

Course Name: An Introduction To Urban Ecological Heritage: Theories and Applications

Professor Dr. Jenia Mukherjee

Humanities of Social Sciences

Indian Institute of Technology, Kharagpur.

Week: 02

Lecture: 07

Urban environmentalisms – lake-based and rights-based

Environment Support group, one of the Bangalore's most important environmental groups has been advocating for the rights of the lakes along with the rights and entitlements of Socially marginalized people of the city as they perceive lake as urban commons, started informally in 1996 and registered as a public charitable trust in 1998 ESG's not-for-profit initiatives respond through a variety of actions involving research education campaign support and advocacy. ESG is concerned about de-commoning of lakes and hence through public interest litigation, which is a part of judicial activism They have played an instrumental role in re-commoning initiative. For their important initiatives around the lakes they have earned recognition and appreciation from the eminent Nobel laureate Elinor Ostrom. In this presentation Let us place the whole story from the horse's mouth Here we captured two leading members of ESG Leo Saldana and Vargavi Rao who will narrate their own experiences of filing PILs against some of the lakes and victories and violations that they have achieved in this journey. So in 1984 a committee was set up by the Government of Karnataka, Ram Krishna was the chief minister and it was added by Lakshman Rao who was a former administrator of the city and it made its first effort or Identifying what are the steps on protecting these lakes. So this is I am talking about 84, 88 the report is given by Lakshman Rao and Lakshman Rao's report basically says all the lakes are in bad shape. Some of them are encroached some of them are disused some of them are dry So they gave a set of recommendations which the government accepted in 88 which it did not implement. So in 1995 Lakshman Rao himself files a PIL in the I code saying look I have done everything. But they are not accepting my report and that 1995 PIL continues. To be heard no action is taken. And meanwhile a lot of other lakes in the peri-urban area started getting included because the city is expanding without planning or the planning does not take care of wetland ecosystems. All right so by the 1990s we were alarmed one of my first Judicial interventions. I started studying lakes in the 80s. So there is a Birdwatchers Field Club of Bangalore, which is a voluntary force So we are people like Joseph George, Zafar Fatali, who had you know Salim Ali was part of that network. So they were all very good scholars also and we learned from them the importance of wetland ecology of the importance of what these birds are telling us. And we studied migratory waterfowl. We started documenting it and we produced reports. It was part of an international wetland research bureau's study. So the wetland idea came out and we should in 1989 the report was produced on why lakes have to be protected by the birdwatchers. It

was a rational scientific ecological exercise till then it was all about aesthetics. Now there was ecology but in 2000s we realized as ESG had we were set up in 1896. Before ESG was set up I launched a PIL that was my first PIL before the high court of Karnataka again something called the National Games Village in Kormangala. There was a lake which was taken to build the National Games Village. So I wrote an article called, called for 11 days of glory. For 11 days of glory, which the National Games is you are destroying a lake to build a township. For just 11 days, you know, why can't athletes live in hotels, right? They dismissed that petition. They destroyed that lake in which we predicted that Kormangala which is in the east which was totally under, you know unbuilt then it was an open area. It had been turned into an housing layout by the Bangalore Development Authority. We said that this continues then you'll have a problem that in some future when the area gets built up completely it'll get flooded because you have drained the wetland and it was the largest wetland which would lead to Bellandur Lake which is a very large lake to the east of Bangalore. So he said Bellandur will get flooded there's a system which operates upstream should take care of downstream downstream should not be over flooded.

There's a lot of big signs to it. All this was explained case dismissed, NGV comes up National Games Village and Kormangala gets built up by 2005 all the wealthiest people have gone and lived in Kormangala, Lake and you named all the people are there in Kormangala and their houses started getting flooded, So loss of wetlands meant areas which are built up got flooded. So what we predicted in 1995 in the PIL has turned out to be true. but by 2004 the Lake Development Authority which had been set up as an NGO by the government started giving them out to private sector. Ebal was given to Oberoi's, Nagavara to Lumbini like that lakes were given away some 25 lakes were given we started campaigning in 2005. We said you cannot give away lakes which are protected by the public trust doctrine to private parties for maintenance because not only are they taking away public commons into private hands but they are benefiting it by commercialization and they had gone ahead and put water theme parks, hotels all sorts of things around the lakes in and around the lakes. Oberoi for instance wanted to put up floating restaurants. So all this was going on it was a financial speculation that was taking place using the Commons so we raised our challenge in 2008 in the PIL after our campaigns were not successful in stopping that and the court heard that case for four years and passed series of interim orders and when those orders were passed. There are two prayers in our case one prayer was you don't have a scheme to protect all the wetlands of Bangalore and Karnataka as whole, second was you cannot privatize the Commons by saying the government does not have money we cited the Ratlam case of justice Krishna here for instance. In the Supreme Court that you cannot use the excuse that the government did not have the money So it gave to a private party to maintain so the public trust doctrine cannot be violated because in 1996 Supreme Court had held up the public trust doctrine anyway. Court heard this matter for four years passed a lot of orders prevented lakes from being encroached

prevented lakes from being diverted prevented all sorts of and finally they gave the Justice Patil N.K. Patil was their sitting judge of the High Court a direction that he shall constitute a committee and that committee will go around and study and come up with a set of recommendations and which was taken as part of the final order on 11th April 2012 and made the guidelines to follow so there was a case which was going on filed by citizen action group and this group had said you know because the stormwater drains are encroached and polluted and all the water is coming to lakes, that's all basically that is what if the prayer was so you have to remove the encroachments. We intervened in that case in 2019. I as a Partean person and ESG both of us intervened and Chief Justice Oak was there as the Chief Justice of Karnataka High Court. He heard us, He had worked on litigation relating to wetlands in Bombay High Court and he gave a series of excellent orders and those orders effectively put down the fact that the act had to be followed. The Justice N. K. Patil report had to be followed and the third important aspect was in the 2012 order in our lakes case the court had directed the setting up of district lake protection committee, which had not been set up. He made sure that those committees would be set up. So the future of these lakes is all dependent unfortunately on the intent of the public to understand what we are talking about and the intent of the government to respond to it, therefore what we found is that the senior bureaucracy is not keen on protecting wetlands nor are the politicians. We find that at the junior levels at the subordinate judiciary at the subordinate bureaucracy at local governments there is a lot more support so we have taken one part of the order which is decentralized governance of lakes through district lake protection committee and started working at all districts and building capacities of the district lake protection committee with association with the Karnataka Legal Services Authority.

Let us now hear from Vargavirao, a senior fellow and trustee at Environment Support Group about the multifarious activities of the awareness programs and activism of ESG towards sensitizing and mobilizing actors and agencies around the restoration of lakes. So this entire work on the lake started way back in 2002 because it was in 2002 that Bangalore set up the Lake Development Authority and prior to setting up of the Lake Development Authority we had seen some of the lakes being rejuvenated by the support of the Norwegian government here in Karnataka and one such lake which had benefited from such rejuvenation was the Hebbal Lake. So we had seen how it had been rejuvenated and it was under the forest department at that point of time and so similarly there were other projects that had happened across across Karnataka. We were familiar with that. So when in 2002 the LDA set up the Lake Development Authority we were very cautious of why exactly a new body was being set up just to take care of the lakes because the lakes were already distributed under the forest department, the minor irrigation department, some under the BDA so on and so forth. But as soon as the LDA was set up the first thing LDA did was to privatize four lakes. So these were the Hebbal Lake, the Vengaiyana Agara Lake, which is a northeast Bangalore then Nagawara Lake which is just across the Hebbal Lake in North Bangalore, then also the Agara Lake which is on Sajapur. So when these four lakes

were privatized we went and spoke to the LDA at that point of time saying that privatization is not good because first of all lakes are public commons right and the government is only a custodian of it.

One cannot lease, rent, sell these common property resources. So and once you lease it to a private entity, the common man will lose access to it and being in Bangalore we know how lakes have been used by a variety of communities. There is the fishing community which gets leased throughout the year, then there are people who grow lilies the water lilies, the pink and the lemon yellow colour lilies, and white lilies which are used in temples during the festive season which starts sometime now and goes on till the Dasara time and then see our lakes are not supposed to be perennial throughout the year. They are seasonal much of South India gets its rain starting now like May June is when the rain starts and we get rain till December and all this water is collected in these lakes and then by February it kind of dries up and that's when some of the local communities grow a variety of crops on the beds of the lake where there is just enough moisture to get that one crop and they also use it for grazing purposes. So a variety of these livelihoods are dependent on lakes like this. So we said you cannot lease these lakes and lakes are not meant for typical urban kind of recreational facilities. So when it comes to an urban need, the urban need is mostly you know recreational purposes where it is you need to have a boating and then you need to have some food courts and some amusement and it becomes like that.

So that's when we mobilize the people all around these lakes. The first of the events that we held was we held a candlelight vigil in and around Hebbal lake. Then we had a human chain around the Agara lake on Sajapuro. We went house to house to all those houses apartment complexes opposite the lake there asking them to come down and explaining to them the need as to why lakes should not be privatized and many people understood the reason so they understood the fact that you know lakes serve the purpose beyond boating and recreational and things like that and they came and joined the human chain formation and for the human chain formation we had retired judges who participated one retired judge by name Sadashiva had participated. The MP or the former MP, Mr. Rajiv Gowda He had participated in it then very eminent personalities like people who are in the Kannada film industry there was a person called LV Sharada who was a big-time actress who had won many national awards she participated in the Human chain formation and we also had a signature campaign, but despite all of that the LDA went ahead and signed agreements with all these four entities to whom they gave away those four lakes and one of them so among the four entities who got the lake Hebbal lake was given to the Oberoi hotels. Obviously it was you know for real estate purpose the fact that in 2008 the International Airport had happened in North Bangalore having a lake view Hotel is a very strategic thing for a big hotel company like that and Nagawara was given away to another company called

Lumbini Gardens who ran an amusement park. Then Vengaihana Agara was given again to a private entity who did set up an amusement park there. Agara was given to a firm called Biota which was actually non-existent when we served a copy of the petition to them it came back saying the address doesn't exist. So there were all kinds of frauds that took place in that entire leasing process also, so that's when even after all this public effort and public voice and public coming out on the roads and saying don't privatize since LDA went ahead. We were forced to file a public interest litigation and the public interest litigation was very well researched drawing examples from across India across the world explaining as to why public commons should not be privatized and the petition went on till 2012 and in 2012 we got an order, but what the court did was the court set up a committee the committee was headed by a acting judge at that time who was Mr. N.K. Patil. So Mr. N.K. Patil along with the other committee members they went around the lakes of Bangalore understanding the challenges of what was happening why they were being privatized and what are the pros and cons of such privatization and the importance of these lakes to local communities and at the same time we worked with a wetland specialist called Dr. Subramanya who also gave us something like a handbook on how a lake has to be rejuvenated literally with figures and you know explaining the shallow regions of the lake and the deep regions what kind of aquatic flora thrive in each of the regions of the lake and what kind of plants should be planted around the lake all of that was very beautifully you know hand drawn by him and given it to us and it was also submitted to the N.K. Patil committee and N. K. Patil committee submitted two reports to the court one was the recommendations of what has to be done with respect to lakes and the second report also explained how a lake has to be rejuvenated so based on the recommendations of the N.K. Patil committee report in 2012 the final judgment came on April 11 to 2012 where the court said lakes cannot be privatized, sold, rented, leased they have to be protected with the help of the local community local community has to be involved in it and then it also ensured that garbage is not dumped sewage is not diverted into these lakes and it also mentioned that if there are encroachments, we cannot throw those people out because they are largely you know the poor and the marginalized who probably been evicted from somewhere else and they've come and landed here so if they are being removed they have to be provided proper housing and proper rehabilitation and resettlement only then you can move them out so those are the broad outcomes and it also set the buffer zone of the no development zone around these lakes so those are the broad outcomes of the final judgment in 2012 and since 2012 we've been ESD has been monitoring all the lakes in and around Bangalore some also around you know across Karnataka when people reach out to us we guide them we help them document and whatever violations have taken place we've brought it to the notice of the High Court and the High Court has systematically seen it with clinical precision the court has seen each of the lakes there are if you go to our website you will see there are some 20 plus memos that have been submitted to the High Court of Karnataka these were with respect to different lakes another interesting part is at least what

drew me to Lakes was we've all been exposed to bird watching from very young. So once you start watching birds and once you start understanding their habitat when they nest how they nest what kind of food do they bring to their young ones? Where how do they fly what is the range around which they fly if you start understanding all of that you will understand the importance of the lakes.

In this context I would like to ask you, we went to the Jakkur lake and the Puttenahalli lake yesterday. We visited there and we also talked to the trustee member and they told us about how to do a participatory approach they are now trying to kind of maintain the lakes because the condition of the lakes are really good and there are these workers pathways etc, but at the same time they told us that they try to keep these workers pathways, they don't want to concretize it and they try to kind of bring in and preserve these heritage elements as much as possible and we, of course, ask them that they are also sensitive to the fishers and other people the locals. So they said yes, and they also talked about their very healthy relationship with BBMP. So what is your take on this? Trustees who are members from the residential areas and then and they are trying to maintain these lakes along with they said that you know there is a collaborative model that exists, Yeah, it is I can say bitter sweet in some cases because see once we talk about local communities the local community has to be representative of the neighborhood where the lake is, so in any neighborhood across Bangalore across Karnataka across the country it is not predominantly the elite and those who are living in gated communities we have a variety of people who live across that neighborhood right so these trusts and committees and whatever body we are setting up should be representative of all those people but what has happened in most of the places where local communities have taken an interest it's an elite driven agenda. So if you see the lakes that got rehabilitated and rejuvenated since 2012 after the order came. Most were private trust set up like this from local people and if you look at the trustees, they are all upper class upper caste highly educated foreign returned english-speaking so when they set up a trust and obviously it is easy for them to interact with the government and the various parastatals involved like the BBMP, BWSSP and all of them and their agenda is what? Takes First step so obviously the need at that point of time when the PNLIT was set up and that lake was rejuvenated It was about a walking path a jogging path, that that kind of stuff and then in the Puttenahalli lake there is a small little patch of settlements there, they went through a lot of you know back and forth with the trust and with the government because they were given land somewhere very far off near electronic city and those people did not want to move because their livelihoods were you know all around the place and that battle is still ongoing so when it comes to such kind of situations these trusts will not advocate for the needs of those people so typically when a trust is set up or when a committee when lake protection committees are set up now that the government has said that every lake has to have a lake protection committee the lake protection committee should be representative of all the groups across the neighborhood it has to be able to speak about the needs of the street vendors the waste workers the taxi drivers or

auto rickshaw drivers or whoever lives in and around that though their needs are not met at all their voices are never heard and many of the examples in Bangalore they in fact changed the structure of the lake because because of all the contacts they had they managed to get huge sums of CSR money so once the CSR money came they rejuvenated the lake when they rejuvenated the lake the original structure of the lake got changed completely. They are no longer a shallow part in one region deep in one region Yeah, they become like soup bowls They have water throughout the year so for a layperson oh it looks nice and I can go walking jogging around it, I can go nature walking with my children around it. But if they don't realize that they've hit at the you know survival of so many other people who were dependent on that lake. That is something that needs to be studied because when lakes are full like this and like a soup bowl structure is that water even flowing from the upper lake to the lower lake? What has been the changes in the aquatic flora fauna? What kind of animals and birds come there, these are things that remain to be studied and given that in Bangalore we've already destroyed the Raja Kaluve system and this entire Lake Network system How such perennial soup bowls are even interfering in that entire lake ecology remains to be studied. So that is where the problem comes when private trust come up and they want to I mean they are not ill-meaning but if they don't understand the science of how lakes have to be rejuvenated if they don't understand the law of how lakes have to be rejuvenated and if they are not inclusive. Then the whole purpose is defeated. We cannot be having lakes only for the recreational purpose of middle-class people it has to kind of help coexist for examples I mean we are talking about we are at a time when unemployment is so high and we are continuously displacing people in rural areas of their lives and livelihoods and all of them are coming into cities today. So we have to make way for different kinds of livelihoods to coexist and lakes can have street vendors sitting outside food trucks but food trucks again with all kinds of rules and regulations in place of not using plastic not dumping the waste there all that has to be taken care of but we have to kind of think of those kind of possibilities as well and not just look at I want a nice serene beautiful lake like how I'll see in the Midwest in the US, you know, that is not the kind of lake we have here.

Yeah, but I also think that this is again very interesting I also think that different trustees must also be having their different stories across different lakes while some trustees maybe they are more they may kind of appreciate the participatory approach more maybe there are other trustees for whom you know that beautification and educational activities are more important Yeah, yeah that this is also a bit how do I say like multi-layered? Yeah, yeah, more nuanced with different trustees preserving different lakes and their perspectives, I think it's not we cannot actually paint them using the ones we get from the other one Yeah, so again it depends on the neighborhood. So if again I can give you examples of what is happening in Bangalore. So there are lakes in Uttarahalli here Subramanya Pural Lake and the Uttarahalli Lake where you know, they have made way for all kinds of festivities; For example, when Diwali comes they light lamps in the lake

will they allow that when Christmas comes will they allow a Christmas tree come up there or will they allow that during? Ramzan or any other festival there is a religious thing to it because it depends on the neighborhood where the lake is situated and the caste and class of people who dominate that region. And in a country where you know, we are currently in such a major crisis we have to be very conscious of this. So in this context implementing the provisions of the 73rd and the 74th Amendment is has to be like, you know the bottom line of it because at the end of the day a committee should be responsible for the lakes around it then you will have all at least there is a provision that all voices can be heard. And also within the government there are challenges of how they want to even understand this or perceive this entire thing. Unfortunately many people even within the various parastatal agencies have not even read the final court order. Don't keep updated with what is happening in the court.

What do you think should be the greatest motivation for them to kind of how do you say, to be very happy and gratified with this the involvement of the trustees in the management of this? What do you think should be the major motivation for these BBMP officials to do so...

It's their job. I think you know, they are in their positions because they are supposed to be serving the people

Yeah, but they seem to be quite gratified with the involvement of this trustees In the lake management for motivation in the with the various government sectors, I think It has to come from the government and there also has to be some political will for it you can't be financializing everything the minute you financialize everything that is when we lose out on it. If a lake is being privatized or if it is being given some part of it is being given to some big industry then that is the beginning of the end of that lake. So that kind of a financialized model should stop and political will has to be there.