

An Analysis of Bhopal Gas Tragedy with Respect to 'VICTIMOLOGY' and Criminal Negligence

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This is a matter of fact that the Bhopal Gas Tragedy is the biggest disaster India can ever witness. Since 1986 it has been a hot topic for discussion and the victims have still not been delivered justice. The purpose of this article is to make the reader understand the new concepts of VICTIMOLOGY and CRIMINAL NEGLIGENCE with respect to Bhopal Gas Tragedy. The author has made sure that VICTIMOLOGY is understood in the simplest of simple forms. First there is a brief introduction to victims, then the introduction to VICTIMOLOGY and then the co-relation of the "new age" concept with the Bhopal Gas Tragedy is linked. The need of the hour is to excogitate over the matter of Victim Justice in our Country. The BPL disaster is one of the examples where the owner of the Company and the Government both joined hands to compensate in return of the draconian loss which had occurred, therefore the aim of this article is to make people of India aware as to how soundly the government is sleeping over the matters of VICTIM JUSTICE.

Introduction to VICTIMS

We all have been a "victim" at some point of time or the other. Sometimes we have been a victim of lust, passion, pride, obsession, success, failures and so on. If we far-fetch our restricted approach to victims then we will witness that God himself couldn't avoid himself to become a victim of Lucifer's cunningness that impelled God to grant Lucifer endless powers and then that Lucifer 'the fallen God' became Satan. In the book Iliad when we talk about the Trojan War and the characters who were involved in the War, we will witness that those characters were also the victim of their personal traits or characteristics. For example Paris was a victim of the lust and love he had for Helen. Achilles was a victim of his success and arrogance which led to his unfortunate demise.

As a matter of fact in the Indian Ancient History also there have been many victims. The incarnations of gods have been victims of a relationship or their traits and nature or their surroundings. Lord Ram was a victim of the love he had for his country and this provoked him to question the character of his beloved wife Sita. In Mahabharata the Great warrior Bhishma was a victim of the love he had for his father which led him to take a terrible and draconian oath of remaining unmarried till eternity for his father. Dhritarashtra was a victim of the love he had for his son that led to the most savage war. The character that fascinates me is the character of Karna, who was an "innocent victim". He was a victim of society and her mother's mistake who disowned her since his birth so throughout the epic we will notice that he became a victim without any part played by his own.

If we move further then again some examples can further elucidate the fact the victims of such

types existed, exist and will exist. Napoleon was also a victim of arrogance and pride which led to his fall in the battle of Waterloo. Same fate was of Hitler.

Such examples propel us to ponder over the fact that was their actions justified? Or whether they got justice? The answer is also two sided. If we take a simple example of the epic Mahabharata, the Pandavas were continuously exploited by the Kauravas. They got Justice by Lord Krishna who played his flute and symphony of destruction engulfed the Kauravs. But at the same time Great warriors like Karna and Bhishma they were not delivered the justice which they deserved. Thousands of soldiers who die in a war not knowing who their enemies are, not knowing the reason of the war was not given justice. Same can be taken up in the case of the two World Wars. Hence we can conclude that the victims have not been delivered justice and their right have been deprived and degraded. The reason to turn the reader attention to these examples was only to make the reader realize that victims have existed since time-immemorial. Therefore the concept of 'VICTIMS' is not a new phenomena but is an age old shackle, all that this concept needed was to be unleashed and to be regarded as an important part of the discussion. This is the reason that why such topic should be always kept as a topic of discussion.

In wider perspective defined by Roy Lambron (1983-84) :

"Victim is a person who has suffered physical or mental injury or harm, mental loss or damage or other social disadvantage as result of conduct.

In violation of national penal laws, or

1. Deemed a crime under international laws; or
2. Constituting a violation of internationally recognised human rights, norms, protecting life, liberty and personal security; or which otherwise amounts to "an abuse of power" by persons, who, by reason of their position of power by authority derived from political, economic or social power, whether they are public officials, agents or employees of the state or corporate entities, are beyond the reach of the law which;
3. Although not proscribed by national or international law, causes physical, psychological or economic harm as severe as that caused by abuses of power constituting a violation of internationally recognised human rights norms and creates needs in victims as serious as those caused by violations of such norms¹.

After giving the brief introduction of the report it becomes requisite to give a brief concept of VICTIMOLOGY.

Introduction to Victimology :

If there is crime site, say for example a murder, and the investigators are baffled that how did such a crime happen, why did such a crime happen, who was the victim, why did the offender chose the victim and no one else? All these questions are like small chains and when they are answered they are linked together, just like small chains were joined with one another and then we get a new, in a similar way the investigators also club all these questions into a new logical conclusion. This link between the victim and the offender is mainly what study of victimology is based on.

These similarities had the possibility of providing investigators with a clue about the likely perpetrator of the crimes, and provide the profiler with vital information not only about the perpetrator, but about the victims themselves. Collectively, this information is referred to as "Victimology," or the study of victims: an examination of every facet of their lifestyle, background, health, and physical characteristics. It is hoped that through an in-depth examination of the victims, we may know the perpetrator a little better.

Victimology is important in the overall investigative process because it not only tells us who the victims were, their health and personal history, social habits and personality, but also provides ideas as to why they were chosen as victims. In many situations, the offender will hold back from choosing a victim until one that meets his needs comes along, possibly allowing him to fulfil some fantasy or desire he has. Because of this, the way the victim is chosen is important and gives an insight into how the offender thinks, which subsequently affects how the perpetrator acts. If we are able to determine how the offender is acting now, we may be better able to determine his future behaviour, possibly leading to a successful arrest.

In the rush to examine a criminal's behavior, it is not difficult to become distracted by the dangling carrot of that criminal's potential characteristics and forget about the value of understanding his victims.

Brent Turvey

Victimology in its most simple form is the study of the victim or victims of a particular offender. It is defined as "the thorough study and analysis of victim characteristics", and may also be called "victim profiling". The reason a good victimology is important is that the victim constitutes roughly half of the criminal offence, and as such, is as much a part of the crime as the crime scene, weapons, and eyewitnesses. This is especially true when we are presented with a live victim, as this was the last person to witness the crime, and may be able to provide the best behavioral and physical description of the offender.

Apart from the above considerations, the victim's background may provide us with important information about past activities or lifestyle, possibly leading directly to the generation of a suspect.

There are some important questions that should accompany any study of the victim, and these will

hopefully lead not only to some answers, but also to more questions which should also be addressed. Again, this list is not complete, but should give the reader an idea about what to look for and ask of the crime :

- Why was this particular person targeted?
- How were the person targeted, or was the person a victim of opportunity?
- What are the chances of the person becoming a victim at random (and therefore opportunistic)?
- What risk did the offender take to commit the crime?
- How was the victim approached, restrained and/or attacked?
- What was the victim's likely reaction to the attack?²

The answers to these questions will provide some ideas about the offender's motive and MO, and possibly his signature. From this, other examinations can be made about the offender's likely background including his knowledge of forensic and police procedures, his possible occupation, his physical characteristics and social skills. Where possible, inferences made by the profiler about the offender should be checked off against other inputs such as eyewitness accounts and the information available from the crime scene. If the information "fits", it is more probable that the conclusions are correct. If it does not "fit", then further support should be sought, or other possibilities explored.³

The best example can be of the bank robbers. They chose those banks which have a plenty of money or where the security not so tight. We can see such things clearly in the movies where a group of burglars plan to rob a bank and how do they chose, why do they use all reasons are clearly elucidated in such movies. Not only bank robbers but lets us take simpler example like thieves. Thieves go out at night to those places where they feel that it would be easier to steal. They visit that house or that very place several times and observe each and every corner and study what the people living their do time after time and then after a thorough observation they go out in the middle of a night and perpetrate such a crime.

We can clearly see after these two examples that victimology revolves around the concept of reason. There is a reason behind every act in victimology. But when we are talking about CRIMINAL NEGLIGENCE then we cannot find a specific reason behind the act because as the term it suggests that the CRIME was NEGLIGENTLY committed. Therefore to find a clear reason behind the offender to commit criminal negligence is altogether uncertain.

The next step that becomes mandatory for the readers to understand is what exactly is a CRIMINAL

NEGLIGENCE?

Criminal Negligence: Criminal Negligence is defined in the Indian Penal Code under Section 304-A. It says, "Causing death by negligence- Whosoever causes the death of any person by doing any rash or negligent act not amounting to murder to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both"⁴.

This section is of such nature that when a crime has taken place and that too with no "mens rea" that is with a guilty mind then also the perpetrator shall be punished. There is no motive or intention of the perpetrator to cause such harm but still due to some rashness or negligence inadvertently the crime happens. They are punishable just because the death has happened of individuals because of such rashness or negligence.

The ingredients of the offence are :

- (1) Death of a person in question.
- (2) Accused such death.
- (3) Such act of the accused was rash or negligent, although it did not amount to culpable homicide.⁵

Ingredients of Negligence are :

- (1) Duty of Care.
- (2) Breach of that duty
- (3) Harm suffered due to that breach.

Therefore in a layman's language we can sum these two concepts as, criminal negligence, as the name suggests is the crime happened negligently, there was a duty of care imposed upon the culprit but inadvertently due to his negligence the duty was breached and then people suffered harm in the form of death.

The death of the deceased must happen because of such negligence or rashness and not otherwise. One of these two must be one of the reasons to accuse the culprit. It is also requisite to show that the accident was a direct result of that negligence or rashness. Therefore, simple lack of care may give rise to civil liability, but without a degree of culpability, amounting to gross negligence, there is no criminal liability⁶. Culpability is defined as "Worthy of blame; morally at fault. "Culpable negligence" is sometimes defined as more than ordinary negligence in that it is a conscious and wanton disregard of one's legal duty or of the rights and safety of others".

Hence in more simple language, in order to be charged of criminal negligence it has to be accompanied with the negligence of culpable nature.

VICTIM Justice in the modern society has provided Boon or only Bane?:

The bone of contention here is that is it appropriate or "just" to discuss the matter right now? The answer is "it's now or never". The victims of criminal negligence are finding themselves very vulnerable to the perpetrators of such a crime. The discussion in this report is about the delivery of justice to the victims of criminal negligence, the discussion topic is the Bhopal Gas Tragedy and the BPL oil leak in the Atlantic. Such topics have been taken in this report because of the reason that the world today since 60 years have become capable of great compassions and potential. The continuous Industrialisation, Globalisation, and Liberalisation have led to a New World Order. Every country is in a race to be highly industrialised at every sphere of life. In every field be it agriculture, medical, engineering, architecture, infrastructure, machineries, weapons, in all these aspects one country wants to be ahead then the other and this race has no end. The N-capable weapons, the electricity through the Nuclear Power and all those spheres where the Nuclear power is becoming a requisite of Now a new trend has emerged among the nations which the race for becoming the Nuclear Power. survival. Who will take up the complete responsibility of the loss suffered to the mankind by such heinous substances? Who will avoid the blame game and try to compensate the victims suffered by their negligence? Above all how will they make sure that there is no miscarriage of justice?

All these questions have to be answered so that when we get contended there would be nothing to debate upon. These examples are history, and one of the reasons that we learn history is, to avoid those mistakes which had been committed by humans against mankind. This is the main purpose of history. But like it is said "history repeats itself" but this statements has to be changed by avouchment actions that would avail benefit to the mankind. This the main reason to discuss the topic of victims of criminal negligence.

What is done cannot be undone but what life teaches us is that whenever there is a fall then we have to recollect ourselves, brush ourselves up and make sure that in future such fall doesn't happen. At such an international platform, international problems should be taken up. As the nature of criminal negligence being international more it has to be heated up so that in future or near future the term "criminal negligence" would be out of our legal dictionary. This is the opportunity which we have to address India's National matters in front of the international community for our benefit.

Relationship between the victims as per VICTIMOLOGY and victims of Criminal Negligence:

As discussed above that victimology derives the relation between the victims and the offender. This is done by preparing a questionnaire like why did the offender chose such a victim? Or what was the motive? In a more precise manner we can say that there is a reason that governs the concept of VICTIMOLOGY. There is a "REASON" why such victim were chosen in the population of million, there is a relation between the victim and the offender, there is a motive behind such a crime and indeed there an object that the offender was looking for when he decided to attack the victim.

But on the other hand the victims of criminal negligence do not have such relationship with the offender. In the simplest of the form we can say that they are a victim of "BEING AT A WRONG PLACE AT A WRONG TIME". Therefore, this is the reason that they are the victims of Criminal Negligence and negligence happens if the duty of care was not taken at a right time. Therefore, we can also put it this way that had the individual not been present at the time of the negligence he would be alive. It's all about how wide and far-fetch we can go. Therefore, Victimology can fail in determining the perpetrator of the criminal negligence. There is absolutely no reason for the unfortunate demise of the individuals who become the victims of the criminal negligence. The reason that we get is the breach of the duty and the harm suffered and all the ingredients which is the requisite to constitute an act of Criminal Negligence.

The EVOLUTION of Absolute Liability :

Everyone must be aware of the theory of the Strict and absolute liability, the rule of strict liability was laid down under the *Rayland v. Fletcher* case⁷. It had certain exceptions which would work in favour of the offender like the Act of God or the Act of third party. For long, the Indian judiciary's attitude towards mass disasters was governed by the rule laid down in the English case *Rylands v. Fletcher*. According to this rule, there are certain industrial activities which, though lawful, are so fraught with the possibility of harm to others that the law has to treat them as allowable only on the term of insuring the public against injury. The rule is also called the principle of strict liability. There are many activities that are so hazardous that they may constitute a danger to the person or property of another. The principle of strict liability states that the undertakers of these activities have to compensate for the damage caused by them irrespective of any fault on their part. Permission to conduct such activity is in effect made conditional on its absorbing the cost of the accidents it causes as an appropriate item of its overheads. Over the years, this principle got severely diluted in England, and several exceptions to the rule were recognised by English courts. Such exceptions included natural disasters, the act of a third party, the plaintiff's own fault or consent, and the natural use of land by the defendant or a statutory authority.

But in the Absolute Liability this is not the case. It was the case of *Union Carbide v. Union of India*⁸ that this rule was laid down. The reason was that the rule of Strict liability was felt vulnerable against the perpetrators. The rule of strict liability was laid down in the 19th century and in this

modern and industrial society such offences have become of graver in nature. Be it the M.C Mehta case or the Union Carbide case, we have seen how industrialisation can lead to destruction of nature and mankind. It's not that the industrialization altogether is harmful, but when it is overdone, or tends to destroy the ambit of restrictions then mankind and nature will definitely suffer. Whenever an industry is associated with hazardous waste then the rule of absolute liability will be applicable if there is a leak of that very hazardous waste.

So, in the rule of Absolute Liability there are no exceptions because of which the culprit who do not have clean hands will definitely pay the price. A new principle was also laid down which was the "POLLUTER PAYS PRINCIPLE". The Court explained that the polluter pays principle required the polluter not only to compensate the victims of the pollution but also to pay remedial costs to restore the damaged ecology. It also held that once the activity carried on was hazardous, or inherently dangerous, the person carrying on such activity was liable to make good the loss caused to any other person by his activity, irrespective of the fact whether he/she took reasonable care while carrying on his/her activity. The principle stems from the logic that the enterprise alone - and not the person affected - has the resource to discover and guard against hazards or dangers. The person affected cannot do so because of the practical difficulty in establishing that reasonable care was absent or that the damage to him was foreseeable by the enterprise.

VICTIMS OF BHOPAL GAS TRAGEDY

Justice Delivered or Justice Denied:

As the topic itself talks about the victim justice in the changing world, the issue is that is the proper justice been delivered to the victims of the criminal negligence? In this case has the justice been delivered to the VICTIMS OF BHOPAL GAS TRAGEDY?

First of all we must face the reality, that is, we must weigh the price, tragedy, dilemma, agony, grievances and lamentations of the victims. The reason being that one must know exactly what type of compensation was or is been given to the victims of BHOPAL against the road of thorns that they have went through. As the Satan played his symphony of destruction in the form of methyl isocyanate which burst from the tall shacks of the Union Carbide factory, there were 2000 immediate deaths, 300000 were injured. This was only the beginning, the sufferings continued and it is continuing right now too. The lost souls have not come to peace as they are demanding justice from the Indian Government. After five years from 1984 a series of experiments were conducted which said,

"A series of studies made five years later showed that many of the survivors were still suffering from one or several of the following ailments: partial or complete blindness, gastrointestinal disorders, impaired immune systems, post traumatic stress disorders, and menstrual problems in women. A rise in spontaneous abortions, stillbirths, and offspring with

genetic defects was also noted⁹. About 300000 more would suffer agonising injuries from the disastrous effects of the massive poisoning while none could say if future generations would be affected. Forty tons of toxic gases were released from Carbide's Bhopal plant and spread throughout the city. The cause was the contamination of Methyl Isocyanate (MIC) storage tank No.610 with water carrying catalytic material. The result was a nightmare that still has no end. Residents awoke to clouds of suffocating gas and began a desperate flight through the dark streets. No alarm ever sounded a warning and no evacuation plan was prepared. When victims arrived at hospitals breathless and blind, do doctors did not know how to treat them since Carbide had not provided emergency information. But it was only when the sun rose the next morning that the magnitude of the devastation was clear. Dead bodies of humans and animals blocked the streets, leaves turned black, the smell of burning chilli peppers lingered in the air. Responsible estimates suggest that as many as 10,000 may have died immediately. The precise number of deaths still remains a mystery. 200000 were injured and 30,000 to 50,000 were too ill to ever return to their jobs. This is the Hiroshima of chemical industry¹⁰.

Just imagine the height of sufferings that the 'Bhopal Gas tragedy' Victims are facing till now. The blame game is on. This was the first adverse impact of the establishment of a Multi National Company in a Developing Nation. Presently some of the perpetrators have been charged of criminal negligence and the punishment is of 2 years. Now the bone of contention is that whether such a punishment is justifiable? Mr Warren Anderson lived his life and so did the rest of the perpetrators. The thing which should have been done 25 years from now is been done now but at what cost and against whom? Those people had their chances and above all lived all these years in luxury now what is the point of punishing them right now? These problems would not have cropped up if the Indian and the Madhya Pradesh Government formed an alliance against the messenger of death in 1984 itself. The problem is that no one wants to take up the responsibility, The Union of India made it clear that neither the Madhya Pradesh State Government or its instrumentalities nor the Union of India has any objection to any relief for environmental remediation of the former Union Carbide plant premises in Bhopal being ordered or directed by a competent Court or tribunal of the United States, as pleaded by the representatives of the victims of the tragedy. The Union of India made such a submission to the Court in US. Further, the Union of India and the Madhya Pradesh State Government and their respective instrumentalities, expressed their will to cooperate with any such relief as and when issued by the United States District Court. The Union of India will monitor and supervise such environmental remediation including decommissioning of plant and machinery, remediation/disposal of contaminated soil and appropriate disposal of toxic chemicals and wastes on the plant site by Union Carbide in order to ensure that it is undertaken in compliance with the norms parameters laid down by a specific organisation of the Government of India, the Central Pollution Control Board, for that purpose.

Look at the audacity of the Government that they were ready to compromise on any compensation amount prescribed by the United States District Court. This is nowhere written in the Indian constitution that one has to compromise on the decision of the foreign Court.

This was a slap in the face of all the victims, our constitution, our governance, our pride, our legacy and above all the legitimacy of democracy prevailing in this country.

Still if we go through the newspapers we can see that justice has still got a very long way to go for the Bhopal Gas Tragedy victims. The NGOs are still fighting for their rights and justice. The SINNERS may have committed an offence that is a crime in the eyes of Indian Law, but at the same time INTERNATIONALLY they have committed a graver and more heinous offence. The United Nations General Assembly adopted World Charter for Nature in 1982, which explicitly states that the Governments have a duty to pass on their natural heritage to future generations.

The UN Code of Conduct:

The UN Draft Code for Multinational Corporations contain several specific obligations addressed directly to the MNCs. They include :

- (1) The obligation to respect the national sovereignty of the countries in which they operate and the right of each state to exercise its full sovereignty over its natural resources within its territory.
- (2) The obligation to be subject to the laws of the host country and the explicit duty to carry on their activities in conformity with the developmental policies, objectives and priorities of the respective governments.
- (3) In the light of the new interpretation given to development including the safeguarding of the environment, it should implicitly mean an obligation not to unreasonably alter the ecological balance of the host country through their activities¹¹.

As discussed above in the report that as soon as the MNC sets up its industry a duty of care is imposed on them which becomes mandatory for them not to break it. Therefore the liability gets established automatically. The code also tells the MNCs to respect the Fundamental Rights and human Rights of every individual. It is a duty of MNC to protect the environment also. Cost of clean up was estimated to be Rs2.5crores sometime back. Now the estimates have gone up to even Rs. 100 crores while Greenpeace activists put it at Rs. 500 crores. Who will pay? It remains a moot question even today. Bhopal is the symbol of a disastrous "side" effect of so called Globalisation and stands out as a living, say dying, example of inadequacy of domestic law to regulate, prevent or penalise the pollute MNC and their agents.

The Bhopal Gas tragedy has brought many unanswered questions before us. Such a furore of agony is still in the hearts of every Bhopal victim, past, present and the future.

Conclusion:

The UCC has left India but has made such a grave wound on our motherland that as time crept by the wound gets deeper and deeper. The credit goes to our Hon'ble Supreme Court that the perpetrators were partially put to justice, including the latest verdict of the Criminal Negligence. The murky work done by the Government and the MNC was to be cleaned up single handed by the Supreme Court. Therefore we can definitely deduce that on the grass root level the corruption is still high. And hence we can also say that the Bhopal Gas Tragedy Victims are the victims of Corruption, their own Government, the unjust trial at the core level and the politicians.

As now the issue has been discussed it becomes pertinent to speak out the challenge that we have before us. The civilised people in this world have their morals, their code, they are only good as the world allows them to be, when the chips are down these very civilised people will eat each other. This is what Bhopal Victims tasted and experienced. When all these reasons are clubbed together we get a new form of victims, these are the VICTIMS OF CRIMINAL SYSTEM. Imagine what would be going through the mind of the victim that the offender is getting away with every crime by the unfair trial and incompetent judiciary (here the courts of the grass route level, that is, the District Courts). Victim of a criminal negligence often becomes the victim of criminal justice system as well as once the victim reports his victimisation to the police-the gateway to the criminal justice system-he routinely faces postponements, delays, rescheduling, and other frustrations. All this means loss of earnings, waste of time, payment of transportation and other expenses, discouragement, and the painful realisation that the system does not live up to its ideals and does not serve its constituency, but instead serves only itself.

Grievances And Problems of Victims

The grievances of the victims can be summarised as follows :

- (1) Inadequacy of the law in allowing the victim to participate in the prosecution in a criminal case instituted on a police report
- (2) Failure on the part of the police and prosecution to keep the victims informed about progress of the case
- (3) Inconvenience during interrogation by the police and lengthy Court proceeding.
- (4) Lack of prompt medical assistance to the victims of body offences and victims of accident.

(5) Lack of legal assistance to the victim.

(6) Lack of protection when the victims are threatened by the offender.

(7) Failure in restitution of victim.

Along with these grievances, the victims of crimes faced multifarious problems :

(I) Economic strain of the family

(II) Change in Social role of dependents.

(III) Frustration and helplessness leading to suicide.

(IV) Social stigma.

(V) Emergence of criminal behaviour¹².

The first step to every problem is to identify the source of the problem and after that; the problem can get its solution in a logical conclusion. We have identified the problem and the source also, now to curb such a disaster to happen in the near future one must bear in mind that someone has to take up the responsibility of the disaster. After that the point of compensation should be negotiated. To ensure natural justice to each and every aggrieved party the most appropriate compensation should be awarded. We can take the example of the latest disaster which happened in the year 2010 which is the BP Oil Gas Spill. The chairman of BP has apologised to Americans for the catastrophic oil spill on the Gulf Coast and agreed to setup a \$US20 billion dollar compensation fund. The US President Barack Obama says the compensation fund will not be capped. "This \$20 billion will provide substantial assurance that the claims people and businesses have will be honored," he said. BP's chairman Carl-Henric Svanberg has revealed how the company will help meet its rising costs. "The BP board has today decided that we will not pay any further dividends this year," he said. BP has also agreed to a separate \$US100 million dollar fund for unemployed oil rig workers.

The timing of the BP oil spill in the Gulf of Mexico and the pronouncement of the Supreme Court judgement on the Bhopal gas tragedy that came almost immediately after has seen many commentators draw parallels between two of the worst environmental accidents of our times, both driven by corporate greed. Inevitably, comparisons have been drawn between the huge \$20 billion fund set up by BP to compensate for the damage caused and the niggardly sum of \$470 million paid by Union Carbide. The comparison becomes particularly stark when placed in the context of the number of lives lost-11 in the BP blowout and about 15,000 in Bhopal according to official figures, though unofficial figures place the toll much higher.¹³

Comparisons have also been drawn between the determination with which US President Barack Obama took up the issue and extracted a generous settlement from an initially reluctant BP and the half-hearted manner in which our leaders and judiciary dealt with Union Carbide. But there is one difference that sets the BP spill apart from the Bhopal gas tragedy: the difference in focus. While the US has focused on fixing corporate liability and securing more money for the victims of the oil spill, we seem to be frittering away our energies trying to secure the extradition of Warren Anderson, the then Chairman of Union Carbide, rather than trying to secure a better deal for the victims. It is crystal clear from the facts of the BP oil leak that the President as well as the Owner is ready to take up the issue and not brush the issue under the carpet as it was done in the case of Bhopal. The President with his full made it impertinent for the stake holder of the company to pay compensation. Moreover the Chairman was ready to take the liability and compensate the loss suffered. Hence we can see that this case proves that how the work is been done efficiently and above all no one is ignoring their duties and conduct. This is an eye opener to all the MNCs that the harmed caused because of their negligence should be taken up in a positive way rather than getting on with the filthy blame game. Had this been the case the topic such as the "victims of criminal negligence" would never had existed.

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1. Sanford H.Kadish, Encyclopedia of Crime and Justice, Vol. -4 at 1611
2. http://www.trutv.com/library/crime/criminal_mind/profiling/victimology/1.html
3. Wayne Patherick, Victimology: The study of victims in criminal investigations, http://www.trutv.com/library/crime/criminal_mind/profiling/victimology/2.html
4. Indian Penal code, S.K.Sarvaria, Volume 3, Secs 299-377, page 3118, Lexis nexis Butterworths, 9th Edition
5. Indian Penal code, S.K.Sarvaria, Volume 3, Secs 299-377, page 3121, Lexis nexis Butterworths, 9th Edition
6. Indian Penal code, S.K.Sarvaria, Volume 3, Secs 299-377, page 3124, Lexis nexis Butterworths, 9th Edition
7. (1868), L.R. 3 H.L. 330
8. 1988 SCR (1) 441
9. <http://www.legalservicesindia.com/articles/bhopal.htm>
10. <http://www.legalservicesindia.com/articles/bhopal.htm>

11. <http://www.legalservicesindia.com/articles/bhopal.htm>

12. Hari Shankar Rai, Compensatory Jurisprudence and Victims of Crime, Cr.LJ, 2004 p-333 at 334

13. Mythili Bhusnurmath, BP oil spill & Bhopal: Barking up the wrong tree? The Economic Times, 27 Jun, 2010, <http://economictimes.indiatimes.com/features/as-you-like-it/bp-oil-spill-bhopal-barking-up-the-wrong-tree/articleshow/6096359.cms>