A Selected Bibliography on Hazardous Activities, Technology and the Law: Bhopal and Beyond†

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*Reference Librarian, Southwestern University School of Law
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This bibliography was prompted by the legal issues raised by the December 1984 Carbide plant in Bhopal, India. It focuses on recent works (primarily 1970 to present), dealing with the problems, regulations and litigation involving transnational corporations engaged in the production or transfer of hazardous technologies. The purpose is to provide a starting point for research about Bhopal-type situations.

I. PROBLEMS

This section provides some recent articles and other works dealing with corporate, technological and environmental problems which shed light on the catastrophe.

A. Bhopal—Factual Accounts


Firm Calls "Deliberate" Act Possible in Bhopal Disaster, L.A. Times, Mar. 21, 1985, § 1, at 1, col. 5.


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What We Can Learn From Bhopal, Env't, Jan./Feb. 1985, at 15.


B. Transnational Corporations


V. Balasubramanyam, Multinational Enterprises and the Third World (Trade Pol'y Research Centre, 1980)


Disaster in India Sharpens Debate on Doing Business in Third World, N.Y. Times, § 1, at 1, col. 2.


Kalmanoff, Manufacturing in Developing Countries: Trends and Problems, 10 Colum. J. Transnat'l L. 303 (1971).


FALL 1985


M. SAINI, Politics of Multinationals: A Pattern in Neo-Colonialism (Humanities, 1982).


TRANSNATIONAL CORPORATIONS IN WORLD DEVELOPMENT (U.N., 3d rev. ed. 1983)


Vogel, Responsibilities of Multinational Corporations, SOC’Y, Mar. 1979, at 52.

C. Technology Transfer & Developing Countries


C. OKOLIE, Legal Aspects of the International Transfer of Technology to Developing Countries (Praeger, 1975).


D. Hazardous Industrial Activities

Castleman, How We Export Dangerous Industries, BUS. & SOC’Y REV., Fall 1978, at 7.


Fatal Carelessness, ECONOMIST, July 31, 1976, at 64.


Major Accident Hazards of Certain Industrial Activities, 130 NEW L.J. 366 (1980).
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Von Moltke, Bhopal and Seveso—Avoiding a Recurrence, ENVTL. F., June 1985, at 21.


E. Exportation of Hazardous Substances & Products

1. Generally


Brownstein, Big Business Takes Out the Garbage, STUDENT LAW., April 1981, at 16.


Isikoff, Bhopal Tragedy Rekindles Debate on Hazardous Exports, Wash. Post, Jan 6, 1985, at K1, col. 1.

Levenstein & Eller, Are Hazardous Industries Fleeing Abroad?, BUS. & SOC'Y REV., Summer 1980, at 44.


Street, U.S. Exports Banned for Domestic Use, But Exported to Third World Countries, 6 INT'L TRADE L.J. 95 (1980-81).

2. Pharmaceuticals & Medical Devices

Duby, Sovereignty vs. Paternalism: The Export of Non-Conforming Drugs and Medical Devices, 37 FOOD DRUG COSM. L.J. 409 (1982).

3. Infant Formula


4. Pesticides

F. Other Transnational Environmental Hazards


II. REGULATION OF TRANSNATIONAL CORPORATIONS AND TECHNOLOGY TRANSFER

This section is limited primarily to regulation involving transnational enterprises in general, transfer of technology and some hazardous business activities. The sources are indicative of current trends in the regulation of transnational corporations. Sources dealing with restrictive business practices, antitrust, taxation and other business-related areas have been excluded.

A. Generally


HAZARDOUS ACTIVITIES, TECHNOLOGY AND THE LAW


LEGAL PROBLEMS OF CODES OF CONDUCT FOR MULTINATIONAL ENTERPRISES (Kluwer-Deventer, Horn ed. 1980).


MULTINATIONAL CORPORATIONS LAW (Oceana, K. Simmonds ed. 1985) (contains texts of codes).

Note, Taming the Transnationals: An Examination of Structural Solutions to Regulation of Transnational Enterprise and the Theoretic Problem of Sovereignty, 7 W. ST. U.L. REV. 187 (1980).


SECTION ON BUSINESS LAW, INTERNATIONAL BAR ASSOCIATION, CODES OF CONDUCT FOR TRANSNATIONAL CORPORATIONS (1980).


FALL 1985


C. WALLACE, LEGAL CONTROL OF THE MULTINATIONAL ENTERPRISE (Martinus Nijhoff, 1982).


B. Technology Transfer Codes


Farcus & Falk, Transfer of Technology Between the United States and Less Developed Countries, LAW-TECH, Fall 1983, at 3.

W. FIKENTSCHER, THE DRAFT INTERNATIONAL CODE OF CONDUCT ON THE TRANSFER OF TECHNOLOGY (Verlag Chemie, 1980).


C. Infant Formula


D. Pharmaceuticals


E. Chemicals


F. Pesticides


III. TRANSNATIONAL LITIGATION

Litigation was an immediate response to the Bhopal event. This section indicates sources on analogous disasters and other transnational events. The question of
lawyer conduct is also explored. In addition, articles and books on the Indian legal system were included.

A. Bhopal—Generally


Government of India Sues Union Carbide on Bhopal Plant Disaster, L.A. Times, April 9, 1985, § IV, at 1, col. 5.


Lewin, *Carbide Is Sued in U.S. By India in Gas Disaster*, N.Y. Times, Apr. 9, 1985, at 1, col. 5.


B. Suits Against Transnational Corporations

1. Generally


Kennelly, Litigation of Foreign Aircraft Accidents: Advantages (pro and con) From Suits in Foreign Countries, 16 Forum 488 (1981).


2. Piercing the Corporate Veil


C. Liability

1. Transnational Corporations


Stone, The Place of Enterprise Liability in the Control of Corporate Conduct, 90 Yale L.J. 1 (1980).

2. State Responsibility


3. India


D. Jurisdiction

1. Generally


RESTATEMENT (REVISED) OF FOREIGN RELATIONS LAW OF THE UNITED STATES (Tent. Draft No. 6 1985).


2. Extraterritorial
   a. Generally

   *Act of State and Extraterritorial Reach* (ABA, J. Lacey ed. 1983).

   Bibliography, 15 LAW & POL’Y INT’L BUS. 1187 (1983) (Extraterritoriality)


b. Export Controls

c. Environmental Regulation
Almond, Extraterritorial Reach of United States Regulatory Authority Over the Environmental Impacts of Its Activities, 44 ALB. L. REV. 739 (1980).

3. Forum Non Conveniens
HAZARDOUS ACTIVITIES, TECHNOLOGY AND THE LAW


Casenote, *Jurisdiction and Procedure—Forum Non Conveniens—the Foreign Plaintiff is Entitled to Less Deference in His Choice of Forum than is a Citizen or Resident Plaintiff; A Change of Law Resulting from Dismissal is Not a Substantial Factor in the Forum Non Conveniens Analysis*, 15 *Vand. J. Transnat’l L.* 583 (1982).


Tompkins, *India is Proper Forum to Pursue Bhopal Litigation*, Legal Times, Jan. 21, 1985, at 17, col. 1.

E. Choice of Law


F. Proof & Pleading of Foreign Law

R. Chavan, Indian Private International Law (Sterling, 1982).  
Saltzburg, Discovering and Applying Foreign and International Law is Domestic Tribunals, 18 VA. J. INT'L L. 609 (1978).  

G. Professional Responsibility and Legal Ethics  
1. Bhopal  
Bhopal is For Lawyers, NAT'L REV., Jan. 11, 1985, at 20.  
Bhopal's in Your Court, NEW REPUB., Jan. 7-14, 1985, at 4.  

2. Generally  
Clark, Legal Profession in Comparative Perspective: Growth and Specialization, 30 AM. J. COMP. L. 163 (1982).  


