CHAPTER II

THE BHOPAL GAS TRAGEDY AND CHANGED NOTION OF CORPORATE SOCIAL RESPONSIBILITY

“Every Corporate has a special continuing responsibility towards the people of the area in which it is located and in which its employees and their families live”

JRD TATA

The previous chapter acted as a curtain raiser giving an insight to the research study. This chapter devolves into one of the biggest mass tragedy in the world i.e Bhopal Gas Tragedy and is more of a framework showing the historical background, of such disaster in India and CSR issues relating to Industrial disaster. As the chapter will proceed it will become easier to understand.

2. INTRODUCTION ABOUT INDUSTRIAL DISASTER

Mass torts may include mass disaster torts, mass toxic or noxious torts. A noxious tort is one in which the wrongful act consists of exposure to a deadly substance. Bhopal Gas Tragedy is an example of Mass torts or noxious torts. It was on December 3 – 4, 1984 a chemical disaster took place in Bhopal (Madhya Pradesh) by release of methyl Isocyanate (MIC) at the union carbide plant. The reason for release of MIC was due to the lack of adequate safety practices and of community preparedness on the Union Carbide a Corporation of U.S. Due to this chemical disaster thousands of people died and more people caused severe health, respiratory problems and birth deformities.

53 Available at http://www.indiatravelite.com/madhyaapradesh/bhopalintroduction.htm, Bhopal, capital of Madhya Pradesh combines scenic beauty, historicity and modern urban planning. It is situated on the site of an 11th century city, Bhojapal, founded by Raja Bhoja. Bhopal today presents a multi-faceted profile; the old city with its teeming market places and fine old mosques and palaces still bear the aristocratic imprint of its former rulers; among them the succession of powerful Begums who ruled Bhopal from 1819 to 1926. Equally impressive is the new city with its verdant, exquisitely laid out parks and gardens, broad avenues and streamlined modern edifices.

54 Available at http://www.idph.state.il.us/Bioterrorism/factsheets/methyl_isocyanate.htm, Methyl isocyanate (MIC) is a chemical used in the manufacture of polyurethane foam, pesticides and plastics. It usually is handled and shipped as a liquid, which is easily burned and explosive. Methyl isocyanate evaporates quickly in the air. It has a strong odor but it can begin to make people sick before the chemical can be smelled. MIS was the chemical released in the Bhopal, India, disaster in 1984 that killed more than 3,800 people.
The accident was exceptional, not because of the high number of human casualties or the long-term ill effects on the health of the residents of that area, but because of the issues and concerns the accident raised, that were only feared and dealt with marginally previously. The reason was Union Carbide Corporation (UCC) did not have any kind of emergency plans in place in its subsidiary in India.

Hence, the Bhopal disaster was not only to be classified as an industrial disaster but a corporate crime, it reflected the double standard of a corporate body. The Indian subsidiary of UCC, Union Carbide India Limited (UCIL) used a cheap and unreliable design for the factory as compared to the sister industries in U.S. and other European nations. And this resulted in the Bhopal Gas Tragedy, a disaster that brought about the world’s largest law suit.

However, arguments advanced by UCC was that since it had only a 50.9% stake in UCIL and it did not have substantial hold over its Indian affiliate, so it could not be held responsible for the gas leak. In response it was widely held that responsibility arose not out of authority but out of the connectedness between the act and the damage suffered. Consequently, an interim relief payment of US $ 5 – 10 million demanded from UCC as a ‘matter of fundamental human decency’ went on to be identified as the concept of CSR, more so Corporate Environmental Responsibility. This was an industrial disaster.

55 Available at http://www.unioncarbide.com/about-us Union Carbide Corporation is a chemical and polymers company with over 2,400 employees. The company possesses some of the industry's most advanced process and catalyst technologies, and operates some of the most cost-efficient, large-scale production facilities in the world. Union Carbide primarily produces chemicals and polymers that undergo one or more further conversions by customers before reaching consumers. Some of these materials are high-volume commodities, while others are specialty products meeting the needs of smaller market niches. The end-uses served include paints and coatings, packaging, wire and cable, household products, personal care, pharmaceuticals, automotive, textiles, agriculture and oil and gas.

The hallmark of Union Carbide's leadership in the chemical industry is a sustained tradition of technological innovation. In 1920 our researchers developed an economical way to make ethylene from natural gas, giving birth to the modern petrochemicals industry. A significant day in Union Carbide’s recent history was August 4, 1999, when it was announced that Union Carbide would become a subsidiary of The Dow Chemical Company (“TDCC”) as part of a transaction valued at $11.6 billion. This transaction closed on February 6, 2001. Since Union Carbide’s acquisition by TDCC, Union Carbide sells most of the products it manufactures to TDCC and is an important part of the Dow family of companies.

56 Available at http://www.bhopal.com/chronology Union Carbide India Limited (UCIL) was established in 1934, when Union Carbide Corporation (UCC) became one of the first U.S. companies to invest in India. UCIL shares were publicly traded on the Calcutta Stock Exchange. UCIL was a diversified manufacturing company, employing approximately 9,000 people and operating 14 plants in five divisions. The Bhopal plant was built in the late 1970’s and was owned and operated by UCIL, an Indian company in which Union Carbide held just over half of the stock. Indian financial institutions and thousands of private investors in India owned the remainder of the stock.

The plant produced pesticides for use in India to help the country's agricultural sector increase its productivity and contribute more significantly to meeting the food needs of one of the world's most heavily populated regions.

57 Crowther, David and Jatana, Renu, Corporate Social Responsibility Theory and Practice with Case Studies, New Delhi: Deep & Deep Publication Pvt. Ltd.
with a complexity of violations of civil, political, economic and social rights carried over a period of twenty years which necessarily demanded a humanitarian approach and called for corporate social responsibility (CSR)\textsuperscript{58}. On November 29, 1984, UCC decided to dismantle the plant and ship it to Indonesia or Brazil. The feasibility report for this was completed on 29 November, three days before the disaster.\textsuperscript{59}

Thus, the tragedy became instrumental in tracing the path of CSR from a ‘reactive strategy’ to a ‘proactive strategy’ and its steering through private politics to enter into the public arena.

2.1 UNION CARBIDE CORPORATION FROM VIRGINIA TO BHOPAL

The formation of Union Carbide was in 1917 by merger of 4 separate US companies Producing batteries and arc lamps. In the second half of 20\textsuperscript{th} century UCC have developed their business in 40 countries. UCC manufactured industrial gases, such as nitrogen, oxygen, methane, propane used in petroleum industries. In 1950,s parasites were found in most of the countries like Malaysia, Japan southern Europe, central America, Mexico destroying fodder crop, plantation, fruit trees and vegetables. There was need to introduce something in the market to eradicate Pesticide. Many companies have come forward, one was UCC. UCC started manufacturing MIC which was the reaction of sevin phosgene and mom methylamine. MIC vapors was the dangerous compound when tested on rats and animals resulted to death. MIC is so dangerous that if it comes into contact with water it got off with reaction. Hence to prevent explosion MIC is required to be permanently at a temperature near zero.

UCC in India is since 1924, as an assembly plant in Kolkata\textsuperscript{60}. By 1983 UCC had 14 plants in India manufacturing different chemicals, pesticides etc. One important thing about UCC which was exception was 50.9% stake in the Indian subsidiary the balance of 49.1% was owned by various Indian investors. The requirement of 40% ownership as per rule was not followed in the case of UCC only for the reason of its technology and adopts potential for export. It was in 1966, an agreement was signed between Government of India and UCIL to import 1,200 tons of sevin from its parent company and UCC to build sevin in India and the place decided was Bhopal (Madhya Pradesh).

\textsuperscript{58} CSR is about how companies manage the business processes to produce an overall positive impact on society.

\textsuperscript{59} Available at Dateline Bhopal, \url{http://www.india-seminar.com/2004/544/544%20s.%20muralidhar.htm} browsed on 3\textsuperscript{rd} Nov 2011 at 10 PM

\textsuperscript{60} Copy from goggle and find ICFAI Journal
The then government of India granted license to UCIL to manufacture 5,000 Tons of sevin a year hence need for storage of MIC at zero degree Celsius temperature was debated and was against the philosophy of American industrial culture but ultimately storage of MIC was permitted.

The issue to set up a plant in Bhopal that to in the sixty hectare plot of land at Bhopal where there is thick population in vicinity was a question and under such circumstances application could have been rejected. UCC never mentioned about making pesticides out of most toxic gases in chemical industry.

In 1979 Bhopal plant was inaugurated work started and in May 1980 Bhopal plant produced their first gallons of MIC. The CEO of UCC, Warren Anderson61 was present for that event.

2.1.1 HISTORY OF BHOPAL PLANT

Bhopal plant had caused many incidence since 1980, many people died and injured. In 1982 three American Engineers from one of the division of UCC visited the plant to check the standard the functioning of the plant. The report submitted by engineers was negative. The report also pointed out about MIC tank and poor adjustment of certain devices where excessive pressure could lead to water entering the circuits. The report also expressed concern about inadequately trained staff. Criticism was made about the plant in many leading newspapers about poor management. In 1982 accident took place by release of MIC from broken valve effecting four workers. This was alarm of risk for public life at Bhopal. In 1983 under the manager ship of Mr. Jagannathan Mukund who devoted all his energies to cost cutting, workers were asked to resign for no reason. As manpower was less due to cost cutting care for all the devices was also not considered with care. Mukund did not pay heed to the fact that sixty tons of MIC were stored in the tanks, which in all circumstances be kept at a temperature close to zero degree Celsius.

61 Available at http://www.countercurrents.org/banerjee150610.htm Warren Anderson, who was the 1984 CEO at the Union Carbide. Of course, the company itself is now renamed as Dow Chemicals; therefore, for all intensive purposes, nobody can anymore touch Union Carbide or its criminal activities back then; after all, how can you punish a company when it's not around anymore? American citizen Warren Anderson stepped into Bhopal on December 7, days after the hellish MIC slaughter -- where men, woman and children were killed just the way laboratory mice are killed in an experimental gas chamber -- and was quickly guest-house-arrested. However, at the directives of a mysterious few at the top, he got an immediate bail, and escaped India to return to his Long Island Hamptons palace for good, never to return to India to face any charges.
Due to loss, many trained engineers and employees have to leave the UCIL Plant. Many experienced employees who from the beginning of the Bhopal project was with the organization had left the job by 1983. The production of UCIL was 2704 tons in 1981 and 1657 tons in 1983 against a license of producing 5000 tons of MIC. Thus the quantity of pesticide manufactured was only 33.14% of its license of capacity. The officials of UCC started neglecting the Bhopal Plant as it was in loss. UCC planned to close the plant and put the plant for sale. In India no one have shown interest to purchase the plant, hence UCC decided to dismantle the plant and ship it to another country to start a new plant.

2.1.2 WHOM DID THE UNION CARBIDE CORPORATION BLAME ON AFTER THE TRAGEDY?

It was the responsibility of UCC to pay compensation to the victim of Bhopal gas tragedy, but UCC Instead of accepting responsibility and seeking to compensate the victims, UCC tried to pass the buck to everybody else and kept pushing responsibility away, in a bid to maintain a 'clean' image among its customers. It first blamed the Indian government for not having proper regulatory mechanisms, and then blamed the employees of UCIL for not having taken proper care, and when these two did not work, it came up a mysterious sabotage theory, which to this day it sticks to, yet does not name any employee who allegedly committed this sabotage.

The Bhopal gas tragedy also had several legal aspects to it, which are very interesting as well. The lawsuit against UCC, claiming damages for the victims was first filed in New York District Court.

In the Bhopal litigation there was an embarrassing litigation brought by the Indian Legal system itself. It was the Rajiv Gandhi government who screwed up on Bhopal case. As the initial reports of pending flood of litigation claims started to trickle through, the Indian Government, fearing exploitation, and an opportunity to turn this into emotive, electoral issue, instantly passed a law prohibiting all but itself from representing the victims in any forum in the world. Then it went ahead and made a mockery of the move. It filed a suit in the district court of New York, USA. Before even the first papers had been filed, then the Prime Minister Rajiv Gandhi started making grandiose claims of a $2 billion compensation that his government would be seeking from Union Carbide Corporation.

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Any lawyer would connect this statement to the filing of the case in USA and ask the American court to dismiss the case since the Indian Government was “forum shopping” or in lay terms simply looking for the best bargain. To counter, the Indian government made an even more stupid move. It claimed that the Indian judicial system was incompetent and inefficient to deal with the problem. No American court wanted to be stuck with an expensive, unending case on its hands and the district court of New York threw out the case. The Indian government cut a pretty sorry figure as it dragged itself to the district court of Bhopal, Madhya Pradesh for the next round of litigation. Before the same judicial system and judges it claimed were incompetent and inefficient.63

This was upheld by the US Supreme Court as well and the case was finally filed in the Bhopal District Court in the State of Madhya Pradesh.

When the Bhopal Gas Case was with Madhya Pradesh High Court, hon’ble Supreme Court of India have come up with doctrine of absolute liability64, in one of the separate case related to release of poisonous gas. Te same doctrine was applicable to Bhopal Gas Tragedy. The doctrine of absolute liability, which was laid down in the case of MC Mehta v. Union of India, where the leak of oleum gas had killed a few people near the factory, stated that any emissions from the premises of a factory or establishment engaged in the manufacture or storage of such harmful substances would make the owner of such establishment absolutely liable for any damage arising out of such escape.

It was on 13th September 1996 that the Supreme Court overruled the findings of the all lower courts, disregarded the urgent pleadings of counsel for the Indian Government, and quashed the charges of “culpable homicide”65 and “voluntarily causing bodily harm” that had been brought by the prosecution. In place of these, the Supreme Court held,

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64 Available at http://law-dictionary.clearpointlaw.com/a/absolute-liability_Law.aspx The defendant's absolute responsibility for harm caused by an activity or product that is classified as being ultra-hazardous. The doctrine of strict liability is applied at the discretion of the court, assigning liability to the defendant regardless of any negligence on the part of the injured.
65 Culpable homicide.--Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.
with an abundance of specious argumentation—well documented recently by Colin Gonsalves—that no more than a charge “causing death by negligence” could be laid.66

2.1.3 COMPENSATION AND VIOLATION OF HUMAN RIGHTS

It was after the disaster that, civil and criminal cases were filed against union Carbide and its subsidiary in India. The supreme court of India approved settlement money of US $ 470 million for civil as well as criminal claims to secure immediate relief to the victims in 1989. The Compensation was based on the assumption, that the number of deaths was 3000 and injured were 1 lakh. But according to figure calculated as on march 2003 the death claim stood more than 15180 and injured at 5,53,015 which is to around five times miscalculated. It was a disappointing compensation for the victims of Bhopal Gas Disaster and was a breach of human rights with inadequate compensation leading to helpless situation to the victims. The victim of Bhopal gas tragedy was not able to find justice with such compensation. Anderson absconded in fear of imprisonment which was for a span of 10 years and later on after takeover the CEO of Dow, William S Stavropoulos, states their helplessness towards the accident.

2.1.4 THE SETTLEMENT

It was after one month from the industrial disaster the government of India appointed itself as a representative of the victim to deal legally with UCC for compensation. Later on Bhopal Gas Leak (Processing of Claims) Act, 198567 (Annexure A) was passed. Government of India filed a legal suit in United States District Court Meanwhile Government of India have made and inquiry for the investigation and enquiry of the disaster. UCC also stated investigating and shifted blame to disgruntled workers. In 1986 honorable Mr. Justice Keenen ruled that US is not the appropriate forum for Bhopal compensation litigation. US Federal Court asked UCC as a matter of fundamental human decency to provide interim relief of $ 5 – 10 million. $ 5 Million was channeled from American Red Cross to Indian Red Cross, but the question was what the Indian Red Cross will do with the money. In December 1987, Bhopal District Court passed an order directing UCC to pay Rs. 3.5 Billions interim relief. This decision of District Court

67 Available at [http://mha.nic.in/pdfs/IPC1860.pdf](http://mha.nic.in/pdfs/IPC1860.pdf) An Act to confer certain powers on the Central Government to secure that claims arising out of, or connected with, the Bhopal gas leak disaster are dealt with speedily, effectively, equitably and to the best advantage of the claimants and for matters incidental thereto.
judge was challenged by UCC in MP High Court Justice Seth upheld the decision of District Court but reduced the liability from Rs. 3.5 billion to Rs. 2.5 billion. UCC appealed to Supreme Court of India, in 1989 Supreme court of India directed UCC to pay Rs. 470 million as settlement which was just, equitable and reasonable. UCC agreed with the decision of the court, but there was agitation for such cheap values of Bhopal gas victim which worked out to around Rs. 10,000/- per victim.

In 1991, the Bhopal disaster court summoned Mr. Anderson for charged against homicide in a criminal case, but Warren Anderson did not turn up. In 1993 UCC sold the entire 50.9% stake in UCIL to the Calcutta based company of B M Khaitan Group. Till 2000 many attempts were made to summon Mr. Anderson, but he was hiding and attempt to serve summon and answer the criminal charges was unsuccessful. In 1999 Dow Chemical purchased UCC for 9.3 billion.

2.1.5 CONTAMINATION OF THE INDUSTRIAL DISASTER

The contamination of the groundwater in the vicinity of the UCIL Factory was a big problem not only after the disaster, but was before the disaster. There was a presence of highly toxic heavy metal and organic chemical in the groundwater which causes cancer and damage to the body system.

2.1.6 ROLE PLAYED BY GOVERNMENT OF INDIA IN BHOPAL GAS TRAGEDY CASE

The role of the Government agencies was not firm, the factory were dealing with chemicals at the centre of city with poor safety measures. At the same time the government agencies also declined to take any criminal action against the factory. After the disaster, the Government was confused about the actions to be taken against the company and the measures for relief and rehabilitation. Lack of transparency and clarity between the Centre and the State Government on the issues of relief and rehabilitation made the case more complicated. The Central Government was unable to solve the case and was only in the state of discussion.

Regarding the disaster, the Government tried to provide support service in four areas: - medical, economic, social and environmental, which failed. Regarding medical rehabilitation, the government failed to provide essential medicines and infrastructural
support in government hospitals. The fund for economic rehabilitation was mostly unutilized or misutilised. The Government allocated substantial fund to provide alternative livelihood for the gas affected people, but very few were provided livelihood opportunity. Social rehabilitation such as construction of houses for the victims and providing milk to children, pregnant and lactating mothers also failed. Rs 23.76 crores were allocated for environmental rehabilitation of which only Rs 3 crores were budgeted for construction of 80,000 smokeless chulhas, which were not spent for the purpose.

2.2 CSR: THE HUMAN RIGHTS APPROACH

Human Rights form an underlying legal foundation for CSR as it focuses on the dignity and worth of the human beings who compose the society. Every corporation should maintain human right standards which serve to enhance human worth and dignity. Corporations should increase its allocation of resources towards social development. It should support fair labour standards, recognize the right of collective bargaining and achieve equality and equity between men and women. The corporations should not neglect or ill treat workforce. It must remember that no company can be successful if its own workforce comprises of discontent and dejected people. It is legal as well as moral duty of every corporation to protect the workers from any hazardous working conditions and provide them with safe working conditions. Every corporation must involve itself in charitable contributions, employee volunteer programmes, community education and homeless programmes. If a corporate wants to shape its future and wants to really become a success, it has to treat its workers as its partners in the venture, as even they are staking their future with the company.

Every individual is ought to respect the fundamental human rights of everyone around. Corporations too cannot shy away from catering to the needs of their stakeholders, labourers or even their customers. The concept of amalgamation of Corporate Social Responsibility and inalienable human right might seem to be abrupt however the model is not very abstract to realize. The idea of collectively studying both the concept might seem revolting on the face of it but with a profound study the idea seems pragmatic. Until very recently, human rights have played a rather marginal role in and for the

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69 Conference paper “Emerging Issues of Corporate Social Responsibility” November 2011, SLS, NOIDA
conceptualization of CSR. Human rights are commonly associated with those important documents that together constitute the International Bill of Human Rights. Similarly, one might think of institutions like the United Nations Human Rights Commission, or perhaps the European Court of Human Rights. These are all manifestations of our attempts to make human rights relevant for practice. However, in a more fundamental sense, human rights must be understood as moral concepts and thus as moral rights.\footnote{Florian Wettstein, CSR AND THE DEBATE ON BUSINESS AND HUMAN RIGHTS: BRIDGING THE GREAT DIVIDE forthcoming in Business Ethics Quarterly, 2013}

The UN Guiding Principles on Business and Human Rights define what companies and governments should do to avoid and address possible negative human rights impacts by business.\footnote{Sustainable and responsible business and human rights. Available at http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/, Retrieved on 11.03.13} Corporations can make important positive contributions to creating a global environment in which everyone can enjoy their universal human rights. They have an enormous capacity to create wealth, jobs and income, to finance public goods, and to generate innovation and development in many areas relevant to human rights and environmental protection. Moreover, many corporations take their responsibility to respect human rights and the environment seriously, and already do more than what is legally required. A number of European businesses are leaders in terms of their recognition of labour rights, and rights relating to privacy and security of the person, as well as their inclusion of human rights standards in supply chain management.\footnote{Study of the Legal Framework on Human Rights and the Environment Applicable to the European Enterprises operating outside the European Union, Daniel Augenstein, The University of Edinburgh}

### 2.2.1 HITACHI: INCORPORATION OF HUMAN RIGHTS

Hitachi adopted the "Hitachi Group Human Rights Policy" to supplement the "Hitachi Group Codes of Conduct" in May 2013. In this policy, they clarify their understanding of human rights to be at minimum those outlined in the International Bill of Human Rights and the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. This policy outlines Hitachi's approach to meeting its responsibility to respect human rights including development and implementation of human rights due diligence in line with the UN Guiding Principles on Business and Human Rights; provision of appropriate training; adherence to national law and regulation in each region and country in which we operate; and respect for international human rights where faced with conflicts between internationally recognized human rights standards and national
laws. Hitachi strives to respect human rights of all people whose own impacts may be directly linked to Hitachi’s operations, products or services, not only those of its employees.73

2.2.2 DETAILED CASE STUDY OF TOSHIBA

In order to encourage the development of organizations imbued with respect for human rights and valuing diversity and creativity, Toshiba Group provides education on human rights to all employees74.

The “Toshiba Group Standards of Conduct’ stipulates adherence to all relevant laws and regulations, respect for fundamental human rights, and prohibition of discriminatory treatment, child labor and forced labor. It requires that respect be accorded to diverse values, individuality, and privacy of individuals, prohibits discriminatory behaviour based on race, religion, gender, nationality, disability, age, or sexual orientation, and prohibits physical abuse, sexual harassment, abuse of power, and any other actions that disregard the dignity and individuality of others75.

Toshiba supports the principles of the Universal Declaration of Human Rights, the United Nations Global Compact, and the OECD Guidelines for Multinational Enterprises, and works to ensure that its employees have fundamental labor rights. Further, Toshiba Group recognizes the significance of the Universal Declaration of Human Rights. they also established the Human Resources Management Policy in 1973, which specifies human resources as the most valuable assets and requires that the personnel policies be implemented based on respect for fundamental human rights and social norms of different countries and areas. In accordance with the above policy and the structure shown below, Internal Human Rights Promotion Committee of each in-house company formulates and implements a concrete education and training plan in order to provide enlightenment on human right. Toshiba Group strives to create a work environment where human rights are respected and diversity and creativity are nurtured. As a participant of the UN Global Compact, with universal principles concerning human rights and labor, it pledges to adhere to all relevant laws and regulations, respect fundamental human rights, and ensure prohibition of discriminatory treatment, child labor and forced labor. The Toshiba Group Standards of Conduct, a code of conduct for executives and

73 www.hitachi.com, Available at http://www.hitachi.com/csr/society/respect/, Retrieved on 04.05.13
75 Ibid
employees, stipulates respect for diverse values, individuality, and privacy of individuals, prohibition of discriminatory behaviour based on race, religion, sex, nationality, disability, age, or sexual orientation, and prohibition of physical abuse, sexual harassment, abuse of power, and any other actions that disregard the dignity and individuality of others.  

2.3 DISASTER AND SUSTAINABLE DEVELOPMENT

Disaster caused by natural danger is a threat to sustainable development. According to the survey of International Federation of Red Cross and Red Crescent Societies (IFRC), 56,000 people died every year between 1988 and 1997. The annual economic loss worldwide from natural disasters between 1988 and 1997 amounted to $62 billion of which $26 billion was in Europe and the USA, and $34 billion in Asia. (IFRC 1999a; 149-52) The impact of disasters is not felt evenly within countries, either. Studies have shown that in general it is the weaker groups in society that suffer worst from disasters: the poor (especially), the very young and the very old, women, the disabled, and those who are marginalized by race or caste. The need for action to reduce natural disasters’ impact has been acknowledged for some time.

This acknowledgement lay behind the designation of the 1990s as the United Nations International Decade for Natural Disaster Reduction (IDNDR). Nevertheless, hazard

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76 Ibid
77 Available at http://www.ifrc.org/en/who-we-are/history/ The International Federation of Red Cross and Red Crescent Societies (IFRC) was founded in 1919 in Paris in the aftermath of World War I. The war had shown a need for close cooperation between Red Cross Societies, which, through their humanitarian activities on behalf of prisoners of war and combatants, had attracted millions of volunteers and built a large body of expertise. A devastated Europe could not afford to lose such a resource.

It was Henry Davison, president of the American Red Cross War Committee, who proposed forming a federation of these National Societies. An international medical conference initiated by Davison resulted in the birth of the League of Red Cross Societies, which was renamed in October 1983 to the League of Red Cross and Red Crescent Societies, and then in November 1991 to become the International Federation of Red Cross and Red Crescent Societies. The first objective of the IFRC was to improve the health of people in countries that had suffered greatly during the four years of war. Its goals were "to strengthen and unite, for health activities, already-existing Red Cross Societies and to promote the creation of new Societies".

There were five founding member Societies: Britain, France, Italy, Japan and the United States. This number has grown over the years and there are now 187 recognized National Societies - one in almost every country in the world.

78 Available at http://nirapad.org/admin/soft_archive/1308222619_The%20Poloitics%20of%20Disaster%20Mitigation.pdf browsed on 25 Dec 2012 at 11.30 AM

79 Available at http://www.un.org/documents/ga/res/44/a44r236.htm Bearing in mind the common position on natural disasters of the Ninth Conference of Heads of State or Government of Non-Aligned Countries, held at Belgrade from 4 to 7 September 1989,

1. Proclaims the International Decade for Natural Disaster Reduction, beginning on 1 January 1990;
2. Decides to designate the second Wednesday of October International Day for Natural Disaster Reduction, to be observed annually during the Decade by the international community in a manner befitting the objective and goals of the Decade;
3. Adopts the International Framework of Action for the International Decade for Natural Disaster Reduction contained in the annex to the present resolution;
risk and disaster reduction remain marginal issues in development planning, political commitment appears to be weak, and actions on the ground are as likely as not to be individual and one-off rather than collective and long-term (Twigg 2001; Benson et al. 2001). As investor and employer, the private sector is an important factor in development. There is clearly a need for a fuller understanding of the role that it can play in natural disaster reduction.

2.4 CSR AND CORPORATE ACCOUNTABILITY

Corporate accountability is a foundation of corporate social responsibility. Corporate social responsibilities, at the most general level, include economic duties, legal and regulatory compliance, responsiveness to ethical norms, and discretionary social welfare contributions. In addition, one of the most basic of all corporate social responsibilities is corporate accountability. It is defined as the continuous, systematic, and public communication of information and reasons designed to justify an organization's decisions, actions, and outputs to various stakeholders. According to this definition, corporate accountability is primarily a form of ethical communication directed toward those parties who are affected by corporate activities and effects. Corporate accountability represents a corporation's social responsibility to explain its actions (past, present, and future) in an accessible, reasonable, and meaningful way to the society in which it operates.

2.4.1 DIFFERENCE BETWEEN CORPORATE ACCOUNTABILITY AND CORPORATE SOCIAL RESPONSIBILITY

Corporate responsibility, corporate social responsibility (CSR) and corporate accountability are sometimes confused or seen to be synonymous. However, corporate responsibility and corporate accountability are typically distinguished from one another.

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4. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session a progress report on the implementation of the present resolution, including the organizational arrangements made for the Decade, and on the status of existing international protocols and conventions for mutual assistance in cases of disaster;

5. Also requests the Secretary-General to bring the present resolution to the attention of all Governments, intergovernmental organizations, appropriate non-governmental organizations in consultative status with the Economic and Social Council and competent scientific institutions in the field of disaster mitigation;

6. Decides to include in the provisional agenda of its forty-sixth session an item entitled "International Decade for Natural Disaster Reduction".

80 Available at http://94.126.106.9/R4D/PDF/Outputs/Mis_SPC/R7893CSROverview.pdf browsed on 7th December 2012 at 8.00 pm.

81 Encyclopedia of Business Ethics and Society

along several lines. Corporate responsibility in its broadest sense refers to varied practices that reflect the belief that corporations have responsibilities beyond generating profit for their shareholders. Such responsibilities include the negative duty to refrain from harm caused to the environment, individuals or communities, and sometimes also positive duties to protect society and the environment, for example protecting human rights of workers and communities affected by business activities. Such responsibilities are generally considered to extend not only to direct social and environmental impacts of business activity, but also to more indirect effects resulting from relationships with business partners, such as those involved in global production chains. In contrast, the term corporate accountability is commonly used instead to refer to more confrontational or enforceable strategies of influencing corporate behaviour. Often, the term corporate responsibility is used to indicate voluntary approaches, albeit those supported by market-based incentives. Corporate accountability typically implies that corporate behaviour is influenced by pressure exerted by social and governmental actors beyond the company itself.\textsuperscript{82}

2.4.2 CONCURRENCE OF CSR AND CORPORATE ACCOUNTABILITY

One of the most significant issues within the CSR agenda concerns the dynamic relationship between CSR and good public governance. The limits both to corporate accountability through law and to ‘voluntary’ CSR-related actions by businesses lie with the public good governance agenda. Legislation to deal with worst case instances of irresponsible behaviour and to set a minimum floor for business conduct will not work in the absence of effective drivers for business implementation and enforcement, whether they be market-based, or a result of enforcement through the state. A number of initiatives have address different aspects of the relationship between good governance, CSR and corporate accountability.

2.4.3 CORPORATE ACCOUNTABILITY AND CORPORATE CRIMES: A SOCIETAL DILEMMA

Corporate accountability can be defined as the ability of those affected by a corporation to control that corporation’s operations. This concept demands fundamental changes to the legal framework in which companies operate. These include environmental and

\textsuperscript{82} Available at \url{http://corporateaccountabilityresearch.net/files/2011/09/What-is-corporate-accountability.pdf}, browsed on 12.04.13
social duties being placed on directors to counterbalance their existing duties on financial matters and legal rights for local communities to seek compensation when they have suffered as a result of directors failing to uphold those duties. The role of the corporations in earlier times was far lesser than what it is today, their impact on society was minimal. Hence, the criminal liability and regulation of their conduct was thought unnecessary (Elkins, 1997). There is similarity in the development of corporate criminal liability in the United States and England. The latter witnessed a boom in growth of corporations and its importance during the 16th and 17th Century, following which the concept of corporate personality emerged. Holdsworth in 18th century defined the notion of the nature of a corporation in a succinct manner - “corporations could not commit neither sin or crime; and some said no tort- truly suitable representatives for saints and churches” (Elkins, J. R. (1977). Blackstone’s Commentaries also states, “A corporation cannot commit treason, felony, or other crime in its corporate capacity…” (Brickey, K. F. 1982). These views are justified given the role of corporations during that period.

Initially, tort principles were used to attribute liability to corporations, however with the increasing economic and social role played by corporations during the 19th century, the criminal liability was imputed to corporations. The first such instance was seen in the case of Queen v. Bringham & Gloucester Railway Co. followed by a string of cases in the year 1850. However, it was not until the early 20th century that crimes involving criminal intent were attributable to corporations. The United States too like England had religious and other societies as their first corporations. The liability for crimes was attributable through the application of tort principles until the period of 1875-1910 when the courts imposed liability on corporations for crimes requiring specific intent. (Foerschler, A. 1990).

Regulations and model laws were enacted to lay down the duties of corporations whose default of which would result in liability. The Sherman Act of 1890 is one of the first statues to regulate corporate behavior. The Sentencing Reform Act 1984 laid down Sentencing Guidelines enacted in 1987, which provided for a scale of penalties for corporate crimes (Brickey, K. F. 2006). Following the implementation of the guidelines a sharp decrease in crime was observed. In New York Central and Hudson River Railroad Co. v. United States, the US court held that law is to take into account the interest of all,

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83 Conference paper “Emerging Issues of Corporate Social Responsibility” November 2011, SLS, NOIDA
84 Ibid
given that majority of business transactions are dealt with by the corporations, providing them immunity from crimes would take away the only means of regulating them85. Corporate criminal liability ensures that the top management looks into the working and proper functioning of the company at its various levels, this leads to better accountability and transparency standards within the corporation. The traditional argument of charging fine as the only penalty for corporate crimes, has been extended to include measures such as administrative suspension, deprivation of license, disciplinary action, cancellation of benefits such as tax benefits, subsidies and so on. In the present scenario, the corporations are liable for crimes of intent. Most Countries have amended their national laws to include such change. However, the Indian legislations do not expressly incorporate this aspect. Therefore, there is a dire need for the amendment of the Companies Act 1956, the Indian Penal Code and other relevant statutes (Singhi, A.2006)86.

The Honourable Supreme Court of India in a recent case *Iridium India Telecom Ltd. v. Motorola Inc.*, held that corporations cannot evade liability on the sole pretext of the inability to possess mens rea or criminal intent, and thus Honourable court attempted to filled this legislative void (Naniwadekar, M. & Umakanth, V. 2011). Moreover, corporations in India are regulated through various mandatory guidelines/regulations/rules issued by the Securities Exchange Board of India (SEBI), the Ministry of Corporate Affairs and to a certain circumstances by the Reserve Bank of India (RBI). In the wake of Satyam scandal, it has been realized that a stringent audit requirements can alleviate corporate crimes. Such crimes are an offshoot of the business strategy of churning out maximum profits with minimum costs. In present predicament, corporate crimes are being committed in various forms, ranging from fraud, exploitative labour practices, corruption, anti-competitive practices, tax evasion to environmental harms and so on. The trickledown effect of corporate crimes has been felt at all levels of society. Hence there is a grave need for strict regulation and maintaining a balance between various interest groups87.

Business Accountability can be ensured at two levels -External by government and the society and Internally by the company itself

85 Ibid
86 Ibid
87 Ibid
2.4.5 CSR AND CORPORATE CRIMES: AN INTERTWINED RELATIONSHIP

History bears testimony to the fact that there has been a gradual rise in the importance of corporations and their role in the economy and polity of a nation, the need for accountability and regulation has been felt. A corporation has multifaceted roles and responsibilities in society. Due to the far reaching effects of its functions and the large number of stakeholders of a corporation, especially transnational corporations, there is a need to check and regulate the working of a corporation. All corporations are dependent on society, which comprises of diverse stakeholders, for their continued survival and growth.

One can infer from the above that the corporations do owe certain duties and responsibilities to society at large. These duties do not necessarily stem from a statute or convention, rather from the very basic premise that a corporation derives its legitimacy from the society itself. Therefore, the CSR principles encompasses the notions of accountability and adherence to norms and standards which concur with societal values. (The Law Society (2002). A legal scholar rightly opined that “until and unless it is demonstrated that the social good demands that corporations be held responsible for crimes, there is no sound reason for so holding them.” (Elkins) In the present era, social good demands more than just attributing responsibility, it requires that corporations partake in a process to enhance the benefits accrued to the society at the same time have such rules and regulations in place to prevent corporate crimes so that the brunt of such crimes are not borne the most vulnerable victim i.e. society. CSR has taken on a whole new dimension, traditionally it is said to have two dimensions namely, internal and external. The former is concerned with the internal working of the corporation, issues such as health, safety, restructuring. The latter includes various interest groups such as local communities, suppliers, consumers, competitors, environmental effects and human rights to name a few. Thus, a corporation has a duty to ensure that its functioning does not adversely affect any of its stakeholders (law society). Further, the success of a corporation is directly proportional to the reputation and goodwill it enjoys, both of which are built over time and can be instantaneously be divested as well. The corporations have become aware of such prognostication of doom and they have undertaken rigorous CSR initiatives. Nowadays, they consider CSR as vital tool for sustenance as shown by the Wal-Mart group. Corporate Social

88 Ibid
Responsibility has evolved into a very all encompassing phenomenon wherein the interests of various stakeholders are borne in mind. The Triple Bottom Line (Elkington 1997) is one such initiative by which companies have made an effort to strike a balance between the business and environmental concerns. It is imperative to regulate corporations as they have a significant bearing on the interests of the community at large. They are repositories of immense economic power and enjoy various privileges such as limited liability and distinct legal identity which gives officers in default the liberty to act in an irresponsible manner (Tolmee, J. 1996). Transnational corporations are an offshoot of globalization. These corporations have places of business in numerous countries across the world. They use both material and human resources from all the countries where they operate, create jobs, provide livelihood and sell their products. All these activities also take place across different borders. One can infer that such corporations have to fulfill their role of corporate social responsibility towards all the countries where they carry out business. Moreover, such corporations take advantage of the different legal regimes and regulations to maximize their profits and also to evade corporate criminal liability, example the Nike scandal. In some cases the strength of the corporation or its investment may lead to the granting of certain leeway or subsidies to these corporations in politically weak or dependent countries. Thus, transnational corporations have attained a great deal of power which can be used for the well being of the society or can cause grave damage affecting all stakeholders of society. The traditional notion pertaining to international law elucidates that it has jurisdiction predominantly over the nation states than on its non-state actors. But in the present circumstances, corporate responsibility can be brought under the purview of international law jurisprudence. There is inadequacy of laws to regulate transnational corporations by the international forums.

2.5 CHANGES IN THE PERCEPTION OF CSR

In India, the attention of CSR was mainly on Charity. Whether or not companies had a penchant for CSR, they addressed the issue of Environmental Sustainability as they regarded factory monitoring as a potential legal liability. But with the Bhopal Gas Tragedy, came an increased risk of observance of CSR on the legal angle, and this forced many organisations into greater compliance. Consequent to the mishap, there was a gradual and remarkable shift from the ‘Two P’s Balance’: People – CSR and Profit

89 Ibid
– Business earnings” to the ‘Three P’s Balance’: Planet – Environmental Protection, People and Profit.90

With the onset of increasing environmental hazards resulting out of industrial activities worldwide, CSR now stood as a plethora of Economic, Ethical and Environmental tenets. The norm then was in event of an industrial disaster, the organisation alleged to have inflicted the disaster should follow an all-encompassing definition of CSR that must include: Medical Rehabilitation, Social Rehabilitation, Economic Rehabilitation and Environmental Rehabilitation. The changed notion of CSR became global and percolated into every organisation’s structure. As an instance, Exxon was involved in a major disaster in 1989, the Alaska Oil Spill where one of Exxon’s tanker met with an accident and spilled 11 million gallons of oil in Prince William Sound in Alaska affecting to a great extent the life of sea otters in the area. Committed to its CSR policy, Exxon went on to spend US $ 40,000 on the rehabilitation of every sea otter affected by the oil spill. Each sea otter was given the rations of lobsters costing US $ 500 per day. Thus, it is evident that the notion of CSR had crept into all possible aspects91.

The meaning and the ambit of the idea has been steered through such an extent that of late, the idea of environmental sustainability and CSR reporting has been absolutely intertwined now. Further, it has happened to such an extent that CSR has begun to be known as ‘Sustainability Reporting’. Every Company’s attitude on CSR is now more on ‘transformation’ rather than on ‘Information.92.

2.6 CHANGE IN CONTEXT OF INDUSTRIAL DISASTER MANAGEMENT

The Bhopal tragedy, donning the cap of one of the worst industrial disasters of the world, contributed to change in the notion of CSR with a marked difference in context of industrial disaster management. The tremendous pressure on the Indian Government consequent to the tragedy led to the evolution of jurisprudence of Industrial Disasters, the Government coming out with string of enactments and pronouncements. Some

91 Available at http://www.indusedu.org/IJRMEC/August2012(pdf)/2.pdf (My own research paper published in IJRMEC Journal) browsed on 25th Dec 2012 at 11. 36 AM
92 Ibid
variations could be noticed in the understanding of the concept as a whole, which can be visualized as:

Instead of viewing disaster as a single tragic event, it was now considered a part of a larger process, requiring a long-term perspective to address immediate needs as well as root causes. Instead of viewing disaster affected individuals as ‘victims’ or passive recipients of outside assistance, recognizing local people and their community based organisations and contributions as assets.

Now, in the aftermath of an industrial disaster, CSR is no more an intermittent participation of corporate houses in disaster reliefs and funds based on charitable impulse. It is now a more comprehensive and sustainable participation in all spheres of disaster management that includes:

- Health remediation of affected people
- Financial compensation for workers
- Environmental clean up
- Apology to the aggrieved community.

Further, the idea of mitigation has also experienced a shift now. The changed notion of mitigation thus incorporates the following ideas:

- Mitigation with a social rather than physical approach
- Approaches placing emphasis on proactive rather than reactive actions
- Reduction of vulnerability to disasters integrated as part of ongoing policies of societal development.

Thus, it has been observed that ‘proactive participation’ by the corporate sector in disaster preparedness and mitigation has in recent years become an inalienable aspect of the idea of CSR.

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2.7 DISASTER MANAGEMENT ACT 2005 AND CSR

Disaster management act was passed in 2005\textsuperscript{94}. To mitigate the effects of disaster and fast response to any disaster situation, the Government of India via Act of Parliament decided to make an institutional mechanism for drawing up and monitoring the implementation of disaster management plans through various wings of the government. There are three authorities for the disaster management under the Act of 2005 at -

- National level – Known as National Disaster Management Authorities
- State level – State Disaster Management Authorities
- District level – District Disaster Management Authorities

There are multi-dimensional Strategies under Disaster Management Act those are:-

2.7.1 Pre-disaster Phase

- Prevention.
- Mitigation.
- Preparedness.
- Capacity Building and Awareness.
- Community Based Disaster Management.

2.7.2 Post-disaster Phase

- Prompt and Efficient Response – Proactive.
- Reconstruction to build back better.

The corporate sector is contributing a lot especially in the aftermath of the disaster like cyclone in 1999 and bhuj earthquake in 2001 and kosi and other floods in Andhra Pradesh and Karnataka. The corporate sectors have played an important role for providing relief in such disasters.

The corporate sector can contribute via C S R through supporting the community in risk management and mobilizing human and financial resources. Corporate sector can also help before the crisis by supporting disaster prevention and preparedness to control the

\textsuperscript{94} Available at \url{http://mha.nic.in/pdfs/DM_Act2005.pdf} An Act to provide for the effective management of disasters and for matters connected therewith or incidental thereto.
emergency situations. Corporate sector can also take initiative by supporting disaster prevention in case of earthquake, floods and spreading public awareness about disaster relief. (Refer Annexure B)

2.8 ANALYSIS OF DISASTER MANAGEMENT ACT 2005

The Act ignores the very basic principles of disaster management. In its form and approach, it is very bureaucratic tied down by the administrative approach. It does not mention any specifics, neither in its detailing nor in terms of the involvement of the community at large. The Act talks about early warning, evacuations and rescue but it does not refer to what mechanism would be placed to do this in terms of units on the ground. Pre-disaster aspect of the policy must be based on three specifics of rescue, relief and rehabilitation. The Act in its current form has not laid down any principles and details of structures that would be needed in case of disasters. It is an unfortunate that the current approach to disaster management in India is solely geared towards non-disabled people. Assuming that, when a disaster strikes, people get an average 60 seconds to evacuate, people with disabilities, aged and other vulnerable groups will have greatest difficulty. Specialised attention and focus must be given to these sections95.

2.8.1 NO DISASTER MANAGEMENT IN UTTARAKHAND – CAG

In its performance audit report on the disaster management mechanism in the country, submitted to Parliament on April 23, CAG had highlighted that the Uttarakhand disaster management authority (SDMA), constituted in 2007, had not formulated any rules, regulations, policies or guidelines for disaster management in the state. The authority is headed by the chief minister and has eight more members in it. The state executive committee that was constituted in 2008 to advise SDMA on matters of disaster management had also not met since its creation96. Even worse, the state did not even have the mandatory disaster management plan prescribed by the Disaster Management Act of 2005. The actionable programmes for various disasters were still under preparation when disaster struck though these should have been well in place given that Uttarakhand has a history of being hit by natural

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95 Available at [http://www.dnis.org/interview.php?issue_id=21&volume_id=3&interview_id=73](http://www.dnis.org/interview.php?issue_id=21&volume_id=3&interview_id=73) browsed on 10 sept 2011 at 01.00 am
96 Available at [http://news.oneindia.in/2013/06/24/u-khand-tragedy-cag-submits-report-1244367.html](http://news.oneindia.in/2013/06/24/u-khand-tragedy-cag-submits-report-1244367.html) browsed on 7July 2013 at 10 am
disasters, said CAG. The state has not even mapped the frequency and intensity various types of disasters it has suffered. Besides, there was no plan prepared for early warning of disasters and the communication system was inadequate. This has often resulted in delayed information to vulnerable people\(^\text{97}\).

### 2.9 CSR AND IMPORTANCE OF ENVIRONMENTAL SUSTAINABILITY

The sine qua non for a safe and sustainable development is promotion of corporate social responsibility and accountability, strengthening of public-private-partnerships and continuous attention to improvements in corporate sector practices and processes\(^\text{98}\).

The idea of Corporate Environmental Responsibility under the veil of CSR derives its inspiration from the principles of UN Global Compact\(^\text{99}\) for Corporate Sustainability which read as follows\(^\text{100}\):

“**Principle 7:** Business should support a precautionary approach to environmental challenges;

**Principle 8:** undertake responsibility to promote greater environmental responsibility;

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\(^{97}\) Ibid

\(^{98}\) Supra 76

\(^{99}\) The Ten Principles

The UN Global Compact's ten principles in the areas of human rights, labour, the environment and anti-corruption enjoy universal consensus and are derived from:

- The Universal Declaration of Human Rights
- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work
- The Rio Declaration on Environment and Development
- The United Nations Convention Against Corruption
- The UN Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anti-corruption:
  - **Human Rights**
    - Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
    - Principle 2: make sure that they are not complicit in human rights abuses.
  - **Labour**
    - Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
    - Principle 4: the elimination of all forms of forced and compulsory labour;
    - Principle 5: the effective abolition of child labour; and
    - Principle 6: the elimination of discrimination in respect of employment and occupation.
  - **Environment**
    - Principle 7: Businesses should support a precautionary approach to environmental challenges;
    - Principle 8: undertake initiatives to promote greater environmental responsibility; and
    - Principle 9: encourage the development and diffusion of environmentally friendly technologies.
  - **Anti-Corruption**
    - Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.
Principle 9: encourage the development and diffusion of environmentally friendly technologies.”

CSR is thus the umbilical cord between sustainable development and Disaster Management, only then can the idea of development be socially safe and commercially viable.

In the light of environmental sustainability and CSR, the increasing pressure on the Indian Government was followed by enactments and legislations. Realising that commitment and voluntary initiatives of industry for responsible care of the environment will help in building a partnership for pollution control, the Ministry of Environment and Forest (MoEF) in the year 2003 came up with the Charter on Corporate Responsibility for Environmental Protection (CREP)\(^1\). The CII (Confederation of Indian Industries) has also established an Environment Management Division (EMD)\(^2\) involved in research and propagation of environmentally sound industrial systems and processes and ensuring greater compliance on part of industries. In the global context, such measures have been re-enforced with international reference standards set by the United Nations, Organization for Economic Co-operation and Development (OECD) Guidelines and International Labour Organization (ILO)\(^3\) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy\(^4\).

\(^1\) Available at [http://cpcb.nic.in/crep.php](http://cpcb.nic.in/crep.php) The Ministry of Environment & Forest (MoEF) has launched the Charter on “Corporate Responsibility for Environmental Protection (CREP)” in March 2003 with the purpose to go beyond the compliance of regulatory norms for prevention & control of pollution through various measures including waste minimization, in-plant process control & adoption of clean technologies. The Charter has set targets concerning conservation of water, energy, recovery of chemicals, reduction in pollution, elimination of toxic pollutants, process & management of residues that are required to be disposed off in an environmentally sound manner. The Charter enlists the action points for pollution control for various categories of highly polluting industries. The Task Force was constituted for monitoring the progress of implementation of CREP recommendations/ action points.

\(^2\) Available at [www.cii.in/aboutUs_Initiatives.aspx?enc=ns9fzmNKJnc0QCvKuUMaQ==](http://www.cii.in/aboutUs_Initiatives.aspx?enc=ns9fzmNKJnc0QCvKuUMaQ==) Environment Management Division facilitates the utilisation of national and international expertise through seminars, workshops and training programs. It undertakes a wide range of programmes & awareness activities covering legal and technical aspects including design and implementation of Environment Management systems as per ISO 14001, OHSAS 18001 and SA 8000. Pollution Prevention and Waste Minimization Initiatives, Green Supply Chain Management, Environmental Performance Evaluation, Strategic Environmental Assessment, Sustainable Development and Environmental Planning, Hazardous Waste Management, Site Feasibility Assessment etc. are some of the other services offered. Green Services Division operates through the Green Business Centre (CII-GBC), offering niche Green Services to Indian industry. The objective of the CII-GBC is to promote Green Concepts leading to sustainable development, efficiency and equitable growth. Services offered : Green Process Certification, Green Building Certification (advisory services on construction of green buildings and award of Green Building certificate), Technology Centres, Training Programmes on Green related topics and business incubation – facilitating entrepreneurs in developing and marketing new and innovative Green products for commercialisation.

\(^3\) Available at [www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm](http://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm) In the 1960s and 1970s, the activities of multinational enterprises (MNEs) provoked intense discussions that resulted in efforts to draw up international instruments for regulating their conduct and defining the terms of their relations with host countries, mostly in the developing world.
Hence, CSR now entails within its ambit various ideas and concepts, prominent among them being Design For Environment (DFE) and Green Engineering. Thus, it has been widely observed amongst industries riveting across ideas of DFE and Green Engineering. Design for Environment primarily embraces the following tasks within itself:\(^{106}\):

- Improved maintenance of equipment's
- Improved monitoring and control of potentially hazardous systems
- Energy leak and loss prevention
- Improved building envelopes
- Use of high efficiency devices

On a similar note, it is found that two out of the twelve principles of Green Engineering\(^{106}\) directly hit upon the idea of CSR in the context of an industrial hazard or disaster.

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Labour-related and social policy issues were among those concerns to which the activities of MNEs gave rise. The ILO’s search for international guidelines in its sphere of competence resulted, in 1977, in the adoption by the ILO Governing Body, of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). The principles laid down in this universal instrument offer guidelines to MNEs, governments, and employers’ and workers’ organizations in such areas as employment, training, conditions of work and life, and industrial relations. Its provisions are reinforced by certain international labour Conventions and Recommendations which the social partners are urged to bear in mind and apply, to the greatest extent possible. The adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998 highlighted the importance of the fundamental Conventions in realizing the objectives of the ILO, and consequently, the MNE Declaration takes into account the objectives of the 1998 Declaration.

Today, the prominent role of MNEs in the process of social and economic globalization renders the application of the principles of the MNE Declaration as timely and necessary as they were at the time of adoption. As efforts to attract and boost foreign direct investment gather momentum within and across many parts of the world, the parties concerned have a new opportunity to use the principles of the Declaration as guidelines for enhancing the positive social and labour effects of the operations of MNEs.

105 See Supra 76
106 The Twelve Principles of Green Engineering*  

1. **Inherent Rather Than Circumstantial**  
   Designers need to strive to ensure that all materials and energy inputs and outputs are as inherently nonhazardous as possible.
2. **Prevention Instead of Treatment**  
   It is better to prevent waste than to treat or clean up waste after it is formed.
3. **Design for Separation**  
   Separation and purification operations should be designed to minimize energy consumption and materials use.
4. **Maximize Efficiency**  
   Products, processes, and systems should be designed to maximize mass, energy, space, and time efficiency.
5. **Output-Pulled Versus Input-Pushed**  
   Products, processes, and systems should be “output pulled” rather than “input pushed” through the use of energy and materials.
6. **Conserve Complexity**  
   Embedded entropy and complexity must be viewed as an investment when making design choices on recycle, reuse, or beneficial disposition.
7. **Durability Rather Than Immortality**  
   Targeted durability, not immortality, should be a design goal.
8. **Meet Need, Minimize Excess**  
   Design for unnecessary capacity or capability (e.g., “one size fits all”) solutions should be considered a design flaw.
“Inherent rather than circumstantial: Need to strive to ensure that all materials and energy input and outputs are as inherently non-hazardous as possible.

Prevention instead of treatment: It is better to prevent waste than to treat or cleanup hazardous waste after it is formed.”

Thus, the sustenance of these expanding environmental operations depends upon the realization on the part of corporate that it owes a debt to the society to make up for environmental degradation and to become environmentally conscious and socially responsible.\textsuperscript{107}

\textbf{2.10 CSR AND RISK TRANSMISSION MECHANISM}

As an inalienable part of its CSR, the corporate sector should play an essential role in leading and supporting the community in risk management activities and in mobilizing human and financial resources as well as materials for utilization during a disaster situation. This is essentially because

They have an edge over others when it comes to identification and research on technological solutions to prepare for natural disasters.

The corporate, being a potential source for technical knowledge can better respond to natural disasters.

The corporate can come out with the best risk mapping of the area hosting the industry.

One of the key ideas under the Risk Transfer Mechanism concept is to explore the possibility of group insurance for the corporate sector on the basis of a cluster of industries on an industrial estate or industrial zone. This will help generate awareness on the issue of securing the industrial assets and adopting a common approach to disasters.\textsuperscript{108}

\begin{itemize}
\item \textbf{9. Minimize Material Diversity}\n\quad Material diversity in multicomponent products should be minimized to promote disassembly and value retention.
\item \textbf{10. Integrate Material and Energy Flows}\n\quad Design of products, processes, and systems must include integration and interconnectivity with available energy and materials flows.
\item \textbf{11. Design for Commercial "Afterlife"}\n\quad Products, processes, and systems should be designed for performance in a commercial "afterlife."
\item \textbf{12. Renewable Rather Than Depleting}\n\quad Material and energy inputs should be renewable rather than depleting.
\end{itemize}

\textsuperscript{107} see Supra 76

\textsuperscript{108} Confederation of Indian Industries, \textit{Disaster Risk Management and Role of Corporate Sector: The Indian Perspective}
Under this idea, the corporate seek to transfer the risk unto itself, the logic behind cross-sectorial risk transfers being that the transferor takes on the risk as a part or consequence of its core business and his incentive being that the cost of transferring or hedging the risk is calculated to be lower than the cost of retaining it. This is done by way of Catastrophe Insurance, whereby corporate compensate for catastrophic income losses to protect consumption and debt repayment capacity. And since it is voluntary done as part of CSR and unsubsidized, it acts as a more effective alternative to existing risk management strategies.

2.11 NEED FOR CSR AFTER BHOPAL GAS TRAGEDY

Though a few big Indian companies practice corporate citizenship yet the degree to which it is done is very passive amongst the corporate India. There has been growing awareness among the academic institutions as well as towards corporate social responsibility as a subject to sensitize the future managers, if this nation to the societal needs besides generating profits for their organizations with increased efficiency. The government and the association of industries must device policies and regulations for companies to strictly comply with and report. There must be a fundamental change in the corporate culture to enable businesses take ethical, social and environmental consideration in decision making.

The company should have been more responsive towards corporate accountability, human rights and the environment. Apart from the company, the Government should also have had a clear cut policy regarding a proactive Disaster Management Plan in order to prevent recurrence of such incidents. Strong community participation along with well-structured disaster management plan is essential in order to deal with such disasters. Dow being financially sound should have been more responsible towards socio, economic and environmental issues. Hence, for Dow, it was high time to take some positive action and appropriate CSR approach towards human rights.

The researcher is of the view that the uncompromising need for disaster planning in an industrial society is perhaps one of the important lessons to be learnt from the Bhopal tragedy. However, even after the worst chemical tragedy, forty two major industrial disasters have taken place since then taking a toll of over two hundred fifty persons in

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India and exposure to hazardous materials and wastes. However, following the events of 3rd December, 1984, there is a lesson to be learned. It is that corporate responsibility to "do the right thing" must not be subverted or denied by recourse to legal subtleties such as "it's not our responsibility." However, it remains that "the business of business is business". If we are dreaming of becoming a developed nation the biggest the issue of public safety and our disaster management will be certainly a crucial parameter in achieving our goals. Because, “Business cannot succeed in societies that fail”

In India CSR has gained lot of importance among companies because of its long term benefits. A company should take a balanced view of the components of CSR and implement the strategies in coherent with the vision, mission and value of the company.

In the following chapter the researcher has given an importance of CSR in Pharmaceutical industries and the legal position of countries that are following certain national and international norms to instigate CSR efforts and mitigate Mass Torts.