Summary

The aim of this study is to review a multinational corporation’s liability from an industrial disaster. This study focuses on the Bhopal case of 1984, the most devastating industrial disaster in history. The study examines nature of the litigation, the kinds of issues raised, the jurisdiction, and civil and criminal liabilities. The total study is conducted in nine sections.

Section one discusses the mass disaster caused by Union Carbide Corporation. How did the tragedy happen? What were the causes and details of the event? In section two, we look at the origin of Union Carbide in India. We discuss the relationship between Union Carbide Corporation of the U.S.A (UCC) and Union Carbide India Limited (UCIL) This section also reviews the industrial policies and the laws enacted by the Indian Parliament and how they impacted foreign companies doing business in India.

Section three examines the Union of India vs. Union Carbide Corporation case, where UCC moved to dismiss the complaints on grounds of the doctrine of forum non conveniens. UCC invokes this doctrine, arguing that the proper forum for the case was in India and not in the U.S.

Section four analyzes the civil and criminal liabilities of UCC and UCIL. It discusses the pending civil and criminal cases against UCC. Section five examines whether or not the Union Carbide Corporation and its officials are subject to the jurisdiction of the Indian Court.

Section six looks at the Bhopal Gas Leak Disaster (Processing of Claims) Act of 1985. The objective of the act was to grant to the Union of India an exclusive right to represent all the victims in India or elsewhere against Union Carbide.

Section seven examines Indian torts law compared with U.S torts law with respect to proving negligence in personal injury and compensation cases. Under Indian law, victims have to prove negligence in order to collect compensation, while in the American Doctrine of strict liability; they would simply have to show that a defective product had injured them. Section eight review Union Carbide’s merger with Dow Chemical and Dow’s responsibility for Carbide’s liabilities In Bhopal case. . This section also gives a comparison of corporate crimes of same Dow in different countries.

In section nine make recommendations and draws conclusion concerning the responsibility of multinational corporations and their accountability for the operations of subsidiaries.
Introduction

Bhopal Disaster popularly referred as the Bhopal Gas Tragedy is perhaps the worst industrial catastrophe the world has ever faced since the inception of industrial revolution of 18th century. (1)This tragedy took place in 2-3 December 1984 due to leakage of highly poisonous Methyl Isocyanate(MIC) in the pesticide plant of Union Carbide India limited located at Bhopal city of Madhya Pradesh. Though officially the death toll was 3,787, other agencies confirmed more than 15,000 causalities in this man made industrial disaster. The death toll was not confined to the date of tragedy only. Near about 3000 more people dies within some weeks of the incident due to several injuries they faced from the leakage and near about 8000 Bhopal residents died within a year due to gas related diseases. According to Government affidavit of 2006, Total number of injuries caused by Bhopal tragedy was 558,125. Out of it, 38,478 had partial injuries and 3900 people faced injuries that disabled them permanently.

Death toll was not the only consequence of this devastating incident. Still today, thousands are children from couples suffered by this tragedy are taking birth with various abnormalities. This incidence gave birth to the term Corporate Crime.

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Bhopal disaster was the major reason behind Johannesburg Earth Summit. In this submit, Greenpeace (2) appealed all governments of the globe including developed and developing ones to endorse some basic principles related to corporate responsibility. In the aftermath of the summit, corporate regulations related to liability, double standards, precautionary principles and the rule of polluter paying for the pollution became more stringent. This submit came up with the Ten Bhopal Principles on Corporate Accountability. All the principles will be discussed in detail in the later sections of this paper.

Liabilities and concerns related to Bhopal tragedy can not to be completely referred as corporate irresponsibility and lack of corporate sector's social accountability (3). Bhopal principles are also equally vocal regarding the failure of state governments in the direction of protecting life and welfare of their citizens and observing basic safety standards adopted by industries population inhabitation areas. Bhopal principle was highly critical regarding Government's indifference towards liability avoidance of parent companies, and lack of concern towards delivering responsibilities like immediate and proper compensation for any disaster and a concrete plan for industrial clean-up in the area where the industries are operating.

(2) Raghu Rai, Corporate Crimes-The need for an international instrument on corporate accountability and liability PP3, June 2002, Greenpeace International
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