## Transcript of “The Threat to the Unity and Territorial Integrity of India: The Dangers and Implications of Unravelling the Constitutional Minority Rights Package”

SITAL KALANTRY: Thank you, everyone, for coming out here. We're so happy to have you here to talk about something that's extremely important and extremely timely. This talk is being hosted by the India Law Center at Cornell, which was recently founded to promote dialogue and collaborations and information about India and India law in the United States, and to increase, sort of promote the study of issues relating to India. We're so pleased today to have with us Joshua Castellino, who is currently the Executive Director of Minority Rights Group International in London. But prior to that, he has a very formidable academic career as well. He was a professor of law and the founding dean of the law school in Middlesex University. He also has visiting academic positions in the UK, Poland, Ireland, Italy, Hungary, and serves on a number of civil society organization boards. He has a PhD in addition to it, he was a former journalist, and he's authored seven books in international and human rights law on self-determination, territorial minority and indigenous peoples rights. He's worked in over 50 countries and was part of the EU China diplomatic dialogue. Given his academic background, his personal background, and his professional background, right now, I don't know anyone better to talk about all of these issues that are happening in India. In the context of the protest in relation to the CAA, the NRC, all of these different acronyms, and we hope that he can kind of-- it'll present some evidence based sort of conversations about giving us a little bit more background on what's happening. I'll ask him to speak for maybe 30 minutes and then entertain your questions. So with that, please join me in welcoming Josh. [APPLAUSE] JOSHUA CASTELLINO: Thank you very much, Sital. I think with an introduction like that I've been set up quite well to fail, so I'll try not to do that. It's a pleasure to be here, thank you very much for inviting me. And I think that this is really a crucial moment in the context of Indian history but also, I would argue, global history, and I want to try and give you an idea of why I think the point at which we are is extremely dangerous. I want to start, [INAUDIBLE] of course, against the context of what is happening in India, which started off with the question of the National Register of Citizens in Assam-- not a question, by the way, that you can necessarily attribute to party politics. This goes back to the Assam Accords, it goes back to much, much earlier than people seem to give it credit for. And it really was about this question about how you protect indigenous Assamese culture from the change, from other forces that might come and dilute this culture. So that needs to be stated at the outset. Of course it got changed a little bit and morphed into this question around the Citizenship Amendment Act of 2019, passed by the current BJP regime and the extent to which that particular citizenship act recognizes a religious basis to the granting of citizenship to those from outside India, neighboring countries. Again, I want to explore that a little bit further, and I want to, of course, set it against the location of the protests that have ensued since then, since December. It's interesting and instructive that the protests-- at many of the protests what you have seen is the flying of the Indian tricolor, which is not a normal protest symbol in these kinds of contexts, and it's also interesting that at the protest what you have seen are lots of people reading the preamble of the Indian Constitution. For me, as somebody who's interested in the Indian Constitution but also interested in constitutional law in general, it is an interesting point on which to reflect. Now, it is true that constitutions are framed in particular contexts and they are framed to do a number of things. Of course, they're framed to identify a narrative for a new and emerging state. They are framed as something of a rallying point for society, and they're also framed as something of a goal, an aspiration, for who it is that a national identity might seek to be. A constitution in a post-colonial context plays a much bigger role, I would argue, than some of the constitutions in other jurisdictions because it tries to set out the stall for who you want to be. What does it mean to be Kenyan? For instance-- the Kenyan Constitution was an incredible moment for Kenya. And I think that as a recent example, partly because we are in the case of MRG is the African court of human rights in four weeks time. But these constitutions have a way of setting out a national aspiration for who you want to be. And if you have protests in the street, that's [INAUDIBLE] calling on the Indian Constitution, then it gives further pause for thought. And that's the backdrop that I want to look at this against. I want to also explain very clearly my motivations. Because one of the thing that has happened in the context of this protest is a lot of othering. There's references made to [INAUDIBLE]. There's references made to criticisms from people who may be legitimate or not. And people say, well, what's your positionality with this? So I want to explain my positionality very clearly at the start so that there is no doubt about it, with whether you agree with that positionality. Of course, it's a different context altogether. So my positionality. I come to this question from the board of seeking to maintain Indian unity and territorial integrity. So I see India as a whole country. I see India as a diverse, multinational, if you want to use that term as well, country, and my positionality on today's talk is about how you maintain that in the context of the current crisis. I see also, as an international human rights lawyer, I see the importance of upholding the rule of law. So I am deeply concerned by hate speech across the board and the extent to which that unravels order. I want to talk about this in the context of ensuring effective governance at a time of crisis. I think this is very, very important and fundamental. India as a state is facing very, very serious questions. I would say it's facing two major questions, what do you do about climate change-- because Indian cities are really, really, really suffering. You can look at the top 10 cities that are most polluted and you can see what that is doing. That's one big governance question. And the other big governance question is a [? panicking ?] economy where you need to create more than a billion jobs just to keep the state going. The reason I put that out there is because I want to understand how any of this addresses the two big governance questions. So I think I want to address that specific aspect. I want to talk about adhering to constitutionally validated principles. Now, there is an argument out there that the constitution ought to be renegotiated. This, by the way, is not new, and sometimes the so-called progressive press portrays this as a new call. It's not. If you look at Indian constitutional history, the [? Hindu ?] [INAUDIBLE] has played a role at various points in time, and there have been arguments about what the constitution should be. One particular argument, one that, if you like, which gave us the constitution, but there were always other voices, too. So this is not a new debate, but my position on this lies in believing that the constitution as it currently stands is a better way of promoting Indian unity and territorial integrity. So I want to locate my positionality very clearly in that. And I want to-- this is, if you permit me, my own personal take on this one as an Indian Christian who grew up in Mumbai, worked at Indian Express newspapers, and now runs the global organization that focuses on minority rights all across the world, indigenous peoples as well. What we are trying to do in our intellectual and practical life is move beyond the accident of birth. That if we are in the 21st century and your trajectory to success still depends on who you are born to and when you were born and where you were born, then that's, in my view, not much of a civilization. Then we haven't really overcome, and we haven't really created a system by which any single individual anywhere in the world can achieve their potential. And I think the crisis we are at in the global sense, the global governance crisis, the impasse we're at in the climate change context, all of these are reflections of that. We are only relying on a very small percentage of human endeavor and human potential to solve very difficult questions. Because first of all, in most countries in the world, women are not necessarily at the table in an equal weight. So that's 50% of the population out, and then within the remaining 50% of the population, my world experience and my take on these issues suggests that very often it tends to be men from very specifically ethnically religiously dominant groups that tend to get everything. They tend to be the scientists, they tend to be the lawyers, they tend to be the historians, so I don't think we are drawing on a full set of cards to tackle the big questions that we face. And for me, the way in which you do that is by ensuring education and opportunities to everybody irrespective of who they are born to, where they are born, or when they are born. So that's my positionality, and I want to make that very clear. Because again, there can be arguments that this is one perspective, and I would welcome others. So my talk then essentially, after having located that, is set up into four other elements, and I want to just take you through them. So I'm going to say a little bit about the founding moments of the Indian state, antidotes for inherited legacies. I'm going to talk a little bit very, very briefly about the fundamental principles of the Indian Constitution, happy to be drawn on questions on that. I'm going to identify the specific what I call the minority rights package and its importance. And I think this one I want to emphasize not only in an Indian context, but also that the Indian Constitution is a beacon for many groups across the world in terms of what it tries to offer in multi diverse societies. Because remember, constitutions still tend to derive from four or five jurisdictions, most of them Western. Most of those contexts don't have the multidiversity that most of the emerging African and Asian states have. By the way, the reason African and Asian states often have multidiversity is because the boundaries that were drawn for them were artificial. They were usually drawn on a map between European powers, so obviously they didn't pay adequate attention to questions of identity. They simply threw communities together for a political motive. So the consequence is that the average post-colonial African or Asian country is incredibly diverse. And the question you're faced with is what do you do about that diversity. If you define yourself in a unique, ethnic unilingual lens, you run the risk of not being able to provide adequate remedies for all your citizens. If you define yourself in a multiethnic, multilinguistic way, then the challenge is how effective is that? Have you been able to provide those rights? So I think that that's an important element in terms of the minority rights package. I want to briefly touch on what I call are the inherent dangers of the present, and then I want to offer you some concluding thoughts. So without further ado, and forgive me if some of this material is old for you, because again I don't quite know where to pitch this. So I'm going to start from the founding moments of the Indian state. So at the founding moments-- and I think one of the ways to look at the Indian Constitution is not just the text of the world's longest constitution, which if you studied in India, and I did, one of the things that we learn very well was memory. So you end up being able to quote [INAUDIBLE] that has helped me at various points in my life, I have to say. But it's not just the longest constitution that you need to read to understand this. You also need to pay attention to the constitution assembly debates that framed them. You also need to think a little bit about the antecedents that when-- even selecting the members of the assemblies that would then decide what the constitution was. But a shorthand would be to say at that point of framing, there were five inherited legacies very clearly. There was the legacy of divide and rule policies. [INAUDIBLE] I think you all learned that, but these divide and rule policies, you would argue, go back to other narratives about whether or not Muslims were invaders, whether or not Christians were necessarily part of oppressors, whether or not the Hindu caste system had an effective and universal approach to rights. Many questions, but the divide and rule policies very clearly had left the big question about whether or not to tackle the future of India, you need to have universal franchise or segregated lists. So this was a question that was-- obsessed many of the founders of the Indian Constitution. And of course it's not just an inherited legacy as a historical footnote. The antidote to it was actually that you did have partition. You did end up with India being divided, firstly into Pakistan, west and east, and then into Pakistan and Bangladesh, and of course people often forget, Myanmar, too. Burma was part of undivided India, too. So there was an [? real ?] legacy of those divided-- there is a real legacy of those divide and rule policies in terms of the threat to the physical integrity of that unit, whatever you want to call it. British India, colonial India, [? old ?] modern India. So this is not something that you can necessarily gloss over and pretend is not relevant. It is extremely relevant and has been relevant in the last 70 years of history, or the last 90 years of history tell us that these kinds of ideas have the ability to divide. So that's one of the first inherited legacies, and in the sense the antidote to it was yes, partition, which was not really an antidote. It was not really an antidote anyway, it was a British antidote. But the special status and the autonomy provisions were an Indian approach to it, in the special status of [? Kashmir, ?] the autonomy for the northeast. So there were attempts made to try and understand what that inherent legacy meant, and what antidote could be put into the Indian Constitution to protect against it. So that's one element to it. If you have a question to stop and don't hesitate, OK? The other one was religious diversity. So millennia of history has given us essentially a community that is extremely diverse, has many religious backgrounds, and I think everybody focuses on the religious and they conveniently forget the linguistic. Or the even conveniently forget the ethnic. There are other elements to this as well, and at various points in history various different bases of identity have been [? possessed. ?] We are currently in a political moment where the religious identity is being stressed. But there were moments before when a linguistic identity was more salient, when other identities were more salient. Where caste identity was salient. Whatever it is and whichever element you look at over the stretch of history, you'll see that religious diversity has been in fact within that particular territory of India. How do you cope with that? The way in which we must cope with [INAUDIBLE] the notion of secularity, and the secularity that was proposed was not a Western style secularity. It wasn't the neutrality. The state was expected to be a religious actor, but was expected to be a religious actor to absolve religions. So the secularity elements that were put in were there to safeguard and to act as something of an antidote to this idea that India was religiously diverse and not monoreligious or even bireligious. And again, sometimes the narrative suggests that there were only two communities in India. There were the Hindus and there were the Muslims, and this is all it's about. And the thing is to realize the extent to which there were many other communities that played a role in Indian history. The caste system was a major issue, of course, and that goes back to ancient Hinduism, and the extent to which this issue could be addressed is all captured in the reservations part of the Indian Constitution. This notion in the US that you've called affirmative action, which in an Indian context has been renewed time and time again and has acted as a model for many other communities that are far from sites of power. Suddenly, in the work that I would do now, as Executive Director of Minority Rights Group International, we would look at the extent to which affirmative action measures can be meaningfully constructed to give communities that are far from sites of power adequate access to basic human rights. Now, even saying basic human rights, there has to be a caveat there. Sometimes minority provisions are portrayed as being privileges, and that is something that is in the public realm and that's something we can explore if you so wish. The other element was linguistic diversity. Now, you've got a group, or you've got a larger body politic, if you like, that speaks many different languages. The adoption of Hindi and English as national languages was important to feature some kind of unity, but there was also important in understanding that the entire map would need to be reorganized on a linguistic basis. No small achievement, no small feat, by the way, because these were princely states that had to be convinced to abdicate power and boundaries that had to be changed. So that was quite a remarkable [? sense ?] of the federalism that you get to try and reorganize the entire territory of India into linguistically cohesive units. And then finally, the central feature has been this notion of-- OK, whatever our differences might be, whatever God we might pray to or not pray at all, whatever problems we might have with each other, the big issue is that you inherit in 1947, a state that has endemic structural discrimination. And that the fact is that the vast majority of people who are born in the territory of India don't have and will not have, unless you take serious interventions, adequate remedies to any types of rights. How do you tackle that? So the Indian Constitution is an attempt to create mechanisms through law that will find ways to give communities that are far from sites of power means to combat the structural discrimination, irrespective of whose fault that structural discrimination was. So those are key elements that I would argue are legacies and antidotes at a key moment, at the founding of the Indian state. Now the basic principles-- I'm going to just literally rush through them, mainly because I think that some of them may be familiar, and others, if they are not, we can probe and question. So the decision was taken, of course, to have a constitutional democracy. That was important. The Constitution played an important role. The fact that protestors have been going back to the preamble suggests that constitution was successful to a certain extent in entering the public's mind. What is also important in terms of that constitutional democracy was the historic role that the Indian Supreme Court has played. And the Indian Supreme Court has been perceived for many decades as the uplifter of the poor. So you have marginalized communities that have written petitions to the Indian Supreme Court, that then takes an activist stance-- really breaks many of the norms that you would see in a Western legal system about the extent to which judge made, judge driven sentiments can change policy. But that is an important element. There was an imperfect federalism. Federalism scholars will tell you that when they look at India they don't understand. It doesn't make sense. It's not really federal, they will tell you, but it's an imperfect federal system. It gives a lot of rights to states, but it also reserves a lot of rights for the center. Because there was this belief that you need a strong central government, and yet you need to also make sure that there was a strong sense of localism. So that any perfect federal system is in place, of course it reorganizes India into states. The state legislatures, and there's a national legislature, that's worth bearing in mind, too. Great prominence given to the importance of the rule of law and human rights. And that's [INAUDIBLE] through the entire constitution and the text. It's also in the constitutional assembly debates, and it's in the jurisprudence, more importantly. This notion that there will be nobody in the state who above the law, that somehow yes, we're an imperfect place, and yes, stuff happens, and yes, the rich get away with it, but in law, we will keep trying to get accountability. And we will keep trying to find ways in which you can get democratic voice, even if that voice is shrill and imperfect. There's a commitment to that within the Constitution and the practice shows you that that's a persistent theme throughout society. Of course it results in a strong civil society, and that is important, too. The commitment to ending structural discrimination is renewed decade after decade with regards to the reservations, but it's also set up in terms of understanding how school systems should work. It's set up in understanding how legislative systems should work. There is all this reform agenda that takes place. From time to time it's there to try and end structural discrimination. Has it succeeded is a different question. I would say it's largely not succeeded. That you still have many of those issues that were [INAUDIBLE] in independence, that's still on the agenda as key. And some of the impacts we may have arrived at is partly because of the failure of that. But that commitment in terms of fundamental principles it there. The safety [? guaranteed ?] through neutrality, not antagonism to religion, I said that earlier. So hopefully I can go past that. This notion that the state will be neutral in the public square in terms of promotion of a particular religion. That doesn't mean that it would be areligious, and I think that's an important element to stress. There is something of a separation of powers. Again, relatively weak, because these are mirrors of other constitutions elsewhere, and there's this notion of the basic structure. That there are elements to that constitution that are fundamental. And that if you need to change those elements, you need a lot more than a simple majority in a parliament. Because even if you look at the earliest debates, there's this fear that you will get a populist government in and that populist government will change everything. And this is in the debates, and I can give you quotes that say many of these things, right from the start of that discussion. So it's not new. The fear that is expressed now is not new. It has existed, and the safeguards that were put in place was to make sure that irrespective of what government you get, there are certain elements in the Indian Constitution that should supersede. That may be a question that we need to open again, but that's [INAUDIBLE]. So what is the minority package in the constitution itself? It clearly expresses who the minorities are. So if you look at the early debates, the thinking very much is Dalit, and Adivasi, and Muslim, but of course it extends much further to a number of other communities. It does extend to other religious minorities, and this idea of who is a minority is relatively clear in Indian law. In Indian politics, by the way, minority means Muslim. Now, it's not as simple as that, because there are many other groups that are in that particular position who may or may not have wanted minority status. So Parsis, for example. There was a clear discussion early on whether Parsi should be considered a minority. There was a very clear discussion early on about whether Sikhs should be considered a minority, and the conclusion of that debate was we need to look at minorities in terms of vulnerability and in terms of distance from sites of power. And that conclusion was you had reservations, but the reservations are only for Dalits, Adivasis, and of course-- this horrible word-- other backward classes. So you have this notion within the constitution-- the constitution assembly debates and the jurisprudence that tells us very clearly who minorities are, and it's a lot broader than Muslim. That's the point I want to emphasize. The reservations. I mentioned before, renewed decade after decade, because the way in which the Indian reservations are framed is that these are still temporary measures. They are still measures that are put in place to guarantee access to basic human rights for groups-- Dalit, Adivasi, other backward classes who are far from sites of power. The theory is that they will cease when parity has been achieved. So they are not meant to be a lifelong privilege, they are meant to be a temporary measure to acknowledge the fact that discrimination is endemic and that to be able to challenge that discrimination you need structural change. And so those affirmative action measures hurt, and the majority communities get affected by them, as they do everywhere in the world. There's a tacit acceptance that if you put in place affirmative action measures, they will go against the majority. Because the whole point of affirmative action measures is to make the short term pain to the majority community in order to gain a longer term egalitarianism. Again, have they worked is a different question and I'm happy to address a discussion on that. Personal and linguistic autonomy guaranteed, again, through the notion of the state system. The reorganization of states, which give linguistically separate communities the right, so to speak, to be educated it in their own language, to even conduct court proceedings in their own language. So that linguistic autonomy is very clear within the way which this is framed. Personal religious laws, not just for the minority but for the majority community as well. I accept it as being part of law. So you have various communities who can live life with regards to their own personal mores, usually in the area of marriage-- usually in the area of marriage, divorce, and inheritance, is a the typical three that tend to be subject to religious personal laws. Not, by the way, a favorite of many, because it does mean differential treatment, and those are again issues you might want to pick up and address. Religion in education-- the fact that minorities have a special right under Article 29 and 30 of the Indian Constitution to set up their own educational institutions and thereby to promote their own religion and their own world view. Very controversial, and actually quite difficult to imagine in many other states as well, but it's there and it has been developed and it has given us a sense that if you want to really protect minority rights, you've got to also protect the way in which that ideology, for whatever it is worth-- you may call it religion or ideology, depending on what is your perspective might be-- that you have a right to propagate that in some shape or form. Because if you don't propagate that and you only get basic rights, then you move towards assimilation. And the Indian Constitution was not assimilationist. So that is an error that's in there. And of course the special autonomy status, that you need particular measures in place for states, now, that may have access to power issues or may have historic inherited issues. So the minority rights package itself is quite impressive in what it's [INAUDIBLE] and what it's trying to do. Now, I'm going to finish in seven minutes, if you permit me, is that OK? SITAL KALANTRY: Of course. JOSHUA CASTELLINO: Yeah? So what are the inherent dangers? There is a change in the national narrative. There is a change about whether or not India can be a secular state. There is a change about whether or not Hindu communities have not had the full extent to develop themselves. There is a change as to whether or not these issues in the public realm with regards to secularity were foisted by an elite upon India, and that's not what the majority population wants. These are legitimate questions. However you feel about them, they're legitimate questions and discussion of them in a political space is important. So that's where are at this particular point. There's a lack of credibility in pro-minority issues. So people look at this and say, so Muslims got special measures, and I wonder what special measures they are, because the Indian Constitution didn't offer [? those ?] special measures. The special measures were for Dalits and Adivasis, and we work with Dalits and Adivasis and I can tell you that the special measures regime hasn't been deeply successful. So there are questions with regards to effectiveness, but those are often translated into ah, therefore, throw the whole thing out and let's start again. That's a danger at the moment. The big [? one ?] is that the rise in communalism and hate speech and the divided polity. That is a major issue, because what you are seeing is politics conducted through anger. Now politics conducted through anger is not going to give us a route to these very complex issues about rights and belonging and territory and integrity. It's just going to give us a riot, and that's what we have. We have a riot, whether that's a riot physically, in the streets, or you have a riot in terms of the typical NDTV type debates that you get where everybody shouting and nobody's listening. And that's not necessarily-- none of that is necessarily conducive to a genuine discussion about underlying issues. So that is something that in the-- and that's dangerous, because then that particular context-- access to news, however you want to frame it, and access to rumor plays a much bigger role than anything that's based on fact. And the extent to which any of those issues play a role in determining big questions of identity and belonging and the impact they might have on communities is a worry wherever it occurs. And this is something that we've seen, those of us who work in the international human rights sphere can tell you that what happened in Rwanda was really a result of propaganda. That there was all kinds of news put in there, and before long you had vast-- you had genocide, essentially. And that's a real fear, and we in the human rights world fear that. Because the extent to which that can be targeted against groups that are far from sites of power-- I'm not just talking about Muslims, I'm talking about anybody who is far from sites of power-- is [INAUDIBLE]. The National Register of Citizens is also a concern. In a vast state where you have lots of differential access to any institution, how effectively are you going to prove what you are not? Or, how effectively can you prove what you are? The perceived [? version ?] in terms of international law is that citizenship is something that you get, that's inherent to you, that's given to you, that you gain by virtue of being born on a territory or that you get by virtue of a way in which the state decides to give out citizenship. Stripping citizenship is extremely dangerous. History has taught us that, that stripping citizenship is something that leaves groups very vulnerable. And that, over time, undermines the legitimacy of any government. So that is something that we need to worry about, the extent to which anyone may be able to prove or not prove, and in the 21st century, why that is so important needs to be thought through as well. The unraveling of the federal structure-- there is a real fear, if some states decide they're not going to implement the citizenship amendment, that-- what does that mean in terms of a constitutional structure? I live in London at the moment, and the big fear, after Brexit, is yeah, so Northern Ireland says, well, we don't really agree with that. So there is a real fear now, in a British context, that Northern Ireland could secede. Scotland could secede. That when you take a decision at national level in a state that's got many different positions, and when the consensus is not so clear as to what that should be, there are inherent dangers, and that could mean the destruction of the body politic and the destruction of the territorial integrity. Essentially, many of these now, because of the way in which this is being portrayed, looks like it's arming separatists, and I don't necessarily mean arming through arms, that's why it's in inverted commas, but arming separatists and opponents of Indian territorial unity and integrity. So we are painting ourselves, ever so slowly, into a zero sum game here. And if you get into that particular zero sum game, where you are wedded to the idea that you have and your opponent is wedded to exactly the opposite idea, and you live in a 50-50 or 60-40, even 70-30 scenario, how do you resolve that? How do you move beyond that? Because the fact is that the protests have a massive impact on economic growth, on jobs, and the protests have an immediate impact in terms of the ability of the poorest and most marginalized to achieve the basic human rights. So if you go into the zero sum game and you don't find measures very quickly to create some kind of a national reconciliation and dialogue, you're very quickly getting into a position by which you're undermining your own authority, and that's something to bear in mind. So, some conclusions, then. In a sense, I would argue that the Indian model that I spoke very briefly about is something of a model for how you can construct a post-colonial modern state that has inherited boundaries not of its own creation. This is a reality all across Africa. This is a reality all across Latin America, and this is a reality in many parts of Asia. The state, the territorial state, the boundaries that we have for these territorial states were lines drawn on maps by Europeans at a particular point in history. You have a choice, sure, you can unravel those maps. And if you unravel those maps, how do you do it? Do you do it by making sure all the voices have legitimacy, or do you take the approach taken by the African Union-- used to be called the Organization of African States-- in 1961, in the [INAUDIBLE] resolution. Where they said, you know what-- [SIGH] boundaries are the boundaries, let's try and focus on development within. And that was the approach taken. And the Indian Constitution took that very pragmatic approach, not to look at boundary issues but to start looking at the way in which you can focus on the real issues that matter to people. Which is my two pronged governance [? test ?] and the contemporary reality. And by the way, that governance test is not just an Indian governance test. You can use it here in the US, you can use it in any country in the world. There are two fundamental questions that governments have to be able to address, here and now, with urgency. What are we doing about climate change, which is undermining our current future, and for sure destroying our future, undermining our current present and destroying our future. It needs urgent measures here and now, and what are you doing about the generation of employment? Now, economists use to talk about economic growth. And it's interesting to think about economic growth. If you've got 20 billionaires and they invest often enough in enough places, you will get economic growth. It will be reflected in GDP. It won't create jobs, because you don't necessarily need people anymore to generate growth, and that's a problem, because what do those people do? They become dispensable people and they become people who have to live on handouts. So I always stress it's not about economic growth, it's about generation of employment. Because you need to see human beings within that particular equation if you're going to get a sensible economic growth as we think about it. Just looking at GDP numbers doesn't happen. And actually, both India and China are risking-- failing to realize that at this particular point in time. This is a bit-- in terms of the next point, the dangers of identity politics. You know, if you imagine that you've got a house that is subsiding because of the fact that the land under use is being destroyed, or it's falling into the sea, and you've got a really big problem with the people who live within that house feeling they have no future and are depressed, the one thing you don't think is a solution to those two problems is I know, a good lick of paint on the outside in a color will help. That is effectively what we are doing everywhere in the world. Everywhere in the world. This is not just about India. We don't have governments who have an answer to the two big questions, so we are distracting people by saying it's about that. We found a convenient enemy, we are locating all of these problems on that enemy. If you find a way, and if you can show me how building a wall in the United States of America will address climate change or generate employment, I'll at least listen to your next statement. If you're just telling me I'm going to build a wall and I'm going to mobilize people against all of these different people who are coming in, then this is distraction. This is the politics of mass distraction. Maybe it leads to mass destruction, but it's the politics of mass distraction. So the big questions we've got to hold all our governments, globally, to, what are you doing about climate change? How do you generate jobs? The rest of it is detail that's trying to distract us from the real issues. And no matter how many times you paint the house, no matter what color you paint the house, it's still not going to create another job-- well, it might for the people who are painting the house. And again, that's also interesting, because it does create jobs for some people. But it's not going to create it in the volume in which people within that house will believe that there is a future, and it certainly isn't going to stop the house from subsiding. Painted house can subside just as well as non-painted houses. So those are important, and I think in an Indian context it's probably worth asking that question that did arise in the constitution assembly debates all that time ago, about proportional representation. Because you have, increasingly in politics around the world, this 50-50 game, or 60-40 game, and then you think, well, we are the majority! We won, so we can decide what we want to do. But of course, there's 40% who don't agree with you, and that's a major problem for any government going forward. Thinking through ways of proportional representation that might address this issue in a more holistic way might be better, because you might then be able to represent all of the different views and take people along. By the way, first [INAUDIBLE] the post system, again, another legacy of British rule, only used, really, in British colonies in some shape or form, and it's been proven not to give us the kinds of result that speak to a whole community. The antidote has to be rebuilding some kind of national unity. Whatever you think the nation [? is. ?] There has to be some kind of way in which you look for ways and means to address difficulties and not simply to ratchet them up into a zero sum game, which is what we have at the moment, and everybody's guilty of that. So that's something that has to happen. But the key really is to focus on those real-time, scalable solutions to what are urgent problems. The saddest thing, if you want-- just a thought to conclude with-- the saddest thing is that when you look at the way in which global politics have moved, Western states have actually brought us to this point of near destruction in terms of climate. We're doing a case in [INAUDIBLE] on the 6th of March with an indigenous [INAUDIBLE] community in Kenya, who essentially have been destroyed because of mass destruction of their forests. These communities lived in the forests since time immemorial. They did a bit of hunting, they may have cut down the odd tree, but it was sustainable. The game changed when corporations went and saw this not as a forest, but as a sea of unstructured furniture. This was not just a forest, this was, oh, I can see a bed there, and I can see a house there, and I can see 25 beds. That mass exploitation of resources and destruction of indigenous cultures brought us to this particular point. I'm not-- it's not just a criticism of the West, it's a criticism of the model we've got to. It's interesting, is it not, that at the time at which Western hegemony is being challenged both India and China, with greatly different traditions, are actually aping the same model? Both states-- if you want to use that modern word-- both traditions have a totally different take on many of these in their own histories. But both have decided that the way to ascend the greasy pole is to militarize, to use the same kinds of mechanisms, to rush after the same kind of economic growth. I do not worry about the extent to which both cultures have played a great role in this notion of equality and egalitarianism and welcoming of outsiders. It's sad to see, that at this point in time, when power can really be changed to new powers that might rethink this prospect, what we're getting are paler shades of Western exploitation. Thank you very much. AUDIENCE: [APPLAUSE] SITAL KALANTRY: So we are opening it up to questions. I know we have a very diverse audience with a lot of [INAUDIBLE] knowledge, so please, [INAUDIBLE]. JOSHUA CASTELLINO: Please. Please. AUDIENCE: So when you spoke about Rwanda and how propaganda is essentially [INAUDIBLE] genocide, and one of the things that people do on the opposite side of the spectrum is to essentially [INAUDIBLE] or counteracting narratives. And one of the things which we do that is [INAUDIBLE] Cases of the legal-- you know, law school, that's generally when our [? approach ?] is to tell people, here is what the law actually says. What do you do in that context, when the Supreme Court-- you mentioned that the Supreme Court is highly venerated, even in the Indian context, [INAUDIBLE]. What do you do when there is a really legitimate way to say that the Supreme Court got it wrong? For instance, in the [INAUDIBLE] there is a legitimate way in lots of people have said that the Supreme Court got it wrong, but from the opposite point of view, how do you engage with fence sitters? How do you engage with people on the opposite side of the spectrum without saying the Supreme Court got it wrong? I mean, how do you make that point, because it seems a little too much to buy if you're a fence sitter. JOSHUA CASTELLINO: Yeah. I mean, fence sitting is the problem, whether Supreme Court or not. Fence sitting is the problem, and I think that there isn't a straightforward answer to that question, so let me be very honest about trying to answer it. But what is very clear is the method to do that has got to be dialogue. The method to do that has to be reasoned, calm thinking, with real attempts to try to get to the underlying issue and real attempts to get to a solution that makes sense. What you have in a sense that you have to avoid at all costs is the kinds of polarization we have. And that's true whether that's to do with the Supreme Court or it's to do with a particular political party or to do with any other element. There has to be room for calm debate, where things can be exchanged without the use and the throwing around of titles. Without the [INAUDIBLE]-- oh, because you're a Communist, that's because you're Hindutva, that's because-- these are very easy ways. And I think that this is-- we seem to have fallen into that trap where the message is just a way to locate an individual and not to get to the issue. So right and wrong, who decides right and wrong? You know, and that's what this question is about to a certain extent. Now I might be able to stand here and say it's all about the constitution. Look at the constitution, the constitution says this, this violates the constitution. Somebody else might legitimately say yes, but the constitution was framed by very specific people at a very specific point. There were others who argued for a different view then. And I think that's legitimate. But that doesn't mean that I say oh, well, that means you can't have Hindutva at all, and-- you know. So it needs a dialogue, a genuine dialogue, but it first of all needs a belief, I think, on all sides. I don't even say both sides, because I don't know whether there are two sides to this. There might be many sides. What it does need is a commitment to an outcome. And that commitment has to be, in my view, an outcome to peace, stability, and the prospect that every individual has access to rights. Once you start with that particular outcome, I would even hang a shingle on the door, say, only enter here if you believe in that. If you don't believe in that, it's no point. Because in a sense, what we are doing is now we're getting into spaces where these become shouting matches, and the person who can shout most powerfully wins. And in that particular case, it was the Supreme Court who could shout very powerfully. So there's this notion of trying to take it a step back, away from the issue, and into the methodology. And I that that is the-- I can't see any other solution than that. Please, you had a question. AUDIENCE: So my questions is a bit [INAUDIBLE] from. So you mentioned that at the time of the founding fathers, they built in some safeguards in the constitution to ensure that irrespective of the religion or the minority majority status of the [INAUDIBLE] but in this, the needs of [INAUDIBLE]. So was there some provision, something that got so put in place [INAUDIBLE] so that to ensure that as the society evolves and there are more complex issues that come up, what [INAUDIBLE]. In such cases, the judiciary [INAUDIBLE] [? modified, ?] they contain this idea that we have to ensure that irrespective of who is in the power, the ideas and beliefs of the people [INAUDIBLE]. Was it [? something like ?] that? JOSHUA CASTELLINO: I think yes and no. There was a belief, almost, that there would be a reasoned government. For a long time, and I don't know-- I don't want to guess anybody's age in the room, but certainly in the time that I lived and grew up in India, there was almost this rule that you don't do communalism, because there was this rule that if you start doing that it's just going to be horrible and nobody's going to benefit from it. And that was a tacit rule. The extent to which it was written down, I'm not sure. There are enough from people who've studied law, certainly because [INAUDIBLE] with the judiciary, there's enough a tacit acceptance that that's a dangerous game and that you ought not to play that particular game. At some point, that seems to have gone. And at some point when that goes, then everything is up for grabs and nothing is sacred. Now, that doesn't mean that you just say oh, communalism means I can't talk about Hindu issues. That's also a fear, and this is a bit like in Europe now, the discussion in the last decade, if you even said the word immigration the answer's why, you're racist, therefore, so we can't have that discussion. There have to be spaces in society where you can have legitimate questions. And I think one of the ways in which those spaces were closed down also was in a heavy rights based discourse, where it's [? like, ?] well, everybody in Europe is legitimate, we can't talk about immigration, therefore we won't talk about immigration. So you push the issue outside the reasonable room into the unreasonable room. And then the unreasonable room, people shout and scream, and then that becomes an issue. And that's what happened with the immigration debate in Europe. And I think, similarly, if there was more room to understand what the aspirations of the majority community were and why those majority community aspirations were not being realized by the current system. But nobody was really willing to even play that particular game, because that was seen as whoa, I can't really go for that. That's too dangerous. And instead what has happened is here we are, with [? life ?] and kicking, and I'm not sure that the way in which we can address the issues now is even feasible, to put that particular, as we say in English, genie back in the box. How do you do that? Now it's out in the open, how do you do that particular issue? And the judiciary, you would have thought, would have been a moderating power on that particular goal, but because of the imperfect separation of powers, governments of the day can put on people in their court that they want to. That's the case all over the world. It's an issue here in the United States of America as well. So this is one of those problems that I don't know that the code of conduct for the judiciary might have been the answer. I don't know that. I would have argued a code of conduct for anybody to be a leadership position. You don't want somebody in leadership position who is misogynistic, for a start. That should just disqualify you straight away. But clearly we're not in that realm, and certainly populism is taking us in the opposite realm, which is essentially I want to go for the person who reflects my worldview. And I don't care if that person is misogynist. I don't care if that person thinks that the way in which we create economic growth is to rip up the entire Amazon and just burn it up in a big bonfire to benefit a few of my rich Brazilian friends. So we're at that stage where nothing is sacred in that political space, and judges, of course, are just another part of that community that has been subject to it. Did that answer your question? AUDIENCE: Yeah. JOSHUA CASTELLINO: Yes, please. AUDIENCE: So you refer to [INAUDIBLE] instruction to [INAUDIBLE] of climate change and job creation. Do you think that addressing those [INAUDIBLE] to address those issues will automatically [INAUDIBLE] somebody in [INAUDIBLE] politics, or [INAUDIBLE] national unity require an extra effort on [? all of them? ?] JOSHUA CASTELLINO: Yeah, it's a really good question. And I think-- I mean, my answer would be 50-50. I'm not sure is the honest answer. Maybe I'm a fence sitter. I'm not sure. If you mobilize people-- so I described the Trump-Hillary election as two kids on the beach trying to build a sand castle, and one person saying my sand castle is bigger than yours, and behind them is a tsunami. And you're thinking, actually, forget about the sand castle, just run or find a way to defend against the tsunami. So the identity politics is a little bit like that, and I don't know. Maybe there is a way in which you say indigenous peoples-- because we work with a lot of indigenous peoples-- I would say listen to indigenous peoples. The Australian bushfires. Indigenous peoples had a tradition of burning the bush. Western science said these primitive people, slash and burn agriculture, what nonsense. So laws were put in place to prevent the burning of the bush. The result? A lot of debris accumulates and you get the kind of blaze that we got in January. Straightforward. There are other ways of doing this. If you think there is one way of doing this, then you're in [INAUDIBLE]. Now, in that particular context, you could have mitigated, using indigenous peoples to understand the bush. Not having Australian forest rangers, who grew up in environmental schools in Melbourne and Sydney going into the Northern Territory where they don't know what they're doing, and they all look like Crocodile Dundee, you know, when you've got aboriginal people who understand that environment. So probably there is something in between there. You could well use the fact that there are communities that are closer to particular sites, that might have answers to environmental change that you don't have to wait for a Cornell scientist to tell you about. Because sometimes the actual know how might rest in a 97-year-old woman who might not be able to even write it down. And so there is this belief, somehow, that we have a clear answer, and we will just go around and apply the answer everywhere, and peace and harmony [? will break out. ?] So I think that it's a qualified answer to that question. It could-- certainly the more successful, and from my perspective, would be [? if it does that. ?] If you actually take the climate issue and the generation of employment issue and make this about the way in which you can build national unity. That you say, you know what, the house is on fire, guys, we need to find the mechanism really quickly to do this. The [INAUDIBLE] are really good at this, the Punjabis are really good at this, the [INAUDIBLE] are really good at this, why don't we unify? The Muslims would be really good at this, the Dalits would be good at this, the Abivasis have this answer. If we could do that, that would be phenomenal. But I don't know that we can. Yes, please. AUDIENCE: [INAUDIBLE] said that [INAUDIBLE] is not a good magic performer [? so far. ?] [? But we ?] need magic to [INAUDIBLE] So what do you think would be a good magic, and [INAUDIBLE]? JOSHUA CASTELLINO: Yeah. I think the short answer to that is absolutely yes. We need-- we probably need a metric, because we want to know whether we're making progress or not. I think absolutely yes, there's a way of calculating it. I would argue generation of jobs is a key one. Now there are second order questions-- what type of jobs, are we in the gig economy, who owns it, are we in a contract an agency situation, do you have legitimate employment rights, or are you being exploited? Is this a modern form of slavery? Those are second order questions, and I think they're important. I don't mean to dismiss them, but I think the metric would be how many jobs did you create? You are the governor of [INAUDIBLE] how many jobs are you going to create? What's your mandate for coming to power? And how many jobs did you create in your mandate? The reason I emphasize this so much is it puts it back on human agency. And you don't just have communities who are vast communities who have no hope. You know, the Tunisian vegetable vendor who set himself on fire thought, you know what, I've got nothing to lose here. This is going only one direction. The rich are getting richer, I've got no stake in this, I'm going to immolate myself, now I lit the spark. Because many people felt that particular way. And maybe this is a spark that has been lit-- that essentially you have almost now, in society-- OK, let me characterize it this way. You've got-- imagine a sea that's on fire, and imagine an ocean liner, a cruise ocean liner in that particular sea, painted with fire retardant paint on the outside. And there are people in that cruise liner who are the haves, who are getting wealthier. They're getting wealthier by a number of different ways. They're exploiting the environment beyond repair. They are sowing division beyond repair-- this is not just about India, so take this, bear with me and let the analogy go a little bit further than India-- but you've got this. And the only problem for the people on the ocean liner is ah, it would be such a beautiful sunset if there wasn't this fire when I look out of the window. And you're getting into that situation where you know over time the sea of fire will burn that ocean liner down. You know that that's going to happen over time, but you just party while it lasts. And then you try and figure out how Tesla will get you to Mars. You know? And that's essentially-- if you don't invest in trying to fix the sea that's burning, you don't invest in any of those kinds of issues. So for me, the way to invest in them is to put the human being back into the center of it and to look at job creation and not just economic growth. Because-- you see, there's a very good book that I'd recommend you read about the world economy, called Moneyland, which shows you how wealth has become centralized. And as that wealth becomes centralized, it has begun to find ways of guaranteeing the greater creation of wealth. The 1% have got much further than before. The checks and balances we have-- or we had-- have gradually been eroded. And so you've got this happening all the time, and the way in which wealth and we work in difficult-- I have an office in Hungary, in Viktor Orban's Hungary, where, essentially, Viktor Orban has said migration is illegal, assisting migrants is an illegal activity. We work in minority rights. We do this kind of work. We work with communities that need-- we work with communities that are far from sites of power. But interestingly, the average Hungarian thinks this is the problem, too. Not because the average Hungarian is nasty, but because the average Hungarian has been told that person has come in and taken your job. It's the equivalent of saying I have a swimming pool, it's 100 meters long, essentially 50 meters is now gone. I've paved it because of mechanization, those 50 jobs have gone. Now there's only 50 meters of pool left. So now the 50 people who used to swim in those 50 meters don't have a pool anymore, but you're blaming the 5 people who've come in to watch as being the problem. So the way in which we have been distracted from this question is the fact that jobs are going. Mechanization is taking away those kinds of jobs. That means that if you're an investor now, in the past, if you were an investor, you invested money in something, then you hired people to grow your investment. You don't need that anymore. You can get bots, [? names, ?] you can get all kinds of machines to do that for you. So there is no return to capital anymore in the world financial system. Return to capital is an old fashioned idea. That means people have become dispensable. So what you have are angry masses who have no future. The easiest thing you can do is [CLICKING SOUND] light the spark. [? This is ?] because that person came in. This is because-- in very common, these Muslims did that. This is because the migrants from Syria are a problem. This is because the Mexicans are coming in. It's so easy, and we've all been caught up in it. And this is the problem. So when you would say to me what is the metric? For me, the metric is something around unemployment, number of jobs created. Far better than economic growth, because you can get economic growth without investing in people. And even if you get that economic growth, imagine you had a 7% GDP growth, and you didn't create a million jobs. What are the million people going to do, who would have otherwise had jobs? They're just going to be among the great disenfranchised, then you don't have a social security system because you're dismantling that, too. So you've got a situation by which there's no hope. You're not creating an economy that's in any way circular, that's in any way-- forget about the fact that we're not even living within our means [? on ?] the environment. That's a big issue. But even if you take that element out, you're not doing it in a circular way. Yes, please. AUDIENCE: Do you think that [INAUDIBLE] will [INAUDIBLE] countries that have just these two issues really well? That we should consider [? moral ?] [? systems-- ?] JOSHUA CASTELLINO: Angel states. You're asking me if there are angel states. AUDIENCE: Well, [INAUDIBLE] not any one country that does everything perfect, but like-- good parts [? of ?] [INAUDIBLE]. JOSHUA CASTELLINO: It's emerging, I think. It's emerging. I think Germany has suddenly been trying-- and [? America ?] was trying. Again, there are crosswinds here. AFD, Alternative for Deutschland is trying to be the crosswind on that one. But Germany certainly has put climate at the front of it, Sweden has put climate at the front of it. Nobody has done it in a way that has taken away the antagonism against identity politics. That's still there, that's lurking everywhere in the background. But take a country like Sweden. The Sweden Democrats, roughly, which is the far right party in Sweden, they get roughly 17%, 18% of votes. So they are in the parliament, but they're not in power. So you need to hear that voice, too. You need to hear all the voices if you believe in democracy. If you have a [INAUDIBLE] system and they played the game strategically, they could get to power. So in a sense that, yes, I think there are countries that are doing it. They're mostly the European countries. I would have put Canada in that, but Canada's record on [INAUDIBLE] and oil is dreadful, and Canada's record in terms of indigenous peoples is dreadful. So I wouldn't put Canada in it at all. Australia is terrible. I wouldn't put Australia in the category. But yes, New Zealand I would. I would put Sweden in there. Norway to an extent, because Norway relies on oil money. Germany, yes. The Dutch have always had this idea that you need to have this kind of society. And the Dutch courts have been really progressive on climate change. So they're emerging, but slowly. And I think the reason that they're emerging only slowly is the vested interest among governance and business. And even education. We're all too vested in the system. And if you're too vested in that particular system, you are slow to let a change in the way that it should change. SITAL KALANTRY: One more question and then we'll have to end for today. [INAUDIBLE] he's available for you guys-- JOSHUA CASTELLINO: Absolutely, absolutely. Yes, please. AUDIENCE: So I was wondering if you can discuss a little bit more what the potential for proportional representation in India right now is, if there are debates going on. It just seems like-- although it is the biggest political system, [INAUDIBLE] countries that would be hard to imagine being [INAUDIBLE]. JOSHUA CASTELLINO: Yeah. AUDIENCE: [INAUDIBLE]. JOSHUA CASTELLINO: Yeah. You know, this was the-- when you look back at the constitutional assembly debates, this was one of the sentiments. It's way too complex. We're talking about a society that at the time was even more literate than it is now. There's still illiteracy in India, but certainly not to the scale that there was in 1950 when the constitution was framed, and there was this idea that it's way too complex and people don't understand it. And that can't be dismissed that easily. There are also questions about whether the complexity will fully be reflected in a system that is already-- an Indian election is an incredibly, incredibly complicated beast. So those are questions. The state of the debate-- there isn't one. It's not a debate. Because you can imagine when that has been the kind of earthquake there has been in Indian politics, with the rise of single party politics at national level, the last thing that that party wants to do is to consider it, rightly so. You know, when Congress was in power, they weren't considering proportional representation. So that's not a criticism of the BJP. Power doesn't want to set up mechanisms by which it will stop being in power. That's just the natural state of how power behaves. So there isn't any debate about it, but I would argue-- if you want to read more about, Shefali Jha has written about this quite a lot in The Economic and Political Weekly, and she's got a really interesting take on how this can be achieved. But it's not going to happen, because at the moment we are all shouting and nobody's listening to each other. So there isn't even this idea-- so when I said to you before I would hang a shingle saying if you want to really solve the problem enter here, then that would be one of the things you'd find on the table when you entered there. But at the moment, everybody's outside having a war about who gets to enter first, and whose answer is really the right one, and whether we should have a room at all, and there's also a denial of a crisis. There's [? far clear ?] a denial of a crisis on one side. On the other side there's the overwhelming-- to say this is all going to break down, it's terrible, it's terrible, it's terrible. So we're not even in the position where you can have a reasoned moment of calm, enough to agree what the agenda should be. But when that agenda-- hopefully that calm will appear, and when that calm appears, that is one of the issues that's going to have to be on the agenda. And probably it would be the Election Commission that has to do it. Because the Election Commission, notionally, is meant to be worrying about election and propose and representation of all Indians. So if you leave it up to a party political agenda, then one of the biggest parties through Indian history will, when it was in power, was not interested, now to be very convenient for them to argue it because they're getting hammered. The other political party that has come to power, after quite a struggle, because that view the Hindutva view, has existed legitimately in Indian culture for a long time. But it's been far from politics. So when it finally gets to politics, you can't say oh, now you're winning the game, I'm going to change the rules. So that's unfair, too. But in terms of understanding how you decide on divided polities in the way that you have now, I can't see any other option. Britain was 51% for Brexit, 49% for remain. You got Brexit, so what? You have 49% who grumbled through it and are unhappy and undermine the state. You have 51% who are triumphalist about it. So that's not going to be any kind of national reconciliation. I think this is the same in every place. We're getting to polarized politics. If you get to polarized politics, the only way you can get beyond that is to have enough of a stake in the system for everybody to want to make it work. If you are only going to govern for the 51%, you're in trouble, because that's not going to work. You need to come up with a narrative that you govern for all. That people see beyond the fact that my horse didn't win the race, but I still like horse racing. That's got to be an element within it. Not a great not a great metaphor to use for talking about people who are far from sites of power, who never get near a racecourse, but you know what I mean. That you've got to be able to find a way in which you still legitimize the system and not just make this a zero sum game about well, my party wants, so to hell with all of you, I'm going to do this my way. And that's the politics that you've got in this country. That's the politics that you've got in most countries around the world. I'm in power now, I get to rule. It's almost like return to a sovereign rather than a democracy in the way that we imagined it in terms of the political science literature. AUDIENCE: Thank you so much for this global and thought provoking lecture. Please join me in thanking-- [APPLAUSE] JOSHUA CASTELLINO: Thank you very much.