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.


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
S. Lall, The Multinational Corporation: Nine Essays (Holmes & Meier, 1980).


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).


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


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


E. Exportation of Hazardous Substances & Products

1. Generally


2. Pharmaceuticals & Medical Devices


3. Infant Formula


Wasserman, WHO: Breast is Best, 14 J. WORLD TRADE L. 451 (1980).

4. Pesticides

F. Other Transnational Environmental Hazards


Comment, Controlling the Environmental Hazards of International Development, 5 ECOLOGY L.Q. 321 (1976).

Howard & Perley, Acid Rain Over North America, BUS. & SOC’Y REV., Fall 1981, at 18.


I. VAN LIER, ACID RAIN AND INTERNATIONAL LAW (Bunsel Envt’l Consultants, 1980).

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

Chance, Codes of Conduct for Multinational Corporations, 33 BUS. LAW. 1799 (1978).


Dwivedi & Kishore, Protecting the Environment from Pollution: A Review of India’s Legal and Institutional Mechanisms, 22 ASIAN SURV. 894 (1982).


Legal Problems of Codes of Conduct for Multinational Enterprises (Kluwer-Deventer, Horn ed. 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
Kennelly, Litigation of Foreign Aircraft Accidents: Advantages (pro and con) From Suits in Foreign Countries, 16 Forum 488 (1981).

2. Piercing the Corporate Veil
Griffin, Power of Host Countries over the Multinational: Lifting the Veil in the European Economic Community and the United States, 6 Law & Pol'y Int'l Bus. 375 (1974)

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


Fatouros, Transnational Enterprise in the Law of State Responsibility in INTERNATIONAL LAW OF STATE RESPONSIBILITIES FOR INJURIES TO ALIENS 361 (Univ. Press of Va., 1983).


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

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

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

G. Professional Responsibility and Legal Ethics

1. Bhopal


A Lawyer's Game of Chicken, Newsweek, Dec. 24, 1984, at 23.


2. Generally

Clark, Legal Profession in Comparative Perspective: Growth and Specialization, 30 Am. J. Comp. L. 163 (1982).


