
REGULATING THE UNBELIEVABLE: ADMINISTRATIVE LAW AND CRISIS MANAGEMENT IN BHOPAL

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ABSTRACT

Administrative law plays a crucial role in ensuring effective governance, it is the study of law that governs the activities of the administrative agencies of government especially in times of crisis. It governs the powers, functions, and responsibilities of public authorities, and ensures that their actions are lawful with transparency and accountability to public.

This research paper highlights the role of administrative law in managing the industrial crisis especially focusing upon the Bhopal Gas Tragedy of 1984. The paper analyses the how administrative law principles, including licensing, inspection, and environmental regulations, were applied before and after the disaster. In this study, the different acts and amendments were passed by the Indian parliament such as The Environment Protection Act, 1986,

Amendments to the Factories Act (1948), Public Liability Insurance Act (1991), Bhopal Gas Leak Disaster Act (1985) etc. The paper aims to study the factors critical in administrative law. The paper emphasizes the reasons such as regulatory Gaps and Weak Enforcement, Negligence in Licensing and Oversight, Lack of Disaster Preparedness etc. This paper also describes the response of government to Bhopal Gas Tragedy and the evolution of administrative law post Bhopal Tragedy. The paper discusses the challenges and limitations during the gas tragedy such as delay in addressing claims, lack of environmental regulations, weak enforcement and monitoring, and limited liability and accountability. This research paper also talks about the case law of Union of India v. Union Carbide corporation and MC Mehta case etc.

In conclusion, the research paper argues that while administrative law can provide a framework for preventing and managing industrial disasters, its effectiveness is heavily reliant on strong enforcement, transparency, and accountability mechanisms. The Bhopal Gas Tragedy serves as an absolute reminder of the consequences when these principles are lacking.

Keywords: Administrative, Governance, Responsibilities, Tragedy, Environment, Disaster

INTRODUCTION:

Administrative law plays a crucial role in ensuring effective governance, it is the study of law that governs the activities of the administrative agencies of government especially in times of crisis.

According to Ivor Jennings *“Administrative law is the law relating to the administration. It determines the organization powers and duties of the administrative authorities.”*

According to Wade *“Administrative law is the law relating to the control of governmental powers.”*

According to KC Davis *“Administrative law is the law concerning the powers and procedure of the administrative agencies including especially the law governing the judicial review of the administrative actions.”*

Administrative law is a public law, it is uncodified in nature and it governs the powers, functions, and responsibilities of public authorities, and ensures that their actions are lawful with transparency and accountability to public. In the context of industrial disasters, administrative law becomes a vital tool in both crisis prevention and crisis management.

The Bhopal Gas Tragedy of 1984 is one of the most catastrophic industrial disasters in history, which results into the death of thousands of people and had long-term health consequences for hundreds of thousands. This tragedy highlights the mismanagement and inadequacies in India's administrative and legal frameworks for managing industrial risks. In the response of Bhopal Gas Tragedy, major legal reforms in administrative law were introduced to prevent such disasters in the future.

BACKGROUND OF THE BHOPAL GAS TRAGEDY:

The Bhopal Gas Tragedy was a catastrophic event which shook the entire nation from sleep. On the night of December 3, 1984, over 40 tons of methyl isocyanate (MIC), a toxic gas, leaked from the Union Carbide India Limited, a pesticide plant situated in Bhopal, Madhya Pradesh. The toxic gas spread over a large area, affected more than 500,000 people and resulting in approximately 4,000 immediate deaths. With the long-term impact on environment degradation included chronic illnesses as well.

The Union Carbide Corporation (UCC), an American based multinational company, was the majority shareholder in UCIL and they immediately tried to dissociate itself from their legal responsibility. The disaster occurred due to a combination of factors, including design flaws, operational failures, and inadequate safety measures.

In the 1970s, the Indian Government introduced policies to encourage foreign companies to invest in local industries. The Union Carbide Corporation was asked to build a plant for the manufacture of Sevin, a pesticide commonly used throughout Asia. The Indian government itself had a 22% share in the company's subsidiary, Union Carbide India Limited (UCIL).

According to the data of National Institute of Health, At around 11.00 PM on December 2, 1984, While most of the one million residents from Bhopal slept, one of an operator at the plant noticed a small leak of methyl isocyanate (MIC) gas and increasing pressure inside a storage tank. At around 1:00 AM, December 3 the toxic gas started leaking. Within hours, the streets of Bhopal were littered with human corpses and carcasses of cows, dogs and birds. An estimated 4000 people died immediately, mostly in the poor slum colony adjacent to the UCC plant. Local hospitals were soon overwhelmed with the injured, a crisis further compounded by a lack of knowledge of exactly what gas was involved and what its effects were. It became one of the worst chemical disasters in history.

ADMINISTRATIVE LAW AND CRISIS MANAGEMENT:

The administrative law is a branch of public law, it plays a crucial role in crisis management by ensuring that the government agencies and authorities act responsibly and transparently and are accountable to public as well. It deals with the legal control of government powers, the conduct of public authorities, and the regulation of government decision-making. In the times of crisis management, administrative law functions by ensuring compliance with safety standards and environmental norms. It provides statutory powers to inspect and control industrial activity by licensing and Inspection. The administrative authorities are accountable to public by enabling affected parties to challenge unlawful or negligent administrative actions. It also empowers authorities to take quick actions during emergency crises.

The importance of administrative law is highlighted when regulatory failure leads to human and environmental disasters. In the case of Bhopal Gas Tragedy, administrative law was critical in:

The regulatory Gaps and Weak Enforcement: India's regulatory framework at the time was not adequately equipped to handle hazardous industries. The Factories Act, 1948 was outdated, and its provisions did not include sufficient guidelines on hazardous processes. Inspections were rare and often superficial. Local authorities lacked both technical knowledge and enforcement capacity.

Negligence in Licensing and Oversight: The UCIL had reduced safety measures, including cutting back on maintenance staff and shutting down refrigeration systems that were crucial to MIC storage. Despite repeated warnings by workers and minor accidents leading up to the disaster, administrative agencies failed to intervene meaningfully. This reflects both bureaucratic inertia and regulatory capture.

Lack of Disaster Preparedness: There was no emergency response plan in place. Neither the municipal authorities nor the plant had evacuation protocols. This lack of coordination between industrial regulators, local governments, and emergency services contributed to the scale of devastation.

Despite multiple warnings from safety audits and inspection agencies, the Madhya Pradesh government and central agencies failed to enforce corrective measures. There was no coordinated response between environmental, health, and industrial departments before or during the crisis. Authorities were failed to monitor toxic chemical storage and waste disposal practices at the plant.

The Indian government had policies to encourage foreign investment, but inadequate regulations and enforcement enabled UCC to operate the plant with substandard safety measures. Further, UCC's attempt to shift the liability and manipulate scientific data highlighted the need for stronger corporate accountability measures.

RESPONSE OF GOVERNMENT TO BHOPAL GAS TRAGEDY:

After the Bhopal Gas Tragedy, the Indian Parliament passed The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985. The Act was introduced to centralize all legal claims through the Government of India. The state government was authorized to act as the sole representative of victims in negotiations with UCC. This Act aimed to promote or quicken compensation process but led to dissatisfaction due to delays, lack of transparency, and under-compensation.

In 1989, Eventually it reached a settlement with the Indian Government through mediation of that country's Supreme Court and accepted moral responsibility. It paid \$470 million in compensation, a relatively small amount of based on significant underestimations of the longterm health consequences of exposure and the number of people exposed to the tragedy. This was criticised as inadequate compensation given the scale of the tragedy. Legal scholars argue that this settlement reflected a weakness in the Indian legal system's ability to negotiate fair compensation in transnational liability cases.

And the Supreme Court of India played a significant role in supervising the disbursement of compensation, monitoring the medical rehabilitation of victims, and issuing guidelines for environmental remediation. However, many victims and activists argue that the judiciary was involved in legitimizing the inadequate settlement.

EVOLUTION OF ADMINISTRATIVE LAW POST BHOPAL GAS TRAGEDY:

After the Bhopal Gas Tragedy, different amendments, legal reforms and Acts were passed by the Indian parliament. These amendments and acts were passed to strengthen the environmental protection and industrial safety. The key changes included the Environment Protection Act (1986), amendments to the Factories Act (1948), the enactment of Bhopal Gas Leak Disaster Act (1985), Public Liability Insurance Act (1991) and The National Green Tribunal Act (2010).

These measures aimed to address legislative gaps, enhance accountability for hazardous industries and provide a framework for handling future disasters.

The Environment Protection Act, 1986, the act was enacted in 1986 with the objective of protection and improvement of the environment.

It empowers the Central Government to establish authorities charged with the mandate of preventing environmental pollution in all its forms and to tackle specific environmental problems that are peculiar to different parts of the country under Section 3 of the Act.

The Act is one of the most comprehensive legislations with a pretext to protection and improvement of the environment. It aimed at conserving the country's environment and ecology, the Act marked a crucial turning point in the country's approach to environmental conservation.

Amendments to the Factories Act (1948), the Bhopal tragedy highlighted the necessity for stricter industrial safety regulations, the Act was amended in 1987 to include a new chapter on hazardous industries, emphasizing safety protocols and accountability for industrial accidents. It included the compulsory disclosure of safety-related information, formation of Safety Committees and the mandatory health surveillance and worker participation. This also included redefining the role of the ‘occupier’ of a factory, making a director of the company responsible for ensuring safety.

Public Liability Insurance Act (1991), This Act was enacted to ensure that the industry operating with hazardous substances could be held liable for damages caused by accident requiring them to take out insurance to cover potential claims. This provides a mechanism for compensation to victims of industrial accidents, particularly in situation where the company was not able to pay. It institutionalized the “no-fault liability” principle in India’s administrative framework.”

Bhopal Gas Leak Disaster Act (1985), This act was passed to enable the Indian government to act as the sole legal representative of the victims in claims related to the Bhopal disaster, both within and outside India. It aimed to streamline the process of seeking compensation for the victims and ensure that claims were dealt with fairly and efficiently.

The National Green Tribunal Act, (2010), To resolve environmental cases efficiently, the National Green Tribunal (NGT) was created. It provided a specialized forum for environmental justice, significantly reducing the burden on regular courts and ensuring technical expertise in adjudication.

The Bhopal gas tragedy served as a stimulant for these legal changes, highlighting the urgent need for stronger environmental protection and industrial safety measures in India. These laws and amendments aimed to prevent future disasters and hold industries accountable for the impact on the environment and public health.

The administrative law played a significant role in managing the Bhopal Gas Tragedy crisis. The Indian government used its administrative powers to regulate the industry. The government took steps to regulate the chemical industry, including the enactment of the Environment (Protection) Act, 1986, and the establishment of the Ministry of Environment and Forests to prevent such disasters and to handle the aftermath and ensure future environmental protection.

The Ministry of environment and forest was established to address the environmental impact of the tragedy and to oversee environmental policy and programmes. EPA was created to address similar issues with a focus on preventing future disasters like Bhopal.

The government also provided relief to the victims through various schemes, including the Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme, 1985.

The government took steps to ensure accountability, including the filing of a civil suit against UCC and the establishment of a commission of inquiry to investigate the disaster.

CHALLENGES AND LIMITATIONS DURING THE BHOPAL GAS TRAGEDY:

Despite the efforts of the government, there were several challenges and limitations in the application of administrative law in managing the Bhopal Gas Tragedy crisis particularly concerning the environmental protection and disaster response. The need for stricter regulatory frameworks, and the complexities of holding multinational companies accountable for industrial disasters. The tragedy also exposed issues with the weak implementation of existing laws due to the bureaucratic inefficiency and political interference, including the delay in addressing claims and the limitations of compensation awards.

Delay in Addressing Claims: The process of processing claims for compensation was lengthy and complex, resulting in significant delays for victims and raising questions about the effectiveness of the legal system.

Lack of Environmental Regulations: Prior to the Bhopal tragedy, India lacked comprehensive environmental laws and regulations for hazardous industries, leading to inadequate safety measures and a lack of preparedness for industrial disasters.

Weak Enforcement and Monitoring: Even with existing laws, enforcement and monitoring mechanisms were weak, and there was a lack of independent oversight of hazardous industries.

Limited Liability and Accountability: The tragedy highlighted the limitations of existing legal frameworks in holding multinational corporations accountable for the damage caused by industrial accidents, particularly when they are partially owned by the government.

CASE LAWS:

- **Union Carbide Corporation v. Union of India, AIR 1989, SC 716**

In this landmark case, the Supreme court of India approved the settlement of dollar 470 million between the government and Union Carbide Corporation as compensation. This settlement aimed to resolve all claims, civil and criminal arising from the 1984 gas leak disaster at the UCIL plant in Bhopal.

- **M.C. Mehta v. Union of India (Oleum Gas Leak Case), AIR 1987 SC 1086**

This is one of the landmark case in the Indian judiciary. The case of MC Mehta highlights the principle of strict liability but with no exception and the individual is held absolutely liable for his acts. It is based under this principle that the defendant won't be allowed to plead defence if he was at fault as it was laid down in the case of Rhylan vs Fletcher. After the Bhopal gas tragedy many people lost their lives and are suffering from some of the fatal diseases through the generation and because of this there was an urgent need to develop rule under strict liability which had no exception available to the dependent escape from liability. It was propounded by the Supreme Court that where an enterprise engaged in a hazardous or inherently dangerous activity and if any harm results to anybody on account of any mishappening in operation, the company would be held strictly and absolutely liable to compensate all those people who are affected by the accident. Administrative Law Relevance imposed higher duty of care on administrators regulating hazardous industries.

- **National Commission for Protection of Child Rights (NCPCR) Action on Gas Victim Children (2019)**

Children born after the Bhopal disaster were suffering health issues (genetic defects).

NCPCR filed reports alleging that administrative agencies like the Bhopal Gas Tragedy Relief and Rehabilitation Department failed to ensure proper healthcare for second generation victims.

Due to failure of welfare administration and negligence in post-disaster rehabilitation it led to renewed demands for medical monitoring, compensation, and targeted healthcare programs, highlighting continuous administrative liability.

- **Bhopal Gas Peedit Mahila Udyog Sangathan v. Union of India (Multiple petitions – up to 2021)**

In this case, an NGO representing gas victims challenged the ineffective distribution of compensation, poor rehabilitation, and failure to punish responsible officials. They argued there was massive bureaucratic delay, corruption, and mismanagement of funds.

The accountability of administrative agencies for post-disaster governance, failure to maintain accurate medical records, and delay in disbursing aid.

In this case, Supreme Court ruled in favour of the Union Government, allowing the implementation of a second phase of the interim relief scheme for Bhopal gas tragedy victims. This decision was intended to ensure the needs of those affected by the disaster were met in a timely and organized manner. The court also affirmed the constitutionality of the Bhopal Gas Leak Disaster (Processing of Claims) Act 1985, which was enacted to address the claims arising from the tragedy.

CONCLUSION:

The Bhopal Gas Tragedy highlights the importance of effective administrative law in preventing and managing industrial crises. The disaster disclosed the inadequacies and ineffectiveness of administrative law in India at the time and led to significant changes in the regulatory framework by passing the different acts and amendments such as EPA, 1986, NGTA (2010) etc. The role of administrative law in managing the crisis was significant, but there were also challenges and limitations such as negligence, delay in decisions etc. The paper concludes that administrative law plays a crucial role in ensuring accountability, providing relief, and regulating industries but it requires effective implementation and enforcement.

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