

India

Bhopal Case: Court Orders Extradition Proceedings

Background

On 2 December 1984, an explosion at Union Carbide's pesticide plant in Bhopal caused 40 tons of lethal methyl isocyanate gas to be released into the city of Bhopal. More than 3,500 people died on that night and officials say that since then the death toll has risen to 14,000, as several people made ill by the gas died later from its effects.

Plaintiffs have claimed that six safety measures designed to prevent a gas leak had either malfunctioned, were turned off, or were otherwise inadequate. They say that the safety siren, intended to alert the community should an incident occur at the plant, was turned off on that night.

Union Carbide took moral responsibility for the gas leak and paid \$470 million to the Indian government as part of an out-of-court settlement in 1989. Midland, a Dow Chemical Company, bought Union Carbide in February 2001. The case has been dragging on for more than 18 years.

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On 28 August 2002, an Indian court ordered the Central Bureau of Investigations (CBI) to begin extradition proceedings against Warren Anderson, the former chairman of the US-based Union Carbide Corporation for the 1984 disaster. The Chief Judicial Magistrate of the Bhopal city criminal court declined a federal police appeal to lessen charges against him.

The Magistrate stated that there was no sense in reducing the charges "since Warren Anderson, who has been declared an absconder and against whom a permanent arrest warrant has been issued, has not appeared in any court" [since the trial began in 1992].

From May 2002 on, Indian prosecutors have been demanding that charges against the former chairman should be reduced from "culpable homicide" (i.e. killing without intent (manslaughter)) to "hurt by negligence." If convicted of the former, Warren Anderson faces up to 20 years in jail. Under the latter, reduced charges, the maximum jail sentence is two years. The case is scheduled to be heard on 17 October 2002 (the decision will be reported on in a future issue of the journal).

The CBI prosecutors asked the court to reduce the charges as the court had reduced the charges against nine Indian executives of Union Carbide. However, the court turned down that plea on the grounds that Anderson, who has been living on Long Island, had jumped bail.

The CBI is India's top investigative agency, similar to the Federal Bureau of Investigation (FBI) in the USA, although it is not a branch of

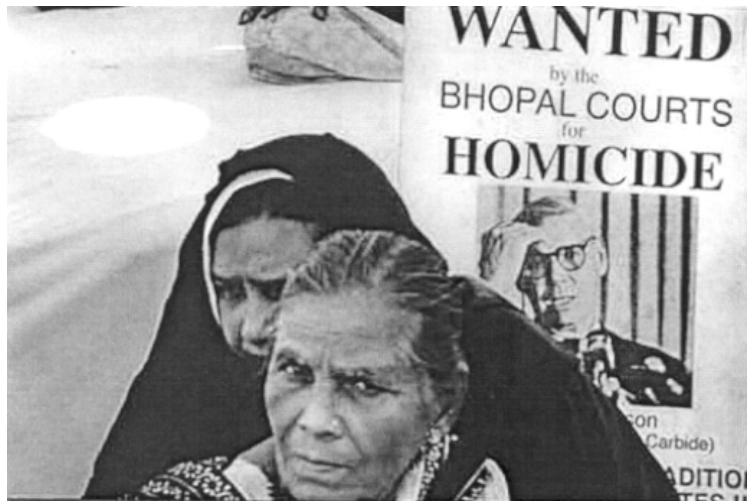
the Justice Ministry. Officials of the Bureau are studying the court order and have said they will proceed accordingly, but have set no specific time frame for approaching the USA with a view to Anderson's extradition.

India and the USA signed an extradition treaty in 1997, but the agreement did not take effect until 1999. The normal procedure for seeking such an extradition would require the CBI to write to India's External Affairs Ministry, which in turn would take up the matter with the country in which the person sought resides. The court order can be appealed against up to the Indian Supreme Court.

There has been strong criticism of the time it has taken for the case to reach this stage. The CBI and the Indian government have been accused of being too lenient in this case and trying too hard to accommodate large multinational corporations. Indian officials have said that they were unable to trace the former chairman.

However, volunteers from Greenpeace, the environmental action group, were able to track him down in his home in Bridgehampton. Indeed, one of them was able to hand him an arrest warrant at his home. The conclusion was clearly that if a team of journalists and Greenpeace volunteers were able to track him down in a matter of days, the US authorities could not have been trying very seriously to find him all these years.

Now that the address of the former chairman is known, the question is whether India will immediately and formally push for his arrest and extradition on charges of culpable homicide. (MJ)



Women power in Bhopal

Women in the sub-continent generally stay behind closed doors. But in Bhopal they all take to the streets and brave the odds. The world may want to forget the tragedy. It may proclaim that all's well with Bhopal now. But these voices of protest and peace will not rest till the end of toxic terror. These draw sustenance from women power. The traditionally suffering weak women, who have nourished a moral strength in times of adversity

Courtesy: Greenpeace