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

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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 Happened at Bhopal: Union Carbide Blames Tragedy on Mishaps and Oversights, TIME, April 1, 1985, at 71.

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


Royston, Local and Multinational Corporations: Environmental Management, Env’t, Jan./Feb. 1985, at 12.

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).

ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, TRANSFER OF TECHNOLOGY BY MULTINATIONAL CORPORATIONS (D. Germidis ed. 1977).

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).
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


Wasserman, WHO: Breast is Best, 14 J. World Trade L. 451 (1980).

4. Pesticides

F. Other Transnational Environmental Hazards


I. Van Lier, Acid Rain and International Law (Bunsel Envt'l Consultants, 1980).

II. REGULATION OF TRANSTNATIONAL 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


Legal Problems of Codes of Conduct for Multinational Enterprises (Kluwer-Deventer, Horn ed. 1980).


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).


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.


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

2. Piercing the Corporate Veil


C. Liability

1. Transnational Corporations
2. State Responsibility


3. India


D. Jurisdiction

1. Generally


2. Extraterritorial
   
a. Generally

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


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

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, Barring Foreign Air Crashes From American Courts—Update, 18 Forum 93 (1982).

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

E. Choice of Law


Coyle, Choice of Law in International Aviation Accidents, 16 Forum 658 (1981).


F. Proof & Pleading of Foreign Law


FALL 1985
R. Chavan, *Indian Private International Law* (Sterling, 1982).


**G. Professional Responsibility and Legal Ethics**

1. **Bhopal**


2. **Generally**


