



Environmental Social
Justice
&
Governance Initiatives

Organization in Special Consultative Status with
the Economic and Social Council since 2011

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Nobel Laureate Prof. Elinor Ostrom commends ESG's efforts to advance wise use and conservation of lakes in Karnataka

We are happy to share that 2009 Nobel laureate Prof. Elinor Ostrom has in a letter written to the *Secretariat of the United Nations Office to Support the International Decade for Action "Water for Life" 2005-2015*, commended Environment Support Group's efforts "for effectively utilizing legal redressal mechanisms and eliciting appropriate responses from the judiciary and administration to protect, conserve, and wisely use Karnataka State's 35,000 irrigation tanks (lakes) and their canal networks". The letter acknowledges that "(t)he guidelines evolved to assist in this process are pragmatic as they acknowledge the importance of community centered, democratic, and ecologically viable interventions for managing watersheds and water resources". Prof. Ostrom concludes that the initiative taken "... is an important step towards securing public commons and could go a long way in extending water and food security to millions who are in critical need of the same".

We are grateful to Prof. Ostrom for commending ongoing efforts of the Judiciary, the wide public, various public agencies and ESG in taking forward this initiative to secure our lakes and other commons for the benefit of present and future generations.

A copy of the letter is attached along with a background of Prof. Ostrom, and ESG's ongoing efforts.

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About ESG: Environment Support Group is a small group committed researchers, lawyers and activists responding to various issues of environmental, social justice and governance concern. More details about the group may be accessed at: <http://esgindia.org/about-us/esg-team.html>

Donate to ESG: ESG relies on public support and your generous contributions to advance its various public interest initiatives. Details on how you can contribute can be accessed at: <http://esgindia.org/about-us/what-you-can-do.html>

2009 Nobel Laureate in Economic Sciences: Prof. Elinor Ostrom

Professor Elinor Ostrom is Indiana University Distinguished Professor, Arthur F. Bentley Professor of Political Science and Senior Research Director at The Vincent and Elinor Ostrom Workshop in Political Theory and Policy Analysis. In 2009 Prof. Ostrom was awarded the [Nobel Prize in Economic Sciences](#), an achievement that honors a lifetime of groundbreaking research, teaching, and scholarship. She is the first woman to win the prize in economics, which has been awarded since 1969. Prof. Ostrom was recognized by the Royal Swedish Academy of Sciences for her analysis of economic governance, especially the commons.

Acknowledging her massive contributions to the theory of governance of the commons, the Academy had stated: "Elinor Ostrom has challenged the conventional wisdom that common property is poorly managed and should be either regulated by central authorities or privatized. Based on numerous studies of user-managed fish stocks, pastures, woods, lakes, and groundwater basins, Ostrom concludes that the outcomes are, more often than not, better than predicted by standard theories."

More details about Prof. Ostrom may be accessed here: <http://elinorostrom.indiana.edu/>



Background to ESG's *Wise Use and Conservation of Lakes as Commons* Initiatives

ESG has consistently worked through a series of community based education, campaign, advocacy and litigation efforts to help conserve lakes (technically known as irrigation tanks) in the Bangalore region for more than a decade. Even though public response has been overwhelming to these initiatives, the lack of political will and administrative foresight has proved to be a major challenge in channelling these positive responses productively.

There have been many progressive initiatives taken by the Government to save some lakes in the Bangalore region, such as by the Karnataka Forest Department during the 1990s and through initiatives of National Lake Conservation Programme and Indo-Norwegian Environment Programme. As a result, several tanks in the built Bangalore area were rehabilitated in an ecologically sensitive manner. However, these very lakes have in recent years been farmed out to a variety of profit making hotels, builders and other private corporations, who have intensely commercialised these commons, often turning them into food courts and water theme parks. AS a result, these companies have wrested control away from local communities and traditional uses, and virtually turned them into private and commercial property.

Alongside, local city governments and planning authorities have stepped in to restore some lakes, but largely in an ecologically and socially unwise manner – turning them more into parks and areas for upscale recreation. These efforts also have typically focussed their attention to neighbourhoods where the middle and upper middle classes live, while the rest of urban lakes have not secured any support.



The crisis of water deficit and loss of lakes are interconnected in Bangalore:

Skewed attention from the administration has resulted in heavy pollution and encroachment of most lakes, rendering them into sites of major public health hazard and environmental contamination. Highly polluted sewage and industrial effluents that flow through the canals and lakes, seep into ground water aquifers wreaking havoc on the health of surrounding communities.



With half the city's 10 million population depending on ground water for all their needs, the destruction and pollution of lakes is resulting in a serious ground water deficit and contamination: there is too much withdrawal and very little recharge of the aquifers, a situation that intensifies the pollution. Ground water levels have dropped rapidly, thus increasing the cost of access to water and forcing communities, particularly the poor, to consume unsafe waters. This is a very serious environmental and public health crisis.



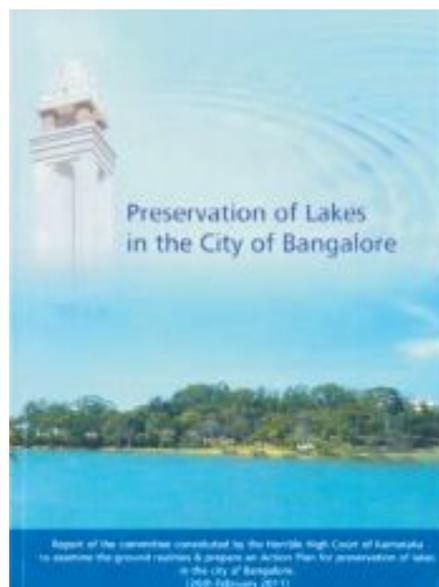
The Government has admitted in Court that the future of Bangalore, a major metropolitan area of India that produces over half of Karnataka State's revenue, cannot be secured by depending on the distant waters of Cauvery River 100 kms away. There are too many competing demands locally and from downstream riparian states, and so the future of this metropolis can only be secured

through local water harvesting methods. It has also conceded in Court that the Bangalore urban area has only 450 tanks left, all seriously polluted and encroached, and that about 150 tanks have been irremediably destroyed due to inaction in the past two or three decades.

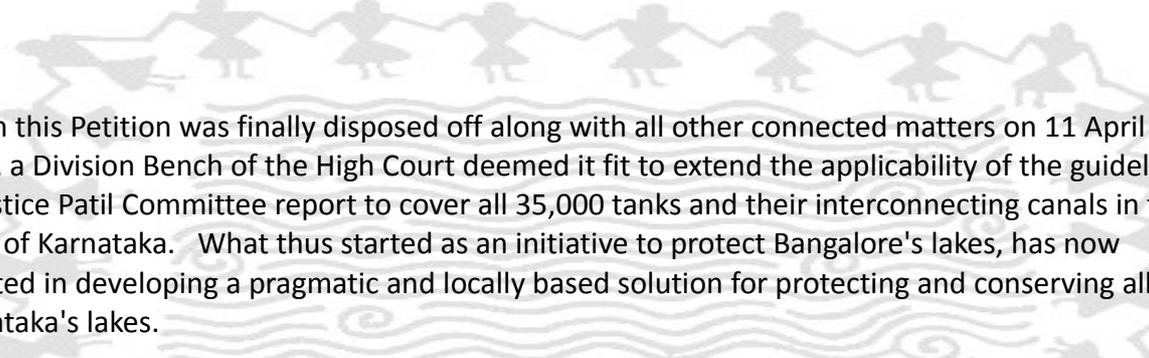
ESG's PIL initiative:

All these concerns are widely known, and felt, but it has been a great worry that the Government is not acting earnestly in addressing this crisis. ESG was thus constrained to take these concerns in a comprehensive Public Interest Litigation (WP 817/2008) before the High Court of Karnataka in January 2008 and petitioned the Court **to direct the State to formulate a scheme for the protection of tanks in the Bangalore region and restrain commercialisation of these commons.**

The Principal Bench of the High Court was immediately convinced of the criticality of such actions, and coerced the State to reign in its policy of privatising tanks. It later constituted a Committee under Justice Mr. N. K. Patil of the Karnataka High Court to develop an overall scheme for the wise use and conservation of lakes, keeping in view the Principle of Intergenerational Equity and Public Trust Doctrine. ESG assisted this committee (which also included top functionaries of the State) in developing the scheme. The detailed plan of action proposed was comprehensively accepted in March 2011 by the High Court and made a part of its directive. Thus, guidelines in Justice Patil Committee's report became binding on all agencies and communities involved in rehabilitating tanks in the Bangalore area.



The High Court was also concerned that a good plan without adequate funding is no plan at all. To ensure that its directive was meaningfully implemented, the Court instructed the State to make sufficient budgetary allocation for the implementation of the scheme. This direction was conformed with in 2012 when the Chief Minister of Karnataka, Mr. Sadananda Gowda, in his budget speech, allocated Rs. 50 crores for the current fiscal year (2012-13) for rehabilitation of Bangalore's tanks from the State's exchequer, with an instruction to Bangalore Development Authority and the Bruhat Bengaluru Mahanagara Palike to provide matching amounts. Thus, Rs. 150 crores (approx. US\$ 30 millions) is available for rehabilitating Bangalore's lakes and canals during this fiscal year, an unprecedented initiative for any urban area of India.



When this Petition was finally disposed off along with all other connected matters on 11 April 2012, a Division Bench of the High Court deemed it fit to extend the applicability of the guidelines of Justice Patil Committee report to cover all 35,000 tanks and their interconnecting canals in the State of Karnataka. What thus started as an initiative to protect Bangalore's lakes, has now resulted in developing a pragmatic and locally based solution for protecting and conserving all of Karnataka's lakes.

This is a far-sighted initiative to conserve and rehabilitate lakes and their interconnecting canal networks, so that rain and surface waters are harvested safely and locally for human needs, thus reaffirming faith in decentralised water management systems, as has been done for centuries. Such efforts also aid immensely in improvement of biodiversity of these wetland ecosystems, particularly as habitats for migratory waterfowl (highly threatened in recent years), while also providing a variety of traditional and nature based livelihood opportunities. (The final order of the High Court was dictated in Court on 11 April, but the signed copy of the order is yet to be released.)

Implications of the Karnataka High Court's final orders:

The Karnataka High Court has directed the State to constitute Lake Protection Committees in every district involving the District Commissioner and representatives of local governments and other agencies in coordination with the District Legal Services Committees. These committees will meet bimonthly to review and monitor efforts to undertake legal survey of lake and canal areas, and support *in situ* plans for their protection, conservation, wise use and rehabilitation. These efforts would be reported to the Lake Development Authority, which in turn will report compliance to the High Court.

The guidelines developed by the Justice Patil Committee will be binding and will require authorities to survey the legal limits of the tanks and remove all encroachments (subject to the ratio evolved by the Supreme Court in *Jagpal Singh vs. State of Punjab*, which seeks to protect and conserve commons across India). Further, no pollution, either of effluents or any form of solid and hazardous waste, should be allowed into these lake systems. Each and every lake will be fenced using locally endemic trees and bushes in order to improve the biodiversity and nutritive value of these ecosystems. All traditional, livelihood and community rights over these wetlands and commons are protected.

The main characteristics of the ecosystem where the work is undertaken?

Irrigation tanks (now commonly called lakes) have been built across South India for hundreds of years to harvest rain water and surface runoff in shallow water bodies and are typically formed with a stone pitched bund across shallow valleys. Sluice gates allow water flow out of these lakes into canals, which are further interconnected to other lakes forming a complex network of shallow waterbodies. Such a system helps arrest water flow and soil erosion. The water so harvested helps in raising a post monsoon crop in rainfed agricultural areas, thus bolstering water, food and nutritional security. When lakes are full or partially empty, they function as excellent wetland ecosystems and are critical habitats to migratory waterfowl. When they become dry due to use of water or with the onset of summer, the high soil moisture in the tank bed creates grassy meadows and are excellent grazing pastures. Overall they provide a variety of wet, semi-wet and moist habitats, which supports a very wide diversity of flora and fauna. The silt harvested periodically from the lakebeds is used as manure on neighbouring farms, thus limiting the need for import of fertiliser. Lakes also play an important role socially as they are commons and are important sites

for religious and cultural practices.

Additional briefs and other details can be accessed at: <http://esgindia.org/education/community-outreach/press/environment-support-group-gets-united-na.html> and also at: <http://esgindia.org/campaigns/press/campaign-against-lake-privatisation-bang.html>

