



ICJB

International Campaign
for Justice in Bhopal



THE INTERNATIONAL CAMPAIGN FOR JUSTICE IN BHOPAL (ICJB)

PRESS RELEASE

FOR IMMEDIATE USE:

Sunday, May 15, 1:00 p.m.

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Hollywood Star Martin Sheen Backs Petition That Blames American Government for Injustices in Bhopal, India

Calls on the White House to Stop Shielding Dow Chemical From Legal Responsibilities

A White House “We The People” petition accusing American officials of obstructing the course of criminal justice in the 1984 Bhopal Gas Tragedy, considered the world’s worst industrial disaster, is being backed by Hollywood star Martin Sheen.

The petition, which launched on Sunday, May 15th and is available at <https://wh.gov/isOdv>, calls on the U.S. Department of Justice (DoJ) to serve a court notice from India to Dow Chemical, which summons the multinational corporation to criminal proceedings in India. Campaigners assert that the DoJ is breaching a Mutual Legal Assistance Treaty on Criminal Matters between the U.S. and India by ignoring or obstructing the four court notices so far sent by India. The latest court notice from India requests Dow to appear before the Bhopal Court on July 13th, 2016. The Bhopal court requires Dow to “show cause” as to why it should not produce its wholly-owned subsidiary, Union Carbide Corporation, to face manslaughter charges for its role in the 1984 Bhopal gas tragedy, from which 25,000 people are estimated to have died so far.

Hollywood actor and activist Martin Sheen played Union Carbide’s erstwhile CEO, Warren Anderson, in the 2014 feature film “Bhopal: A Prayer For Rain.” Anderson, who was sought for the same charges as Union Carbide, never faced trial and died just weeks before the 30th anniversary of the Bhopal disaster.

In his video of support, **Sheen states that**, “The U.S. government could pressure Dow to do the right thing, but instead the Department of Justice has been shielding Dow and Union Carbide from responsibility for over two and a half decades. And now, a possible merger between Dow Chemical and DuPont is looming. Once again the baton of ownership will pass hands but the liabilities will be ignored – unless we speak up.”

Salil Shetty, the Secretary General of Amnesty International, has also voiced alarm at the current situation, stating, “It is neither justice nor equality when a U.S. company can evade accountability for the deaths of thousands of people in India.”

“It would have been impossible for Union Carbide and Dow to thumb their noses at India’s courts for almost three decades without the resolute support of U.S. officials. The U.S. government is therefore directly responsible for the enormous quantity of avoidable suffering in Bhopal,” asserted **Adrienne Korwin, Campaign Organizer for ICJB-North America, adding**, “The survivors of the disaster continue to lack access to the medical care and assistance they deserve. The U.S. government’s support of Dow and Union Carbide helped make Bhopal into the unending human rights disaster it remains today. This support has

been clandestine, often unlawful, in contravention of due process, bilateral treaties and international law. I call on my fellow Americans to help make our petition a success and stop the U.S. government from burying justice in Bhopal.”

In regards to the issue, **Gary Cohen, founder of Health Care Without Harm** and one of the White House's Public Health and Climate “Champions of Change” for 2013, noted the difference between the DoJ’s response to a similar issue, stating, “Because the gassing of Bhopal remains legally unresolved even after 30 years, Union Carbide’s victims experience prolonged, acute suffering. In 2012, the U.S. Department of Justice made BP pay \$4 billion in criminal fines and penalties for the Deepwater Horizon disaster, in which 11 people died. The U.S. Government should play an equally active role in bringing Dow Chemical [Union Carbide’s owner] to justice in Bhopal.”

Environmental and anti-war activist and author Diane Wilson pointed out how the survivors of Bhopal continue to be abused by the system, stating, “By playing U.S. and Indian legal jurisdictions against each other, Union Carbide got away with a settlement of civil claims that granted just \$500 per victim. Carbide has never faced the criminal charges, and its ex-CEO Warren Anderson died, having never faced trial. People have been left desperately ill, penniless, without adequate social support, effective medical treatment, or psychological closure, **locked in an endless cycle of re-victimization.**”

In summation, prominent **academic and MIT Professor Emeritus Noam Chomsky** noted in the film “Bhopali,” “So there are international rules of appropriate behavior for multinational corporations. Of course, international law has no enforcement power - laws have to be enforced by somebody. Who’s going to enforce them? If the United States doesn't enforce [the laws], [then] there’s no law.”

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Notes For Editors:

On 2nd/ 3rd December 1984, an estimated 27 tons of lethal gases leaked from a pesticides factory majority-owned by US multinational Union Carbide, immediately killing 8,000 people in Bhopal and poisoning over 500,000 others. Today, an estimated 150,000 people, including children born to parents who survived the disaster, are suffering from exposure-related health effects such as cancer, neurological damage, congenital abnormalities and mental illness. The Bhopal Disaster is widely considered the world’s worst industrial disaster.

Indian prosecutors began a criminal investigation within 24 hours of the fatal gas leak. Charges of “criminally negligent manslaughter” (known as “culpable homicide” under Indian law) were consequently brought against 12 Indian and American accused. The resulting trial began in December 1987, but had to proceed in the absence of the accused Americans, Union Carbide Corporation and its former CEO Warren Anderson, who refused to show up in court. The US government declined three Indian extradition requests for Warren Anderson, who died in 2014 while a fourth was pending, aged 94.

Union Carbide remains a proclaimed absconder, or “fugitive from justice.” Since 2013, an Indian trial court has issued four notices summoning Dow Chemical to explain its subsidiary’s absence, none of which have been served on Dow by the US DoJ, despite the US being signatory to a Mutual Legal Assistance Treaty on Criminal Matters with India.

Sources:

1. A series of US diplomatic cables issued between 1973-76 reveal the extent of US government involvement in development of the Bhopal plant. A Union Carbide license application seeking Indian permission to manufacture 5000 tons of the lethal chemical MIC annually in Bhopal had been in limbo for over four years until US diplomats intervened during India's emergency: "We are trying to take advantage of the opening provided by Kaul's interest in solving economic problems by asking for finance action to resolve a large variety of problems... pending investment proposals such as Union Carbide and National Starch as well as an easing of the more onerous FERA guidelines. (As this cable was being prepared Union Carbide telephoned to say that its proposal had been suddenly approved after 6 months of waiting.) We hope to get more results." See https://www.wikileaks.org/plusd/cables/1975NEWDE12918_b.html

For more information, see "A Short History of the Bhopal Criminal Prosecutions," Tim Edwards, pages 60-2, *Social Justice*, Vol. 41, Nos. 1-2. www.socialjusticejournal.org/archive/136_41_1-2/135-6_04_Edwards.pdf

2. Reports suggest that US President Ronald Reagan requested Warren Anderson's release from Indian custody in 1984. "Crisis manager confirms: Arjun ordered release, at Rajiv behest," Pranab Dhal Samanta, The Indian Express, Jun 11 2010. <http://archive.indianexpress.com/news/crisis-manager-confirms-arjun-ordered-release-at-rajiv-behest/632365/>

3. A series of emails obtained through FOIA requests and sent between William Krohley of Union Carbide law firm Kellye, Drye and Warren and Linda Jacobsen, Assistant Legal Adviser of Law Enforcement and Intelligence at the American Department of State, from June 17th 2004 until August 18th, 2004, reveal that Union Carbide and Dow Chemical officials were being kept informed of developments concerning Anderson's extradition request prior to official communication with India regarding the American government's extradition refusal.

4. FOIA requests and document leaks provide insight into the extent to which American government officials have lobbied against Indian legal pursuit of Union Carbide and Dow Chemical:

"I understand there had been extensive discussions with India in the past about (how) pursuing a criminal homicide case against UCC executives would not be helpful... A virtual who's who of high-powered law firms have represented Union Carbide and Anderson, the USA Chamber of Commerce, and who knows who else with respect to the Bhopal case and potential civil and criminal action in India action (sic) UCC and its executives and have in the past met with various officials at State (and perhaps Justice)..." - **May 1st, 2003 email from Molly Warlow of the U.S. Department of Justice, entitled "Mike or Bruce may start getting calls on Indian extradition request in Bhopal case."**

"Despite significant USG and company efforts... involving a number of high level interventions by the Ambassador and visiting Cabinet officials, these cases have lingered without positive GOI action.... Embassy New Delhi will continue to forcefully press for a resolution of these two cases, both on their own merits, and as a GOI signal that US-India economic relations are key to the bilateral agenda." - **July 27th 2007 cable from the American embassy, New Delhi, to the U.S. State Department, discussing Bhopal legal cases pending against Dow Chemical.**

"While I've got you, we are hearing a lot of noise about the Dow Chemical issue. I trust that you are monitoring it carefully. I am not familiar with all the details, but I think we want to avoid developments which put a chilling effect on our investment relationship." - **July 30th, 2010 email, U.S. Deputy National**
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Security Advisor Michael Froman, to India's Planning Commission Deputy Chairman Montek Singh Ahluwalia.

5. Only the third court notice sent by India's Ministry of External Affairs to the U.S. Department of Justice for serving upon Dow Chemical has received a formal response. **A September 25th, 2015 letter from Dan E. Stigall, Trial Attorney, U.S. DoJ, to S.K. Ahuja, Under Secretary to the Government of India,** queries the grounds upon which India has forwarded a "Notice to Appear" to Dow Chemical, and cites "separate corporate personality" arguments to query the validity of the request. However, the Mutual Legal Assistance Treaty signed by both countries insists upon timely action by both states and only allows rejection of requests which concern an offense under military law that is not an offense under ordinary criminal law; if the execution of the request would prejudice the security or similar essential interests of the Requested State; if the request relates to a political offense; or if the request is not made in conformity with the Treaty. See: <http://cbi.nic.in/interpol/mlat/UnitedStatesofAmerica.pdf>

6. "India and the United States sign treaty on Mutual Legal Assistance in criminal matters," October 17, 2001. https://www.indianembassy.org/archives_details.php?nid=381