

46 Questions related to Curative Petition Filed before the Supreme Court of India by the Government of Madhya Pradesh for Compensation from Union Carbide and Dow Chemical

Submitted on December 26, 2011 at the meeting with the Commissioner, Bhopal Division and Commissioner, Gas Relief at the Office of the Commissioner, Old Secretariat, Bhopal.

Please answer the following questions with a Yes or No.

A. Recording of Deaths Caused by the Disaster

1. The number of persons killed immediately following the gas disaster has been variously reported as 2500 (ICMR), 3000 (GoMP), 7000-1000 (Amnesty International, 2004) and there has been no attempt by the state government to verify the actual number of persons who were killed in the immediate aftermath of the disaster.
2. After 1984 a Scrutiny Committee was set up to investigate each death claimed to be related to the gas disaster. This scrutiny committee was wound up by 1992.
3. There was no basis for winding up the Scrutiny Committee because deaths caused by the disaster continued after 1992.
4. Registration of death claims was stopped in 1997.
5. There was no basis for stopping registration of death claims because deaths caused by the disaster continued after 1997.
6. Since 1997 there is no system of recording exposure related deaths.
7. The state government's Centre for Rehabilitation Studies continued to report exposure related deaths after 1997.
8. In 2001 the Smarika published by the Department of Bhopal Gas Tragedy Relief & Rehabilitation stated that the death rates in the gas affected area was .76 per thousand more than in the non-affected population, thus providing an estimated 370 excess deaths attributable to the gas disaster in 2001.
9. The Bhopal Act does not set a limit with respect to the period for which deaths related to the gas disaster will be compensated.

B. Discrepancy in Figures of Deaths Caused by the Union Carbide Disaster

1. In the Criminal Curative Petition (No.39-42/2010) filed before the Supreme Court of India the GoMP has stated that "In the unfortunate incident happened on the intervening nights of 2/3.12.1984, as per the survey of Madhya Pradesh Gas Relief and Rehabilitation Department 15248 of people have died and thousands of

people are temporarily or permanently disabled as a result of gas leak by October, 2003.”

2. In the Civil Curative Petition (No. 345-347/2010) filed before the Supreme Court of India for additional compensation from Union Carbide and Dow Chemical the GoMP has stated that “The present data and figures with regard o the casualties suffered by the victims of the Bhopal Gas Tragedy is as follows: Deaths: 5295”.
3. If the answers to questions B.1 and B.2 are yes, then the GoMP could be answerable to charges of perjury.
4. The figure of deaths caused by the disaster in B.1 and B.2 is only till 1997.
5. In the Action Plan submitted to the GoI in 2008 the GoMP has stated that “After gas disaster almost 16,000 deaths have occurred.”
6. The figure of 16000 deaths caused by the disaster in B.5 is only till 1997.
7. The decadal epidemiological research study has reported that the death rates in the gas affected area was 2.3 per thousand more than in the non-affected population, thus providing an estimated 9667 excess deaths attributable to the gas disaster till 1993.
8. In the “Action Plan” to the GoI in 2008 the GoMP has stated that “Out of all deaths it was estimated that about 5000 widows are there who needs financial support for their livelihood”
9. If the gas disaster killed 5000 married men as stated in B.8 it is not possible that only 295 women of all ages, males under marriageable age, unmarried or widowers were killed by the disaster.

C. Discrepancy in Figures of Injury Caused by the Union Carbide Disaster

1. The Smarika published by the Department of Bhopal Gas Tragedy Relief & Rehabilitation in 2003 stated that the rate of pulmonary, gastro intestinal eye and general morbidity in the gas affected area was 5 times, 3times, 3 times and 4 times more than in the non-affected population.
2. The figures in C.1 and C.2 sharply contradict the figure of “527894” of minor injury as presented by the GoMP in the Civil Curative Petition (No.345-347/2010) before the Supreme Court of India.
3. The figure of “chronically ill” persons visiting the hospitals run by the Bhopal Gas Tragedy Relief & Rehabilitation in the year 2002 has been reported as 502686.

4. The figure in C.3 sharply contradicts the figure of “527894” minor injury as presented by the GoMP in the Civil Curative Petition (No. 345-347/2010) before the Supreme Court of India.
5. In the “Proposal for Rs 500 crore Corpus for Addressing Critical Gaps in Medical Rehabilitation of Bhopal Gas Victims” to the GoI in 2010 the GoMP has stated that “i. The number of people suffering from respiratory related diseases is more than 1,00,000. These patients require continuous monitoring treatment due to their reduced physical capacity because of permanent pulmonary problems.
 - ii. Continuous research has shown neurological deficiencies and Psychiatric disorders of almost 20 to 25% of the gas victims which exists as a concomitant co-morbidity amongst the gas affected population.
 - iii. Gastroenteritis, renal failure and cardiac diseases are rampant amongst the gas affected population.
 - iv. The studies done by the Centre for Rehabilitation Studies, Bhopal in its August 2006 report has indicated that the incidence of Lung, Eye, GIT and general morbidities is 4 to 5 times more among the gas affected population than that of the people living in a control area in the city of Bhopal”.
6. The figure in C.6 sharply contradicts the figure of “527894” temporarily injured as presented by the GoMP in the Civil Curative Petition (No. 345-347/2010) before the Supreme Court of India.

D. Exposure Induced Injuries to the Next Generation

1. The Research studies published in prestigious international medical journals such as Journal of Cell Biology and Toxicology, Indian Journal of Experimental Biology (PK Mishra, Saxena AK, Singh and others) have reported that exposure to Methyl Isocyanate can cause genetic defects.
2. Offspring of parents with genetic defects are likely to be born with congenital disorders.
3. Research studies published in prestigious international medical journals such as Journal of American Medical Association, American Journal of Industrial Medicine and International Journal of Cell & Molecular Biology have reported that parental exposure to Methyl Isocyanate has caused health impact on their children.
4. Effects of exposure induced genetic defects can continue for several generations.
5. Between 1992 and 1997, 14 children of gas affected parents received assistance from BGTR&R for heart surgery and 13 children received assistance in diagnosis for congenital brain anomalies under the programme - Special Assistance to At Risk Children (SPARC).

- 6 By conceiving and implementing SPARC, the GoMP acknowledged health damage to children born to gas exposed parents after the disaster.
- 7 Financial constraint was the sole justification for discontinuing SPARC in 1997 and it has never been resumed.
8. The GoMP has currently no system in place for monitoring the impact of the disaster on the subsequent generations of gas victims.
9. In the October 3, 1991 judgment of the Supreme Court of India directed provision of medical insurance coverage of “at least 100, 000 children born to gas exposed parents exact quote from judgment).
10. The GoMP has taken no steps in the direction of fulfilling the Supreme Court’s direction in D.9.

E. Inclusion of 20 wards of New Bhopal in Gas Affected Area.

1. In its “Health Effects of Toxic Gas Leak from the Union Carbide Methyl Isocyanate Plant in Bhopal: Technical Report on Population Based Long Term Epidemiological Studies: 1988-1994” of the Indian Council of Medical Research (ICMR) it has been stated that “20 wards is the unaffected population”
2. In 2005 the Ministry of Chemicals, GoI wrote to the BGTR&R seeking data on exposure induced deaths and injuries in the 20 wards of New Bhopal which were sought to be included in the gas affected area.
3. The GoM on Bhopal decided on 17 April 2008 that the 20 wards of New Bhopal to be included as gas affected will not be addressed because GoMP had not furnished detailed information on morbidity and mortality data for declaring 20 wards as gas affected. GoM decided not to reopen this matter.
4. In response to the inquiry from the the Ministry of Chemicals, GoI till today the GoMP has not provided any information on the exposure related mortality and morbidity in the 20 wards of New Bhopal.
5. The GoMP has not filed any document in any court claiming adverse health impact on the residents of the 20 wards of New Bhopal.

F. Communication on Figures of Death and Injury between GoMP and NGOs.

1. On 25th July 2011, 17th October 2011, 19th November 2011 five organizations of survivors of the disaster wrote to the Chief Minister, GoMP.

2. On 28th October 2011, 19th November 2011 five organizations of survivors of the disaster wrote to the Chief Secretary, GoMP.
3. On 28th October 2011 five organizations of survivors of the disaster wrote to the Principal Secretary, BGTR&R, GoMP.
4. The GoMP did not send any response to the letters mentioned in F.1 to F.
5. On December 2, 2011, on behalf of the five survivors' organizations Mr. Balkrishna Namdeo offered to withdraw "Rail Roko" agitation if a meeting with the Chief Minister to discuss figures of deaths and injuries caused by the disaster could be arranged.
6. On December 3, 2011 the Chief Minister at a meeting with representatives of the five survivors organizations agreed to correct the figures of deaths and injuries caused by the Union Carbide disaster in the Civil Curative Petition pending before the Supreme Court of India.
7. No concrete steps have yet been taken by the GoMP to correct the figures of deaths and injuries caused by the Union Carbide disaster in the Civil Curative Petition pending before the Supreme Court of India.

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