

Remember Bhopal - lessons and challenges for global civil society¹

“Bhopal is not merely an historical case study. The human rights abuses resulting from the gas leak and site contamination are unresolved and ongoing.” (Amnesty International, 2024)

Bhopal, December 3, 1984: Shortly after midnight, tons of highly toxic methyl isocyanate (MIC) leaked from a pesticide factory owned by the US company Union Carbide Corporation (UCC), turning parts of the capital of Madhya Pradesh into a gas chamber over the next hours. Within a few days, around 8,000 people died; four decades later, the death toll has risen to over 22,000.

The images from Bhopal,² the never-ending chain of horror stories and the soaring death toll soon made it clear that this was one of the biggest accidents in industrial history. Bhopal is one in a long series of disasters - from Seveso (Italy, 1976) to Chernobyl (Ukraine, 1981) and Fukushima (Japan, 2011) - that are witnesses to the negligent handling of technical risks. But if the gas accident has gone down into global memory, then it is also and especially as an example of how Western companies were able to outsource dangerous production to countries in the South and evade responsibility in the case of damage.

The beginning of December 2024 marks the fortieth anniversary of the Bhopal accident. And this is not only a cause for commemorating in empathy with the victims of 1984 once again, the commemoration should also be understood as an urgent appeal for solidarity with the people on the ground who are still struggling to come to terms with the disaster. To this day, they have not been adequately compensated financially. In 1989, the company UCC paid a settlement of 470 million US dollars. The Indian government saw that this amount was far too low. It wanted to renegotiate the compensation agreement in the light of current insights about the effects of the disaster. An additional amount of up to 1.7 billion dollars was demanded. According to estimates by groups and organizations of survivors, 8.1 billion dollars were required.³

Even the toxic waste has not yet been removed from the factory site, and residents in the neighbourhood still have to live with the contamination of soil, water and air, causing disease.⁴ The contamination is affecting even the next generation, and will continue to affect the health of future generations. Data collected by the Sambhavna Trust⁵ suggest that after three decades, the death rate of those exposed to the gas was still 28% higher than average. They are twice as likely to die from cancer, lung disease and tuberculosis, three times as likely to die from kidney disease, and have a 63% higher risk of all diseases.⁶

1 Extended and updated version of an article in the German *Amnesty Journal*, November 2014.

2 Raghu Rais' photo “Burial of an Unknown Child” soon became the emblematic image of the disaster: <https://raghuraifoundation.org/bhopal/>

3 However, in March 1985, the Government of India passed the Bhopal Gas Leak Disaster Act which handed the government the statutory right to represent all victims in or outside India. This act alone almost completely disempowered the victims from participating in the adjudication process. For UCC, the act was to their great advantage. See Ingrid Eckerman, Tom Børsen, “Corporate and Governmental Responsibilities for Preventing Chemical Disasters: Lessons from Bhopal”, in: *HYLE - International Journal for Philosophy of Chemistry*, Vol. 24, No. 1 (2018), pp. 29-53.

4 In fact, UCC had been violating safety standards for the storage of toxic substances since it opened its Bhopal factory in 1969.

5 The Sambhavna Trust has been running a clinic in Bhopal since 1996 as an “independent, community-based, non-governmental medical initiative concerned with the long-term well-being of the survivors.” https://en.wikipedia.org/wiki/Sambhavna_Trust_Clinic; 19/11/2024.

6 See Hannah Ellis-Petersen, „Bhopal’s tragedy has not stopped: the urban disaster still claiming lives 35 years on“,

To date, the state authorities have proved unable or unwilling to force the company to clean up the site. Moreover, the main perpetrators of the accident have never been held to account. Within 24 hours of the gas leak, the Indian authorities initiated criminal proceedings against Union Carbide. Immediately after the tragedy and in the months that followed, civil suits for personal injuries and deaths were also filed in Indian and US courts. However, all these efforts have produced little or no results.⁷

Union Carbide Chairman Warren Anderson was arrested during his visit to Bhopal on December 7, 1984, but was able to leave India and return to the United States on the same day following intervention by the U.S. Embassy in Delhi. Indian extradition requests were rejected by the U.S. government. Only a few Indian managers were sentenced to minor penalties in June 2010. The main executives of UCC and Dow Chemical (the sole owner of UCC since 2001) have long refused to appear before Indian courts. They failed to respond to summonses in 2005, 2013, 2014, 2015, 2017 and 2019.

It was not until the March 2023 summons for an October 2023 hearing that Dow Chemical was formally served by the U.S. Department of Justice. However, Dow, through its Indian lawyers, filed a memorandum with the Chief Judicial Magistrate's (CJM) of India arguing that the subpoena was not issued in accordance with the Treaty on Mutual Legal Assistance in Criminal Matters between India and the United States and that the Indian courts in any event had no jurisdiction over Dow. The fact that those responsible were able to fend off legal consequences for so long and that the state authorities failed in their duty to protect, so that the burdens on residents continued - this was seen as the second catastrophe of Bhopal.

The lessons of the past have not been learned

The experience, not only in India, that victims of human rights violations by multinational companies often face almost insurmountable obstacles in obtaining their right to compensation, prompted Amnesty International to publish its report entitled *Injustice Incorporated. Corporate Abuses and the Human Right to Remedy* (2014)⁸. Four cases were analyzed to show how companies exploit their political and financial power to prevent conviction. Apart from Bhopal, the cases included the Ok-Tedi mine in Papua New Guinea, where mine waste flooded rivers with harmful substances (1984), the Omai gold mine in Guyana, whose waste protection system failed (1995), and the toxic waste from the Trafigura company in Abidjan, Ivory Coast, which caused health damage to more than 100,000 people (2006).

In all instances it is evident: "The lessons of the past have not been learned. Almost a quarter of a century after Bhopal, many serious mistakes have been repeated."⁹ The human rights violations were undisputed in all four cases, as was the companies' culpability. But those responsible were able to evade the courts' reach by using legal tricks and political influence.

In view of the "dangerous imbalance" between multinational companies and potential victims of

in: *The Guardian*, 08/12/2019. <https://www.theguardian.com/cities/2019/dec/08/bhopals-tragedy-has-not-stopped-the-urban-disaster-still-claiming-lives-35-years-on>

7 Amnesty International, *Bhopal: 40 Years of Injustice*, 2024.

8 Amnesty International, *Injustice Incorporated. Corporate Abuses and the Human Right to Remedy*, 2014. <http://www.amnesty.org/en/library/info/POL30/001/2014/en>

9 Ibid., p. 12.

their activities, the power of companies vis-à-vis governments and states must be limited. In particular, the possibilities for shifting liability between parent and subsidiary companies require better controls and counterweights. Companies must be forced to "undertake due diligence in respect of those operations."¹⁰ The principle of liability and the right to compensation are supposed to serve as a form of prevention: "Securing justice and redress", the Amnesty report emphasizes, "is not only a way of addressing the past, but an essential tool to shape the future, both for the individuals directly affected and in order to protect the rights of society as a whole."¹¹

The victims of past human rights violations play a special role here. Not only is it the improvement in their situation ultimately that will prove whether the type of compensation really meets the human rights standards. They are also at the forefront as a community of action and remembrance.¹² They have demonstrated the tenacity and perseverance needed to prevent new injustices: "in some cases for decades and in all cases against formidable odds."¹³ The Bhopal survivors, in particular, have set standards.

In February and March 2006, 46 Bhopalis, including 39 victims of Union Carbide's poisons marched a distance of 800 km from Bhopal to Delhi. On April 17, following a public seven day fast in the capital, the Indian Prime Minister met with a delegation of Bhopalis and among other assurances promised to ensure funds for clean water supply. In July and August 2008, 55 Bhopalis marched on a second *padyatra* (foot march) with the same set of demands. After arriving in Delhi, the Minister of Chemicals and Fertilizers conceded the demand for clean drinking water and other things. In 2010 (July 26 to August 18), more than 150 Bhopal survivors and people from water-affected areas began an indefinite *dharna* (sit-in protest to demand justice) at Jantar Mantar, New Delhi, lasting through the parliamentary session.

So, is there still hope that the necessary lessons from the past will be learned?

Memory as a burden and as empowerment



Union Carbide plant in Bhopal 2008 © M. Gottlob

10 Ibid., p. 13.

11 Ibid., p. 11.

12 For the concept of 'mnemonic communities', see Eviatar Zerubavel, *Time Maps: Collective Memory and the Social Shape of the Past*, Chicago: University of Chicago Press, 2003.

13 Amnesty International, *Clouds of Injustice*, 2004.

The ruins of the factory are a widely visible memorial to the 1984 disaster. They represent the painful experience of the victims and survivors, but also the demand for justice. They are a permanent accusation against those responsible.

The survivors then were particularly alert when government plans became known to remove the ruins and to erect a memorial. They feared that a memorial without the silhouette of the factory ruins would erase Bhopal from public memory. They had not been included in the planning process for the memorial. And so, in February 2009, they turned to the UNESCO representative in New Delhi with a request for help in the "protection, decontamination, repair and restoration of the plant structure at the factory site" and the inclusion of the Bhopal ruins in the world heritage list.¹⁴

Support was offered from SpaceMatters, a Delhi group of architects, that had won the competition for a memorial announced by the government of Madhya Pradesh in 2005. Point of departure for their interest in Bhopal was the indignation about the decades-long "cycle of neglect and failure" and the key question was: "how do we as society emerge stronger from it?"¹⁵ The group was explicitly committed to "preserving the factory structures as a powerful and authentic artifact of the Tragedy".¹⁶

The mere fact, however, that the Indian government invited an architectural firm instead of decontamination experts to come up with a plan to detoxify, preserve and manage the factory site made survivor activists unhappy.¹⁷ Many of the survivors saw the government plans as an attempt by the state to exclude survivors from having a say in matters that directly affect them. This approach "does not do justice to either the memory of the dead or the struggle of the survivors." The survivor groups insisted on their "moral right" to remember and demanded full participation in the construction of a living memorial: „a living memorial to the disaster that informs present and future generations about the worst corporate massacre in world history“.¹⁸

In 2011, SpaceMatters organized a seminar with experts in critical monument protection from India, Europe and Japan to explore the various aspects of commemoration. This resulted in a proposal for a memorial standing at the intersection of "healing, remembering and deterrence".¹⁹ The survivors, however, remained skeptical of any attempt to depoliticize the issue and insisted on the assertion of the polluter pays principle. Healing, for them, was first and foremost a question of social justice and human rights,²⁰ and the realization of them had absolute priority. While SpaceMatters wanted to build a museum without waiting until questions of environmental remediation or liability were resolved, the Bhopal groups demanded an immediate decontamination of the site and adequate financial compensation.

14 For the request to include the factory plant in the UNESCO World Heritage List, see Amritha Ballal et al., *Bhopal 2011 - Landscapes of Memory*, New Delhi: SpaceMatters 2011. The Indian government, however, has never submitted the necessary request to UNESCO.

15 Shalini Sharma, *The Politics of Remembering Bhopal*. Published online by Cambridge University Press: 24 February 2023; <https://www.cambridge.org/core/books/abs/displaced-heritage/politics-of-remembering-bhopal/10D330CD8598C1C3D49610E0A7DD8049>. Print publication: 18 December 2014, pp. 107-120, here p. 115.

16 *Bhopal 2011*, p. 101.

17 See Sharma, *The Politics of Remembering Bhopal*, p. 112.

18 International Campaign for Justice in Bhopal (ICJB) 2006, 2009. Quoted in Rama Lakshmi, „The Morality of Memory“, in: *Exhibitionist*, Fall 11, p. 68

19 See <https://www.spacematters.in/bhopal-gas-tragedy>

20 Sharma, *The Politics of Remembering Bhopal*, p. 110.

A collective failure of the international community

However, even 40 years after the Bhopal disaster, the legal claims have not been met. And this, according to Amnesty International, reflects "a collective failure of the international community."²¹

The media, which took up the topic of Bhopal again on certain occasions (such as the 2012 Olympic Games in London, whose sponsors included Dow Chemical), increasingly focused on the continuation of the disaster and the long wait for a legal solution. "Catastrophe without end" (Deutschlandfunk, 03/12/2009), "Why it is not over" (Die Welt, July 2012), "The chemical disaster is still ongoing today" (Swiss Radio and Television, 02/12/2014), "Why Bhopal still concerns us today" (Deutsche Welle, 03/12/2014) - these were the headlines in the German-speaking press.²²

With subsequent fatal gas accidents in India, such as that in Visakhapatnam (Andhra Pradesh) in May 2020 and that in Ludhiana (Punjab) in April 2023, the memory of Bhopal was quickly present again. In 2022, the magazine *Weltsichten* asked: "Have we learned nothing from the horror of Bhopal?" (28/01/22) And in February 2024, Deutsche Welle recalled Bhopal as "India's eternal catastrophe".²³ Bhopal increasingly appears to be a case that has already been given up by many, even though it is still open.

It is all the more urgent not only to keep the memory of 1984 alive and to bring it to the fore again and again in the fight for corporate accountability, but also to make it a topic of reflection itself. Because, if the memory remained without impact and Bhopal were to disappear from the international human rights agenda without a solution being found, this would be a third catastrophe. And this not only with a specific view of the human rights issue of "corporate responsibility", for which Bhopal is symbolic. It would, more in general, also be a setback for the idea that the memory of past injustices can help prevent new injustice.²⁴

The concrete experience of the Bhopal survivors with the appropriation of their traumatic memories by others and their increasing skepticism is revealing, especially where even the Indian government promises "healing and reconciliation". They do not want the state to take ownership of their pain and suffering. Over the last three decades, the state has been actively involved in creating and maintaining their trauma. Having been repeatedly betrayed in the past, the survivors do not wish the same fate for their memories.

The Indian state from the outset pursued a dual strategy of "remembering and disremembering" in dealing with the Bhopal disaster: a form of remembering that served more to facilitate forgetting. "For the last 30 years, the State has resorted to systemic disremembering of Bhopal through the dilution and denial of facts, simply making symbolic rehabilitation using public relations gestures."²⁵ According to the survivors, projects such as opening the site to tourism also are

21 Amnesty International, *Bhopal: 40 Years of Injustice*, 2024

22 Sharma, *The Politics of Remembering Bhopal*, p. 108. Sharma refers to an observation by the Kenyan philosopher K. W. Waliaula, „Remembering and Disremembering in Africa“, in: *Curator: The Museum Journal* 55 (2012), pp. 113–127.

23 <https://www.dw.com/de/bhopal-indiens-ewige-katastrophe/video-68173539>

24 On the ambivalent potential of public memory, see Michael Gottlob, „Menschenrechte und Erinnerung - ein Dilemma“, in: *Amnesty Journal*, December 2023: <https://www.amnesty.de/informieren/amnesty-journal/kollektive-erinnerung-gewalterfahrung-menschenrechte-und-erinnerung-ein-dilemma>

25 Sharma, *The Politics of Remembering Bhopal*, p. 108. Sharma here refers to an observation of Kenyan Philosopher

intended to conceal the ongoing dangers and conflicts.²⁶ The transformation of the factory into a safe memorial zone should not come at the expense or neglect of the factual liberation of the city from the burdensome consequences of the disaster.²⁷

The Indian government's idea of a Bhopal memorial was also linked to corporate interests. It relied on an interpretation that did not block future investments. The Bhopal movement, on the other hand, is trying not to turn the memorial into another commercial enterprise that could potentially create new suffering and injustice in the name of remembrance. The survivors maintain a deep distrust of both the unbridled profit-seeking of investors and the inaction, if not complicity, of the government, which also is to be expected in the future.²⁸

The original catastrophe of globalization

But the question of remembering Bhopal 1984 reaches beyond the city and beyond India, it also one of the confrontation or connection between the local and the global in human rights work. A first attempt at international networking was made soon after the disaster by the Highlander Research and Education Center in Tennessee, when it contacted groups and organizations around the world to collect and exchange information about UCC activities in many countries and local protests. Together with the Society for Participatory Research in Asia (PRIA) and the Center for Science and Environment (CSE) in Delhi, it submitted a report in May 1985 to inform people all over the world about Bhopal and call for action: *No Place to Run: Local Realities and Global Issues*.²⁹

An early initiative to create a memorial in the sense of a “people’s memorial” was also taken in 1985, when a statue of a mother and child by Ruth Waterman (herself a Holocaust survivor) was erected opposite the UCC factory. Graffiti appeared on the Union Carbide factory wall which was increasingly transformed into a memorial wall. One of the slogans is “Bhopal: The Real Face of Globalization”. And indeed, the people of Bhopal soon saw themselves as part of the anti-globalization movement. Just as the frequent reference to Bhopal worldwide became part of the “civil society response necessitated by globalization’s transformation of the material conditions of existence.”³⁰ German journalists Dirk Peitz and Alex Masis called Bhopal “the original catastrophe of globalization”.³¹

In 2012, survivors founded the Remember Bhopal Trust and opened a small museum two years later. The Remember Bhopal Museum (*Yaad-e-Haadsaa, Memories of Disaster*) is not only intended to commemorate the events of 1984, it also seeks to secure the evidence of the destruction and injuries that the survivors in Bhopal are still suffering from today. And it wants to tell the “story of an ongoing people’s movement for justice”, part of which it counts itself. It combines the search

K. W. Waliaula, „Remembering and Disremembering in Africa“, in: *Curator: The Museum Journal* 55 (2012), pp. 113–127.

26 For the idea of *dark tourism* see M. Foley and J. Lennon, *Dark Tourism: The Attraction of Death and Disaster*, London: Continuum, 2000.

27 Sharma, *The Politics of Remembering Bhopal*, pp. 109, 107.

28 Ibid., p. 112.

29 https://www.pria.org/knowledge_resource/No_place_to_run_Local_realities_and_global_issue_of_the_Bhopal_disaster.pdf. An early memory initiative at Harvard University, the Bhopal Memory Project, announced its end in January 2004: <https://bridgethanna.fas.harvard.edu/publications/bhopal-memory-project>

30 Stephen Zavestoski, „The Struggle for Justice in Bhopal. A New/Old Breed of Transnational Social Movement“, in: *Global Social Policy* 2009, pp. 383–407.

31 *Die Welt*, 09/07/2012, <https://www.welt.de/politik/ausland/article108150837/Bhopal-die-Urkatastrophe-der-Globalisierung.html>

for the causes of the disaster with a radical critique of the modern state, because without taking into account the larger historical context, so the basic assumption, the memory would remain without consequences. As long as museums shy away from showing the "industrial killings" (O. Bartov, 1996) as a product of modernity and the modern bureaucratic state - how can one demand that an event like Bhopal should never be repeated?³² Instead of simply portraying Bhopal as the "greatest example of human rights violations in the world" (J.S. Verma, 2009), it should be understood historically: as part of the "production of lawlessness" (U. Baxi, 2006). A situation of lawlessness that began long before 1984 and dates back to the time of industrialisation and colonisation of India.

The museum people also work towards rethinking the social and communicative role of museums and opening them up to a new audience, especially those who may be confronted with similar forms of alienation.³³ With the slogan "No more Bhopals", the survivors gave their struggle a global and human rights perspective. The memory of the disaster should be understood as a constant appeal to set legal limits on the power of multinational companies worldwide. Bhopal became a historical intersection for the impact of public memory: as an exemplary case of the lack of corporate responsibility in the past and as a driver of a movement against toxic hazards and for environmental justice.

The museum, which is financed by private donations and renounces to any funding from the state or companies, had to close at the end of 2022, after their license under the Foreign Contribution Regulation Act (FCRA) had been withdrawn.³⁴ This shows how controversial the memory of Bhopal between survivors and state authorities remains to this day. It also testifies to the self-contradictions of a government policy that, despite the experience of 1984, is courting foreign investors while trying to prevent the work of international networks for human rights protection.³⁵

International groups and organizations should feel all the more urged to remember the Bhopal tragedy. After all, it is also a test case for the resilience and sustainability of memory in the international human rights movement. Otherwise, Dow Chemical and its investors may learn the lesson that protests by global civil society are easy to ignore. They will not last long.

Bhopal organizations (selection):

International Campaign For Justice in Bhopal (ICJB):

https://www.bhopal.net/wp-content/uploads/Resources_Toolbox/Campaign_Resources/PDF-NEW-Fact-Sheet-for-the-media.pdf

Including:

Bhopal Gas Peedit Mahila Stationery Karmchari Sangh

Bhopal Gas Peedit Mahila Purush Sangharsh Morcha

Bhopal Gas Peedit Nirashrit Pension Bhogi Sangharsh Morcha

Bhopal Group for Information and Action

Children Against Dow-Carbide

32 Sharma, *The Politics of Remembering Bhopal*, p. 116.

33 In an effort to broaden its scope of influence, the museum has worked together temporarily with Sites of Conscience, an international coalition, founded in 1999, of „historic sites, museums, and memory initiatives that connect past struggles with human rights“: <https://www.sitesofconscience.org/>

34 On 29th December 2022, the museum's website announced: „The museum will remain closed from 1st Jan 2023, until further notice.“

35 See Michael Gottlob, „Unter Druck. Die indische Zivilgesellschaft zwischen Foreign Direct Investment und Foreign Contribution Regulation“, in: *Südasien* 3-4/2015, pp. 79-82.

Chingari Trust

<https://www.bhopal.org/chingari-rehabilitation-centre/about-the-chingari-rehabilitation-centre/>

The Bhopal Medical Appeal: Basic Facts & Figures, Numbers of Dead and Injured, Bhopal Disaster

<https://www.bhopal.org/continuing-disaster/the-bhopal-gas-disaster/union-carbides-disaster/basic-facts-figures-numbers-of-dead-and-injured-bhopal-disaster/>

Films and Videos (selection):

Bhopal Disaster - BBC - The Yes Men (Dez. 2004): <https://www.youtube.com/watch?v=LiWlvBro9eI> (attention: irony)

National Geographic (2011): 51 - Sekunden vor dem Unglück - Der Chemie-Supergau von Bhopal
<https://www.youtube.com/watch?v=7B4BiFeBKuQ> (German)

Bhopal - A Prayer for Rain (2014): <https://www.youtube.com/watch?v=AvTvBme3rp0> (English, Hindi)

Arte TV: Die Giftwolke von Bhopal - 35 Jahre danach (2019) (German):
<https://www.arte.tv/de/videos/090185-000-A/indien-die-giftwolke-von-bhopal-35-jahre-danach/>

Investor Alliance for Human Rights (Oktober 2024): The Bhopal Disaster 40 Years On: Dow's and Investors' Role in Ensuring Remedy for Victims

<https://www.youtube.com/watch?v=m-WskWXjJAs>

Special investor briefing on Dow's and Investors' Role in Ensuring Remedy for Victims.

Participants:

Liz Umlas, Senior Fellow, Croatan Institute; Lecturer, University of Fribourg (Moderator)

Gabriela Quijano, Independent Business and Human Rights Specialist/Advisor;

Lead author of the Amnesty Bhopal report Amishi Singh, Amnesty International USA, Business and Human Rights Coordination Group;

Rachna Dhingra, India Coordinator, International Campaign for Justice in Bhopal

Tim Edwards, Executive Trustee, Bhopal Medical Appeal

Bennett Freeman, Associate Fellow, Chatham House; Former Senior VP, Sustainability Research and Policy, Calvert Investments

Literature (selection):

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<https://www.greenpeace.org/india/en/story/12546/37-years-after-bhopal-gas-tragedy/>

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<https://www.greenpeace.de/ueber-uns/leitbild/mahnmal-opfer-globalisierung>

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<https://www.cambridge.org/core/books/displaced-heritage/E6F2A1E25B6992F6EAC2FD8B999D6AE2>)

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Michael Gottlob

Berlin, December 2024