



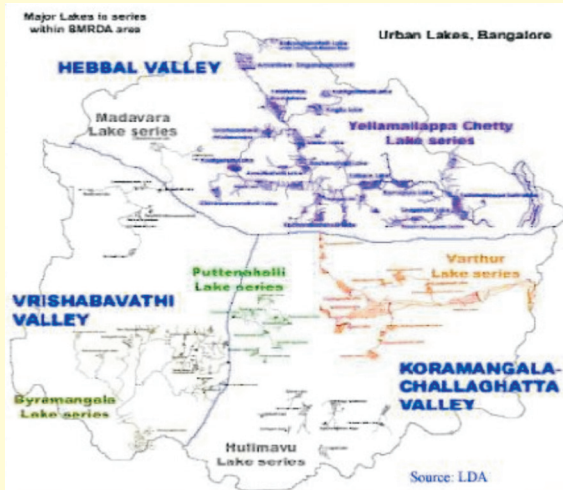
**Wise Use and Conservation of Lakes of the  
Bangalore region as Public Commons.**

**Practicing the Doctrines of Public Trust,  
Polluter Pays and  
Principle of Intergenerational Equity.**

## Introduction

Water distress affects most who live in the world today. Many grimly predict that the next major global war will be over water. In the age of globalisation and anthropogenic climate change, what happens in one part of the world can impact life far away. What could begin as a local problem may engulf regions, nations and well become an international problem. How do we solve this problem?

Quite simply, if we do not begin to develop local solutions to the serious water problem that affects the world today, there may not be a global solution at all. Environment Support Group (ESG) has been working tirelessly at achieving exactly such a solution for years now, and has phenomenal success to report in building water security for Bangalore - a city now with a population exceeding 10 million. ESG has succeeded in securing the support of all agencies, the wide public and of the Judiciary in working to revive centuries old tradition of water conservation based on harvesting rain run-off exploiting topographical features in the landscape to build water security.



Historically communities across South India developed a network of small and large tanks (lakes) interlinked to form a larger watershed that provided critical water security to semi arid regions otherwise dependent only on seasonal rivers and rainfall. Arresting the flow of water across undulating landscapes helped conserve water from rapid runoff, conserve soil from erosion, and also recharged shallow and deep groundwater aquifers. The water stored in shallow lakes helped farmers in growing a second crop in the non-rainy season. Thousands of such waterbodies which were littered all across the south Indian landscape, helped improve local climatic conditions and provided for the emergence of biodiversity rich wetland ecosystems. When the water got used up by the summer, the high levels of soil moisture in the lake bed became fertile grassy meadows, and thus grazing pastures. Cattle and sheep could easily be maintained through the dry summer, and the yield of milk, meat and wool provided additional income to farming and grazing communities. Overall, this was an intelligent use of landscape for building the health of communities while also conserving water, soil and biodiversity<sup>1</sup>.



## Role of lakes in building water security for the Bangalore region:

The current built metropolitan area of Bangalore (approx. 1400 sq. kms.) had over 600 such lakes till about two decades ago and these provided water for drinking, irrigation, horticulture, and industrial activity. In addition they served as important wetland habitats, especially to migratory waterfowl. Unplanned and rampant urbanisation has caused serious damage to these lakes systems in recent decades and contributed to deterioration and dislocation of lake communities (agrarian, fishing and grazing communities) that protected and maintained these commons. Today, these lakes are sites of serious contamination and encroachment, and less than 450 lakes survive in various stages of deterioration. This has had a debilitating impact on surface and groundwater levels, a resource that supports about half the drinking water needs of the city's population.



The challenge now is to alleviate this situation and rehabilitate lakes and their interconnecting canals with community-government-civic action under the supervision of the judiciary. ESG has played a fundamental role in evolving and formalising this initiative by public campaigns and Public Interest Litigation<sup>2</sup>, that has won the support of the Judiciary at the highest levels and also of key agencies of the Government. The public at large and the media are fully supportive of this initiative which could well become a model to emulate for other cities in India and across the world.



## Milestones

→1988: Lakshman Rao Committee recommendations to protect 115 lakes of Bangalore fully accepted by Government.

1995: Bangalore Development Authority formulates 2nd Comprehensive Development Plan that ignore protection of lakes.

→2002: Indo Norwegian Environment Programme and National Lake Conservation Project fund rehabilitation of three lakes in Bangalore.

→2004: Lake Development Authority constituted, and it decides to privatise lake management.

→2006: ESG begins campaign against privatisation of lakes that develops a comprehensive legal effort to protect all lakes of the city for posterity.

→2008: ESG files a Public Interest Litigation for the wise use and conservation of all lakes in the Bangalore region and also against the privatisation of lakes. High Court orders stay on privatisation of lakes based on consensual undertaking extended by the private parties that they shall not make any further development in their respective lakes till the matter is resolved finally. In a related order in another PIL (WP 1841/2006), the High Court ruled that the monitoring of the lakes will be supervised by the Karnataka State Legal Services Authority to ensure lakes are not polluted.

→2011: High Court accepts the report of Justice N. K. Patil Committee for the wise use and conservation of lakes in the Bangalore region, and makes this an operative document for all agencies to comply with, directing the State Government to ensure that adequate financial provision is made in the 2012 budget to support lake conservation efforts. Later in the year, the N. K. Patil Committee submitted a subsidiary report recommending that the privatisation of lakes be abandoned.





## **Water crises in Bangalore and ways to remedy the situation:**

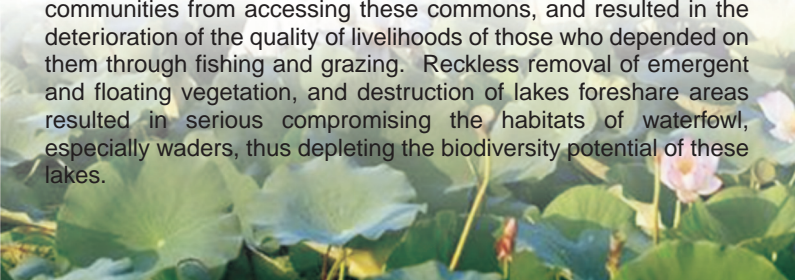
Bangalore currently draws about 1400 MLD of water from River Cauvery that flows 100 kms away and which meets just over half the city's needs. The rest of the city's water needs are drawn from fast depleting ground water resources, the quality of which is also deteriorating due to pollution that is accentuating the hardness of the water. Increasing dependence on the river will not work as there is a cap on withdrawal from this highly contested Cauvery river which flows through many states where there are ever increasing demands from industrial, agricultural and urban sectors. There is also serious concern that such high water stresses could easily escalate into community discord and possibly affect inter-state relations; for violent conflagrations have occurred before on this issue.



There were serious efforts by the Karnataka Government during the late 1980s to save Bangalore's lakes as a step towards utilising the waters to augment the city's ever growing water demands, and also as a measure of conserving them as commons and biodiversity hotspots. Subsequent decades failed to build on this work and soon corrupt forces encroached lakes for real estate, gross neglect by regulatory agencies allowed their pollution, resulting today in the dismal state of affairs.

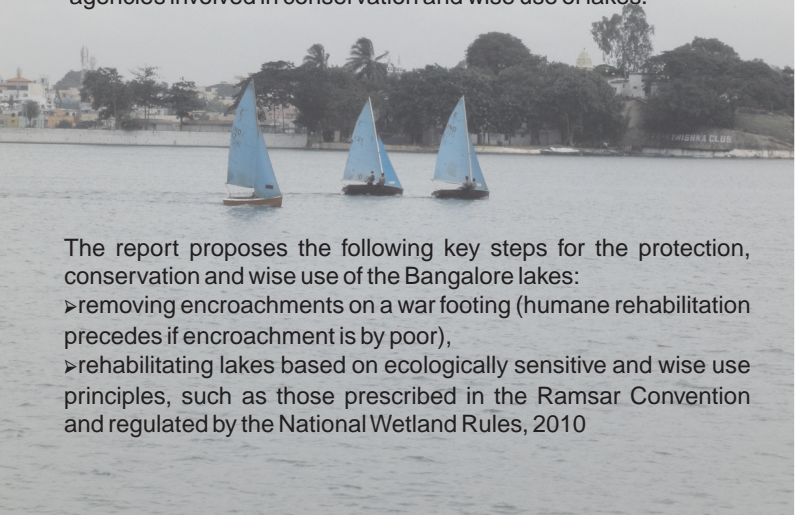
When ESG began addressing this situation about a decade ago, most saw this as a futile and dangerous struggle against well organised corrupt forces. Yet ESG persisted, organised local communities, and ran a series of campaigns for conservation of lake systems. These were backed by multiple workshops to build awareness about the criticality of protecting these waterbodies for the benefit of present and future generations. With the active support of the wide public and the media, the campaigns were difficult to ignore. Yet Government agencies chose not to respond positively to such city wide community efforts.

Instead the Lake Development Authority, which was formed in 2004 as a society backed by the Government, chose to farm out lakes for maintenance by private agencies, who in turn used the long term leases over these large spaces to intensely commercialise these commons. Typical developments were hotels, food courts, water theme parks and the like, all built on an aggressive profit making basis. Such policies effectively distances local lake dependent communities from accessing these commons, and resulted in the deterioration of the quality of livelihoods of those who depended on them through fishing and grazing. Reckless removal of emergent and floating vegetation, and destruction of lakes foreshore areas resulted in serious compromising the habitats of waterfowl, especially waders, thus depleting the biodiversity potential of these lakes.



ESG Public Interest Litigation (Writ Petition 817/2008) addressed all these concerns, which resulted in two major reliefs: a status quo was ordered on the ongoing privatisation of lakes and a Committee involving nine agencies of the Government officiated by a sitting Judge of the Court, Justice Mr. N. K. Patil who also headed the Karnataka State Legal Services Authority, was constituted to develop a comprehensive plan and strategy to protect and conserve Bangalore's lakes for posterity.

The Court appointed Committee commenced its work in December 2010. A series of meetings were held to hear the submissions of various parties. All agency heads were required to participate in every meeting along with their supportive technical staff. As key petitioner and initiator of the idea, ESG was asked to assist the Committee in formulating the report. This was achieved by February 2011 and every public agency of the Committee arraigned for the tasks subscribed to the proposal. Under the direction of the Court on 3rd March 2011<sup>3</sup>, this document<sup>4</sup> has become binding on the Government and all agencies involved in conservation and wise use of lakes.



The report proposes the following key steps for the protection, conservation and wise use of the Bangalore lakes:

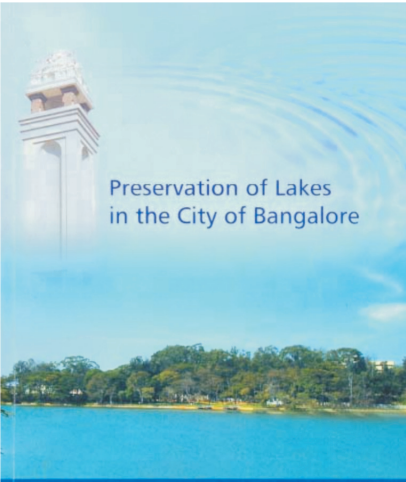
- ▶ removing encroachments on a war footing (humane rehabilitation precedes if encroachment is by poor),
- ▶ rehabilitating lakes based on ecologically sensitive and wise use principles, such as those prescribed in the Ramsar Convention and regulated by the National Wetland Rules, 2010



- tackling all sources that pollute in a comprehensive manner,
- utilising canal systems as constructed wetlands to augment biodiversity value and also to naturally clean running waters, possibly build new lakes by identifying urban spaces to meet future demands
- involve local lake communities and statutory ward committees to be the frontline agency to guide and oversee these tasks
- Karnataka Government must make budgetary allocations to support wise use and conservation of lakes from the perspective of building water and ecological security
- Karnataka Government must provide requisite monetary resources for implementation of the plan as proposed in the Report during '11-14
- agencies are required to file a quarterly report of compliance to assist the Karnataka High Court in monitoring the implementation of the plans as jointly proposed.

In a subsequent order the High Court requested Justice N. K. Patil to hear all the parties connected with the PIL and submit its recommendations on the policy of privatisation of lakes. Justice Patil's

Committee held 5 meetings to deliberate the nature of the policy that would be most suitable to the long-term sustenance of lake systems. After providing opportunities of hearing to all parties involved, it submitted its report before the High Court on 12 October 2011. This report has comprehensively addressed the issues involved and made 10 recommendations, one of which explicitly states that "commercial exploitation of any lake cannot be allowed under any circumstance". (Emphasis supplied)



## Preservation of Lakes in the City of Bangalore

To arrive at this recommendation, the Committee has observed that “the private entrepreneurs to whom the lakes have been handed over for maintenance have not been able to do complete justice to ecology. Ultimately, 'Profit Motive' has prevailed over the 'Public Interest' and 'Public Trust’”. It has also observed that “any model involving 'Private Public Participation' wherein 'Dominion over the Natural Resource' belonging to the State is handed over to a Private Entrepreneur either for rejuvenation or for management/maintenance, the same is likely to result in an anomalous situation requiring constant supervision by the State and its Authorities to ensure that there is no deviation from the state policy and norms. At times, it becomes extremely difficult for the State and its Authorities to find a workable solution which furthers public interest and prevent the private entrepreneur from making an unjust enrichment at the cost of the general public and natural resources which belong to the State”. Based on such rationale the Justice Patil Committee proposed that “it becomes just and necessary that the participation of private sector in the rejuvenation and development of lakes and tanks in and around the city of Bangalore has to be highly discouraged if not eliminated”. (Emphasis supplied)

**Next steps:**

□ ESG will continue to pressurise agencies to conform with the directions of the High Court and implement the lake coservation plans as proposed in the Justice Patil Committee report.

□ ESG proposes to build interest in communities across the state of Karnataka, especially in urban areas, to utilise the positive outcomes of this campaign/legal initiatives and build simiar efforts to the protection, conservation and wise use of lakes and other water bodies in their areas.

□ ESG will continue its arguments in the High Court against the privatisation of lakes, and as such against such a policy that commodifies nature and natral resources.

□ ESG proposes to build awareness amongst lake communities living in and around each lake in Bangalore, to ensure that they work with various agencies for the conservation of their lakes as commons.

## **Video and image resources relating to ESG's lakes initiatives:**

### *Video:*

1. Bangaloreans against privatisation of lakes, NDTV, 24 June 2008, accessible at: <http://www.ndtv.com/video/player/news/bangaloreans-against-privatisation-of-lakes/32026>
2. Bangalore's students raise voice for city lakes, NDTV, 05 June 2006, accessible at: <http://www.ndtv.com/video/player/news/bangalore-students-raise-voice-for-city-lakes/3916>
3. Government to privatise lakes in Bangalore, NDTV, 27 March 2006, accessible at: <http://www.ndtv.com/video/player/news/govt-to-privatise-lakes-in-bangalore/1578>
4. Bangalore losing its lakes fast, IBN Live, <http://ibnlive.in.com/videos/40907/cj-bangalorelosing-its-lakes-fast.html>
5. Leo Saldanha on Bangalore's Water Security, 30 January 2009, <http://www.indiawaterportal.org/node/1131> or [http://www.youtube.com/watch?v=ej\\_QJt6LDAY](http://www.youtube.com/watch?v=ej_QJt6LDAY) (3 Parts)
6. Successful tackling the encroachment of Yediyur Lake in Bangalore by BBMP Corporator who wanted to put up a statue inside: <http://www.youtube.com/watch?v=oyNhq8aDKpk> and <http://www.youtube.com/watch?v=oyNhq8aDKpk>

### *Pictures:*

1. Images of ESG led lake conservation campaigns in Bangalore: <http://esgindia.org/campaigns/lakes/images/index.html>
2. A slide programme on this initiative can be accessed at: [http://www.slideshare.net/BhargaviRao/lakes-january2009?from=share\\_email](http://www.slideshare.net/BhargaviRao/lakes-january2009?from=share_email)
3. A comic strip on the impacts of privatisation of lakes can be accessed at: [http://www.slideshare.net/BhargaviRao/lake-privatization-comicstrip?from=share\\_email](http://www.slideshare.net/BhargaviRao/lake-privatization-comicstrip?from=share_email)

1. The prevailing social structures did play a major role in the maintenance of the tanks. Upper castes normally exercised their superiority over lower castes and communities, and forced the latter to invest their labour in the upkeep of the tank systems. This deplorable and exploitative practice has been legally abolished in the post-independent period, but is unfortunately still practised in some areas. Social movements and resistance from communities representing depressed communities such as the Dalits, have been in the forefront of agitations against such abhorrent social practices.

2. Writ Petition 817/2008 before the High Court of Karnataka

This order may be accessed at:

<http://causelist.kar.nic.in/detorder.asp?bench=B&caseno=817&caseyear=2008&casesetyp=WP&doo=03/03/2011>

The full report along with all its annexures are accessible at:

<http://esgindia.org/campaigns/press/campaign-against-lake-privatisation-bang.html>

The full report is accessible at: <http://esgindia.org/campaigns/lakes/press/karnataka-high-court-committee-strongly-.html>



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