

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Index: ASA 20/011/2014

14 May 2014

Dow Blocks Amnesty International Calls To Face Up to the Toxic Legacy of Bhopal

As we near the 30th anniversary of the devastating gas leak from the Union Carbide plant in Bhopal, The Dow Chemical Company (Dow) is still choosing to ignore the toxic legacy of the disaster. In stark contrast, survivors and residents of Bhopal have no choice but to live with the tragedy on a daily basis; over 100,000 people still suffer from health problems due to exposure to the gas and there remain high levels of contaminants in soil at the former factory site and the local groundwater due to the plant's prior operations.¹

Dow shareholders attending the company's annual general meeting (AGM) in the US tomorrow, will be denied a vital opportunity to understand the continuing impact of the Bhopal disaster.² Dow blocked Amnesty International and other investors from putting forward a shareholder resolution at the AGM, which called on Dow to face-up to the ongoing legacy of Bhopal. The resolution requested Dow to prepare a report for shareholders on the "financial, reputational and operational impacts...of...Bhopal...on Dow's Indian and global business opportunities".

The resolution underscored how Dow's name has become inextricably linked with the Bhopal disaster since its acquisition of Union Carbide Corporation (UCC) in 2001. Dow is now the focus of legal and campaign actions by Bhopal survivors and the Indian government, which have adversely affected both its business and reputation. It is a defendant to two civil claims before the Indian courts. Most recently, Dow has been ordered to appear before the Bhopal criminal court on 4 July 2014, to explain why its 100% owned subsidiary, UCC, has repeatedly ignored summons to appear before the court in the ongoing criminal case concerning the disaster.³

Dow stopped the resolution from being put to shareholders by taking advantage of a US rule that permits listed companies to reject a shareholder resolution if "the company has already substantially implemented the proposal".⁴ On that basis, Dow asked the US Securities & Exchange Commission (SEC), the government agency responsible for regulating US listed companies, to confirm that it would not take action against Dow if it blocked the resolution from being put before shareholders. The SEC gave this confirmation.⁵

Amnesty International is deeply disappointed by Dow's decision to block the resolution. Dow has again failed to alter its longstanding position that it has no responsibility for Bhopal, which completely ignores the continuing human rights abuses in Bhopal and its adverse

¹ A recent book by Amnesty International details the health and environmental impacts of the gas leak and ongoing contamination as well as related legal proceedings. See Chapter III of *Injustice Incorporated: Corporate Abuses and the Human Right to Remedy* (2014), Amnesty International Index: POL 30/001/2014, available at: www.amnesty.org/fr/library/info/POL30/001/2014/en (*Injustice Incorporated*).

² Amnesty International holds a small number of shares in Dow for the purposes of shareholder activism.

³ UCC is accused of "culpable homicide not amounting to murder". Amnesty International has been in contact with both the US Attorney General and the US State Department to monitor the service of this summons on Dow.

⁴ Rule 14a-8(i)(10), General Rules and Regulations, Securities and Exchange Act of 1934 (17 CFR §240.14a-8).

⁵ For related correspondence with the SEC, see www.sec.gov/Archives/edgar/vpr/14/9999999997-14-006729 and www.sec.gov/Archives/edgar/vpr/14/9999999997-14-004245 (accessed 14 May 2014).

effect on Dow's business and reputation.⁶ Dow has recently reiterated this position, stating that it "[does] not believe that Bhopal...will have any financial, operational or reputational impact on Dow's business opportunities in India or elsewhere in the world" and "will continue to oppose efforts to implicate Dow in the Bhopal matter".⁷

Amnesty International strongly disagrees with Dow's statement. Not only does Dow's position affect its business and reputation in India but it also reflects its refusal to take seriously its responsibility to disclose these issues to its shareholders. Amnesty International believes that shareholders should be informed of corporate involvement in ongoing human rights abuse cases – shareholders should play an essential role in ensuring that companies respect human rights and take active steps to address their human rights impacts.

Amnesty International urges shareholders to request Dow to provide full disclosure of the ongoing human rights and environmental impacts of Bhopal, given its materiality to Dow's Indian and global business opportunities.

Dow should acknowledge its responsibility towards survivors of the disaster and appear before the Indian criminal court on 4 July 2014 to explain why it has failed to ensure that UCC faces the charges against it.

-ENDS-

⁶ For a more in-depth analysis challenging Dow's position, see *Injustice Incorporated* pp56-57.

⁷ The Dow Chemical Company, "Q&A with respect to the Government of India's request for a Curative Petition Related to the 1989 Bhopal Settlement", available at: www.dow.com/sustainability/debates/pdfs/QA_Issuance_Notice_with_respect_Curative.pdf (accessed 14 May 2014).