

# RESPONSIBILITY AND MULTINATIONAL CORPORATIONS: THE BHOPAL CASE

*William Frey*

## **I. Introduction:**

In December 1984, 3,000 people died and over 100,000 were seriously injured when large quantities of the highly toxic chemical, methyl isocyanate (MIC), escaped from a storage tank owned and operated by Union Carbide India Ltd. (UCIL), a subsidiary of a multinational corporation housed in the United States, Union Carbide (UC). The leak was a direct result of practices that violated UC safety standards, Indian government environmental standards, and common scientific practices used in the handling of MIC. Simply put, the disaster need not have occurred.

It is against the backdrop of this case that I wish to examine the notion of moral responsibility in its various senses. Responsibility is a social practice in which we try to avoid undesirable or untoward occurrences and to promote occurrences that lead to good outcomes (French, 1991). This practice includes (1) articulating the role-responsibilities of individuals in certain social, professional or institutional contexts, (2) assessing the capacity of these individuals to carry out their role-responsibilities and (3) assigning praise and blame when appropriate. Responsibility is a necessary social practice because it serves to encourage good actions and good persons and to discourage bad actions and bad persons. What I wish to do in this work is to examine the practice of responsibility in the context of the Bhopal case and also to consider whether Union Carbide was corporately-responsible for this disaster. The concepts discussed in this paper have much to say about responsibility problems that arise in the operations of multinational corporations.

## **II. Senses of Responsibility:**

The first task in discussing responsibility is to separate the different senses in which the word is used. Consider the following examples

taken from the Bhopal case:

1. The chemical, MIC, is *causally*-responsible—but not morally responsible—for the deaths of close to 3,000 people in Bhopal, India.
2. Union Carbide management is role-responsible for seeing that safety regulations are met in the company's day to day operations. UC's Board of Directors is role-responsible for setting corporate policies.
3. Union Carbide management is not capacity-responsible for the leak if information concerning safety standards violations at UCIL was deliberately concealed from them.
4. Union Carbide prior to the disaster was generally considered to be a *socially*-responsible corporation.
5. Union Carbide could be held *corporately*-responsible for the disaster if it had resulted, in part, from Union Carbide's matrix management system.

To understand responsibility in the international context, it is necessary to distinguish and clarify these uses. I will begin by defining the senses of responsibility cited above.

**a. Causal Responsibility:**

X (a person or thing) can be causally-responsible for Y (an event or action) when certain physical movements of X produce or bring about Y. For example, the employee of Union Carbide who left open the valve to the storage tank is causally-responsible for introducing the water that contaminated the MIC; this in turn started the fatal chain reaction. But causal-responsibility is not always accompanied with praise or blame, reward or punishment. The causally-responsible Union Carbide employee may have left the valve open because he didn't know about the volatile chemical behavior of MIC. If this ignorance was not the result of willful misconduct, negligence or some other morally culpable cause, then the employee is not blameworthy.

**b. Role Responsibility:**

Moral agent X is *role* responsible (similar to Baier's task responsibility) for action (or virtue) Y when Y is a duty, task or virtue that arises out of X's social, institutional, and/or professional relations (Baier). In the Bhopal case, Union Carbide management had, as a part of their role-responsibility, the task of seeing that adequate safety procedures for handling MIC were set and followed. UC management

was also role-responsible for preventing untoward occurrences such as the leaking of MIC in harmful amounts. Finally, they were role-responsible for hiring qualified personnel.

Frequently, managers delegate their role-responsibilities to others. Nevertheless, they still bear role-responsibility for the delegated tasks in that they are obligated to see that these tasks are properly carried out. This is called *vicarious* responsibility (Feinberg and May). In vicarious responsibility, one person, A, (e.g., the manager) is morally responsible for the actions of another person, B, (e.g., the manager's subordinate or assistant) when A has certain role-responsibilities which he or she has delegated to B. Thus, when A hires B, A is role-responsible for ensuring that B can perform the delegated tasks. A is also role-responsible for supervising B in the performance of the delegated tasks and making sure that B properly carries them out. These hiring and supervisory functions were not properly carried out by the administration of UCIL; it is also likely that the managers on the UC "world-wide business planning team" (who were role-responsible for making sure that the Bhopal plant operations conformed to company safety policies) failed to exercise their supervisory role-responsibilities.

### **c. Capacity Responsibility:**

Moral agent X is capacity-responsible for action or character Y when X satisfies what F.H. Bradley calls the conditions of imputability (Bradley, 5). Capacity-responsibility tells us when an individual can answer for his or her actions or character. To put it another way, capacity-responsibility sets forth the conditions under which a person can be praised or blamed, rewarded or punished for his or her character or for what he or she has done; it provides us with those conditions that allow us to connect an agent with an action or character-type for purposes of moral evaluation. To be held capacity-responsible a person must satisfy three basic conditions:

1. **Self-Sameness:** Person X, whom we wish to praise or blame for action or character Y, must be metaphysically identical to the person who actually did Y or is character-type Y. Thus, metaphysical identity is compatible with a change in personality. Saying that I was not myself when I yelled at you does not mean that I am denying that I yelled at you. Instead, I am claiming that I was not acting normally (=I was acting out of character) when I yelled at you. But I (in the metaphysical sense) still did the yelling (Bradley, 5).

2. **Moral Sense:** Person X, whom we are holding responsible for action or character Y, must have the ability to appreciate the moral quality of his or her actions or character. This includes the intellectual capacity to distinguish the good from the bad and the right from the wrong. It includes the capacity to respond in an emotionally relevant way, for example, to feel pity when exposed to the suffering of others, shame and guilt when one has done wrong and indignation when one has been wronged. It finally includes the ability to choose with respect to action or character in accordance with morally appropriate knowledge and emotion (Bradley, 7).

3. **Ownership:** To hold person X responsible for action or character Y, Y must have its source in X's will. In other words, X must have chosen Y freely (without compulsion) and knowingly (without ignorance) (Bradley, 6). This does not mean that all actions performed under compulsion and ignorance are morally excusable. When Sir Mulberry Hawk got drunk and abused Kate Nickleby (see Dickens' *Nicholas Nickleby*) he acted under both compulsion and ignorance; the alcohol produced in him a state of mind and body independent of—although, perhaps, not contrary to—his actual will (Bradley's definition of compulsion). And his actions while intoxicated were performed under blissful ignorance. But compulsion and ignorance are not the morally relevant causes here. Hawk got drunk deliberately through a series of voluntary actions undertaken in the past: he decided to take one drink, then another, then another, and so on, until he was drunk. In fact being drunk helped him to carry out his wrongful intentions against Kate Nickleby, intentions he formed while sober. Hence, he acted *under* compulsion and ignorance when drunk but not *because of* compulsion and ignorance; his actions, therefore, cannot be excused.

In examining the Bhopal case, the most important—and the most difficult—of these conditions is that of ownership. The problem lies in fixing the conditions of ignorance and compulsion so that they are neither too broad nor too narrow (Bradley, 42-55). For example, the technicians working at the Bhopal plant on the night of the accident did not know that MIC could kill human beings. Ignorance of this fact coupled with ignorance of the volatile chemical nature of MIC could account for the slow initial response and lack of concern displayed by these technicians during the disaster. But is this ignorance excusable? Not, it would seem, if knowledge of such facts were a part of one's role-responsibility. If one's job is to handle and store MIC, then one ought to know its chemical properties, the danger of contaminating it with water, and its potential to kill human beings. But the

culpability of the technicians in this case is complicated by the fact that UCIL had cut back on its operations due to financial problems. This caused many qualified technicians to quit, and other less qualified individuals were hired in their place; furthermore, these new employees were not properly trained. Thus, several factual questions need to be answered before we can determine if the ignorance of the technicians at the Bhopal plant is morally excusable.

A similar problem exists with regard to Union Carbide management in the United States, especially the world-wide business planning team which was in charge of coordinating the operations of the international regional divisions. The planning team had the role-responsibility of seeing to it that UC policies were properly carried out in the different international regions. But one member of this committee claimed that they could not have acted to change UCIL's safety violations because these were deliberately covered-up by UCIL. Two years before the disaster, UC sent inspectors to the Bhopal plant who ordered changes in the safety policies employed there. The members of the world-wide business planning team assumed that these changes had been implemented but, in fact, they had not. Two questions arise from these considerations: (1) Was the world-wide business planning team negligent in failing to follow up on the 1982 safety inspection of the Bhopal plant? and (2) Were the members of this committee deliberately kept in the dark about these safety violations by officials at the Bhopal plant? The answers to these questions will help to assign and distribute the blame in this case.

#### **d. Responsibility as Blame and Trustworthiness**

Frequently we use responsibility to signify blame as when the Republicans say that the Democrats were responsible for inflation during the late 1970's. This means that Democrats were to blame for inflation and should not be reelected. An individual's blameworthiness is logically dependent on his or her role- and capacity-responsibility in the sense that it is derived from them. If a person is role-responsible for a certain task (or is role-responsible for avoiding certain occurrences) and fails to perform this task (or allows the untoward occurrences to happen), then we must determine whether this person is blameworthy for failing to carry out his or her role-responsibility. To do this we must investigate that person's capacity to carry out his or her role-responsibility; this involves examining whether the person in question satisfied the three conditions that define capacity-responsibility: selfsameness, moral sense and ownership. If a person fails any one of these conditions then he or she cannot be blamed for

failing to carry out his or her role-responsibility because he or she lacked to capacity to carry it out.

On the other hand, if a person consistently and conscientiously carries out his or her role-responsibility then we say that he or she is a responsible individual, that is, can be trusted to do what is morally required. Jane, for example, is a responsible student because she comes to class prepared, studies conscientiously, executes assignments in a timely manner, participates in class discussions in an informed way and wouldn't even think of cheating on an exam.

#### **e. Responsibility as a Whole:**

Two conclusions can be drawn from the argument so far. First, the concept of moral responsibility contains many senses that must be carefully distinguished. Nevertheless (and this is the second point), these distinct senses of responsibility function together and are logically related. We begin by determining role-responsibility. Next we examine the capacity of an individual to carry out his or her role-responsibility. Finally we assign praise or blame to that individual. These senses of responsibility are distinct but inseparable; together they constitute the social practice of moral responsibility, that practice by which we assign praise or blame.

### **III. Corporate Responsibility:**

The above discussion pertains primarily to human individuals. Corporations do not act in the sense that they have minds that form plans and bodies that carry them out: in this strict sense only human individuals can act. But we ordinarily talk as if we can hold corporations responsible for certain kinds of actions. Hence, if we hold them responsible we are also presupposing that, in a certain sense, they can act. But how can we explain corporate action since it must differ greatly from human action? And how can we account for corporate responsibility?

Can we do this by means of establishing an analogy with the responsibility of human individuals? We talk roughly about the role-responsibility of corporations when we cite their social responsibility. And we also talk (again in a rough way) about the capacity of corporations to carry out their obligations; for example, we might say that corporations are not socially responsible for solving problems of poverty in developing nations because they are not capable of doing so. But this is possible only on the basis of a questionable analogy drawn between corporate action and the action of human individuals. This

analogy has created great problems in legal theory where the sanctions and procedures developed over the centuries to control human behavior have been extended with dubious success to corporations (Stone). For example, how can we punish corporations when they have no soul to damn and no body to kick (French, 1984, 187, quoting Baron Thurlow). The case of *First National Bank of Boston v. Belotti* shows some of the seemingly insurmountable difficulties in applying civil rights to corporate “persons” (Nesteruk and May). In this section, I wish to consider one of many ways of approaching the moral responsibility of corporations. I will limit myself to presenting an argument that corporate-responsibility can be understood through corporate agency and corporate agency through redescription of certain actions by means of the organizational structures present in the corporation. My argument represents a simplified version of that presented in French, 1984.

The key to discovering corporate action lies in the claim that certain actions performed by human individuals can be “redescribed” as corporate actions, if special features are present. The means of discovering corporate agency and responsibility lie in understanding the internal decision making structures of corporations and how these structures make possible the redescription of certain acts as corporate acts (French, 1984, 41-47).

Corporate internal decision structures (CIDS) can best be approached through an analogy with games such as baseball (French, 1984, 42). Games have certain constituents. First, they are characterized by overall **objectives**; an example would be scoring more runs than one’s opponent. Second, games articulate rules that define legitimate means to these overall goals. When the baseball player hits the ball over the fence in the outfield while the ball remains in fair territory, then he or she helps to achieve the overall objective of scoring more runs than the opponent; thus, hitting a home run is a legitimate means to winning the game according to baseball’s rules. Third, games assign participants **specialized roles** that synthesize and coordinate certain kinds activities. These roles are then integrated with the goals and rules of the game to form a system. In short, the game of baseball is an organizational system of goals, rules and interrelated roles and role participants. This system synthesizes and coordinates the activities of running, hitting and throwing; it also coordinates and synthesizes the individuals who perform these activities.

CIDS relate actions and individuals in much the same way. Corresponding to the overall goals in baseball are the **policies** of a corporation. Some of these are found in the charter while others are

inferred from the observed behavior of the corporation. A corporation's **decision making procedures** have the same function as rules in a game. These describe the manner in which a legitimate corporate decision is made. Examples are setting policy by a majority vote in the board of directors, the procedures undergone in a company to create a new position and then hire an individual to fill it, or the procedural steps required for an employee to receive institutional authorization for a business trip. Finally, **corporate stations**, delineated by the **corporate flow chart**, serve to assign specialized roles to individuals, just as in baseball certain well-defined positions are assigned to the individuals best qualified to carry them out. A corporate flow chart sets forth the various stations in the corporation, their interrelations, and the tasks assigned to each. The organizational system pictured in the flow chart coordinates these stations and their functions so that one complements and completes the other. Thus CIDS, like games, serve as organizational systems that focus, coordinate, direct and synthesize the activities of human individuals.

We can discover corporate responsibility by redescribing human action through CIDS. If an action performed by a human individual carries out or conforms to a constituent of a corporation's internal decision structure, then that action can be redescribed as a corporate action. I have already mentioned the possibility that the matrix management system employed by Union Carbide causally contributed to the disaster. The negligent actions of Union Carbide's world-wide business planning team could be redescribed as Union Carbide corporate actions if the matrix management system caused the ignorance of the planning team members concerning continued safety violations at the Bhopal plant. Could the members of the planning team have found out about the continued safety violations by exercising reasonable vigilance and supervision? Did the matrix management system—and the regional autonomy it created—make it possible for UCIL officials to cover-up information about the continued safety violations? By replacing the matrix management system with a different system that encouraged and facilitated more supervision, could the disaster have been avoided? These are the kinds of questions that must be answered to determine whether Union Carbide was corporately-responsible and blameworthy for the disaster at Bhopal.

One further consideration. Corporate-responsibility claims do not interfere with or eliminate role- or capacity-responsibility claims made for human individuals (Frey). Finding Union Carbide corporately-responsible and blameworthy for the accident because of its matrix management system does not exclude the possibility of also finding



human individuals or other corporate groups blameworthy. To give an example, it does not, by itself, eliminate the blameworthiness of the worker who left the valve to the storage tank open. To determine this worker's culpability, we need to clarify his role-responsibilities, whether he successfully carried them out and, if he did not, whether his failure was due to a lack of capacity, i.e., failure to satisfy the conditions of capacity responsibility. Hence there is no basis to the argument that holding corporations responsible exculpates human individuals (Velasquez). The blameworthiness of corporations on the one hand and of individual humans on the other are separate issues determined by different considerations; corporate-responsibility is discovered through redescription licensed by CIDS while the blameworthiness of human individuals is determined by analyzing their role- and capacity-responsibilities.

### **Conclusion:**

We have seen that the question, "Who is responsible for the Bhopal incident?" is a very complex one that must be broken down into a series of simpler questions. The senses of responsibility that I have delineated above will help with this process.

How, then, should we approach the Bhopal disaster? What kinds of questions should we ask? The following questions logically arise from the responsibility framework I have discussed above:

1. Who are the human participants in the disaster? What are their role-responsibilities? How successfully were these role-responsibilities carried out? (In the Bhopal case, this would require looking at the role-responsibilities of UC's board of directors, the board of directors of UCIL, UC and UCIL management and important Indian government officials.)
2. After examining the role-responsibilities of the major participants and noting failures to carry these out, can we find any considerations relating to capacity-responsibility that excuse these failures? If individual actions cannot be excused and the individuals are blameworthy, then, what kinds of punishments are appropriate?
3. What organizations participated in this case? What are their CIDS? Do the CIDS license the redescription of the culpable human actions as corporate actions? Did the CIDS causally contribute to the ignorance of various agents? Did the CIDS compel agents to perform untoward actions?
4. Finally, if corporate responsibility exists, what kinds of adjustments

can be made in the relevant CIDS to prevent similar disasters from occurring in the future? What kinds of punishments are appropriate (French and Fisse; Stone)?

These questions will place in the center the morally relevant facts of the case. Answering them will help us to avoid similar disasters in the future. This is one of the most important functions of the social practice of responsibility.

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*William Frey*  
The Center for Philosophy in its  
Interdisciplinary Function  
University of Puerto Rico  
Mayagüez Campus  
Mayagüez, Puerto Rico 00681