

Mr. K. C. Gupta in his thematic presentation laid stress on the need for:

- A well-coordinated approach to achieve effective implementation;
- dissemination of information on standards on a mass scale;
- To generate authentic data on the implementation of existing safety norms. Such data-bases were necessary to ensure that the process of norm making and amending was an informed one;
- To identify areas which require further norms and to examine the extent to which the standards evolved by other countries could be adopted;
- And need to promote and foster a law-compliance culture.

In the ensuing discussion two points assumed critical importance one related to the tension between secrecy and freedom of information the other related to risk management. Interestingly, the right to know issue did not center around the citizen's right to obtain information from the government and other public authorities, but around the pooling of information between government departments i.e. if information has been furnished to one government department, can it be shared with another department, or did it involve a breach of confidentiality.

On the risk management aspect, the controversy moved around who should assume responsibility. Should the responsibility be that of the government or should industries in the spirit of encouraging a compliance culture be allocated this duty. Other interventions stressed the interface between safety, health and environment. Also the need to adopt safety audit procedures was made out. The need for wide dissemination of safety standards was widely recognised in the floor discussion.

Remarks of the Chairperson Justice Aftab Alam

Strategies to aid enforcement

Practically every speaker has opined that the extant laws are not implemented and enforced properly. The enforcement machinery is highly inadequate. In my view leaving the enforcement of the laws entirely in the hands of individual officials appointed by the government may not serve the purpose. It may prove to be inadequate as it is proving to be every day. The emphasis I think should be on creating awareness and the right to information. A worker today is asked to operate one or two machines, he is asked to do one or two jobs but he does not have an integrated idea of what is going on in the factory. It is necessary to evolve some provisions whereby workers employed in the units have an integrated idea of what their unit is engaged in and what is happening in the factory. If he is informed of his role and the consequences of his omissions or commissions I think it will go a long way in creating a safe working environment. Further if he is informed of the statutory regulations and is aware of the law, relating to safety, a lot may be done in maintaining safety in the units and in advancing the cause of protection.

Thematic Presentation: Dr. K.C.Gupta

I propose to place before you an overview with regard to norms of safety and information as well as the approach, which has been followed in relation to this area so far, and which may have to be developed in future. ~~I am not expressing any firm opinion on whether a comprehensive legislation or umbrella legislation is required or not.~~ It needs to be noted that even if the legislations which are already on the statute book are taken into consideration it will be found that in the post Bhopal years, the environment law scene in India has been dominated by legislation on hazardous substances and processes. This has been done either by way of amending the existing legislations such as the Factories Act or the Motor Vehicles Act, or enacting new ones such as the Environment Protection Act or new rules have been brought into force.

Measures for Effective Implementation

I am absolutely convinced that the key need today is a well-coordinated approach to achieve effective implementation of legislation. The development of such an approach has been overdue.

- A series of well-planned and debated measures are required to develop, implement, monitor and evolve such an approach.
- The over all aim must be to create an environment in which majority of persons would comply with the law as a matter of routine practice. The means of achieving such an environment should be selective but exemplary punitive action coupled with large-scale education.
- Dissemination of authentic and required information, training and public debates.

- There should be a well-defined policy and prioritised action programme on norms of safety and information. This enforcement is closely related to the overall implementation of the legislation, which is the goal we want to achieve.

In this policy and prioritised action programme focus should be on purposeful utilisation of all existing agencies and institutions working in the areas of safety research, education, training and standard setting. With this approach large-scale punitive action would not be necessary.

Coordinated Enforcement: Practice in U.S.A.

I would like to mention here my experience of USA. What I have observed is that moment a new standard or a new requirement is brought under a legislation, whether it is EP Act or Occupational Safety and Health ACT (OSHA). The National Safety Council of USA, the training institutes working under the OSHA and a host of other organisations, immediately concentrates their attention on the new requirement and produce focused training and information material for dissemination on a mass scale. The entire effort in the country is directed within a framework of the policy and legislation, which has been produced after a good amount of debate. In India each institution working in the field of education and training is developing the activities and program in the way that institution thinks best. My submission is that if there is coordination and consultation among the various agencies, then the entire effort of all these institutions can be directed towards the overall goal of compliance with the legislation. Such an approach will be more cost effective and less time consuming.

Need to Generate Data

The second point, which I wish to make, is the need to generate authentic data on the implementation of the existing norms laid down in the law.

As my first example I refer to the provision under the Factories Act, whereby workers have been given the right of training and information. There is also a responsibility on the occupier to provide information. Besides this to support the participative approach in safety management, a **Safety Committee with equal representation from the workers and the management side is required to be constituted.**

We today do not know:

- Whether the safety committees are serving the purpose for which they were created?
- What is the success rate?
- What are the difficulties they are facing?
- Have we focussed our attention on the training of the safety committee members?
- Has the management given them full access to the information on safety, health and environment?
- Have other issues, which are external to safety and health, created difficulties in the discussions of the safety committee meeting.

If we want to learn from the experience and wish to decide whether or not the participative approach has succeeded whether or not the workers are genuinely enjoying the right of information and training there is a need to assess the past experience. This amendment has been there on the statute book for the last ten years and we have the experience of this period. If we collect the relevant data and analyse it, then we would know where we stand and what type of corrective action is required to be applied.

For my second example, I turn to the inaugural address of the honorable Chief Justice who made mention of the need to engage an independent officer who is an expert on environment. He would be paid by the management but must function independently in safeguarding the interest of the society by way of making sure that environmental pollution is controlled.

Already under the Factories Act, we have labour officers, we also have the safety offices. The point is that if you want to analyse this experience the main query to be answered is:

- Whether the safety officers have functioned independently or not?
- Whether he has done the job for which he was appointed?
- Has he reduced the workload of the inspection agencies?

Other examples on the hardware side can be proffered. However without duplicating examples I only wish to stress the need to select and analyse relevant data.

Identification and Prioritisation of areas requiring further norms

- To this end it would be useful to identify areas where norms of other countries are available, which can be straightaway adopted in our country. I am fully conscious that nothing can be straight away transplanted but I am also aware that it is extremely difficult to devise norms in all the areas. ~~We have to take guidance, we need not reinvent the wheel. This is needed particularly in the technical areas.~~ For example, the technical requirements of the storage tanks for ammonia, chlorine have already been developed by professionals, we do not need to redevelop them.
- The committee or the organisation, which is charged with the responsibility of constructing the norms of safety and information, should go into the whole gamut of our requirements. It should also see where can we depend upon the existing norms and which are the areas where we should develop new norms. This identification of areas where we are to develop our own norms is necessary in order to conserve human resource. We as everyone else have constraints even the richest country in the world whether you go to USA or OECD countries, every one has the constraint of available human and technical resources. Therefore, the need to carefully utilise resources.

Failure to Develop Preventive Approach:

Till the eighties or more correctly till the Bhopal disaster occurred, no priority was given to safety by all the professions including the judicial one. I have been a law enforcement officer when we took prosecution cases to the court, it was a great problem to brief the lawyers. Even when we succeeded to obtain conviction the fines imposed were very low. This has been the scene in the lower courts all over the country. Coupled with this are the low rates of compensation for the workers and lack of relief to public. As a result the preventive approach, which is the most effective and cheap could neither be developed nor strengthened. We do not have a safety culture in the country. This was the case in the industrial sector. Now you can also see it in the road transportation sector. You cannot consider transportation of hazardous chemicals in isolation from the total transportation scene in the country. If you want to achieve safety in transportation of hazardous chemicals you have to first achieve safety in transportation itself. This means that unless you discipline the road users and the people who construct and maintain the roads, it is extremely difficult to create an island of excellence only in respect of the hazardous chemicals. Such safety provision will be less for a lesser area if you have the roots.

Access to Information

It is extremely difficult to obtain information in India. I do not know what is the real problem.

For Example: The National Safety Council an autonomous body of the Labour Ministry brings out an *Industrial Safety Chronicle*. Our readership is safety professionals, all safety officers, management, law regulating institutions, inspectors, and pollution control boards. Judgements of the Supreme Court are included in this chronicle. Yet when we wanted copies of a Supreme Court judgement from the Registrar we failed to obtain it. This despite writing a letter, deputing a senior officer to meet the Registrar. The point is that obtaining information so that it reaches the right people, who can then advice their management that this is the interpretation of the law we must follow is extremely difficult because it is so tough to get that information.

As a **second example** I wish to point to the difficulty to obtain copies of new notifications and new regulations from the Environment and Labour Ministry despite very good relations with them.

Need for Prioritisation

When we talk of the norms, of safety and information, the norms available may be unlimited, the areas to be covered also unlimited. We cannot scatter our energy thought and attention. We have to focus formulate and define what are the areas of priority. What do we already have what have we learnt from the past and what should we have in the future. For this we need a coordinated approach without that we cannot formulate norms in this area.

DISCUSSIONS

Coordinating Agency: Possible Options

Chairperson: Dr. Gupta you have been talking of some coordinating agency, why can't the **Safety Council** related to safety try to coordinate, at least to make a beginning and such an experiment could give some idea as to what can be set up. Secondly as you rightly raised safety is a vast area. Many of the issues have to be taken up on the macro level since they are related to hardware product and things like that. In the field of consumer education the Consumer Education Research Council has spread a lot of awareness over the years. A similar thing can also be thought of in the field of safety.

K.C.Gupta: Law enforcement is the function of the government, with the participation of the non-governmental organisations. Therefore, the coordinating agency for developing a coordinated approach is the **Ministry of Environment and Forest**. It is the nodal Ministry for hazardous substances. We can play our role as an invitee, as a participant.

Access for Research: National Institute of Occupational Health

Aruna Dewan: I come from the National Institute of Occupational Health, Ahmedabad. It is one of the main Institutes in India which has been working on workers health. We have been studying all aspects of interaction between health and work. We have developed an expertise in occupational health and occupational diseases. Whether they are caused by physical, chemical or biological agents, or due to psycho-social stresses. Often, time we have been directed by the State and Central Governments well as by the court to undertake studies in many industries. Our results have been always respected and given due attention. All the same when we wish to visit an industry to do some research we have no legal status. We have to depend on the management. We have to importune the management to enter the industry. It does seem incorrect that a research institute, which is associated with the apex body of research in India, that is the Indian Council of Medical Research, has no legal status to even enter any industry.

Right to Information

I have seen workers handling known cancer causing chemicals with their hands without knowing what they are handling. The management does not really tell them what they are handling. And because most of them are illiterate. Even if we tell them that this is a hazardous chemical, they tell us, where else can we go we don't have any alternative job, can you tell us an alternative job where we can go. We wish to live today and we will, we may die of cancer twenty years later, we don't mind.

Poison Information and Poison Control Centres

The first poison control centre was started in the All India Institute of Medical Sciences with the technical cooperation of WHO and the international programme on chemical safety. The first regional centre has been started in the National Institute of Occupational health. We are providing information on poisoning to all the medical people. Whenever there is a case of poisoning admitted to any hospital or in any private nursing home due to any type of poisoning, be it chemical, a drug, animal or plant poisoning. We are providing information on nature of the chemical, its toxicity, manner of managing the patient, and kind of investigations that should be carried out. In developed countries these poison centres have been accorded legal status. All industries are required to provide information as to the kind of products they are making to these centres. All such information should be available with the poison Centres even in our country. This is not to say that anybody refuses us information but to stress that particular kind of information should reach these poison centres now that they are being developed in our country. ~~There should be a legal status for these poison information centres. The industry should also provide us information as to whatever products are being produced.~~ This information will be kept confidential with the poison centres. It will be only used for the welfare of the patients. We can immediately provide first aid and guidelines to the patients relatives and we can save lives. Human lives are very precious. Right now we are only giving information to the doctors. Ultimately we aim to go to the whole public. The information provision will like any emergency service be a twenty-four hour one. Anybody can call the centre at any time of the day and night and information. In addition to that we will also do analytical investigations which are not routinely available in hospitals. I once again submit that there is need for some sort of legal provisions so that these poison centres are provided information which will be used for the benefit of the public.

An Integrated Approach Towards Safety Health and Environment

Dr. Swaminathan: Generally safety and health to be different from environment. In my experience of twenty-four years I have solved some problems, which causes me to hold the strong opinion that these three concepts are inter-related.

For example, when I was carrying out some air emission studies in one of the cement industries, I was sampling it at different times of the same shift. I found the emissions going up heavily at the fag end of the shift. Then I started investigating on why the emissions were going up: whether there was any change in the process? Or in the raw materials? Or if there was any faulty machinery. To my surprise all these factors remained the same. There was no change in the raw material processes or other technology. Then out of curiosity I started enquiring from the labour on the phenomenon. I found that due to the lacunae in the safety measures that had been adopted the workers developed working stress. This meant that when there is a lacuna in the safety measures it leads to fatigue and working stress which prevents a worker from working at the efficiency at which he was working in initial phase and this leads to

problems in the environment. Indirectly, not directly, there is a relationship between safety and the environment. This means that some of the problems of the environment can be resolved to a certain extent by adopting safety measures.

In another instance, I was asked to investigate why about, nearly the ten thousand birds like pigeons and *mainas*, resting within an industry died over a period of fifteen minutes. After my preliminary investigations, I decided instead of going into why the birds died I needed to examine the more severe problems. The workers health the safety measure and the environmental conditions under which the workers were working. I tried to solve the problem through an integrated and comprehensive approach of safety and environment.

In most industries the quality control department is taking care of the environment. They feel that quality control and environment go hand in hand. Only few industries have their own safety officers. I have visited hundreds of industries in the last two years in Maharashtra for inventory on industries generating hazardous waste. I found there is no interaction between the safety department and quality control, which is dealing with the environment. There are some industries where safety and environment are integrated. **It is the industries who have an integrated approach towards safety and environment who have more scientifically controlled their problems.** In other places it is not under control. My suggestion is that let us have a comprehensive approach towards implementation.

Safety Implementation and Measures

- **Safety Audit Officers:** Some industries especially medium scale industries cannot afford to have their own safety department. In such cases my idea is just like we have a chartered accountant to audit account, why can't we have safety officers to safety audit companies. These safety officers can be utilised by medium scale industries to look after their safety measures.
- **Safety Education:** What are the inter-se responsibilities of industries and government? What are the responsibilities of the industries? Are they confined to the workers, are they also to educate the public who is residing very close by. In the UCIL Bhopal Context we found that when we met the Government of India it contended that it is the duty of the company to educate the public. The industry on the other hand claimed that it is the duty of the government to educate the public. Now it has become a no man land. In my opinion **the entire responsibility of educating workers should lie with the industries and educating the public should rest with the government.**

Sikandar Ali

- **Child Workers:** The age limit of persons to be employed in hazardous industries should be eighteen years. This is because by this age the understanding of person matures and he is more resistant to hazardous chemicals.
- **Women Workers:** The law should prohibit the employment of pregnant woman in hazardous industries.

- **Public Registrar:** For information on safety, I would like to suggest, as is the case in other countries, the appointment of a Public Registrar for communicating the informations. Whenever there is a project that is approved by the Government or is likely to be approved, alongwith the approval, a public register should be opened, where all kinds of information that are essential may be registered and then disseminated to the public as well as the persons who are likely to be affected by the activities. An environmental health officer or legal person may be appointed to such position. These Registrars may conduct studies on the basis of inspection based enforcement. The responsibility of risk management rests with the people who create the risk and the persons who work with them. Thus both the employer and employee are collectively responsible to manage risk in the industry.

Areas of Conflict

Mr. Walekar: I am from Department of Explosives. My Department administers Explosives Act, Petroleum Act and various rules framed under it. As was stated by Dr. Indrani Chandrasekaran our rules are very old and mostly obsolete. Some updating of the rules has been done but it is not enough. We are required to take safety measures. These safety measures are lifted to storage and installations. ~~And as far as manufacture and use goes there is no coordination between our Department, industries and other regulatory bodies.~~ It is my suggestion that for better coordination between various functionaries, the Ministry of Environment should supervise our Department instead of the Ministry of Industry. Such a move will promote coordination.

Efforts at Coordination

Interjector: The Environment Protection Act came into being in 1986 and we immediately started working on the necessary regulations and detailed rules on three aspects: (i) hazardous chemicals; (ii) hazardous waste and (iii) hazardous micro organisms in accordance with the hazardous substances definition which given in the EP Act. This definition of hazardous substances has been taken from a Swedish legislation, which was very comprehensive on this subject. After examining several definitions of hazardous substances, this particular definition from the Swedish legislation was chosen. Meanwhile the Ministry of Environment and Forest was made the nodal Ministry for dealing with chemical accidents. It was mandatory for us to bring out the necessary legislation and subordination legislation on the subject. We were in contact with the Ministry of Labour during the drafting process. Ultimately the Ministry of Environment was asked to notify these rules in complete coordination with the Ministry of Labour and with the tacit approval of the Ministry of Labour. The same regulations were also given as a model regulation in the Factories Act. The Factories Act was amended in 1987, the chapter on hazardous processes was incorporated and now I think the Ministry of Labour is doing some more work. The CEMA Rules are also being adopted for proper coordination of the activities with the Inspectorate of Factories. It was in this background that the Ministry of Environment brought out these regulations with the complete knowledge and approval of the Ministry of Labour. Consequently there is no conflict between the environment and labour ministry.

Intervener: As representative of the Ministry of Labour I would like to mention that recently we had two meetings with the Ministry of Environment officials, Department of Explosives, Chief Inspectors of Factories. In that meeting the conflict between the two sets of regulations was attempted to be resolved. A review meeting is to be convened by our Secretary shortly. There were some valid reasons for issuing the Manufacture Storage and Import of Hazardous Chemical rules under the Factories Act also. A committee of Secretaries decided that the rules would be issued under the Work Places Act. We acted as per the decision of the Committee of Secretaries and some of the State governments have already notified these model rules. It was not intended to have a duplicating effect. It will apply to work and it will be relied on in future work place specific legislations and applications.

A legal resolution on the conflict between the rules being framed by the Ministry of Labour and the Ministry of Environment it is necessary to note that the Environment Act 1986 is the supreme umbrella Act. Section 24 clearly declares that the provisions of this Act prevail over other rules and regulations. Consequently the rules framed by the Ministry of Environment under the provisions of this Umbrella Act, are the principal rules. Any other agency can for its own purpose, such as welfare of workers, further tighten those rules.

Commitment from Management

Mr. Nainwal: I am from Oil and Natural Gas Corporation. I have two suggestions. Since safety and environment, are concepts which have come into our country only recently the majority of the public does not know what is safety and what is environment. Some of the big corporations may be in the know because they have to some extent provided exposure with training institutions to their workers and officers. They have also adopted certain systems to take care of safety and environment. These are still very inadequate the reason being that we have not fully understood the implications. A hundred per cent commitment from the management is not there. Management must commit itself. Unless management commits itself neither safety nor environment can be controlled.

Dissemination of information is also very inadequate. The latest trend in the international market is that every company must publish data on environment and safety. They must provide information on and what are their programs, how they are protecting and managing them. Sooner or later we must adopt this practice so that the public becomes aware.

Safety Audit

The third point I want to make is regarding how to take care of those systems by which we can take care of safety and environment. Auditing of safety and environment is one of the tools in the hands of the management by which they know about the health of their organisation. Even in India it is well developed in certain areas. The only necessity is

that this practice of audit has to be adopted by each and every body. There are international inspection systems. There should be certain NGOs who may take up these types of jobs. Bodies like the Pollution Control Boards or Ministry of Environment and Forest of DGMS seek the audit report from these industries.

Safety Enforcement

- The guilty must be punished. Exemplary punishment should be given so that people will know the costs of breaching the law and these penalties must be advertised.
- Electronic media should be utilised to disseminate this information throughout the country. This is needed for cultural development.
- Concepts of safety and environment are cultural developments. They are not simple notions, which can be measured by quantitative means. Unless our work culture takes care of these cultural developments we may not be successful.

Mr. Vaidhyathan: I would like to just react to some of the observations

Evaluation of Safety Committees

- In order to evaluate the effectiveness of the safety committee ten years of the introduction of the law, we are contemplating a study to be made by the psychology division of the Central Labour Institute. A study in the core sector has been completed and we are going to take up a study in the factory sector.

Information Dissemination

- As regards information dissemination, we have a well worded provision under the Factories Act concerning disclosure of information to the public, to the workers and to the authorities with the result that they are being asked to give information not only about the hazards but also about the quantities of the waste and characteristics of the waste. All this information must be given under sub-section 3 of section 41B. Now workers and the authorities are generally given information but the captains of industry and management of industry are slightly hesitant to give information to the general public. The hesitation emanates from the belief that there may be an adverse and also a kind of over reaction to the information that is given to the public. Some of the fears entertained by the management are that even if it is an information in good intention, it will be used for bad purposes like *dharna* outside their factory. Now these are genuine fears. It is important that abuse of such information should not be there. Infact information should be used with certain amount of responsibility and care.

Training Institutions

As regards the training, which is required to be provided not only to the workers but also to the management, we have very few training institutions in our country. As a result we cannot fully cover the entire target audience. For this purpose again the Factories Act has

been amended in such a way that it facilitates training institutions in safety and health to be created. The Chief Inspectors of Factories are empowered to recognise these institutions. Guidelines for such institutions have been framed and these could be used by the chief inspectors to establish a uniform practice in recognising the institutions.

Dr. Swaminathan has touched the inter relation between safety, health and environment. A US expert told me if you have any problem with regard to the stack emission go down to the factory, see the reaction, see your vessel. The stack emissions do not come at the extremities of the stack but are generated at the shop floor. The source control is much more important and that is why we need to have an understanding of the interface between safety, health and environment. They are so closely inter related that one cannot be separated from the other.

Accreditation Board

A safety audit can incorporate the environmental aspects and examine the use of energy. However all aspects cannot be comprehensively covered by an audit. In order to prevent spurious safety audits and for other related purposes, we are contemplating setting up a national level accreditation board under the Ministry of Labour. The chartered auditors could ensure the adequacy of safety level in all industries and also the profession of safety audit will be properly restricted. We would need the cooperation of other Ministries of the government of India as well as the industries for this system to function in a proper manner.

- Finally every thing goes back to infrastructure development. If the safety in transportation is identified and targeted as one aspect, Safety in road transport has to be taken care of. Now what is happening, the vehicle population has enormously increased the width of the road remains the same, it not being possible to widen the road, the whole problem goes back to infrastructural development. Infrastructure development must be a high priority concern of the government, the industries the common man and others, then easing out of the clustering of industries will ease out and proper spread over will occur.

Industries in the Coastal Zone

Interjection: Today most of the hazardous type of industries are being installed or recommended for installation close to the coastal region. As regards industries in the coastal zones. I find ports, and other related industries are deemed to be covered under the Act of 1986. There is a problem here. Invariably there is conflict between the Shipping Ministry and the Department of Environment. And many a times the storage rule, the terminal facilities and the international code may not be in tune. This conflict would surface whenever a hazardous industry is to be located close to the coast or away from habitation. There is a provision in section 3, sub-section 3 to have boards, not only a board. And I would say it will be desirable to have a special board for coastal development and the maritime sector.

Vijay Sharma: Under Section 3 (3) Environment Protection Act, the Central Government can constitute authorities. Recently the first authority was constituted as a consequence of the judgement in the Vellore Citizens Forum Case, by the apex court. We constituted an authority to look into these specific instances of pollution from tanneries and other industries in the State of Tamil Nadu. The second authority was constituted again as a consequence of a judgement of the apex court with respect to the hotel complex coming up in Vasant Kunj by the DDA. That authority has jurisdiction over the National Capital Territory. The third authority has been constituted yesterday that is 29th, November 1996 to look into the industries in Thane. This again is a consequence of a judgement of the Supreme Court. An authority can be constituted, if there is a certain issue. To date all this work has been looked after by the existing State Pollution Control Boards and the Pollution Control Committee.

Interjection: Mr. Singh in the morning made a presentation about the coastal zone problems and the Gujarat government representative gave a different version. A conflict is thus visible. If appropriate boards exist such type of conflicts could be avoided and solutions found.

Information Dissemination

Vijay Sharma: Rule 13 of the **Chemical Accidents (Emergency Planning, Preparedness and Response) Rules 1996** requires information to be provided to the public. Earlier crisis groups had been set up under an administrative order but now they have been framed in a rather more proper fashion. It is to be a four-tier system of Central, State, District and Local level Crisis Groups. The Central Crisis Group shall *provide information on request* regarding chemical accident prevention, preparedness and mitigation in the country. Whilst the State and Local Level Crisis Groups are *to provide information on request* in their respective areas. These groups would be dominated by industrialists, prominent citizens, public-spirited citizens, NGOs and others. This effort is not as buttressed as the American right to know, but it is a beginning and may be we can term it a good beginning

Access to Information: A Debate

K. Chatterjee: Section 41b of the Factories Act, lays down certain obligations with regard to the dissemination of information and this information has to be given by the occupier in the prescribed manner to different authorities that is: the Chief Inspector, the local authority, the workers and the general public. It is apparent that the type of information to be provided to the four categories of entities is different. A licensing authority must have all the information, where as the general public is to get information which protects them from a possible accident.

- In relation to Dr. Dewan's submission as the Apex Medical Research Institute of the country, her institute is entitled to all information. It should be the duty of the licensing authority or the government department concerned to provide all this information to ICMR. Why should she or her Institute seek it from the employer or

occupier. Possibly a provision can be added in the Welfare chapter on necessities of medical research whenever a new technology is introduced.

A: As regards the four categories of persons contemplated under the Section 41b, sub-section {1} I agree with Mr. Chatterjee that the information required to be provided would be different. The phrase in the manner prescribed in any legislation means prescribed by a set of rules. Now the rules relating to the information on hazardous waste and the treatment and disposal contemplated under sub-section {7} of section 41B have not been formulated. The reason for the inaction being uncertainty as to who should do it, whether the Labour or the Environment Ministry? There has been some discussion and this particular matter should get resolved very shortly. We have formed a core group of officers to frame rules for this purpose and once a decision about the responsibility is taken the rules should be cleared.

As regards the information to be given by government agency, a query was raised (1) Dr. Dewan as to why should they seek information from an occupier of a factory instead of a government agency. Whatever information is given to a government agency, is to be only used by them, they are not free to pass it on to another government agency. There is a provision in the law, which restricts information sharing. The legal liability devolving on a government agency which shares information given to it in confidence as a law enforcing authority needs to be closely examined. Such examination should answer the query whether such sharing is possible. Only after such query yields a positive answer can sharing take place that should be examined and then only we can do it. Otherwise even the Income Tax man cannot divulge information. It is very difficult to understand that the information collected by one government department cannot even be shared with another government department. What is so confidential?

Interjection: This is because there is a provision under the Factories Act whereby the Inspector who has collected information is enjoined not to disclose it to others.

Interjection: I would like to differ, in the interpretation being put on this provision. This provision should not be so interpreted that it proves a hindrance to developing an approach of transparency. I don't think ever information is confidential and the inspector has not been charged not to give the information even when required for the purpose of education, training or for prevention purposes.

Interjection: This information if it is demanded by the court, there is certainly no bar to produce it.

Interjection: Court summons are a different matter but the legal implications of a request from one Department to another need to be examined. This is a matter that requires serious consideration, as it is a real bottleneck. Unless this is taken care of to develop a transparent approach will be ver difficult.

Interjection: The issue raised by the National Institute of Occupational Health is quite different it is not covered by the provision under discussion. In every country if there is

an agency which has to carry out research a legal obligation to provide information to the centre is laid down. The centres are given the legal backing so that the industry which comes out with a new chemical provides information of the same to the Pollution Control Centre. The pollution control centre can then make this information available throughout the country.

Interjection: I added that there could be built in provisions in the law whereby when a new technology is introduced or a new material produced the information to the research institute should be provided to enable it to work out what type of measures are required to counter any ill-effects.

Interjection: There is need for a legal provision ensuring information to research organisations, every body agree with it. How it can be brought about? I am open on the modality but I would like to reiterate my point, that the information that is given to the authorities is very elaborate on the toxicology, long term and, short term effects. This information given to the authority concerned by the occupier. Whether that authority has the right to pass that information to a research organisation? And if it then does so will the occupier file a suit against the authority and say why did you share that information which was given it to you in confidence for a specific purpose. This contingency has to be worked out. I am not saying that the occupier is correct in the challenge but that this aspect has to be examined if field officers are to be protected otherwise they face prosecution.

Dr. Aruna Dewan: My submission that the industry should just tell us what the product contains. We do not want any information on the toxicity. We are scientists, we can always dig out information. We do not want any toxicological data or we have the resources, to find out. What we want to know is what the product contains, because the product may contain more than one toxic substance. And when you are facing a case of chemical disaster or this poisoning information is important for a doctor to save the life of that patient. Unless we know what is constituent, how can we advise the doctor. That is all we want to know. We have got computerised data basis and we have all the information on toxicology. We just want to know what are the constituents. And these will be confidentially kept with the pollution centres. That is a commitment.

Interjection: I want to clarify this position. Actually this is not a case where information cannot be passed on. If you compare the Factories Act and the rules made there under and compare these rules, with the Hazardous, Waste Management and Storage Rules under the latter. Disaster management plans have to be submitted, once submitted these plans are legally and mandatorily required to be displayed at the factory premises. You cannot hide this information because it is meant for the public. In case some eventuality happens these are the chemicals which may be released. To state that this is privileged information, which cannot be passed, is playing with the life of the people for whom this mandatory provision has been incorporated. If the information were concealed, I being a worker of a chemical industry would not know what would be released tomorrow. If the Chlorine comes, what should I do. It is absurd to contend that the information should not

be given. I do hope that no court in the country would so interpret the Act that passing of information helpful to the public would be prohibited.

Interjection: I would like to highlight the foreign laws on this point. I had just mentioned that there should be a public register. In a number of foreign laws only such information which is commercially confidential or could endanger national security is excluded from the public. Other than these exceptions all other information is available to the public.

Vijay Sharma: The point of **on-site and off-site plans** was raised by Mr. Thakur from Rajasthan. There is an on-site chief inspector of factories, Department of Labour. The information generated by these plans should be made available and in limited instances have been made available, the process is on going. We are very weak on the off-site plans, which is the responsibility of the Collector of the District. Of course the off-site plan is far more complicated than the on-site one because it involves a larger area and requires meteorological information. Further it is necessary to appreciate that off-sites will rely very substantially on the on-site in fact on the conglomeration of the on-sites.

Interjection: In this context I have to make a suggestion that the Collector and the DM while operating this off-site emergency plans will require some funds, some staff. In the ninth plan, there should be a scheme for this purpose.

Factors discouraging compliance

Chairperson: Mr. Gupta in his theme presentation pointed out that compensation was detrimental to compliance of the provisions of the Factories Act. In my view risk insurance also is detrimental to the provisions of the Factories regulations. With the focus on insurance industries do not go for risk management. They try to avoid compliance with the provisions of the law, and when there are accidents, compensation for the damage again discourages observance of the law.

Interjection: The point of non compliance made with regard to compensation in case of accidents due to death of persons also operates in respect of insurance of plants and equipment.

Responsibility to provide Training: a discussion

Delegate: There is a mandatory provision under the Factories Act whereby it is the responsibility of the occupier to train and retrain their labour force and educate them. There are certain rights of the workers to get training of industrial safety and health. With the limited resources in the country and training institutes, it is very difficult to educate, train, and retrain the total work force. My suggestion is that the schemes the resources available under the district level schemes can be re-routed for the training and education of the work forces.

Interjection: No, why can't the failure on the part of the management be made punitive, it is punitive.

Delegate: What is happening in our country even when there is a legal provision in the Act putting responsibility on the occupier to provide training we continue to presume that it is the responsibility of the public institutions or government institutions only to cater to the training requirement. It should be the other way round, the industry associations and industry should come forward and set up the training institutes. Why are they not taking up that responsibility, why have they not at all contributed to the training effort except by sending in the workers and paying their fees. Since it is their responsibility to train all the people, the industry associations must set up the training institutes as is the case in Germany and many other countries.

Interjection: I also agreed that the wrong agencies have taken up the responsibility. The management on whom the responsibility has been cast by legislation is conveniently, escaping with the punitive provisions because we are spending on training.

Interjection: Why should the government assume this responsibility, this responsibility should lie squarely with the management. There is a provision in law, which requires industries to set up training institutes, the government can play the role of catalyst, that is train the trainers. That is our role. And similarly in other areas when we have fulfilled the responsibility for safety audit, it will be responsibility of the management to educate their workmen in safety and environment protection with reference to the manufacturing process going on in that unit. In other countries industry associations have evolved their own norms and standards of safety. In our country industry associations are only lobbying agencies.