

27 years of Human Rights violations against Bhopal Gas Victims

Since 1979, both the government of Madhya Pradesh and Indian government have been legally bound to guarantee the rights that are enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural rights (ICESCR). These covenants aspire to the standard set by the Universal Declaration of Human Rights.

There is substantial documentary evidence to demonstrate that for the last 27 years the victims of the Union Carbide disaster in Bhopal have been denied their human rights as enshrined in the covenants mentioned above.

Violations to the relevant sections are cited below.

1. Right to Life

- Article 6, ICCPR: Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”
- Article 21 of the Indian Constitution guarantees to everyone the right to life. The Supreme Court of India has read this as protecting the right to health and a safe environment: “environmental, ecological, air, water, pollution etc should be regarded as amounting to a violation of Article 21.”

**** Bhopal Gas Victims have had their right to life violated when they were exposed to toxic gas in December 1984. Through denial of appropriate health care, adequate economic rehabilitation and social support, poison free drinking water and living environment both the governments at the state and centre have violated the right to life of the victims of Bhopal.

2. Right to Health

- Article 12 ICESCR:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

- The Committee on Economic, Social and Cultural Rights, in its General Comment 14 of 2000, clarified that the right to health is an inclusive right, which applies not only to health care, but “also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.” (Amnesty International’s Report 2004)

**** Bhopal Gas Victims right to health has been violated in numerous ways. Aside from the original exposure, their disease has never been subject to “prevention, treatment, and control” as there is still no protocol for treatment of gas exposure, and victims are still being re-exposed to pollutants via contaminated water and land near the Union Carbide factory premises.

3. Right to Clean Environment

- The Committee on Economic, Social and Cultural Rights also issued a General Comment on the right to water which specifically states that environmental hygiene, in the context of the right to health, “encompasses taking steps... to prevent threats to health from unsafe and toxic water conditions.” State parties are obliged to ensure that natural water sources are “protected from contamination by harmful substances and pathogenic microbes,” and are required to “monitor and combat situations where aquatic ecosystems serve as a habitat for vectors of diseases wherever they pose a risk to human living environments.”
- “The protection of the environment is... a vital part of contemporary human rights doctrine, for it is a sine qua non for numerous human rights such as the right to health and the right to life itself. It is scarcely necessary to elaborate on this, as damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments.” - Judge Weeramantry sitting in the International Court of Justice in The Hague

As Judge Weeramantry points out, the protection of the environment is instrumental to the realization of human rights. States are obliged to ensure, at the very least, that environmental degradation does not seriously impair the right to life, the right to the highest attainable standard of health and an adequate standard of living, in particular the right to adequate food and clean water. (Amnesty International’s Report 2004)

**** Nearly 40,000 people live in an area where the groundwater has been contaminated with dangerous chemicals leaking from the Union Carbide factory, which has still not been remediated. Money meant for environmental remediation has been spent by the city on cosmetic projects, and the area around the factory continues to be highly dangerous.

4. Right to Livelihood

- Article 11 of the ICESCR states: The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

**** Many Bhopal Gas Victims lost the capacity to work when their health was damaged after the disaster. Economic rehabilitation was promised, as were jobs or adequate pensions. However, less than 100 victims have been provided any kind of gainful employment. Thousands of gas victims are unable to find work to support themselves and their families.

5. Right to Legal Remedy for Harm, and Compensation

- ICCPR Article 2 states:
- Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

**** All citizens have the right to legal remedy for harm and for compensation. The Bhopal victims

were deprived of their right to judicial authority by the Bhopal Gas Claims and Processing Act, which did not allow them representation in the case of the civil trial against Union Carbide, which resulted in inadequate compensation. They were also deprived their right to “competent authorities” to “enforce such remedies” when 93% were categorized as suffering from only “minor injuries” and given minimum compensation, despite the medical evidence showing much higher levels of permanent injury.

6. Right to Peaceful Assembly and freedom from arbitrary violence

– ICCPR Article 7 states: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

– ICCPR Article 9 states:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

– ICCPR Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

**** On December 3 2011, peaceful protesters staging a “Rail Roko” demonstration to protest the inaccurate and unjust medical categorization that resulted in 93% of victims getting minimum compensation, were subject to a violent lathi charge by police. Following this, residents in the nearby community were subject to arbitrary brutality by police, and charged with crimes without evidence.