxic chemical into the atmosphere would have extremely grievous impact on life systems and the environment of Bhopal. Therefore, there is ample prima facie evidence to hold the UCC and UCIL management guilty of criminal acts that caused the catastrophe and to charge them under Section 304 Part-II (culpable homicide not amounting to murder) of IPC.

The crime of Union Carbide has been compounded by the fact that the design and working of the Bhopal plant had led to dumping of toxic effluents into the areas surrounding the factory from 1977 onwards, when the plant began its operations there, until the closing down of the plant following the disaster in 1984. It has resulted in the poisoning of soil and ground water in and around the UCIL factory. The several thousands of residents in the nearby areas, who were almost entirely dependent on hand-pumps for their daily domestic needs of water have become victims of slow poisoning by unwittingly consuming the contaminated water. It is becoming increasingly clear that the consequences of such consumption of contaminated water could be very devastating.

Under the circumstances, merely pursuing the criminal case relating to the release of toxic gases on 02/03 December 1984 is not enough. Criminal cases must also be instituted against UCC and the concerned officials of UCC, UCE and UCIL for wanton destruction of the environment through unfettered dumping of toxins and for inflicting grievous injuries on unsuspecting citizens of Bhopal. In

## THE MARXIST

addition, the GOI and the MP Government must be taken to task for their gross negligence in failing to carryout periodic safety inspections and monitor the design, maintenance and operation of the pesticide factory that was handling highly hazardous chemicals and polluting the environment.

### RESPONSE OF THE STATE

The decisions of the GOI and the MP Government to institute a number of inquiries and studies to comprehensively grasp the impact of the disaster were welcome steps. However, as time passed, the high hopes held out by such wide-ranging initiatives were almost completely belied. Apart from the Varadarajan Committee, which was allowed to come out with its Report on 20.12.1985 and which pinpointed the design faults and the operational deficiencies at the plant that led to the disaster, the other considered tasks were eventually abandoned or were left incomplete by the authorities. The MP Government abruptly wound up the Justice N.K.Singh Commission on 17.12.1985 before it could complete the inquiry or even prepare a preliminary report regarding the causes of the disaster and the magnitude of its effects. Similarly, the MP Government forcibly wound up the detailed house-to-house survey, which was being carried out systematically by Tata Institute of Social Sciences (TISS) with the help of nearly 500 student and teacher volunteers from different states after the teams had collated data from around 25,000 households out of the nearly 100,000 households in the affected area. What was equally worse was that TISS, which had coordinated the survey, did not get an opportunity to analyse the data since all the 25,000-odd forms, which were painstakingly filled by the student-volunteers, were practically confiscated by the MP Government. Thus, the State Government literally sabotaged the selfless attempt by the disinterested volunteers to identify and list all the inhabitants of Bhopal who had suffered injuries, lost family-members or had suffered property losses due to the disaster.

As far as the Krishna Murti Commission was concerned, the Central Government did not extend the Commission's mandate beyond its initial two-year tenure. This was despite the fact that the

Commission had pointed out in its preliminary Report that: “*Many more years of observation and analysis may have to be spent in fulfilling this objective*”<sup>17</sup> of assessing the gravity and long term impact of the disaster. Moreover, contrary to the recommendations of the Krishna Murthi Commission, the ICMR arbitrarily wound up its Bhopal Centre in 1994 and stopped all further medical research relating to and arising from the Bhopal disaster. In fact, it would appear that the Central and State governments were intent on underplaying the enormity and intensity of the disaster and to pretend that the problem was not as grievous as it has turned out to be.

Initially, it did appear that the GOI was totally committed to the cause of the Bhopal gas victims when at its initiative the Indian Parliament passed an act titled “*The Bhopal Gas Leak Disaster (Processing of Claims) Act 1985*” on 29.3.1985. With the help of the said act, the GOI first filed its complaint against UCC in the U.S. on 08.4.1985, which was dismissed on 12.5.1986 on the plea that the courts in USA were not the appropriate forums for seeking justice for the Bhopal gas victims. Thereafter, on 05.9.1986, the GOI filed a suit for damages in the District Court of Bhopal. When there were apprehensions that UCC was planning to sell off its assets, at the instance of the GOI the District Court foiled the plan by passing an order on 30.11.1986 that UCC “*will maintain... unencumbered assets of a fair market value of 3 billion [U.S.] dollars to meet the decree if any that may be passed by this Court.*”<sup>18</sup> [Later, when UCC was freed of this obligation as part of the Bhopal Settlement of 14/15.02.1989, it implied a windfall for the UCC and a serious setback for the gas-victims.]

As a consequence of the proposal mooted by the intervener-organisations<sup>19</sup> on 26.11.1986<sup>20</sup>/12.12.1987<sup>21</sup> and the suo moto proposal put forward by the District Court on 02.4.1987,<sup>22</sup> the District Court on 17.12.1987 ordered UCC to pay an interim compensation of Rs.350 crores (\$270 million) to the gas victims.<sup>23</sup> However, UCC opposed the decision. On 04.4.1988, in response to UCC’s appeal, the MP High Court modified the said order of the District Court and ordered UCC to pay an interim compensation of Rs.250 crores only.<sup>24</sup> After both UCC and UOI opposed the decision, the Supreme Court on 08.9.1988, admitted both UCC’s and UOI’s Special Leave Petitions (SLPs) against the said order of the MP High Court. The same day,

## THE MARXIST

the Bhopal Gas Peedith Mahila Udyog Sanghatan (BGPMUS), which was founded in 1986, also filed an application before the Supreme Court seeking interim relief. Meanwhile, on 29.01.1988, GOI had filed the Amended Plaintiff in the District Court of Bhopal furnishing all material particulars and quantifying the approximate value of the total claims (531,770 until then) at Rs.3,900 crores (3 billion US dollars), excluding punitive damages, interests, and costs of the suit.<sup>25</sup>

### CRIMINAL CASE

It was only on 01.12.1987<sup>26</sup> that the CBI finally filed its charge sheet against 12 accused (including Kishore Kamdar, Vice President, Agricultural Production Division, UCIL, as accused no.4; UCC, USA, as accused No.10; Union Carbide Eastern (UCE), Hong Kong, as accused No.11; and UCIL as accused No.12) before the Court of the CJM, Bhopal. As a result, hearing in the criminal case began before the CJM on 04.02.1988. While accused Nos.2 to 9 and 12 were present; accused Nos.1, 10 and 11 were absent (and continued to remain absent at subsequent hearings). Since the CBI's charge sheet also stated that further investigations were to be carried out in USA, the CJM, Bhopal, issued a Letter Rogatory dated 06.7.1988 addressed to the U.S. Government for the purpose. The said letter of request was issued to enable the CBI to inspect the safety-systems installed at the MIC unit of UCC's Institute plant for purposes of comparing the safety-standards with those installed at the Bhopal plant. The CBI had also stated that it had to collect necessary documents pertaining to the case both from the U.S. and from Hong Kong. Subsequently, a CBI team led by DIG K.Madhavan and a senior scientist, Dr.Sriram, did visit the U.S. in November 1988 for the said purpose. However, the CBI team was forced to return without fulfilling its tasks since the U.S. Administration informed the CBI that it would have to wait until the State of West Virginia granted the necessary permission for the same.

When it became clear that Anderson was deliberately avoiding being present in the court, the CJM, after accepting the CBI's application, proclaimed Anderson as an absconder on 09.02.1989 and directed the CBI to produce the accused before the Court on

31.3.1989. Shortly thereafter, on 14.02.1989, the U.S. Administration granted permission to the CBI to carry out the said investigations in the U.S. and for collecting relevant documents.

#### THE UNJUST SETTLEMENT

In the midst of the ongoing hearing in the matter pertaining to payment of interim compensation that was proceeding before the Supreme Court, there was a Court assisted settlement of the main suit itself. After withdrawing the original suit pending in the Bhopal Court before it and disposing of the same without adjudicating the issue in question, the Supreme Court directed that there be an overall settlement of the claims in the suit for \$470 million (about Rs.713 crores) and terminated all civil and criminal proceedings. However, the quickness with which the settlement was arrived at gave rise to two pertinent questions:

- (1) Did the CJM's decision on 09.02.1989 to issue non-bailable warrant of arrest against UCC's Chairman, Warren Anderson, and the U.S. Administration's decision on 14.02.1989 to permit the CBI to inspect the safety-systems of the MIC unit at UCC's plant at Institute in West Virginia, USA, and for collecting the relevant documents, have anything to do with the sudden settlement? And
- (2) Why were gas-victims not served notice by way of public pronouncements regarding the terms of the proposed settlement before the GOI decided to agree to the settlement?

What was equally intriguing was the manner in which the magnitude of the disaster was quantified. Although at the time of the settlement only a fraction of the total 5,97,908 claims that had been filed until then had been processed, the GOI misled the Court into believing that the total number of gas-affected was only about 105,000, including 3000 fatal cases. The fact was that there was absolutely no basis for the GOI to have come to this arbitrary conclusion. On the other hand, the charge sheet that was filed by the CBI before the CJM on 01.12.1987 had showed that the number of affected persons was more than 500,000!<sup>27</sup>

There were widespread protests across the country against the unjust settlement both against the paltry sum and against quashing

## THE MARXIST

of all present and future criminal cases against UCC, UCIL and their accused officials. This ferment led to the formation in Delhi of the Bhopal Gas Peedith Sangharsh Sahayog Samiti (BGPSSS), a broad coalition of more than 30 all-India and Delhi-based organizations representing workers, scientists, doctors, teachers, lawyers, journalists, artists, women, youth, students, and many concerned individuals, who came forward to support the struggle of the Bhopal gas victims for justice. The public protests were followed by filing of a number of review and writ petitions against the settlement in the Supreme Court of India by BGPMUS, BGPSSS and other concerned groups.

The Claim Courts, which adjudicated the claims, have subsequently determined that the total number of victims were actually 574,375.<sup>28</sup> However, the settlement sum of 470 million U.S. dollars (Rs.713 Crores at the 1989 exchange value), which was to be disbursed among 105,000 gas-victims, was not enhanced proportionately in terms of the actual number of gas-victims. Instead, the same amount was spread thin and disbursed among the said 574,375 gas-victims, which effectively meant that the compensation amount that each gas-victim on an average was awarded was less than one-fifth of the amount that he/she should have received as per the terms of even the paltry settlement sum. While the settlement sum of Rs.713 crores was purportedly to be disbursed among 105,000 gas victims (which worked out to an average of about Rs.67,905/- each), in reality, each gas-victim on an average was awarded Rs.12,413/- only at the 1989 value of the rupee vis-à-vis the dollar (i.e., Rs.713 crores divided among 574,375 gas-victims).

### REVIVAL OF CRIMINAL CASES

In response to review and writ petitions filed by BGPMUS, BGPSSS and others, the Supreme Court on 03.10.1991, while upholding the settlement amount, revoked the criminal immunity granted to UCC and all other accused in vide order dated 14/15.02.1989. In addition, UCC was ordered to pay an additional sum of Rs.50 crores for setting up a “full-fledged” 500-bedded hospital “with the best of equipment for treatment”.<sup>29</sup> Subsequently, on 11.11.1991, criminal cases against all the accused were revived in the CJM’s Court at Bhopal and summons were issued to them to be present in the Court on 07.12.1991. While,

accused Nos.2 to 9 and 12 responded to the summons and presented themselves before the Court on the appointed date, accused Nos.1, 10 and 11 continued to be absent. Therefore, the CJM issued proclamations, which were published in newspapers, ordering accused Nos.1, 10, and 11 to be present before the Court on 01.02.1992.

UCC, which was fully aware that all its properties in India were liable to be attached for non-appearance in the criminal case as per the order of the CJM dated 01.02.1992, endowed those very properties to a Trust, which it secretly set up in London, UK, on 20.3.1992. The trust was named as the Bhopal Hospital Trust (BHT) and UCC appointed Ian Percival (a former Solicitor General of England) as its sole trustee. Apart from an initial grant of 1000 pounds sterling for administrative expenses of the Trust, the only funds endowed to the Trust by UCC were its shares in UCIL. However, these facts became public only much later.

On 27.3.1992, the CJM, Bhopal, issued non-bailable warrant of arrest against Anderson, and ordered the GOI to seek extradition of Anderson from the U.S. [Neither this extradition order nor the Letter Rogatory issued by the CJM on 06.7.1988 have been executed by the GOI till date.] Subsequently, on 15.4.1992, UCC announced that it had endowed all its shares in UCIL to the so-called Bhopal Hospital Trust (BHT). Gas-victims and their supporters, who were outraged by the audacity of UCC in setting up the so-called trust in London as a way of evading attachment of its properties in India, immediately appealed to members of the Indian Parliament to foil UCC's plans. BGPSSS, BGP MUS and the Bhopal Group for Information and Action (BGIA), along with the CBI, also filed necessary applications before the CJM, Bhopal, in this regard. In response to the said applications, the CJM refused to recognize the transfer of UCC's shares in UCIL to the so-called BHT in London and attached the shares and properties of UCC in India for non-appearance in the criminal case.

#### BHOPAL HOSPITAL TRUST

Although the Supreme Court in Order dated 03.10.1991 had directed UCC to contribute another Rs.50 crores for building an exclusive 500-bedded hospital in Bhopal for the gas-victims, till date UCC has

## THE MARXIST

not contributed a paisa for the purpose. Thus, the GOI brought this matter of non-payment to the attention of the Supreme Court through an application that was taken up by the Court on 10.12.1993. Subsequently, vide order dated 14.02.1994, the Supreme Court allowed UCC to sell off its properties in India, which the CJM, Bhopal, had attached on 30.4.1992.

What was strange about the Supreme Court order was that, while UCC was a proclaimed absconder whose properties were attached for non-appearance in the criminal case, UCC was permitted to appear before the Supreme Court in the civil case through a proxy. The proxy was Ian Percival, the so-called trustee of the Bhopal Hospital Trust (BHT), which UCC had set up in London, UK, and to which UCC had tried to endow all its properties in India, a surreptitious move which was foiled in time by the timely intervention of the CBI, BGPSSS, BGPMUS and BGIA as noted earlier. [Which law of the land permits a proxy of an accused, who is absconding from a lower court in a criminal case, to appear before the Apex court in a civil case? This question has never been answered!] The GOI did not protest against this transgression of the law by the Apex Court.

Not only did the Supreme Court allow an absconding accused's proxy to be present in Court but also allowed the absconding accused to sell off its attached properties to raise funds in lieu of the contribution, which the absconding accused had to make towards construction of a hospital for treatment of gas-victims as per the Court's order dated 03.10.1991. In effect, the Apex Court practically nullified an order of attachment passed by the CJM, Bhopal, in a criminal case to suit the convenience of an absconding accused, who had defaulted payment in a civil case that was pending before the Apex Court! While Rs.60 crores from the sales proceeds was to be set aside for the construction of the proposed hospital at Bhopal, the Court surprisingly ordered transfer of Rs.5 crores (one million pounds sterling) from India to the U.K. as administrative expense of the Bhopal Hospital Trust (BHT), which the proclaimed absconder, UCC, had set up in London, UK. [Which law of the land permits a court to order transfer of funds from India to a foreign country to meet the administrative expenses of a trust set up abroad by a proclaimed absconder?]

Exasperated by the Court's above mentioned decisions, BGPSSS and BGIA filed an application before the Supreme Court on 13.4.1994

protesting against the granting of recognition to the BHT, which was set up by a proclaimed absconder and against the granting of administrative expenses to such an illegal trust from public funds. Vide order dated 20.10.1994, the Court tried to clarify that it had not recognized the Trust. The Court instead said that the matter of legality of the Trust would have to be decided first by the MP High Court, where a revision petition filed by UCIL against the CJM's order of attachment dated 30.4.1992 was pending. [Indeed, if the Supreme Court had not accorded recognition to the BHT, why did the Court not insist that it would hear the BHT only after the MP High Court disposed off the case that was pending there? Instead, the BHT, which was an illegal entity, was allowed to continue to take part in the proceedings before the Supreme Court.]

The Supreme Court also clarified that no funds from the proceeds of the sale of UCC's shares in UCIL would go towards any administrative expenses of the Trust and directed that all administrative expenses of the Trust should be borne by UCC from other sources. [While the Court's clarification was reassuring, the Court did not actually seek from BHT the return of the one million pounds sterling that was transferred from India to the UK, although it did direct the BHT to submit regular accounts for the same.] In reality, the BHT chose to completely ignore the Court's directive; it not only spent the said one million pounds sterling for its administrative expenses but also, as explained below, Ian Percival, the Sole Trustee of BHT admittedly transferred another Rs.6.7 crores from India to London without the permission of the Court or the GOI.

That was not all. While about Rs.290 crores was realized from the sale of the attached properties of UCC in India, Rs.60 crores from that amount was set aside for the construction of the proposed hospital at Bhopal and Rs.5 crores was transferred to BHT's account in London, UK. Moreover, Ian Percival, the so-called Sole Trustee of BHT (which was an illegal entity and had no locus on Indian soil) was not only allowed to become a member of the Empowered Committee that was to undertake construction of the said hospital but also he was allowed to operate its account. As a result Percival became the most powerful member of the Empowered Committee. The remaining amount of Rs.225 crores, which was deposited in the State Bank of India, Delhi,

## THE MARXIST

remained attached in the name of UCC and the Trust, with the CJM, Bhopal retaining jurisdiction over the attached funds.

Incidentally, on or about 28.8.1995, UCIL withdrew its revision petition from the M.P.High Court, which it had filed on 11.8.1992 against the order of the CJM, Bhopal, dated 30.4.1992. The said order of the CJM, which had attached the properties of UCC in India, thereby, attained finality. With the CJM's said order attaining finality, it was established beyond doubt that the Bhopal Hospital Trust (BHT) was an illegal entity and had no legal status in India. However, the Supreme Court continued to practically accorded locus to the BHT despite vehement protests by the groups that were supporting the cause of the gas-victims. The Supreme Court gave no heed to the repeated complaints filed by BGPSSS and BGIA against the mindless administrative expenses, which the Sole Trustee of BHT, Ian Percival, was incurring – a fact that was amply evident from the accounts that Ian Percival was later forced to submit to the Court.<sup>30</sup> Overruling all protests, the Court allowed the Sole Trustee to control additional funds.

While disposing off an application filed on 20.9.1995 by the BHT, a Supreme Court bench headed by the then Chief Justice, Mr. Justice A,M.Ahmadi, vide order dated 03.4.1996 released an additional sum of Rs.187 crores for the construction of the hospital from the attached funds of UCC. [Thereby, the order of attachment by the CJM, Bhopal, of UCC's properties in India for non-appearance in the criminal case was rendered practically meaningless.] What was disquieting was that subsequently vide order dated 14.02.1997, Justice Ahmadi also allowed Ian Percival, the trustee of BHT that had no locus in India, to take sole control of the entire funds earmarked for the construction of the hospital. Soon even the GOI became highly embarrassed by the reckless usurpation of funds by Ian Percival and was forced to file a number of applications and affidavits against Ian Percival before the Supreme Court. However, several legal luminaries, including Harish Salve, Ashok Desai and Abhishek Singhvi, came to the defense of Ian Percival, despite knowing fully well that their client was none other the Sole Trustee of a trust set up by the proclaimed absconder UCC and which was an illegal entity in India.

It is inexplicable as to why Ian Percival, as the Sole Trustee of BHT, was allowed to be associated with the construction of the said

hospital in Bhopal. Neither the BHT nor its mentor, the UCC, contributed a paisa for the construction of the hospital; no expertise for the same was provided by the BHT or the UCC; no medical equipment was donated by the BHT or the UCC to the said hospital. On the contrary, by associating Ian Percival with the construction of the hospital, the hospital was deprived of no less than Rs.11.7 crores, which was transferred from India to the UK and mostly pocketed by Ian Percival. He may have transferred more funds from India to the UK during 1998 (until the time of his sudden death on 04 April 1998) about which there is no specific information. After his death, about Rs.3 crores was transferred back to India.

It would appear that the sole reason for associating Ian Percival with the construction of the hospital for the gas-victims was an attempt to portray UCC as a benefactor and in a favorable light before the Indian people. Moreover, it is a matter of record that the desperate pleas of BGPSSS and BGIA before the Supreme Court to disassociate Ian Percival from the construction of the said hospital went unheeded. Despite repeatedly pointing out to the Court that the gas-victims could ill-afford to maintain an expensive “benefactor” like Ian Percival, he was allowed to retain his position. In the process, the fact that UCC, which was directed by the Supreme Court vide order dated 03.10.1991 to contribute Rs.50 crores towards the construction of the hospital, has till date not paid that amount has been practically erased from the Court records. Instead, the funds realized from the sale of the attached properties of UCC have been passed off as the contribution of UCC in fulfillment of its obligations as per the said Court order of 03.10.1991 although, as per the law, proceeds from sale of attached properties of an absconding accused belonged entirely to the State. How and why an absconding accused was allowed to lay claim over proceeds from the sale of its attached properties when the said accused continued to abscond from the court that had attached the said properties is a matter that needs to be investigated.

After the demise of Ian Percival, a new trust called the Bhopal Memorial Hospital Trust (BMHT) was set up through a trust deed that was signed on 11.8.1998 with the consent of the Supreme Court and the GOI. The former Chief Justice of India, Justice A.M Ahmadi, who was in office from 25.10.1994 to 24.3.1997, was appointed as Chairperson of the 11-member Trust. Through the BMHT, the

## THE MARXIST

Bhopal Memorial Hospital and Research Centre (BMHRC) became operational in the year 2000. Although it was headed by a former Chief Justice, the BMHRC was not devoid of controversies. Gas-victims repeatedly complained about improper treatment being meted out to them and about priority being given to treatment of paying-patients. There have been complaints about shortage of doctors, especially specialists, in many departments. The BMHRC was run so autonomously that it assumed that it was not accountable to anyone. This was primarily because neither the state nor central government bothered to monitor its functioning although their representatives were among the trustees. Moreover, the BMHT, although it was set up under the MP Public Trusts Act, did not submit annual accounts for the first seven years of its existence. It was further noticed that the accounts it was forced to submit was not audited properly. Furthermore, in January 2010, it came to the notice of the Bhopal Gas Peedith Mahila Udyog Sanghathan (BGP MUS) that secret drug trials were conducted at least until August 2008 in four departments of BMHRC and these trials apparently had begun four years earlier. Under the circumstances, the formal decision of the GOI on 19.7.2010 to takeover the BMHT was a welcome step. However, a thorough inquiry into the functioning of BMHT and BMHRC for the last 12 years is necessary, including re-auditing of its accounts and its manner of treating gas-victims.

There were a few other shocking incidents too, which need to be taken note of. In 2001, after lapping up legal advice from private U.S. attorneys, the then Attorney General of India, Mr. Soli Sorabjee, instead of defending the interests of the Bhopal gas victims, was holding brief for accused No.1 in the Bhopal disaster criminal case. Mr. Sorabjee wrote to the GOI on 06.8.2001 as follows: *"All things considered, in my opinion proceedings in the USA for the extradition of Mr. Warren Anderson are not likely succeeded and, therefore, the same may not be pursued."*<sup>31</sup> In January 2002, the GOI recommended the name of Keshub Mahindra, accused No.2 in the same case, for being conferred the "Padma Bhushan", one of the prestigious national awards. Timely protests by BGPSSS, BGP MUS and others, who also managed to persuade Justice V.R Krishna Iyer to raise the matter with President K.R.Narayan, resulted in Keshub Mahindra *"turning down"* the award.<sup>32</sup> Likewise, on 24.5.2002, the CBI went to the extent of filing an application before

the Court of the CJM, Bhopal, seeking recall of the non-bailable warrant of arrest issued by the Court on 27.3.1992 against Warren Anderson. Apparently, the CBI was forced to file the said application after the Ministry of External Affairs vide letter dated 20.3.2002 had directed the CBI to reframe charges against Anderson under Section 304-A of IPC, which was a non-extraditable offence. However, in response to the reply filed on 17.7.2002 by BGPSSS, BGPMUS and BGIA, who vehemently opposed the said plea of the CBI, the CJM, vide Order dated 28.8.2002 rejected the CBI's application.

#### THE TRIAL

On 08.4.1993, the Sessions Court, Bhopal, framed charges against accused Nos. 2 to 9 & 12 (eight Indian officials and UCIL) for punishable offenses under sections 304 Part-II, 326, 324 and 429 of IPC read with section 35 of IPC. The said accused filed revision petitions against the same, which the MP High Court dismissed on 01.8.1995. However, in response to criminal appeals filed by accused Nos.2 to 9 and 12 before the Supreme Court, the Court vide order dated 13.9.1996 reduced charges against the accused from Section 304-Part-II of IPC to Section 304-A, i.e., from a charge of culpable homicide to a case of negligence.

On 30.11.1996, BGPSSS, BGPMUS and BGIA filed a review petition before the Supreme Court seeking review of its judgment of 13.9.1996. However, a two-member bench of the Court headed by the then Chief Justice, Justice A.M. Ahmadi, summarily dismissed the plea on 10.3.1997 at the preliminary hearing itself without going into the merits of the plea and without issuing a reasoned order. Subsequently, the trial against the accused proceeded before the court of the CJM, Bhopal. The trial was a long drawn-out process which stretched from 1996 to 2010. During the trial, BGPSSS and BGPMUS repeatedly drew the attention of the Court to the fact that the Letter Rogatory issued by the CJM on 06.7.1988 had not been executed by the CBI and, thereby, certain vital evidence regarding the case had not been placed before the Court.

Yet from the wealth of evidence presented before the Court by the 178 prosecution witnesses, 8 defense witnesses and from some 3000 documents, it was very clear that it was a fit case for prosecuting the

## THE MARXIST

accused under Section 304 Part-II and other appropriate sections of the IPC. There was absolutely no doubt that the accused persons had prior knowledge that improper storage and usage of highly toxic chemicals like MIC would have catastrophic consequences. Despite such prior knowledge, they resorted to cost-cutting measures in gross violation of the prescribed safety norms, which led to the disaster. Accordingly, BGPSSS and BGPMUS filed an application on 26.4.2010 under Section 216 of CrPC before the Court of the CJM, Bhopal, with a plea to enhance the charges against the accused on the basis of the evidence presented before the Court. However, the CJM chose to summarily dismiss the application without going into the merits of the plea despite the fact that under Section 216 of CrPC, the CJM was well within his powers to alter the charges on the basis of evidence before him. However, the CJM, Mr.Mohan Tiwari, chose not to do so.

As a result, vide order dated 07.6.2010, the CJM found accused No.2 to 9<sup>33</sup> and 12 guilty of punishable offences under Sections 304-A, 336, 337, and 338 read with Section 35 of IPC. Accordingly, the said accused were sentenced as follows: (a) to 2 years imprisonment and a fine of Rs.1,00,000/- each under Section 304-A r/w Section 35 of IPC; (b) to 3 months imprisonment and a fine of Rs.250/- each under Section 336 of IPC; (c) to 6 months imprisonment and Rs.500/- each under Section 337; and to one year imprisonment and a fine of Rs.1000/- each under Section 338 of IPC; and (d) Accused No.12, UCIL, was ordered to pay a total fine of Rs.5,01,750/- under the said sections of the IPC. Furthermore, while order dated 02.7.1999, issued by one of the preceding CJMs, had decreed that the accused would have to face consecutive sentences for the various offences committed by them, the incumbent CJM, Mr.Mohan Tiwari, decreed that the sentences shall run concurrently.

Considering that the accused got away very lightly as compared to the enormity of the crime, which resulted in the gruesome death of an estimated 20,000 people or more and which inflicted grievous injuries in varying degree to over 5,50,000 others, concerned people across the country expressed outrage at the light sentences. Moreover, the lenient sentence, which was pronounced 25 years after the tragedy, appeared to rub salt into the wounds of the victims, who were earlier awarded paltry sums of Rs.12,413 on an average as full and final

compensation (at the 1989 value of the rupee vis-à-vis the U.S. dollar). The very decision to prosecute the accused under Sections 336, 337 and 338 of IPC and to impose a total combined fine of just Rs.14,000/- (Rupees fourteen thousand only) on them was a cruel joke and a travesty of justice considering that the acts of omission and commission by the accused had wreaked havoc on the city of Bhopal. Overall, CJM Mr.Mohan Tiwari's verdict was a testimony on the appalling state of the criminal justice system in the country especially when it comes to rendering justice to the poor and the hapless.

### CONCLUSIONS

Sensing the deeply indignant mood of the people and in a bid to empathize with the cause of the gas-victims, the GOI on 10.6.2010 reconstituted the Group of Ministers (GOM) to re-examine all aspects arising from and related to the Bhopal gas disaster. The recommendations, which the GOM made to the Cabinet and which the Cabinet approved on 23.6.2010, include the following:

- (a) To seek extradition of Anderson;
- (b) To file curative petitions against the settlement order of 14/15.02.1989 and against the order of 13.9.1996 that reduced charges against the accused;
- (c) To file appeal before sessions court seeking consecutive sentences against the accused instead of concurrent ones;
- (d) To file revision application before the High Court seeking trial under Section 304 Part-II;
- (e) To pursue the case pending before the MP High Court regarding liability of the Dow Chemical Company;
- (f) To take over the Bhopal Memorial Hospital Trust;
- (g) To reopen the ICMR centre at Bhopal;
- (h) To invite global tenders for carrying out remedial work at the contaminated site in and around the UCIL plant; and
- (i) To enhance compensation in death and seriously injured cases with an additional allocation of Rs.700 crores.

While most of the recommendations of the GOM may appear to be welcome steps, it is very evident that the GOI is continuing to grossly underplay the magnitude of the casualty figures of gas-victims in terms of the number of dead and seriously injured. Moreover, the

## THE MARXIST

amount the GOM has offered as additional compensation is a pittance in terms of the actual needs of the gas-victims. Similarly the haphazard manner it proposes to carry out remediation of the contaminated site is highly questionable in the absence of a detailed and proper study of the extent and gravity of the problem. There is also the danger that the curative petitions may actually turn out to be counter-productive. Under the circumstances, it is vital that an all-party committee be constituted to thoroughly examine the recommendations of the GOM after verifying all the facts of the case in consultation with representatives of organizations that have been championing the cause of the gas-victims.

It is important to note that the GOM has remained completely silent regarding non-execution of the Letter Rogatory, which was issued by the CJM, Bhopal, on 06.7.1988. As per this Letter Rogatory, the CBI was to carry out a comparative study of the safety systems of the Bhopal and Institute plants of UCC, which would establish whether UCC had adopted double safety standards – a crucial aspect that is central to the entire case. After the revival of the criminal cases on 03.10.1991, the CBI had again reminded the concerned official at the Indian Embassy in Washington, DC, regarding execution of the said Letter Rogatory. According to the CBI:

*“On receipt of the above Orders dated October 03, 1991 of the Supreme Court of India<sup>34</sup>, the Counsellor (Pers), Embassy of India, Washington (USA) was requested vide D.O. letter dated December 24, 1991 to renew CBI’s request to US authorities for taking up the matter relating to Letter Rogatory dated July 06, 1988.”<sup>35</sup>*

It is, indeed, a big mystery as to why the GOI did not take any further steps to pursue the matter with the U.S. Government regarding execution of the said Letter Rogatory. The fact is that the said UCC’s plant at Institute in West Virginia, USA, is currently owned and operated by the West German chemical company Bayer and it is continuing to produce MIC based pesticides. Therefore, the CBI can still visit the U.S. and carry out the necessary comparative study if the GOI takes necessary steps to facilitate the CBI’s visit. Under the circumstances, the first task is to persuade the Government to fulfill its obligations in this regard.

NOTES

- <sup>1</sup> The report titled "*Bhopal Gas Tragedy: Looking Beyond*", was released at a Press Conference in Delhi on 18.12.1984 by Shri P.N.Haksar, former Principal Secretary to Prime Minister Indira Gandhi and the then President of DSF.
- <sup>2</sup> Subsequent research uncovered that: "*The number of blue-collar workers employed had been reduced from 850 to 642 over two years preceding the event; management had cut operator strength as much as half in potentially dangerous operations.... Unqualified people were running the plant at the time of the release. Certified chemical plant operators had been replaced by less skilled operators, and only a relatively untrained supervisor and maintenance workers were present at the time of the incident.*" Barry I. Castleman and Prabir Purkayastha, 'The Bhopal Disaster as a Case Study in Double Standards', in Jane H. Ives (ed.), "*The Export of Hazard*", Routledge & Kegan Paul, London, 1985, p. 217
- <sup>3</sup> Total containment was a process by which the entire toxic material that is stored in a factory could be contained and neutralised within its premises in case of an accident.
- <sup>4</sup> UCC Investigation Team Report titled "*Bhopal Mythyl Isocyanate Incident*" was released at a Press Conference, which UCC held on 20.3.1985 at Danbury - CT, USA
- <sup>5</sup> An internal memorandum of UCC dated 11.9.1984, had warned that a "*runaway reaction*" could cause a catastrophic failure in the MIC storage tanks at UCC's Institute Plant. This was evident from the statement that Congressman Henry Waxman (Chairman, House Sub-committee on Health and Environment of the US Congress) released in Washington, D.C., on 24.01.1985.
- <sup>6</sup> Statement of Jackson Browning, UCC's Vice-President for Health, Safety, and Environmental Affairs, released at the Press Conference addressed by him on 20.3.1985 at Danbury, CT, USA
- <sup>7</sup> Ibid
- <sup>8</sup> 'Report on Scientific Studies on the Factors Related to Bhopal Toxic Gas Leakage' (The Varadarajan Committee Report), Cabinet Secretariat, GOI, Sardar Patel Bhavan, Sansad Marg, New Delhi, December 1985, p.74
- <sup>9</sup> Statement of Jackson Browning, op cit.
- <sup>10</sup> Varadarajan Committee Report, op cit., p.74
- <sup>11</sup> Castleman & Purkayastha, op cit., p.216
- <sup>12</sup> L.A.Kail, J.M.Paulson, C.S.Tyson: "*Operational Safety Survey, CO/MIC/SEVIN Units, Union Carbide India Limited, Bhopal Plant, May 1982*", UCC, Chemicals and Plastics, P.O. Box 8361, South Charleston, West Virginia 25301, p.2
- <sup>13</sup> '*Nav Bharat*' [Hindi daily], Bhopal, 07 October 1982
- <sup>14</sup> J. Mukund's reply has been admitted as evidence and marked as Exhibit No.P2906 in Case No.8460 of 1996 before the Court of the Chief Judicial Magistrate, Bhopal.
- <sup>15</sup> Varadarajan Committee Report, op cit, p. 76
- <sup>16</sup> UCC Investigation Team Report, op cit., p.24
- <sup>17</sup> Scientific Commission for Continuing Studies on Effects of Bhopal Gas Leakage on Life Systems, '*The Bhopal Gas Disaster: Effects on Life Systems*' (Krishna Murti Commission Report), Executive Summary, Cabinet Secretariat, GOI, Sardar Patel Bhavan, Sansad Marg, New Delhi, July 1987, p.3
- <sup>18</sup> See Baxi & Dhanda, op cit., p.31
- <sup>19</sup> Zahreli Gas Kand Sangharsh Morcha and Jana Swasthya Kendra – organisations supporting the cause of the Bhopal gas victims.
- <sup>20</sup> See Baxi & Dhanda, op cit., p.235
- <sup>21</sup> See Baxi & Dhanda, op cit., p.261

## THE MARXIST

<sup>22</sup> See Baxi & Dhanda, op cit., p.240

<sup>23</sup> See Baxi & Dhanda, op cit., p.283

<sup>24</sup> See Baxi & Dhanda, op cit., p.338

<sup>25</sup> See Baxi & Dhanda, op cit., p.193

<sup>26</sup> See Baxi & Dhanda, op cit., p.639

<sup>27</sup> See Baxi & Dhanda, op cit., p.645, para 23

<sup>28</sup> This fact is reiterated in para 11 of the Group of Ministers' (GOM's) report that was released on 23.6.2010

<sup>29</sup> Paras 203 & 204, (1991) 4 SCC, pp.683-684

<sup>30</sup> Bhopal Hospital Trust, London, Annual Report and Accounts, 31 December 1996. (This was submitted to the Supreme Court on 02.6.1997)

<sup>31</sup> <http://www.flonnet.com/fl1901/19011020.htm>

<sup>32</sup> See: <http://www.hindu.com/2002/03/08/stories/2002030802181300.htm>

<sup>33</sup> Accused No.6, R.B.Roy Chaudhary, former Asst. Works Manager, UCIL, Bhopal, died during the trial and his name was struck off the list of accused.

<sup>34</sup> This order had revived the criminal cases against all the accused after the same had been quashed as per the terms of the Bhopal Settlement of 14/15.02.1989.

<sup>35</sup> Twelfth Report (Extradition of Former Chairman, UCC), Committee on Government Assurances (2003-2004), Thirteenth Lok Sabha, Lok Sabha Secretariat, New Delhi. Presented to the Lok Sabha on February 27, 2003, para 3.8, p.14.