

**Mr. K. Jose Cyriac**  
Secretary to the Government of India,  
Department of Chemicals and Petrochemicals  
Ministry of Chemicals and Fertilizers  
Shastri Bhavan  
New Delhi

November 3, 2011

**Sub : Discussion on compensation to be sought from Dow Chemical Company and Union Carbide for deaths and injuries caused by the December 1984 Union Carbide disaster in Bhopal in the context of the Curative Petition pending before the Supreme Court of India and the joint call for “Rail Roko” by five Bhopal survivors’ organizations.**

Dear Sir,

On behalf of the survivors of the December 1984 Union Carbide disaster in Bhopal we are writing to you to demand that:

1. The Government of India seek adequate compensation from the American multinationals Union Carbide and its owner The Dow Chemical Company in the curative petition that is currently pending before the Supreme Court of India,
2. In order to seek adequate compensation from the American corporations the Government of India must revise the figures of deaths and extent of injuries caused by the disaster and present figures based on scientific research and official documents including documents of the Madhya Pradesh government.

At the outset we would like to assure you that these demands have the support of the entire community of victims of the December 1984 gas disaster. A most recent demonstration of this support was the peaceful and voluntary response from all sections of the affected population to our joint call for “Bhopal Bandh” on October 11, 2011. ([Enclosure 1, News clip from Hindustan Times, Bhopal](#)).

Based on this mass support and because we have not had any meaningful response to our several letters ([Enclosure 2a colly, Letters to the Prime Minister, Enclosure 2b colly Group of Ministers on Bhopal et al](#)) on this particular issue and more importantly because the curative petition is soon be heard by the Supreme Court, we have given a joint call for peaceful indefinite “Rail Roko” on the 27th anniversary of the disaster on December 3, 2011, if our demands are not met with.

Below we are presenting the facts and arguments which call for serious revision of the data on disaster related deaths and injuries that has been presented before the Supreme Court of India.

1. **The figure of 5295 Union Carbide disaster related deaths presented in the Curative Petition filed by the Government of India is incorrect and is not supported by official documents.**

1.1 Documents of the Government of Madhya Pradesh place the number of disaster related deaths at 15248 or more.

The document submitted to the Ministry of Chemicals and Fertilizers and the National Planning Commission by the Madhya Pradesh Government titled “Memorandum on Plan of Actions for the relief and rehabilitation of Bhopal Gas victims” ([Enclosure 3.](#)) in 2008 mentions the following:

*“After gas disaster almost 16,000 deaths have occurred. Out of all deaths it was estimated that about 5000 widows are there who needs financial support for their livelihood.”*

More recently in the criminal Curative Petition presented before the Supreme Court of India the Madhya Pradesh government ([Enclosure 4](#)) has said :

*“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.”*

We would like to emphasize that the Ministry of Chemicals and Fertilizers has already granted the sums sought by the Government of Madhya Pradesh in the Action Plan mentioned above. Sums provided for such social rehabilitation measures as pension for women widowed by the disaster are based on the number of disaster related deaths. The Ministry of Chemicals must explain to the public how it could accept a figure of 15, 248 deaths (caused by the disaster) in providing financial grants but would not present that figure before the Supreme Court of India.

1.2 The GoMP figure of 15248 deaths is only till 1997 and the projected estimate of current death toll is closer to 23000.

It needs to be pointed out that the figure of Union Carbide disaster related deaths (15248) presented by the Madhya Pradesh government, mentioned above, represents the official record of the death toll till the year 1997. In 1997 the Office of the Welfare Commissioner, Bhopal Gas Victims in Bhopal stopped registration of claims for compensation for disaster related deaths without providing any justification.

Factually, deaths attributable to toxic exposure in December 1984 continued to occur well past 1997. As reported by the Government of Madhya Pradesh run Centre for

Rehabilitation Studies in the year 2000, ([Enclosure – 5](#)) 370 persons died (one victim per day) as a consequence of exposure to Union Carbide's toxic gases in 1984.

A conservative estimate of the current death toll on the basis of GoMP's figure of deaths till 1997 can be arrived at by assuming that the death toll in the next 13 years was half of that in the first 13 years (1984 to 1997). Thus we arrive at a figure of [22872](#).

2. **The figure of 5295 Union Carbide disaster related deaths presented in the Curative Petition filed by the Government of India is a fraction of the death figure obtained through projection of findings of the decadal research of the Indian Council of Medical Research (ICMR).**

One of the 24 research projects initiated by the ICMR to study the health impact of the Union Carbide disaster was a decadal (1984 to 1994) epidemiological study involving over 80 thousand exposed and over 21 thousand unexposed populations.

The findings of this research were published in 2004 and it is seen that in the 9 years following the disaster (1985 to 1993) 9667 persons died as a consequence of the disaster ([Enclosure 6, Plot of Number of deaths caused due to gas disaster from 1985-93](#)). To this must be added ICMR's estimate of 2500 deaths in the month of December 1984 and the ICMR's findings regarding spontaneous abortions attributable to exposure in the first five years which is 3500.

Due to reasons that remain unknown, ICMR discontinued the epidemiological research in 1994. However, it can be conservatively assumed that the death rate fell by half in the next nine years (1994 to 2002) and to one fourth in the following nine years (2003 to 2011). This presents us with an estimated current death toll of 22917 which is more than 4 times of the figure presented by the Government of India in the Curative Petition pending before the Supreme Court of India.

3. **The figures related to the extent of injury suffered by the victims of the Union Carbide disaster as presented by the Government of India are unreliable and in need of serious revision in the light of official documents and results of scientific research by government agencies.**

3.1 At different periods the Government of India has presented wildly varying estimates of the number of victims and the extent of injury suffered by them before the Supreme Court of India.

The enclosed Graph ([Enclosure 7, Govt figures of injury compensation presented before Supreme Court in different years](#)) shows that as per the Indian Government the number of victims has gone up five times from 1989 to 2010. The number of victims with permanent injury caused by MIC exposure (which arguably is the most common impact of MIC exposure) has gone down 61 times from 30, 000 in 1989 to 4902 in 2010 and the number of victims with injury of utmost severity has gone down 48 times from 2000 in 1989 to a mere 42 in 2010. The downplaying of the number victims with severe injury is

contrary to all information available on the health impact of MIC exposure and as per available data from credible sources such as the ICMR. As is clear in the plot, the percentage of victims with minor injury is highest in the current Curative Petition.

- 3.2 The figures of the number of survivors with permanent injuries as presented by the Government of India in the Curative Petition are at sharp variance with the figures of survivors with exposure induced illnesses as mentioned in documents by the Government of Madhya Pradesh.

According to the Government of Madhya Pradesh's 2008 Action Plan, which we may need to remind you, your office has approved, the number of survivors with exposure induced chronic respiratory disorders alone is 100, 000. As per the same document "25 to 30 % of the survivors have neurological and mental illnesses as a consequence of the disaster. Further the same document mentions that 23 years after the disaster incidence of Lung, Eye, GIT and general morbidities was 4 to 5 times higher than a matched unexposed population.[\(Enclosure 8\)](#)

- 3.3 The information on the number of victims with permanent injury due to Union Carbide's gases as presented by the Government of India is sharply contradicted by the figures of victims with chronic illnesses receiving treatment at government hospitals.

The enclosed plot ([Enclosure 9, No of Chronic Patients visiting Gas Relief hospitals from 1985-2010](#)) based on data presented in the Annual Reports published by the Department of Bhopal Gas Tragedy relief & rehabilitation, Government of Madhya Pradesh shows that in the first ten years of the disaster the number of chronic patients in hospitals meant for the treatment of gas victims has remained steady in the range of 80 to 90 % of the affected population. The fact that the percentage of population with chronic illnesses continues to be so high is a glaring testimony to the residual injury caused due to the inhalation of Methyl isocyanate. One needs to keep in mind that a sizable section of the gas victims in better economic condition than the rest would prefer private medical clinics over government run hospitals. These facts throw severe doubt on the Government of India's assertion in the Curative Petition that 93 % of the victimized population has suffered only temporary injury.

- 3.4. The information on the extent of injury caused to the victims due to Union Carbide's gases as presented by the Government of India is based on a faulty system of injury assessment that was implemented only partially and that too in a grossly insufficient manner.

The information regarding extent of injury suffered by the victims as presented in the Curative Petition has been obtained through a process of Personal Injury Assessment or Medical Categorization administered by the Directorate of Claims under the Government of Madhya Pradesh. The scheme and guidelines for assessment of injury were based on the scheme and guidelines used in the assessment of injury and disability caused to

workers due to occupational hazards. 70 % of the victims being women (with majority without gainful employment) and children the very basis of the scheme of Medical Categorization was wrong.

As per the guidelines doctors, contracted on per case basis, were asked to administer several tests and go through the medical records of individual victims to assign categories of injury and disability. As a consequence of this mode of assessment, the three most vital tests needed for assessment of exposure induced injury – Pulmonary Function Test, Exercise Tolerance Test and Urinary Thiocyanate Test were carried out on less than 10 % of the claimants.

Most significantly, majority of the claimants have not been medically categorized. According to the figures available from the Office of the Welfare Commissioner, Bhopal Gas Victims, of the 10, 29, 517 claimants only 3, 57, 485 or less than 35 % have actually been medically categorized.

Given the above verifiable facts, it is imperative that the Government of India desists from using Medical Categorization as the basis for determining extent of injury suffered by the Bhopal victims.

#### **4. The Bhopal victims have received too little compensation so far and the Government of India has not kept its promise of acting in the best interests of the victims as enshrined in the Bhopal Act, 1985.**

4.1. The amount of compensation per victim sought from Union Carbide under the Bhopal Act, 1985 by the Government of India has gone down drastically from the initial amount.

As the enclosed plot ([Enclosure – 10, Compensation per victim in \\$s in different years adjusted for inflation as per 2010](#)) shows, following the enactment of the Bhopal Act in March 1985, the Government of India sought a sum of 3.3 billion dollars for a little over 100, 000 victims. Subsequently, without consulting a single victim the government settled with Union Carbide for one seventh the sum at 470 million dollars.

Available records of the Supreme Court of India show that while initially the Government of India sought about 58 thousand dollars per victim as compensation in subsequent years the amount went down first to 8 thousand and now a little more than 2 thousand dollars per victim.

4.2. The amount of compensation given to majority of the victims is only Rupees 25 thousand which is 22 % less than the minimum payable compensation by the Indian Railways.

As per official records from the Office of the Welfare Commissioner, Bhopal Gas Victims that have been seen and unfortunately approved by the Group of Ministers on

Bhopal, close to 93 % of the Bhopal victims have only received a sum of Rs. 25 thousand as compensation.

As shown in the house to house survey carried out in the community of Jaiprakash Nagar located right in front of the Union Carbide plant, 91 % of the residents have received only Rs. 25, 000 as compensation and only 0.3 % have received amounts greater than Rs. 50, 000 for injuries caused by the disaster. ([Enclosure 11 , Amount of injury compensation received by residents of JP Nagar \(severally affected community\)](#))

As per records of the ICMR the community of Jaiprakash Nagar was most severely affected and the highest death rates were reported from this community. Today, almost 27 years after the disaster every family in Jaiprakash Nagar has at least one member, often more than one, suffering from toxic exposure induced chronic illnesses.

Above we have described the injustice that has been heaped on the victims of the Union Carbide disaster in Bhopal. By continuing to present incorrect and baseless information regarding death and injury caused by the December 1984 disaster, in the Curative Petition the Government of India is heaping more injustice on the victims.

We would like to emphasize that our demand for upwardly revision of the figures of death and extent of injury is based on data generated by government agencies and facts presented in government documents.

We urge the Government of India to take immediate steps to rectify the figures related to the damage caused by Union Carbide as presented in the Curative Petition and ensure that the perpetrators of the world's worst corporate crime are made to compensate their victims adequately.

We look forward to your early response.

Thanking you.

Yours sincerely,

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