



Peter Tatchell Foundation

Speaking out for Human Rights

Jim Fitterling
CEO Dow Inc
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Dear Jim,

Since becoming CEO of Dow Inc you've spoken candidly and movingly about your experience of coming out as gay. Thank you.

I'm personally proud to have played a part, for over 50 years, since 1969, in changing laws and attitudes to enable LGBT+ people to come out and secure both acceptance and equality.

From the age of 17, I was part of the Stonewall-era gay liberation movement. We challenged anti-LGBT+ prejudice and discrimination and also made common cause with other peoples who suffered marginalisation, discrimination and persecution on account of prejudices like racism and misogyny. We sought a world with dignity, justice and freedom for all.

As CEO of Dow you have described a similar vision. You said recently "when we see injustice and inequity, we cannot be silent. We must stand up and speak out." You say, most importantly, that Dow is "taking action to accelerate change and address racism, inequality, and injustice". You add that "overcoming hundreds of years of systemic racism will require a holistic approach and long-term action from all of us."

I agree with your sentiments, and would like to add that the best place to begin such action is with that which it is within our power to remedy.

It is currently within your power, Jim, to remedy 50 years of racism, inequality and injustice in Bhopal.

I really hope that you can be person to put right the mistakes of the past, which is why I am writing to you with this heartfelt plea for action for the Bhopal victims.

You are aware that Dow merged with Union Carbide 20 years ago. At that time, Union Carbide was a fugitive corporation, on the run from homicide charges related to the killing of between 5,295 - 25,000 people in Bhopal.

Twenty years later it is still an outlaw. Dow, the company you run, has not made Union Carbide, the company Dow now owns, attend court in India to answer these homicide charges. Instead, your company Dow defends your subsidiary company Union Carbide's 'right' not to be judged before the law.

So the prosecution of serious criminal charges for the world's worst ever industrial disaster sits in limbo, for nearly four decades unresolved. As a direct result, hundreds of thousands of victims are left without restitution, without emotional or psychological closure, without social or economic support, without appropriate medical care and trapped instead in an endless cycle of re-victimisation. These are people just like you and me, except they are suffering a living hell of your company's making by its inaction.

Let's also be upfront about discrimination, Jim. You recently spoke commendably about addressing "the rising tide of anti-Asian sentiment". The victims of Bhopal are Asian. Does their suffering not count? They are victims of much more than bigoted sentiment.

If, rather than being poor, brown Indians, the victims of Union Carbide's appalling 1984 gas disaster had been white, privileged Americans, I doubt that I would need ask why you appear to believe that your company shouldn't subject itself to a criminal justice process that seeks legitimate redress for the avoidable deaths of thousands of innocent people?

If all of Union Carbide's victims in Bhopal had been left dead, Jim, we would not also need to discuss the inequity and injustice endured for all these decades by the survivors - more than half a million of them.

A few weeks after Union Carbide forced the Indian government to settle for damages – without consulting even one surviving victim – another US corporation, Exxon, spent around \$50,000 rehabilitating each sea bird impacted by its Alaskan oil spill. The compensation given to 93% of Bhopal's human victims is a hundred times less than this. It takes, it seems, the suffering of 100 Indians before we reach the value of even one American sea bird.

Your company has a poor record of justifying this, Jim. "Five hundred dollars is real good for an Indian," one of your Texan spokespeople said. "Plus, that's American dollars."

Eleven years ago India woke up to the fact that the 1989 settlement was a "gross miscarriage of justice" and filed a case to remedy it. India's petition says the settlement "was based on certain factual assumptions which have been found to be completely incorrect and far removed from reality. This has vitiated the very basis of the compensation." It goes on to emphasise that "it is imperative that the settlement figure has to be reworked keeping in mind the true ground realities i.e. the actual fatalities and injuries." It asks for a further \$1.2 billion from Dow and Union Carbide. Due to morbidity and mortality data derived from official studies, survivor organisations calculate that actually around \$8 billion is needed.

Dow fights this case hard. Your predecessor Andrew Liveris said it was "beyond belief" Dow are being asked to pay extra. "The obvious reason people are trying that", he said, "is because we are a healthy company with deep pockets that people want a second bite of the cherry".

The people Mr Liveris couldn't bring himself to mention are the survivors of Bhopal. His words are intended to characterise them as greedy. But even \$8 billion only gives each person living with permanent injuries from the disaster an extra \$8,000.

None of them chose to be gassed, Jim. Not one of them deserves even a second of the suffering they have lived with for nearly 40 years. Your subsidiary's \$500 hasn't replaced the work they are too sick to do. \$500 doesn't fund the care so many of their loved ones need. \$500 cannot pay for the medicines they buy for the breathlessness, body pains, ulcers, weeping sores, failing kidneys, liver disease, ruined eyes, menstrual chaos and cancers that Union Carbide's gases gave them.

I haven't yet mentioned the next generations. There is ample evidence that exposure to MIC gas caused genetic damage. Children are born in great numbers in Bhopal with physical and mental impairments. A recent study found almost 9 times more congenital malformations in children of gas-exposed parents. Some are born so severely damaged that they cannot speak, stand or meet any of their own basic needs. Requiring lifelong care, many die prematurely. And never mind \$500, not one has received even a cent from Union Carbide or from Dow.

It's important to emphasise that those who survived the gas were injured forever, Jim, because over nine in ten of 574,376 officially recognised victims were classified to be 'temporarily' injured. This convenient fallacy kept the settlement cheap. Even now, each year around 400,000 survivors have to visit gas relief hospitals, which are paid for by taxes, not by Dow or Union Carbide. Their permanent injuries leave survivors vulnerable in other ways, too. Though they make up only 17% of the city's population, almost one in every two deaths from Covid-19 has been a victim of your subsidiary's gas disaster.

COP 26 highlighted how actions by industrialised countries threaten the wellbeing and lives of many people, especially in low- and middle-income countries, and what action is needed to put it right. Your company seems to be listening, and under your leadership setting laudable ambitious sustainability goals. Dow has taken initiatives such as recycling plastic, and you have shown commitment to sustainable practices, subscribing to the Business Roundtable Statement and the UN Global Compact. Dow has even signed the CEO Water Mandate and talks of the necessity of valuing water, calling it a "human priority".

I know I also don't need to remind you, Jim, that water is very much valued and considered a priority by human beings in Bhopal. There, reckless chemical waste dumping by Union Carbide has left 48 communities with groundwater unfit for human consumption. Scientific studies across more than 30 years have confirmed the presence of pesticides, heavy metals and dangerously poisonous chemicals in high concentrations more than 3 kilometres out from the abandoned factory site where the dumping occurred. Cancer-causing and mutagenic chemicals have been found in the breast milk of nursing mothers.

Many of the chemicals are persistent, accumulating in tissue and remaining toxic in the environment for over 100 years. And although 'polluter pays' is an established legal principle around the world, the company you run refuses to take any responsibility for this toxic mess, left by Union Carbide, which imported the technology, designed the waste disposal methods, monitored leaks and conducted secret tests that showed lethal poisons were in soil and water next to community housing - yet warned no one.

Jim, when we take all this into consideration it's difficult to know what to think of words recently attributed to you. "No one should be afraid to bring their whole self to work", you say, so I have to believe that the following words express your true self:

"Reflecting back, until now, we hadn't fully committed to our significant role here. In the pursuit of our ambition – which includes becoming the most inclusive materials science company in the world – we have certainly made dedicated efforts to address issues of bias and injustice in the past. But these efforts have not been enough.

"We know we must do better going forward, fully committing to our foundational responsibility of human decency. It is both the smart thing to do *and* the right thing to do ... for business and for society."

Human decency, Jim, demands you send your subsidiary Union Carbide to court, so that people who have suffered inhumanly for longer than most in their country have been alive might see some truth, reconciliation, and restitution in what remains of their lives.

Decency demands you accept India's petition for further compensation to meet the reality of this endless disaster, and so do what you can to ease the suffering of those your company has condemned to a life of pain and despair.

Decency also demands you end the poisoning of yet more innocents in Bhopal, ensure your company's mess is cleaned up and compensate those already irretrievably harmed.

You need to do all of these things, Jim, and you need to do them now. As you say yourself, "If you want to make a difference in the world—you have to take action. Words won't cut it."

I am hoping that you will be the Dow CEO who puts things right for the people of Bhopal. Thank you.

Yours sincerely,

A handwritten signature in black ink that reads "Peter Tatchell". The signature is written in a cursive, slightly slanted style.

Peter Tatchell

Director, Peter Tatchell Foundation