## Transcript of “35 Years After Bhopal: Lessons Learned?”

MUNA NDULO: So my name is Muna Ndulo. I'm the William Nelson Cromwell Professor of International and Comparative Law and also the director of the Berger International Studies Program. I'm delighted to welcome you all to the 2019 for Berger Current Events Colloquium. The colloquium is co-sponsored by the India Law Center and thank you to Professor [INAUDIBLE] for the support. The Berger Current Events Colloquium are held each semester. They're designed to provide a platform to engage on the contemporary issues facing the world. They're-- the Berger program typically invites a Cornell faculty member to choose a theme and host the colloquium. The host this semester is Professor Maggie Gardner. The theme is 35 Years After Bhopal-- Lessons Learned? Bhopal, as I think all of you know, is the world's worst industrial disaster. 35 years ago, on the night of December 2, 1984, an accident at the Union Carbide factory in Bhopal released at least 30 tons of highly toxic gases. The plant was surrounded by shantytowns leading to over 60,000 people-- 600,000 people being exposed to the gases. The estimates of the death toll varied from 3,800 to 16,000. Thousands of people remain affected in various ways by the gases. For example, many children in the area have been born with deformities. It remains the world's most devastating industrial disaster with the people suffering the effects until today. Much litigation has resulted from the disaster in courts in India as well as in the United States. Early this year the US Supreme Court had to deal with the claims of immunity by the International Finance Corporation, the World Bank affiliate, in connection with the suit brought against the corporation by victims of the disaster. Many issues relating to the disaster such as responsibility and liability to the disaster remain unresolved. Professor Gardner has put together an impressive panel from different disciplines to lead us in interrogating these and many other issues. I'd like to take this opportunity to thank Professor Gardner for leading this effort in organizing this colloquium. I'd also like to thank Susan [INAUDIBLE] and Karen [INAUDIBLE] from the International Program Office for the excellent work they have done in dealing with the logistics of organizing this colloquium. It is now my pleasure to hand over the event to Professor Gardner to preside over the colloquium. I wish everyone a productive colloquium. Thank you. [APPLAUSE] MAGGIE GARDNER: Good morning and thank you for being here. And just for our conversation later, you know that the symposium is being recorded to be-- for people to be able to access it online as well. So our goal today in marking the 30th anniversary of Bhopal is twofold. One is fairly straightforward, which is to remember and reflect or perhaps also to educate given that some of our audience members may not themselves have yet attained the ripe age of 35. And so I'm grateful that Professor Ndulo mentioned some of the background context of what happened on the night of December 4th, 1984. To fill in just a bit more contours of that story, the leak at the Union Carbide plant in Bhopal, India involved over 30 tons of methyl isocyanate, which is a highly toxic chemical used in insecticides. And it affected the highly or densely populated residential community immediately surrounding the plant in a devastating way. The images of the immediate aftermath are scarring and evocative. I ultimately decided not to start with those pictures this morning, in a way, out of respect for the victims. But you can imagine a scene of rows of corpses, of mass burials, of families having to bury tiny bodies of their babies, of young people who were blinded and maimed. And as Professor Ndulo said this morning, it is often termed the worst industrial disaster the world has known and yet there is still no official count for how many people were actually killed by the disaster. And my sense is that 15,000 is perhaps at the lower end of the estimates. The full extent of the harm and its continuing repercussions is actually just one of the things we still don't know about Bhopal. It is also still not fully settled who or what caused the leak and who should bear the blame. So blame, in that socially reconstructive sense, has never been assigned or accepted for Bhopal. And one reason why maybe the limited legal redress that the Bhopal survivors were able to obtain from the courts both in the United States, but also in India. So I will leave it to Professor Galanter and Professor Krishnan perhaps to fill out some of those deficiencies in their remarks, which they may touch on. But one can characterize Bhopal as a human-created tragedy that is still unfolding today. And it is a tragedy that we risk repeating. The forces behind Bhopal, the disaster and its aftermath, are all the stronger today-- a global economy in which supply chains are complex and liability difficult to determine, one where technology may be progressing and expanding perhaps faster than our ability to fully understand it. One where the interests of states companies, individuals, their communities are constantly shifting sometimes in alignment, but often in opposition. So that brings us to our second goal for this morning and the focus of our discussion, which is when the next industrial disaster of this scale occurs, will the immediate response and longer term legal resolution be any more successful than it was with Bhopal? How do we, for instance, use law to deter unduly risky behavior. And how do we define what behavior is "unduly risky" and who is the "we" that gets to do that defining. How do we think about complex liability issues like this? And is this a question of tort law only or also corporate law, criminal law, regulatory law, and international law? And if law is culturally and socially specific, how do we make that law work to prevent or redress harms in a globalized economy? And these questions are not merely hypothetical or rhetorical, but repetitive. So consider, for instance, Fukushima. And I'm hoping our conversation will expand today beyond Bhopal to look at other pressing risks and later disasters. We should constantly be asking ourselves how can we do better? And that is the question we have posed to the panelists this morning. And after they each provide some pulmonary remarks, I will help moderate a discussion among them. And then we will also welcome questions from the audience, so be prepared. But first let me introduce our very distinguished panelists this morning. Marc Galanter is the John and Rylla Bosshard Professor Emeritus of Law in South Asian Studies at the University of Wisconsin-Madison. Professor Galanter studies litigation, lawyers, and legal culture mainly in the United States and in India. His seminal articles and books have helped to define the field of law and society. And he also served as an expert witness for the government of India during the initial US court case following Bhopal and has continued to write and speak extensively on Bhopal and Indian legal reform in the decades since. Professor Jayanth Krishnan is the Milt and Judi Stewart Professor of Law at the Indiana University Maurer School of Law and also director at the Milt and Judi Stewart Center on the Global Legal Profession. Professor Krishnan is a socio-legal researcher who focuses on the legal profession, law and globalization, access to justice and legal education with a particular focus on India. Professor Sheila Jasanoff is Pforzheimer Professor of Science and Technology Studies at the John F. Kennedy School of Government at Harvard University. Previously, while at Cornell, she helped to found Cornell University's Department of Science and Technology Studies and, one might also say, the field of science and technology studies more generally. Professor Jasanoff's research centers on the interactions of law, science, and politics in democratic societies. And she has authored or edited more than 15 books, including Science at the Bar and Learning from Disaster-- Risk Management After Bhopal. Professor Sonja Schmid is an associate professor in the Department of Science, Technology, and Society at Virginia Tech's Northern Virginia Campus. She teaches courses in social studies of technology, science, and technology policy, sociocultural studies of risk, energy policy, and nuclear nonproliferation. She has studied the history and organization of the nuclear power sector in the USSR in the build up to Chernobyl as well as the transfer of Soviet nuclear technology to Central and East European countries. And her current research project which is funded by an NSF Career Award focuses on the challenges of globalizing nuclear disaster response. So welcome to all of you and thank you very much for being here. Professor Galanter. [APPLAUSE] MARC GALANTER: Thank you very much. It's-- feels a little curious to be here since the first major academic initiative in the US after the Bhopal disaster was initiated by Sheila Jasanoff here at Cornell and with a meeting that led to, I think, what is still one of the best collections on Bhopal. Bhopal came just five years after India's liberalization-- that is it's economy adopted a new openness to foreign investment. So Union Carbide was a was a very unusual foreign presence in India. It had longstanding arrangements there and had this flourishing Union Carbide India subsidiary there. Quite unusual at the time, although very commonplace thing nowadays. It also was just five years after Prime Minister Indira Gandhi's short-lived imposition of autocratic rule and the courts responded rather weakly to that-- to the autocratic excesses. And when Mrs. Gandhi was overthrown or pushed out, there was, in compensation, a wave of judicial activism and the birth of what became called public interest litigation. Courts were suddenly taking the initiative to address various unaddressed problems and the defeatism of the-- so along comes the Bhopal disaster in the midst of this revival of judicial initiative but the initial response of the courts was striking because-- aside from the attempt to provide interim relief-- there was just very little of the innovative energy of public interest litigation seeped into the Bhopal response. The-- as I'm sure you know, one of the primary features of Bhopal was the reach for a remedy in the US. And this was really the reverse side of that deep pessimism about a remedy in India coupled with an untroubled and mistaken, as it turned out, faith in the US legal system and the anticipation of an enormous recovery there. A few weeks after the gas leak the Chief Justice of India said these cases must be pursued in the United States, it's the only hope these unfortunate people have. So you can see the tremendous pessimism in India about the capacity of the Indian legal system to deliver any kind of remedy. So at the time the move to the United States by the Indian government produced hardly a murmur of dissent or criticism. Later, lawyers attacked the government for its lack of confidence in the Indian legal system and elicited an apology by the government for its insult to the bench and bar. So Bhopal provides a very vivid reminder of the Indian legal community's lack of interest in tort litigation. Torts, a peculiar thing in India-- in the 19th century the law in India in just about every field was codified-- basically codified common law with the singular exception of tort law, which-- it was never codified. And, at the time, commentators remarked it's just as well, because the criminal law can handle what might have come in the way of tort law. And the feeling was that all these Indians are too litigious and we don't want to give them additional tools to harass one another. So-- and to this day public discourse on disasters of which there are many, tends to focus on criminal liability-- on the punishment of the bad guys rather than the compensation of the victims or the deterrent of future damaging behavior. Indeed, public support for civil claims in the Bhopal disaster-- which was there at first, but ebbed over the years until, in some quarters, the Bhopal victims were scorned as the disaster elite. So to an outsider the virtual absence of any visible investment of reform energy in the legal control of accidents-- in spite of a very high rate of accidental injury-- is striking. And it's not just outsiders. Even, in 2014, a bench of the Indian Supreme Court upheld a liability award from a case arising from an incident in 1992 that 22 years earlier-- not typical, but not uncommon scenario. In this-- that case, consumers had been allowed to ride in a boat filled over standard capacity, without any provision of lifeguards or life jackets. And the Supreme Court requested the law commission, a standing body, to prepare a comprehensive law of tort liability, which it didn't really. In any event, it has not received any significant attention-- all of which brings us to the question of why is there so little resort to tort remedies in India? Well, one reason is in the regular courts-- because the Indi-- the British thought the Indians were too litigious so one of the things they did was impose very high filing fees for litigation. So if you wanted to sue for 100,000 rupees, you had to put maybe 8,000-- something like that-- rupees worth of stamps on your complaint. As you can imagine, a great inhibitor of complaints. So a lot of what might have been tort litigation got channeled into criminal-- into the criminal system which didn't have these fees. So-- and there's still a little of that, but the most prevalent form of relief, if any, in contemporary India is what they call ex gratia payments. That is a payment in which the giver who might be the tortfeasor, but more likely a governmental body, says we're giving you this, we're taking care of you, but not out of any legal obligation on our part, but just out of the goodness of our heart. So almost every report of a building collapse, a railway accident, a chemical spill is accompanied by an announcement by some government body that is giving an ex gratia payment of 200,000 rupees or something like that to the families of the deceased, and something less to the injured, and so forth. If you want to see some of these, you can look on the website, say, of the government of Delhi or other Indian states and just click-- search for ex gratia, and you'll see the whole scheme of these payments-- at least the regularized part of them. There there's also ones that aren't specified in advance, but just are a response to events. So I should say, I think, that-- of course, one thing these payments do is they break any connection of compensation with deterrence. There is no attempt to discover, or punish, or inhibit the tortfeasor. And so basically there's very little to inhibit actors in India, particularly corporate actors, from engaging in dangerous and irresponsible practices. Now one thing about the compensation is there is also, of course, some slippage between the announcement and the actual delivery of such aid. And-- but the aid in many cases, at least, it's paternalistic, unpredictable, and not closely related to need. It involves no ascertainment or admission of fault and doesn't have any discernible connection with prevention. Indeed, it may insulate potential tortfeasors by reducing the occurrence of the demands on them. So recovery from the injurers is so rare that legal liability is not typically treated as a factor of prevention. But this institution of ex gratia payment is growing, and very likely the expectation of such payment is growing too, and It poses a problem. Because as inadequate as such compensation is it's-- if it's delivered, it's timely. And the great problem of the tort system is, yes, we'll give you full relief-- five years from now and not much help to somebody in desperate straits. So to summarize, the response to Bhopal-- if it did anything to link compensation with deterrence, or prevention, or the promotion of public safety-- it's very difficult to see. Thank you. [APPLAUSE] JAYANTH KRISHNAN: Well, first, I just want to begin by thanking the hosts here-- Professor Ndulo, Professor Gardner, Professor Galanter. I want to thank Cornell Law School, the Berger Center, and the India Law Center. It's a real privilege to be here. I'm just going to say a few words on how, in my view, from the perspective of the American court system, how the US system really failed to provide the Bhopal victims with an opportunity to redress their grievances in the US. So, regarding the case itself, the facts, as we've heard, from both Professor Gardner and Professor Galanter were, of course, pretty horrifying and so I won't repeat what's already been said here. But for the purposes of the US litigation the key legal issue was whom to hold primarily liable-- the Indian subsidiary or the American parent company, Union Carbide. Questions also arose as to what role the Indian government ought to play. And, of course, most importantly, there was the issue of how best to provide remedies to the victims and their families. So in the weeks that followed the disaster, intensive discussions occurred among Indian government leaders and Indian and American plaintiffs lawyers. And these talks centered on whether a lawsuit on behalf of the victims should be brought in India or in the United States. And ultimately the decision was made that American lawyers representing the Bhopal victims would sue the parent company in the US. Now what happened afterwards was that there was about-- there were about 145 class action lawsuits that were filed in federal district courts across the United States. And on January 2, 1985, exactly one month after the gas leak occurred, the American judicial panel on multi-district litigation transferred all of these class actions to the Southern District of New York, where they then became a consolidated complaint heard before a federal judge, John Keenan. So, for efficiency purposes, all pretrial proceedings were to be heard by one judge. Now during the same period the Indian parliament passed the Bhopal Gas Leak Disaster Act, which permitted the government of India to serve as the representative and the trustee of the victims. Therefore, when the initial consolidated case was filed before Judge Keenan, it was the Indian government, represented by American lawyers, that was suing the US-headquartered Union Carbide Corporation for injuring the victims in Bhopal, India. And the slide there, I think, highlights the diagram of what the lawsuit looked like. So what then happened? Well, in this first case the Judge Keenan heard, which was decided in 1986, it focused on the question of whether the Indian courts would be equipped to handle this mass toxic tort case. The plaintiffs had argued, as Professor Galanter said, that India's tort law system was underdeveloped. Its judiciary was severely backlogged, and slow to deliver remedies, and litigants had tremendous difficulty accessing legal services. Now, furthermore, within the Indian courts themselves, the plaintiffs said that there were onerous bureaucratic hurdles that inhibited claimants from wanting to bring their cases in the first place. And so the plaintiffs had their expert witnesses, including Professor Galanter, to support these arguments. And, on the other side, Union Carbide hired experts of its own-- NA Palkhivala and JB Dadachanji both of whom were famous lawyers in India, were Union Carbide star witnesses. And these two lawyers argued that India could indeed handle this type of litigation, that its courts were prepared, and that Indian judges were ready to deliver justice in a timely and innovative fashion. Upon reviewing these testimonials, Judge Keenan ultimately found Union Carbide's experts to be more persuasive than the plaintiff's. And as such, a Judge Keenan dismissed the plaintiff's case on forum non-convenience grounds. Now, this judgment by Judge Keenan occurred in 1986. On February 14, 1989, an agreement was reached between the government of India and Union Carbide stating that the company would pay $470 million to settle all outstanding claims being made by the plaintiffs. The Supreme Court of India gave its approval to this settlement. And the money was to be paid to the Indian government, which would then in turn disperse the sums to the victims of the Bhopal disaster. Now, many people believe, and I think rightly so, that this amount was woefully lower than what was, in fact, just. And after the settlement, three subsequent cases related to the original Bhopal case came in front of Judge Keenan in 1989, 1992, and 1993. And I should explain that the reason that these three cases came in front of Judge Keenan was because they were deemed to be part of the original case that he had heard in 1986. And the slide here briefly describes these cases and how in each of these cases, Judge Keenan issued dismissals. Now, after these cases, many people thought that the Bhopal litigation was over. But beginning in 2000, a new set of Bhopal plaintiffs began filing cases in US Federal Court. And for every one of these cases, Judge Keenan was named the presiding judge. But how could this happen? Well, generally when cases are filed, they go through what's called a "random assignment process." It's a type of lottery where a court staff member will randomly assign cases to one of the sitting judges of the court. But this assignment is also accompanied by what's known as the Related Cases Rule, which Professor Kathryn MacFarland has described in detail in her work, in which my paper relies heavily on. And this rule allows judges to accept later filed cases if they are related to an earlier filed case already on their docket. So, a typical process might involve a plaintiff filing a case in federal court, which would first be randomly assigned to a judge by court staff. The defendant in this case, Union Carbide, would then move to have the case transferred to a judge who had heard a related case in the past. And that latter judge could then exclusively decide on whether or not to take it. And that's effectively what happened here with these Bhopal cases, where after that first 1986 forum non-convenience case, any case that had a Bhopal component to it, allowed Judge Keenan to be able to claim that that case should be his. So starting in 2000 and going for the next 16 years, Judge Keenan issued a combined 16 procedural rulings in cases that were unrelated to the four consolidated cases that we just discussed. But they had that Bhopal component to it that allowed him to be able to essentially hoard all of the Bhopal cases. And these 16 rulings covered two distinct disputes, one known as Sajida Bano v. Union Carbide and Warren Anderson that went from 2000 to 2005, and a second that was known as Janki Bai Sahu v. Union Carbide and Warren Anderson, which lasted from 2005 until 2016. Now, just for the sake of time, let me just briefly talk about what the issues were at the center of each of these cases. Now, in the Sajida Bano case, the plaintiffs here consisted of a group of Bhopal residents who sought to bring multiple causes of action against Union Carbide and its then CEO Warren Anderson under the Alien Tort Claims Act. In addition, they brought a series of nuisance, environmental degradation, fraud, and property complaints as part of their petition. And for a set of reasons discussed in the paper, Judge Keenan granted the defendant's motion to dismiss on all of their claims. Procedurally then, the case went through four years worth of appeals where on repeated occasions, the appellate court sent the case back down to Judge Keenan for rehearings. Yet on each remand, Judge Keenan continued to dismiss the plaintiff's cases, chastising the plaintiffs, harsher and harsher each and every time for wanting to use the US courts to seek remedies. Starting in 2005, Judge Keenan then heard the second set of Bhopal cases known as Sahu v. Warren Anderson and Union Carbide. Specifically here, the plaintiffs argued that there had not been sufficient medical monitoring of those who had suffered injury, nor was there adequate remediation both of which-- both of which the omnibus settlement required by Union Carbide said that it had to provide. And this case lasted from 2005 until 2016. And on multiple occasions, Judge Keenan continued to-- continued refusing to allow the plaintiffs to proceed to trial. He simply kept dismissing and dismissing their petitions. Among his many justifications was that the Indian subsidiary was distinct from the US corporation, which could not be found liable. He also found that no evidence was there, that there was any duplicitous behavior on the part of the chairman of Union Carbide. And in fact, during all of these years, Judge Keenan had not granted one ruling in favor of the plaintiffs on any issue, which is why in 2010, the Bhopal plaintiffs took a very bold move. They made a motion asking Judge Keenan to recuse himself from any further deliberations and to assign the case to a different judge because of what they said was his judicial bias. Now, unremarkably, Judge Keenan was not convinced. He rebutted each of these points with what he argued were perfectly and rationally legal reasons for his past rulings. And what did he do thereafter? He dismissed their motion. Now finally by 2016, the litigation on all of these Bhopal cases came to a close. Now, in one of his final rulings, Judge Keenan issued a parting quite sarcastic shot to the plaintiffs noting that they had been long engaging in what he called quote "an expedition worthy of Vasco da Gama" and that he effectively was proud to stand up against this frivolous litigious behavior. Now, the rest of the paper discusses all of the reasons why I think Judge Keenan got several of his judgments frankly wrong throughout the course of the 30 years hearing the different Bhopal cases that came to his docket. And I'm happy to discuss this during the question and answer period. But I'll stop here for now. Thank you. [APPLAUSE] SHEILA JASANOFF: So, let me also begin by thanking the Berger Symposium who organized this and Professor Nduolo and Professor Gardner for this invitation. So 35 years, commemorating something invites one to historicize. And I will take that tack in a slightly different way from the way my predecessors have done it, partly by being a little bit autobiographical because it's hard for me to come to Cornell and not be a little bit autobiographical. So 1984, the year of the Bhopal disaster, was a year before I published my first book, which was on chemical regulation in Europe and the US. So chemicals were on my mind. It was seven years before-- well, it was four years before I became director of the STS program, seven years before I became the chair of the Department of Science and Technology Studies, and now 35 years short by about less than a month that the events at Bhopal happened in the first place. So while respecting Maggie's initial point about not showing pictures that I will show you pictures, partly to contextualize what was happening in Bhopal in a slightly different way vis-a-vis bigger things that were happening in India which have not been mentioned as yet. So October 31, 1984 was-- well, this is the usual problem of compatibility between formats. I guess I should have tried it out here-- but in any case, into Gandhi's assassination. And then December 2 and 3 was the Bhopal disaster. So this was a time of profound unrest and disturbance within the Indian political system, much more broadly a fact but I think we should keep in mind that in our own recollection of what was happening at that time. If you go to Bhopal, the memorial is one of the least remarkable. That is it. But maybe to this day-- this is a picture taken a while back by me. In the backdrop is this slogan of Warren Anderson, who was the CEO of Union Carbide at the time. And it's worth recalling that the inconvenient forum argument was being made in the ways that you've just heard described formally in the US, that there was also a correlative claim in India that that was the right forum for trying Warren Anderson himself, and that he should have been brought to justice in India. But that never happened. Maggie mentioned that there were-- there was never any resolution of who was responsible and who was to blame. But it's worth laying out those stories because as an STS scholar who has revisited this story many times, the dimension I'm interested in is how knowledge is made, how knowledge travels, and the law's involvement and, to some degree, complicity in ensuring that some knowledges do travel and others don't, and some knowledges come into being and others don't. So what were these stories? Union Carbide continue to insist until the day of its dissolution and even further that it was sabotage, that the reason that nobody was to blame, and certainly the corporation wasn't, was that it was a disgruntled employee who had inserted water into the tank, causing the runaway gas reaction that then took all these lives. The American standard response was that it was state failure. And to some extent, that's picked up in Professor Galanter's account of the passivity of the Indian courts. But it was also a broad-gauged failure to enforce regulations and to heed warning signs. Technology and society people pointed to the failures of risk assessment and that a highly densely populated area was being used as a storage ground for this extremely toxic substance. And Indian critics, particularly of the left, said that this was part of a broader pattern of the legacy of colonialism. And the word genocide was repeatedly used at the time in India. So you see these causes range across a wide variety of understandings of what the structural foundations of the Bhopal disaster were. And there never was a forum. I mean, forget about the legalities of inconvenient forum. Try to imagine in what forum this complex of explanatory variables, in a sense, could even have been brought to the fore. From Warren Anderson's point of view, Bhopal would have been a very inconvenient forum for these kinds of demonstrations. So after 9/11, many people in India noted that the scale of the 9/11 disaster was somewhat similar to the Bhopal disaster. And yet, consider what the ramifications of 9/11 were and consider what the ramifications of Bhopal were, and look at the complete lack of parallelism there. And so, "you want Osama, give us Anderson." It's then is referring to that mental parallel that many people in Bhopal created. Anderson was, in fact, charged with manslaughter and arrested. But he left India and never returned. He was declared a fugitive from justice. I mean, so one has to tell this other parallel story of the inconvenient forum, except that it happens not to be told because it wasn't legalistically really under that doctrinal development. And yet, it's worth our while keeping that in mind. And eventually many, many years later, a determination was made that there was negligent homicide. And nobody was actually brought to book. But this was also going on in parallel in a sense. You heard the account of Judge Keenan, but it is worth going back to the first decision from the standpoint of knowledge. And there is a description of our distinguished colleague, my longstanding collegial friend, Marc Galanter, and why he was not the right expert to know about Indian law. Maybe Marc remembers this language. He is not, however, admitted to practice in India. And the court views his opinions concerning the Indian legal system, its judiciary and bar, as far less persuasive than those of NA Palkhivala and JB Dabachanji, each of whom has been admitted to practice in India for over 40 years. So from the standpoint of the sociology of knowledge, you see sociology of knowledge being played out here. So what would it take? Certainly not an American-trained law society expert who examines exogenously how the Indian court became. So, there's a theory of how you know the law embedded in this dismissal of Professor Galanter's expertise. And the anti-colonialist rhetoric that nevertheless articulates a colonialist imagination is to be one of the striking aspects of Judge Keenan's opinion. So the American interest in this accident is simply not sufficient to justify the enormous commitment of judicial time and resources. You will have to recognize the utilitarian cost-benefit analysis there, but cost-benefit analysis based on what kind of monetization? Of what, right? I mean, you might well ask that. And then, in the courts future, retained the litigation in this form as plaintiff's request would yet another example of imperialism. I mean, so Judge Keenan in all of those dismissals is striking a blow for Indian sovereignty and patterns the rhetoric, the union of India as a world power in 1986 and its courts have the proven capacity to beat out fair and equal justice to deprive the Indian judiciary of this opportunity to stand tall before the world. Well, you can read the rest. And you know how many people working and practicing-- I mean, understanding law in this country back then read this as the ultimate patronizing invocation of a doctrine of sovereignty? I mean, to stand tall before the world? I mean what? The cowboy imagination of the West being-- being overlaid on the sense of how the Indian judiciary should behave? Anyway. I mean, it bears detailed linguistic study and exploration to get at the ideological dimensions of what is going on here. And then, of course, the rest follows as the light of the day because, in essence, we're relying on one man's imagination of what is at stake to procedurally take care of this story as it unfolds over the years. So, what can we say more generalizing about what Bhopal illustrates? I mean, it is one of those cases that arose at a very early stage in my own professional development. And it's something that I keep going back to as a touchstone. I've written about the Bhopal case over the years. And I think of it in very different ways. So, Bhopal fits into a broader pattern of problems in technology assessment that keep recurring. And so some of these accidents, which also have their repercussions in India, go back to very generic problems in the way we think of technology and its transfer. So there are modeling errors one can talk about, the Green Revolution. I'll go through these quickly. There's a persistent undervaluing of risks in relation to benefits. There are huge planning problems. So with Bhopal, there was no attempt to understand what could happen to population growth if you just plunked this big production facility in a place that was relatively not industrialized. Social disparities. Who were the haves and who were the have nots? I'll come back to that. Marketizing inequality in a sense that you see in the carbon market dealing with climate change where all carbon is deemed to be equal no matter what the sources of emissions are. And what are the imaginary's underlying technological development? And why export them? And then erasing certain voices repeatedly. So, the examples I've given are examples related to South Asia. And the point of this slide is that Bhopal is not unique. It's part of a persistent technology transfer mentality that persistently underplays certain kinds of things to the disbenefit of the poor and the marginal. That leads to asymmetries that I think we have to keep in our minds if we are to address Professor Gardner's question seriously about what do we do? So, it's interesting that material things move around the world much more easily than certain other things that I'll come back to. And the World Trade Organization is-- exists in part to enable those materialities to move. Methyl isocyanate moved quite readily from West Virginia to India. Ideologies move partly because there are powerful articulators of those ideologies, like Judge Keenan who is doing law. But he is doing law embedded in an ideology. But people's agency does not move. So the lawsuits that you describe are brought by people who are dismissed, as you've heard, by Judge Keenan as "frivolous." So, what is a frivolous body? It's worth thinking about that. And that means that their knowledge of their own experience does not move because it's relegated by poor to this domain of frivolity. I myself visited Bhopal 10 years ago on the 25th in the year of the 25th anniversary. And it was interesting to see what kinds of rehabilitation work were going on in town. And these are some of the women who had organized. And my Muslim colleagues there said that the victims who were largely part of the Muslim population, just because of the way the gas plume blew across the town, it had had the effect of liberating some of the women to become volunteers in town. So in talking about the sociological impact, one has to look at some of these things. At the same time, it was-- they're learning to sew. And, I mean, this is-- anyway, I'll just leave you with the image. And almost every-- several times a week, there were commemoration events going on. And I took part in one of these things. And people carried candles around. And they put them on the ground. So this is 25 years later how the event is embedded in the psychology of Bhopal. So how does that fit into the broader topic that Professor Gardner laid out before us? I mean, what about international travel and industrialism? So this is the famous memo by Lawrence Summers, then Chief Economist of the World Bank in 1991, subsequently dismissed by the man who became president of Harvard 10 years later approximately as though it was a joke, in the same way that he later and still dismissed his comments about gender and genes. So it was a joke. But nevertheless, this is 1991. And Bhopal was 1984. And how could one even in jest write "just between you and me, shouldn't the World Bank be encouraging more migration of the dirty industries to the LDCs? A given amount of health impairing pollution should be done in the country with the lowest cost, which will be the country with the lowest wages." And as yet, nobody has mentioned the events at Rana Plaza in Bangladesh much more recently. And one sees there the same kinds of ingredients at work, rescuers struggling to reach survivors, one of the worst manufacturing disasters in history. Questions were being raised about why a Bangladesh factory building was not padlocked, et cetera. And here is the political economy analysis. Even in a situation of grave threat when they saw cracks in the walls, factory managers thought it was too risky not to work because of the pressure on them from US and European retailers to deliver their goods on time. So, you can do a riff on temporality and all kinds of things. But it's interesting that not many parallels were drawn between this case and Bhopal. So, one can make decisions. And we can maybe come back to this some conversation about whether the risk paradigm is adequate any longer to think about these technological debates, or whether we should in parallel think of a very different paradigm, the right-based one that starts and ends in very different places. And my own view about what people ought to be undertaking is a far more detailed look at the impact side of things and what I'd call "technologies of humility" to displace risk by looking at the ways in which technological disasters are framed in the first place, asking vulnerability questions, asking distribution questions, and asking the learning questions that were put before us for this meeting. So, how would this play out in practice? I mean, how would one apply the technologies of humility in managing technological risk today? And I think one can point to very specific ways in which one's analytic sensibilities ought to be brought to bear on these kinds of issues. And again, I would be happy to come back, but something like restoring concern for distribution fairness and justice, after all, is an obligation of law. But where is that being done? And how could the law do it? So, with that, I can stop. [APPLAUSE] SONJA SCHMID: I'll join the ranks of people saying thank you for inviting me here, and thank you for putting out such a distinguished panel. My task is to link this somehow to nuclear and nuclear emergency response in particular. So maybe I'll start with the title "The Lessons Learned." Pretty much after each and every large industrial accident, there are ubiquitous discussions and debates about what are the lessons learned, reports that are being published under these topics. We've seen that after Fukushima. We've seen after Chernobyl. So, the discourse of what are the implications for doing better in the future are often front and center in these post-accident conversations. But they often involve, as my predecessors have already mentioned, somewhat post-colonial or even colonial overtones. I just want to mention that after Chernobyl, the clear framing in the West was, this could never happen here. This is impossible because we have different reactor types, we have differently-trained personnel, we have a different regulatory system, et cetera, et cetera. And we saw the same thing repeat itself after Fukushima, even though it was a little bit harder because that was an American reactor design. After all, it was a very disciplined workforce, a highly industrialized country with significant expertise in seismic engineering. But this-- "it could never happen here" takes on different versions. And after Fukushima, the most blatant version of that was this cultural explanation that was put forth by one of the post-accident review committee's chairman actually, who called it "an accident made in Japan," implying that the particular cultural constellation in Japan produced this particular accident. Another issue that comes up over and over again after such accidents, be it chemical or nuclear, is the conversation about how to prevent similar accidents in the future, and also, although to a more limited extent I would argue until recently, how to respond to them more effectively. And this was lumped together in the prompt that we received from Professor Gardner, how can we prevent similar disasters in the future? And how can we more effectively respond to them? And I think it's worth emphasizing that even though-- I don't know much about the chemical industry. But in the nuclear industry, it's now recognized that we need to do both. Historically, that has had a very significant kind of up and down. So after Chernobyl, for example, as I already mentioned, the dominant assessment in the West was this could never happen here. And the emphasis actually since Three Mile Island in 1979 was on prevention. Let's prevent this from happening, setting up institutions, improving the technology, training of personnel to handle situations-- similar situations better, more proficiently. And it was only after Fukushima that there occurred some-- somewhat of a shift from prevention to response capability. Jim Ellis, a retired admiral who, at the time of-- when Fukushima happened in 2011 was the CEO of INPO, the Institute of Nuclear Power Operations, stepped out and took a stance after Fukushima for the first time, which was remarkable for a number of reasons. First of all, because INPO is not really a household name. It's an organization that was created as a response to Three Mile Island. It's an industry group that operates relatively secretively and justifies that mode of operation by the fact that only in a setting where the public is more or less excluded can operators and their CE-- operators of nuclear power plants and their CEOs effectively be shamed if they don't adhere to certain best practices that INPO is trying to implement. INPO has been fairly successful in creating these best practices and implementing them. And after Chernobyl, a similar organization on the global level was established in 1989 as a-- with a three-year lag, but still the World Association of Nuclear Operators with a similar goal of exchanging experience and making sure that best practices were implemented to prevent, to avoid future severe accidents. After Fukushima, that shifted, though, because it was realized that not all accidents, nuclear accidents could be prevented. And there also had to be efforts to more effectively coordinate the response to such accidents. So we've seen in the United States the Nuclear Regulatory Commission and the nuclear industry have collaborated in implementing a several-year-spanning program to set up a nuclear emergency response capability both on-side and off-site with a couple of regional centers. Because after Fukushima, it was also realized that there could be accidents affecting not just one reactor but several reactors. So it could be a multi-site accident. And the response capabilities then would not be sufficient. And the coordination would not be in place to effectively accomplish that. We've also seen in France the establishment of a rapid response, kind of a nuclear SWAT team, as well as within the European Union what was called the Nuclear Stress Test Initiative where it didn't quite get to the point where they established a response capability. But they started talking about what are we-- what do we mean by nuclear safety and trying to harmonize even the conceptual basis for accidents and how to respond to these. So, I just wanted to emphasize that there were these different approaches to prevention and response. And while the prevention has triggered international conventions, such as the early notification about an accident and also a convention on requesting assistance in case of an accident, there are, in terms of response, as far as I know, very few international agreements to the state that would help coordinate the reaction to accidents. And even though there are some parallels between a chemical accident, such as Bhopal, and nuclear accidents, there are also significant differences. One of them is the cross-boundary, cross-border, transboundary effects typically of severe nuclear accidents. And I don't know how that would apply to chemical accidents. I'm just not familiar enough with that particular technology. But it seems more limited, at least in this particular instance. So, one other point that I quickly wanted to bring up, and maybe we can go into that in more detail in the discussion, the issue of compensation that was mentioned in both Professor Gardner's introduction also in previous statements. When we talk about compensation after an accident, I think it's important to consider a, who is defined as a victim, whether we're just talking about fatalities, or we're also talking about other effects that may be more difficult to establish, such as health consequences that don't manifest themselves immediately as a consequence of an accident, and also what counts as adequate compensation. So, just to give you an example, when Chernobyl happened, the Soviet Union still existed. And its system of-- its entire social system was set up very differently. So monetary compensation, as was discussed in this case is typically the first reaction in a Western situation, would not have made the same-- would not have had the same effect in a socialist system. What happened after Chernobyl in terms of Chernobyl victim compensation laws was actually modeled on civil law that was applied to veterans, to disabled people, to some extent retirees, that received privileges within the existing system, for example, privileged access to housing, an access-- a telephone line that was installed in their apartment, free public transportation, et cetera, et cetera. So, it was a completely different distribution of privileges that, of course, when the Soviet Union collapsed in '91, lost its significance and had to be reframed and retooled. So the Chernobyl laws in Russia, Ukraine, and Belarus, which were the three countries most affected by the fallout of the Chernobyl accident, actually have multiple times revised their Chernobyl laws, interestingly enough also in terms of who counts as a victim. And as the final point that I wanted to bring up, even though originally the Chernobyl law was designed to cover people who had worked at the Chernobyl site after the accident at a specifically determined time and for a specific amount of time, it was later extended to people in Kazakhstan who had suffered from nuclear weapons testing at the Semipalantisk testing ground. So those areas of a civilian nuclear accident and military weapons testing in terms of victimhood became lumped together in a very fascinating way. And that was one of the questions that I wanted to pose to the group here. If we talk about nuclear, there seems to be a firewall between the energy sector and the weapons sector, even though in terms of effects and in terms of responding to nuclear fallout, there are many similar circumstances that could be addressed presumably in similar ways. Nuclear emergency response doesn't care whether it was a bomb that exploded or a reactor that exploded. There's contamination that needs to be taken care of and people that need to be evacuated, et cetera. And I'm wondering-- and again, I don't know enough about this-- but in the chemical field, these toxic chemicals are, in a sense, weapons. But there is rules and laws to regulate chemical weapons. But it seems to be much less emphasis on the civilian side. And that's true for the legal-- for the war the nuclear context as well. We have all kinds of treaties and laws regulating nuclear weapons' development, nuclear materials that can be weaponizing. In the energy sector, we have a global market that is sometimes pretty scary. And with that, I'll end. Thank you. [APPLAUSE] MAGGIE GARDNER: Great. Thank you so much. And I want to pick up on a couple threads from Professor Schmid's presentation in particular. And one thing that strikes me about her comments is this idea of, well, "that can never happen here" is, I think, exactly how we think about Bhopal, that it's easy for us to reflect on Bhopal because it's at a distant-- safe distance, and something that we don't picture here quite the same way. And that's echoed in Judge Keenan's remarks and some of his initial decisions, this idea that, well, our technology was perfectly good. The mistakes were made after we finished training the engineers in India, and then they got sloppy. And so whatever caused the accident was homegrown in some social-cultural context of Bhopal. And that helps us feel like the US, again, we have very few interests in this case. It's about what happened over there. And so, these are continuing ways of framing accidents and disasters in a way that may make us feel more comfortable but obscure the full dynamics of what may be happening. So I think the compensation question that Professor Schmid started raising questions about is really a difficult and interesting one here. And another aspect of that question, too, is, how much is a life worth? And does that vary across countries? And Summer's quote in particular is a very blatant statement of what is implicit actually and accepted in a lot of legal redress as well is that we value lives differently depending on where they live and how much money people make. But in some ways, harm may be external to that. And so, there are a couple of different models. There are the ex gratia payments where we are automatically-- like worker's compensation, too, where we have a table. This is how much you're worth. And there are conventions, for instance, the Montreal Convention for aviation disasters. If you have an airplane that crashes with passengers from different countries aboard, theoretically they should all get basically the same monetary payout. But then we lose something in that, too. And so one question for all of you is, should compensation be individualized? And if so, what is the mechanism-- the right mecha-- or even a feasible mechanism for making those decisions? Any takers? SHEILA JASANOFF: Well, from the-- I mean, just extrapolating from American tort law and chemical exposures, one of the things that was happening in the 1980s was that courts were recognizing that effects are latent, that the moment of exposure doesn't define the totality of the negative impacts, the adverse effects on health. But the idea that there should be a monitoring capability, I mean, certainly nothing much was known about the longer-term consequences. Methyl isocyanate was one of the most toxic chemicals that anybody had encountered. But it was also incredibly difficult to work with because of its accurate character. And so, scientists didn't do many animal studies even because they were exposed to the fumes. And so nobody wanted to go near them. It was known that it was highly toxic in an acute toxicity sense. But there were no long-term studies. In effect, there was a natural clinical trial. But then there was very little monitoring. There was no expenses for monitoring. Nobody knew about the intergenerational effects. I mean, these things just have not been studied. So individualized or not, I mean, one of the reasons people say the compensation proved woefully inadequate was that there was a vast underestimation of the numbers and the nature of the effects. And that is something that one could have thought of. One could have thought of establishing some kind of ongoing monitoring and caretaking rule. But the legal imagination was extremely constrained about what was even possible. And maybe your slide about US lawyers being on both sides of the equation-- of course, it's not true that only US lawyers were on the two sides of the equation. There was lots of interesting legal thought being constructed in India which simply had no hearing on the American side. So I think that the power/knowledge question needs to be put back on the agenda in a different kind of way. And it's not who gets compensated and whether it's individualized, but whose law gets to decide it? And what are the ideological foundations of that legal system? And where do you challenge something like that when goods move across an unequal world? JAYANTH KRISHNAN: I mean, my own sense is that you're right. In the Indian context, there were lawyers who were-- there was a great diversity of thought in what lawyers were thinking about in terms of pursuing their claims in either the US or in the Indian courts. The issue that comes up in the American courts, though, is the only voice that was being heard were voices that were confirming with Judge Keenan was frankly already going to decide. So we didn't actually see the other side of those Indian voices in the US context, at least in Judge Keenan's court. And I think that was a great deficiency in the hearing, in the 1986 case because, of course, there were other people. I mean, Professor [? Bakshi ?] was in India at that time making a very different type of argument than what Dadachanji and Palkhivala were saying. And so we do see that. But unfortunately, that just wasn't happening in the US-- in the US forum, in the US context. And to that extent, I think you're right. I mean, my sense is that there was a limited imagination. I also think it's right to say that the rhetoric and the language that Judge Keenan was using was incredibly paternalistic. I think that that's right as well. But I also-- my own sense from going through each and every one of those 30 years of opinions that he rendered, he saw it as just frankly too much of a hassle. His idea of even thinking about what compensation could be never even became a possibility because you have to remember that the cases that he was hearing were all pretrial cases. So he wasn't even able to think about what a case would look like in front of a jury. And so these were all very procedural motions that he was dealing with. And so, we couldn't even get, Professor Gardner, to your question of what compensation would be because we were never able to see beyond the pretrial motions. MAGGIE GARDNER: Unless he did have an image, which was, one, it has to be individualized, and two, it will be so much that I can't handle both the complications of thinking about how to assess the scale and also the discomfort I-- he-- I, being Judge Keenan, might have in setting a price tag to that on a US company. So there could have been a tension of the trouble I don't want to go to is having to deal with the compensation question on top of the liability question as well. MARC GALANTER: One curiosity is that Judge Keenan was a fairly new judge on the Southern District of New York at the time. And he had been given the unenviable task of supervising the reconstruction of the courthouse. And so, he was very involved in service to his fellow judges and so forth. And he just-- as someone mentioned, he just didn't want the hassle of this enormous case. And actually, he wobbled on it. In fact, what he did is he asked the Indian lawyers, the government of India lawyers, to send a small number of typical possible plaintiffs to his home. They were brought from India and to his home in North Jersey the whole weekend. And he interviewed them. He was interested in how much English they knew. He was trying to envision what a trial would have been. And he decided he didn't want to do it. But-- yeah, go ahead. MAGGIE GARDNER: Yes, please. AUDIENCE: Is it-- is it time for-- MAGGIE GARDNER: Yes. I have plenty more questions. But we are running short on time. So I would really welcome questions from all of you first. MARC GALANTER: Yeah. AUDIENCE: Yeah. I feel like what's lingering in the context here is this slow violence of white supremacy and racism, the idea that if a chemical explosion or chemical gas leak killed 3,000 and injuring 16,000 white people on Fifth Avenue in Manhattan, the judge would bend over backwards in order to make sure that this was litigated appropriately. I think that it's the idea of with the kind of paternalistic thought that this judge is-- MARC GALANTER: Well, we have that 9/11, by the way. And it didn't get to a judge at all. It got to Ken Feinberg who decided that-- who decided what each plaintiff should get, and which raises the interesting question of whether compensation should be individualized as it was by Feinberg in the American case. But in India, if you individualized compensation, the range of variation would be enormous. Some people-- if you give everybody, what, five years' income, some people are going to get 50 times or 100 times as much as other people. And so the typical pattern in India is flat equal payments to all victims. And what we don't know is how effective really those are actually implemented, and whether the people get these equal amounts or not. I've never seen anything on that. SHEILA JASANOFF: One of the things you're raising is that-- I mean, in a way so was Professor Galanter, that the economic foundations of events, who is the person who got heard determines outcomes in various ways. Because there is a direct follow through on that because the Chemicals Right To Know legislation was passed in this country a couple of years later because, to some degree, the imagination of what could have happened in this country was altered by what happened in Bhopal. The technology that was exported had been used by Union Carbide in its West Virginia plant. And they had to [INAUDIBLE] disasters. But it's partly because the workers in that chemical valley, as it's called, were already socialized to deal with extremely hazardous substances. And it wasn't a new thing they popped out somewhere else where there was no background effect at all. But nevertheless, people woke up to the fact that this could happen anywhere. And now there's a strong-- I mean, the toxic substances release inventory at an EA-managed database got created as a result of that. So, in terms of what happened in precautionary legislation around chemicals, much more movement happened in Europe and the US than happened in India to some extent, which is, again, another of the worries or one of the curiosities. But it speaks to this question of on what basis do you value the life? And clearly it wasn't a transcendental pleasure. It was very much what was being earned by those people. People called attention to the fact that the Bhopal supplement, although woefully inadequate by maybe our retrospective standards, was way in excess of anything that had been awarded in India before. And from the American point of view, it looked like that, that this is almost unjust enrichment because nobody has had that many millions of dollars to deal with. And by no standard accounting measure were those bodies worth that kind of money. That was a subtext of the debate then and would remain the subtext now as well. And as far as Ken Feinberg is concerned, I think all of that is right. But the fact is that the guy did make classifications. And in every class action type thing that he's resolved, he has made these classifications on the basis of nothing other than his own intuition. So when I heard him talking about the Boston Marathon supplements, he was describing how if you had spent a night in the hospital, you were entitled to this much. If you had just come in as an outpatient, you were entitled to nothing. And he was describing the fact that his job was to make sure that those classifications were tightly enforced. You come in, you say I'm suffering all these consequences. Did you spend a night in the hospital? No? Out. This is the sort of point as you referred to it. But with 9/11, he had the deep pockets of the American state. There were no limits to what he could dole out. In all of his other cases, there have been caps on the total amount that he could distribute. MAGGIE GARDNER: Professor [INAUDIBLE]. AUDIENCE: Thank you so much. This is so amazing. My question to-- and this cuts across many of the speakers. I'm wondering about the Indian legal response and bifurcating that with the executive and the court. So with the executive, one interesting thing as you pointed out-- as Jasanoff was that maybe the weaker response was due to the fact that there was so much disarray after [? Indira ?] [? Gandhi's ?] assassination. And one thing I wonder is, why didn't they-- and I don't know enough about Union Carbide and its assets. I mean, one could imagine the government saying, I'm going to freeze all your assets. We're going to take measures that don't just involve suing you in foreign court. So when we get there, there wasn't room for them to do that. And they didn't where there were just no avenues at that point that the executive could do. And in terms of the court, as you pointed out Professor Galanter that it's been situated at a time where the court was issuing broad and interesting decisions, creating guidelines on sexual harassment, telling the Delhi rickshaws that you need to convert from diesel to CNG. Why didn't it do more for this particular case? Is it just the colonial legacy toward a weaker because it wasn't codified and because tort is expensive? I mean, they could have developed it, but they didn't. And I'm just wondering why. Or is it just that a $450 million is actually a lot for an Indian life? And why should we value it more just because it was a foreign cooperation that did it? It was an Indian corporation that didn't sleep, would $450 million be enough, going to compensation issue. Not that I think it's enough, but I just wanted [INAUDIBLE]. MARC GALANTER: The disparity in asset between UCIL, that is Indian subsidiary, and Union Carbide in America was enormous. The total assets of the Indian corporation were much less than the settlement. So, there could have been. There could have been. But they saw this mountain of gold on this side. And it's interesting because there was no comparable case ever brought in India for damages. And there are mass disasters in India, much smaller ones, of course, all the time. People get-- 100 people get killed by poisoned liquor. That's one that happens every once in a while, or bridges collapse [INAUDIBLE] and pilgrim sites, or all kinds of terrible things happen. And the typical response is some-- is a paternalistic one. OK, some body-- sometime it might be a corporation. But generally, the government steps in and gives some payment to expunge the damage. So this is-- just going to court about a disaster was itself innovative. And it was partly because the American courts looked like a mountain of gold that this innovation came about. Subsequently, there's been some interesting cases in India about 12 or 15 years after the Bhopal disaster. At a theater in a prosperous section of Delhi, there was a fire. And it-- the management had put more seats into the theater in a way that blocked the fire escape. And a large number of these middle-class people got killed. And there was a-- and they got organized, the survivors, and brought a case which went on for some 15 years or so. The lower court gave a very generous and exemplary judgment. And by the time it got to the Supreme Court, the Supreme Court said, well, this is far too much. And we-- they cut it back so that it did not-- could not possibly have the deterrent effect. And that's generally been the case except in one curious case where and Indian, young Indian doctor and his wife were living in the US and working in the US. He was, I believe, an [INAUDIBLE] professor at the University of Cincinnati, in the medical school. And she was training to be a-- I think as basically a social worker. So they go to India for a family wedding in Kolkata. She has some kind of a nasty skin condition that's recurrent. It recurs. She's taken to the top hospital in Kolkata. She's treated in some sort of off-- what do they call it, wall? When you're given a drum that's not-- AUDIENCE: Off-label. SHEILA JASANOFF: Off-label. MARC GALANTER: Off what? SHEILA JASANOFF: Label. MARC GALANTER: Off-label use, and she gets so much worse. And she ends up dying. This young doctor sued this-- he brought criminal cases, which he lost. Then he brought a civil case on her behalf and ended up after about 15-- I don't know, about less than 10 years, and he got this enormous judgment. It's the only enormous judgment that you could really a point to on the Indian landscape. And it's kind of curious that here's a case where you have an Indian perpetrator, an American-- an Indian-American, but an American victim, just the opposite of Bhopal where you have Indian victims and an American perpetrator. But this case, he got a very large judgment. It was paid. And he's now back. He did get tenure as he was all going to India 100 times, literally 100 times over this 10-year period. But he's back in India and has this sizable foundation now which is pursuing various medical malpractice things. But that's the only real success story, such as it is, in Indian injury litigation. I won't say tort litigation because in some sense he persevered outside the strict tort system. Torts in India are a stepchild. They're not-- they're not really very sensible in the view of most lawyers. And they just don't flourish. MAGGIE GARDNER: So on that, not entirely optimistic note, we do, unfortunately, have to wrap up. I know there are questions remaining. So I encourage you to ask the panelists. And I would be curious to hear them as well. But thank all of you. And a special thanks to all our panelists for what could have been a much longer discussion of these interesting questions. Thank you. [APPLAUSE]