Revisiting the 74th Constitutional Amendment for Better Metropolitan Governance

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Indian policymakers have been slow in responding to changing metropolitan forms and have largely visualised urbanisation as city expansion. As a result, metropolitan regions, which are complex entities with multiple municipal and non-municipal institutional arrangements, have become mere creatures of state governments with neither the necessary strategic flexibility nor political legitimacy. In part, this is because the 74th constitutional amendment of 1993 has failed to visualise the dynamics of large complex urban formations. This paper suggests both a need to confront this blind spot in the 74th constitutional amendment for long-term durable solutions and to creatively work through available legislative and institutional arrangements in the short to medium term.

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But if you think of the world as a giant jigsaw puzzle, the puzzle was thrown into the air in the '60s, and now the pieces are starting to come down. Only the pieces that are coming down are no longer the pieces that went up.

– Neil Smith, political geographer, interview in 2000, *Village Voice,* New York

1 Rethinking Urban Governance

Cities and city regions (variously called city regions, conurbations, megacities, or agglomerations) have gradually emerged as powerful actors in the global economy in the last two decades. Nation states across the world are trying to reckon with this reality, and harness the energies unleashed by the twin processes of urbanisation and globalisation.[1] For the purposes of consistency and clarity of argument, we will refer to these various urban formations in this paper as metropolitan regions or MRs for short. Contemporary MRs function as territorial platforms from which concentrated groups or networks of firms compete and collaborate in global markets. MRs provide scale, dynamics, and flexibility in the labour market to cope with the conditions of volatility that characterise present-day world markets. They are multi-municipal. They challenge us to rethink traditional concepts of agglomeration economies and positive externalities. Recognising the need to maintain strategic flexibility as well as democratic participation, nation states in advanced capitalist countries and developing countries have been experimenting with rescaling and reorganising their functions.

Against this backdrop, this paper assesses the Indian urban scenario to argue that the time has come for revisiting the 74th ccnstitutional amendment passed into law in 1993. The paper contends that Indian policymakers have been slow in responding to changing metropolitan forms and have largely visualised urbanisation as city expansion. As a result, MRs, which are complex entities with multiple municipal and non-municipal institutional arrangements, have become mere creatures of state governments with neither the necessary strategic flexibility nor political legitimacy. In part, this is because the 74th constitutional amendment, the most substantive statement of India's acknowledgement of the urban contingency, has failed to visualise the dynamics of large complex urban formations. The paper suggests both a need to confront this blind spot in the 74th constitutional amendment for long-term durable solutions and the need to work through available legislative and institutional arrangements creatively in the short to medium term. This paper is organised in eight sections. The second

section will provide a brief overview of international trends in metropolitan governance. The third and fourth sections will recount the Indian experience with a special focus on the constitution of metropolitan planning committees (MPCs) as mandated in the 74th Constitutional Amendment Act. The fifth and sixth sections draw on a study carried out by a team of researchers at the Centre for Policy Research (CPR) in New Delhi over the past year to show the divergence between the reality of the MRs in India and the statutory constraints and opportunities. The seventh section explores alternative pathways through which existing Indian urban reality can be aligned with the constitutional mandate and available legislative frameworks. The eighth and concluding section summarises the argument of the paper.

2 International Experiments

Urban Policy Research and Interventions

MRs have to measure up to the expectations of three distinct audiences – the local resident population, the nation of which it is a part, and the international business and investing community. Over the past two decades, many research centres have dedicated substantial resources to research on MRs. These include older established institutions such as the London School of Economics and newer research centres such as the Brookings Institute in Washington. An important strand in both academic and non-academic research is the measurement of economic performance of MRs. This kind of research gives an aggregate understanding of the role of each city in overall economic growth and recovery in times of crisis. The *Economist* magazine recently conducted an analysis of 120 cities on the basis of their competitiveness defined as the ability to attract capital, business, and talent. The index is based on qualitative and quantitative indicators spread over thematic categories. Closely associated with the development of such metrics is the emergence of a variety of best-practice recommendations circulating among governments. These best practices often appear in annual reports published by international agencies. The Asian Development Bank's 2008 report on *Managing Asian Cities* is a good example of such advocacy.[2] The 2012 report of UN-Habitat on the *State of the World's Cities* draws attention to the specific risks facing large urban configurations.[3] Emphasising that the bulk of these risks fall disproportionately on the poor, UN-Habitat has advocated a new approach to "prosperous" cities. Global economic attention also entails the responsibility to ensure good and adequate governance in these cities.

Even a cursory examination of the evidence from across the world reveals that national governments everywhere are experimenting and going through a trial and error process to arrive at an enduring metropolitan governance structure. Greater London was set up in 1965 covering 32 boroughs. This was abolished by the Margaret Thatcher government in 1986, but revived as the Greater London Authority in 2000 with a directly elected mayor and a set of functions distinct from the boroughs. Metropolitan Toronto set up a regional arrangement for six cities and boroughs in 1966, but subsequently amalgamated all of them into a single municipality in 1999. Brazil is experimenting with an elaborate set of laws and federal programmes to help establish metropolitan regional bodies for Sao Paulo, Rio de Janeiro, and Brasilia. In the post-apartheid period, South Africa has modified the idea of the Johannesburg metropolitan government to a larger region with a significant role for the Gauteng provincial government. Seoul and Tokyo have long established two-tier federative metropolitan governments, and craft policy within that framework. None of these arrangements is free of problems. Against this backdrop, it is incumbent on us to develop our own understanding of the Indian experience.

3 The Indian Trajectory

Post-Independence Containment

In the first two decades after Independence, public policy in India favoured containment and restriction of metropolitan growth and specifically discouraged new investments. The aphorism "India lives in its villages", rightly or wrongly attributed to M K Gandhi, captured India's negative attitude towards cities. Trade and tariff policies were specifically designed to remove the locational and other advantages enjoyed by cities. In the mid to late 1960s, some public-sector investments were even allocated to new locations to help them emerge as counter magnets. Yet, the older cities continued to grow on their own economic strengths. These cities had a variety of locational advantages and continued to grow despite the adverse investment policies of the government of India. Some cities like Bangalore and Hyderabad did witness the establishment of large public-sector undertakings as well as research and educational institutions requiring manpower in significant numbers. These were justified on the grounds that the infrastructure was going to be mainly outside municipal limits and therefore could not be regarded as accretions to metropolitan cities. But, in effect, these investments provided an impetus for expanding the Bangalore and Hyderabad MRs. In the case of Mumbai, the Maharashtra Industrial Development Corporation developed sizeable areas along the Mumbai-Panvel-Pune road that have now become a part of the Mumbai MR. In Chennai, manufacturing industry, in particular, the automobile sector, began to expand existing units and locate new ones along the principal access roads to the city. It is only in Kolkata that the late 1960s and early 1970s saw industrial recession, substantially due to the structural problems of traditional industries, which resulted in a decline in growth.[4] From the 1990s, economic liberalisation measures have significantly enhanced the opportunities for these regions.

Planning and Administration

Urban agglomerations were recognised formally and adopted for the first time in the 1971 Census report based on a rather tight definition of contiguous urban growth. But, for planners, the MRs include urbanising and urbanisable settlements as well.[5]

The creation of development authorities was the first administrative recognition of the metropolitan dimension. The Calcutta Metropolitan Development Authority was set up in

1970, followed by one in Chennai in 1972, Mumbai in 1974, and Bangalore and Hyderabad in 1975. In Bangalore, a Metropolitan Development Authority was created under a special law in 1985 though the Bangalore Development Authority set up 10 years earlier has continued. In Hyderabad, the Urban Development Authority set up in 1975 was replaced by a Metropolitan Development Authority established in 2008. In the beginning, the mandates of these development authorities were similar to each other and included a vision for the metropolitan territory, its planned development, and securing financial self-reliance and functional independence for the metropolitan area. All the authorities took up urban planning and development, but in a few years the planning process was significantly undermined by delays in enforcement and periodical amnesty programmes for violations decided by state governments. In many cases, high-profile projects also sidestepped planning stipulations and the development authorities became preoccupied with projects of their own. In the process, the planners became plotters and builders, precipitating conflicts of interest.

Though the metropolitan development authorities were expected to function as focal points for coordinated development, their mandate was undermined by multiple laws, agencies, and multiple utility providers. Spatial planning, which was intended to be a central task of the development authorities, became a casualty of competition among multiple jurisdictions. One would have expected the presence of so many agencies carrying the metropolitan label to help establish a metropolitan entity in the public mind. This has not happened. What has helped such a recognition are de facto transport and connectivity in the MR. This is most evident in the case of Mumbai, Kolkata, and Chennai, where suburban railway lines and increasing volumes of commuting have helped the public become aware of the reality of an MR.

4 Reality versus Conceptual Frame

The CPR conducted a comparative study of the governance of five MRs in India along several dimensions last year. This study is noteworthy for its comprehensiveness. For the purpose of comparison, the study took the official planning area boundaries of each development authority as the MR boundary. It notes that in four of the five MRs, the planning area is larger and more populous than the relevant urban agglomeration as identified in the census. It is only in Chennai that the boundaries of the two differ significantly and the population of the region is less than that of the agglomeration. There is a debate going on at present on metropolitan cities indicating a decline in growth rates from 2001, whereas second-tier and smaller cities are showing increasing growth. The debate is pointless if we consider the figures in the context of the MR as such. Kolkata is frequently cited as an example where population has declined. (The population in the municipal corporation limits as per the 2011 Census was 4.45 million, compared to 4.57 million in 2001.) However, the Kolkata MR as a whole has grown by 5.3% and 38 municipalities in the region have together grown at 9.6%. In Mumbai, the population in the corporation area has increased from 11.8 million in 2001 to 12.49 million in 2011.

The pace of growth is only 4.2%, which is much lower than the rate of 20.6% between 1991 and 2001. However, the Mumbai metropolitan region has grown from 19.36 million in 2001 to 22.59 million in 2011. In both Kolkata and Mumbai, the boundaries of the MRs have remained the same.[6]

Together, the MRs contribute 10.3% to the national gross domestic product (GDP). Their per capita income has also been quite high. For instance, Mumbai and Bangalore had a per capita income of about Rs 58,000 and Rs 46,000 respectively, compared to the average for urban India of about Rs 40,000 in 2004-05. Chennai was more or less on a par, while it was less in Hyderabad. Sectorally, Bangalore is a hub for heavy industry, biotechnology and information technology (IT) services, the last accounting for about 36% of India's IT business process outsourcing (BPO) services exports. Chennai contributes to 42% of the country's automobile production. A break-up of the types of employment and its varieties between the core and periphery of the MRs show a trend of highly educated labour migration, except in the case of Mumbai. The dual nature of urban labour markets appears pronounced in the MRs. There is a growing informality of employment in the MRs.

Today, the MRs are very large concentrations of people. Together, the five MRs covered in the CPR study (Bangalore, Chennai, Hyderabad, Kolkata, and Mumbai) account for about 68.5 million people, which is about 18% of the country's urban population. All the five are included in various lists of large cities in the world prepared by organisations such as World Gazettes, Demographia, and the United Nations (UN).

Migration was an important focus of the study. It is a common perception that rural-urban migration is the principal reason for India's urban growth, especially the growth of MRs. Origin and destination-based migration data will be available only by 2014 but an analysis of the relevant National Sample Survey (NSS) data clearly shows that while migration is an important factor, it is not the dominant reason for the growth of MRs. The analysis also indicates that contrary to rhetorical statements made about outside migrants, the bulk of the migration is intra-state rather than interstate. An analysis of two districts as a sample in each of the MRs indicates that intra-state migration is the dominant proportion in Thane district of the Mumbai MR, Howrah and North 24 Parganas districts in the Kolkata MR, Kancheepuram and Chennai districts in the Chennai MR, Bangalore urban district in the Bangalore MR, and Hyderabad and Ranga Reddy districts in the Hyderabad MR. Each of these MRs is much larger than the districts where the intra-state migrants have concentrated.

Another interesting aspect the CPR study has brought out is the linguistic diversity in some of the MRs. In Mumbai, Bangalore, and Hyderabad, though Marathi, Kannada, and Telugu are the mother tongues of a large proportion, they are not dominant. The proportion with three other mother tongues such as Hindi, Urdu, and Gujarati in Mumbai, or Tamil, Telugu, and Urdu in Bangalore is about the same. Literacy rates also exceed 70% in all the five regions.

Recently, in all the five MRs, new big investment projects have been initiated, which have significant consequences for

the ecologies of the regions. These include river-front conservation, lake conservation, solid waste disposal, and an indexing of biodiversity. Many of these initiatives are from different municipal bodies as well as functional and other agencies. Important as they are, they do not amount to a conceptual plan or a framework for ecological sustainability at the metropolitan level. Increasing incomes and consumption levels are a steady aggravation to environmental stress. Gathering together the disparate initiatives into a region-wide effort and strategy are a critical task of metropolitan governance.

Collaboration, Amalgamation and Expansion

During the past two decades, the response to metropolitan-level problems has not been significant in any of the MRs. In some cases, the composition of existing metropolitan development authorities was changed and some rearrangement in the responsibilities of different functional authorities took place. The expansion of municipal boundaries, the amalgamation of existing municipalities, and the creation of new municipalities have all been attempted. Bangalore Municipal Corporation's boundaries were expanded in 2006 by amalgamating eight municipal councils and 111 villages in its vicinity. This brought about the Bruhat Bengaluru Mahanagara Palike (BBMP). The number of municipal wards increased from 100 to 198. However, the disparity in delivery of services continues to remain a major problem. Briefly put, the expanded Bangalore Corporation is yet to settle down in terms of public acceptance or administrative requirements. In Hyderabad, in 2007, adjoining municipalities were amalgamated with the capital city, which resulted in the Greater Municipal Corporation covering 600 square kilometres. In July 2009, a new corporation was created in Vasai-Virar in the Mumbai MR by amalgamating four municipal councils into 53 villages. In 2011, the Chennai Corporation was expanded from 174 sq km to 430 sq km.

But in all these cases even the expanded corporations fall significantly short of the MR. Bangalore's 800 sq km is dwarfed by the region's expanse of 8,000 sq km. The Hyderabad Corporation area is only 600 sq km compared to the 7,000 sq km area of the MR. The Chennai Corporation area is only 430 sq km, though the MR area is 1,189 sq km. Further, the functional mandate of even the expanded corporations continues to be limited because critical functions such as water supply, planning, land development, and drainage have been taken away from their domain and entrusted to parastatal agencies such as the Hyderabad Metro Water Supply and Sewerage Board. (It should also be noted that while one trend is towards expanding municipal boundaries, the other is towards discouraging large municipalities and dividing them into smaller units, as has happened recently in Delhi, where one organisation was split into three on the grounds of efficiency, better control, and proximity to the people.)

The Municipal Legacy

In considering metropolitan governance options, the issues persisting within municipal bodies cannot be ignored. Within corporations, the set-up has remained virtually the same with ceremonial mayors, standing committees, and state government-appointed chief executives. "Municipal authorities", who are designated in the relevant municipal laws and who by definition are enjoined to carry out responsibilities under the municipal acts, have not changed. In Mumbai, Bangalore, Chennai, and Hyderabad, the executive power of the corporations is vested principally in the commissioner. Kolkata is the only exception where the system of mayor-in-council is recognised as a municipal authority. The commissioner is the chief administrative head functioning under the supervision and control of the mayor-in-council. This arrangement was adopted by Mumbai in 1998, but was given up within two years.

The tenure of the mayor varies from five years in Kolkata and Chennai (coterminus with that of the corporation), to one year in Bangalore, and two and a half years in Mumbai. In Hyderabad, the term of five years is split into two by a political arrangement between the Congress and the Majlis-e-Ittehadul Muslimeen (MIM) coalition. Irrespective of boundary expansion or consolidation in parts, several of them have to coexist within an MR such as Greater Mumbai, Navi Mumbai, Thane, Kalyan, or Bhiwandi. Even together, they are not equal to the metropolitan-level tasks and responsibilities remain fragmented among parastatals, state departments, and central agencies. In such a situation, the state governments continue to be the main provider of resources, the regulator of the municipal and functional bodies, and the arbitrator of inter-organisational and jurisdictional disputes.

Tangled Constituencies and Jurisdictions

It is also necessary to look at the electoral geography and the political issues arising from this in an MR. As is well known, the delimitation of Parliament and assembly constituencies, which, according to the Constitution, was to be adjusted every 10 years on the basis of the census, was frozen after 1972. The reasons for the freeze through a constitutional amendment, and its impact on the representative quality of the electoral system, especially the "under-franchise of urban areas", have been extensively discussed by various researchers.[7] After the revised delimitation, there are now more Parliament and assembly constituencies in the MRs than before. In addition, the number of corporators or municipal councillors in these areas is also significant.

Given the large number of elected representatives at different levels in an MR, it is appropriate to consider the people-representative ratios. In assembly constituencies, the ratio is broadly the same within a given MR. This is the result of delimitation, whose specific mandate was to maintain parity of such a ratio as far as practicable, though some inter-constituency disparities persist. On the other hand, the ratios significantly vary in the case of corporation and municipal councillors. In the core cities of these five MRs, the ratio varies from a few hundreds to a few thousands. As for the municipalities falling within the MRs, the difference in the ratio is much more. Though there is no formal hierarchy between Members of Parliament (MPs), Members of Legislative Assemblies (MLAs) and municipal councillors, it is part of the political dynamics that a certain mutual dependency emerges. This becomes particularly evident at election time,

and at each level, representatives seek to sustain their proximity to the people. The MP local area development (MPLAD) programme, though ostensibly for assisting development activities in constituencies, is based on the belief that this kind of discretionary funding reinforces representative-people proximity.

5 Metropolitan Governance

The CPR study identifies a number of tasks that have to be performed by an MR government. The following is an abridged and partial list of these tasks.

Delineation

One of the first tasks of MR governance is identifying the MR and its delineation. In the case of Mumbai, the MR's description is given in Schedule I of the Mumbai Metropolitan Region Development Authority (MMRDA) Act. Under Section 2(b) of the Act, the state government has the power, by a notification, to amend the schedule by additions or deletions. However, there is an important proviso in the Act that no such notification shall be issued by the state government unless it has been laid as a draft before each house of the state legislature and been approved by a resolution in both houses. The Mumbai Metropolitan Region as defined in Schedule I of the MMRDA Act of 1974 covers an area of 4,355 sq km. This has remained more or less the same since then.[8] It is an indication of the foresight of the planners and the government that the Mumbai region delineated initially has served various purposes for regulation of development as well as enabling growth.

An analogous provision is found in the Tamil Nadu Town and Country Planning Act.[9] Under Clause 23(a) of Section 2[64], the Chennai metropolitan area has been defined to mean the city of Chennai and such contiguous areas as the government may by notification specify provided that before issuing such a notification "the government shall give any inhabitant or any local authority or institution in such contiguous areas a reasonable opportunity for showing cost against the proposal and shall consider its objections or suggestions, if any". It is now being considered whether the Chennai metropolitan planning area delineated earlier with an area of 1,189 sq km should be enlarged, and two alternatives are being considered. Both have emerged as planning proposals that are expected to be discussed. As for Kolkata, Bangalore, and Hyderabad, the delineation of the MR as well as its subsequent modification were entirely a matter of executive decision. It is also to be noted that Article 243P(c) requires that a metropolitan area should be specified by "a public notification". Courts have held that the natural justice process requires an opportunity for the public to be heard in such cases before a public notification is issued.

Regional Planning

At the metropolitan level, the establishment of a proper planning regime becomes important. In keeping with the current situation where the core city in these MRs discharges basic responsibilities or building controls, and also undertakes some land use planning and zoning within their respective limits, this needs to be suitably amplified and coordinated at the metropolitan level. The metropolitan institutions of governance should have the power to review city-level plans and ensure their conformity with the spatial plan at the regional level. Similar provisions will have to be applied to other non-municipal territorial entities in the MR such as industrial townships or special economic zones (SEZs). The coordination of plan preparation, the enforcement of plans in sub-metropolitan institutions, and their interpretation and adjudication in the event of conflicting plans should be regarded as important metropolitan-level tasks. A moot question is whether a regional plan, master plan, new town plan, or development control plan prepared in accordance with the provisions of town and country planning acts, which also follow a process of eliciting views from the public, should be subject to notifications and approval by state governments. The planning bodies are creatures of state governments and are composed of officials, experts, and some public representatives. The departments of state governments that consider a plan for approval are also creatures of state governments. Whether these should claim a wisdom superior to the MR-level agencies is a question to be considered. The issue here is not one of sovereignty, but the amount of discretion available to the state-level executive and the instrumentalities used in the exercise of that power.

To illustrate, development control regulations (DCR) are usually detailed stipulations through which plan provisions are enforced. In the Mumbai textile mill lands case, the Brihanmumbai Municipal Corporation as the planning authority under the Maharashtra Town and Country Planning Act had prescribed DCRs that were relevant to the utilisation of the land in question. The state government chose to modify those regulations by providing what it called "clarifications" about the meaning of the word "open lands". One view was that all the land of a derelict textile mill should be considered open and redeveloped according to an agreed formula. The other view was that open land should be defined to mean only that part of a mill's land that had not been occupied by buildings of the derelict mill. Eventually, the matter was settled after contentious litigation by civil society groups. While the Bombay High Court favoured a broader definition of open land, which would have enabled a larger extent of land to be kept open for public use, the Supreme Court upheld the power of the state government to provide clarifications, which, in effect, resulted in a significant reduction of that space.[10]

Land Management

The CPR study highlights that land management is a critical metropolitan task. The study also indicates how the administration of land in the vicinity of urban areas has evolved from the colonial and postcolonial period of revenue administration. Now, municipal bodies and development authorities have emerged as "de facto" authorities of land management. Legislative and regulatory attempts such as urban land ceiling acts, whether by their enactment or subsequent abolition in four of the five MRs, changes in the floor area ratios, and transferred development rights have not had any significant impact on land supply or management. Importantly, it is seen that land markets have been fuelled by new investment patterns as

illustrated in the case of the Mumbai textile mill lands. In MRs, land has always been regarded as a source of resource mobilisation. But to be successful, "monetisation" of urban land, to use the currently popular phrase, requires administrative dexterity that moves land from one agency to another and then works out local sharing requirements. Otherwise, even where land is available with the government, utilisation tends to get administratively fragmented. This power should be vested only in an agency working at the MR level.

Coordinating Sectoral Mandates

While in each of the MRs, sectoral agencies (particularly in services such as water and sewerage) exist and have been organised with a supposedly metropolitan mandate, none of them are able to perform the required tasks at the metropolitan level or with metro coverage. In that sense the functional agencies are not truly metropolitan. The issues regarding water supply, solid waste management, and transport amply illustrate this point. In a few cases, trans-municipal cooperation on a voluntary basis between some of the municipal units is emerging, as for instance in the Mumbai region for water supply, and in Kolkata for sewage treatment. The involvement of the private sector continues to be limited. Whatever the mandate, because of preoccupation with execution and maintenance of services at the sub-metropolitan level, the metropolitan authorities are not able to address issues such as access to water resources, overall drainage of the region, solid waste disposal, and the like. These metropolitan-level tasks, as, for example, drainage in the Mumbai MR, are not being performed and have gone by default.

In transport, while traffic management, inter-model coordination, and transit options are receiving increasing attention, metropolitan-level issues emerging from comprehensive mobility plans are yet to be addressed. It is also seen that the unified metropolitan transport authority (UMTA) advocated in the national urban transport policy has taken various shapes. It is a committee in Chennai and Kolkata, an authority in Bangalore, and a statutory component of the Hyderabad Metropolitan Development Authority (HMDA). Overall policy and programme issues like metropolitan-wide connectivity, demand management of private transport, road taxation measures, tariff fixation, and various other measures advocated in the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) are yet to emerge as an actionable agenda. With regard to air and water pollution, all the five regions have taken important steps. While controlling industrial emissions are within the competence of the municipal bodies and the metropolitan authorities, the increase in air pollution is related significantly to vehicular growth. Policies of demand management and regulation to contain private vehicle growth are not on the anvil of the Government of India, and they appear to be beyond the thinking and mandate of metropolitan authorities.

Metro Politics

Every MR comprises multiple entities. At the municipal level, there are corporations, municipalities or municipal councils, and panchayats. In many of the states, the municipalities are also graded as selection grade, special grade, or grades A, B and C.

Whatever the classification, and whatever the size of the population or territory, all municipal bodies, legally and constitutionally, are on a par. Article 243P does refer to a threefold categorisation of a municipal corporation for a larger urban area, a municipal council for a smaller urban area, and a nagar (town) panchayat for an area in transition from rural to urban. However, there is no stipulation on population limits or range for these categories, which is left to the state governments. The 12th Schedule also does not make any distinction between these three categories and in that regard it is not size sensitive. Any of the municipal bodies can be given any or all the tasks under the schedule. Notwithstanding the constitutional stipulation of comprehensive devolution of functions to municipal bodies, numerous parastatal agencies continue to be set up and administered by the state (for example, water boards) or the centre (for example, ports) and most recently also by a combination of the state, the centre and others as may be involved (for example, metro rail corporation). The territorial and functional jurisdiction of these parastatal agencies is not coterminus and may overlap at times.

Importantly, there are numerous territorial entities like industrial areas or SEZs in MRs. For instance, there are as many as 68 SEZs in the five MRs under this study. Industrial area townships also have a long history, as can be seen in the case of the City and Industrial Development Corporation (CIDCO), created in 1970 under the Indian Companies Act to develop the Navi Mumbai New Town. The Tamil Nadu Industrial Development Corporation established in 1965 has a number of industrial townships, including some within the Chennai MR. The Andhra Pradesh Industrial Infrastructure Corporation also has a long history of building and maintaining industrial townships, including those within the Hyderabad MR. These townships have been performing various services that could be regarded as municipal, and in some cases were also authorised to do so under the relevant municipal laws of the state.

The 74th constitutional amendment contains a proviso to Article 243Q under which the state may not constitute a municipality in places specified as an industrial township. The rationale for this proviso and the manner in which it was inserted into the Constitution has been the subject of various papers by scholars. The Administrative Reforms Commission and the Parliament Committee have adversely commented on this loophole provision.[11] Nevertheless many states have taken advantage of this proviso by declaring industrial townships and excluding them from the purview of the municipal domain. In the case of SEZs, in October 2010, the department of commerce (SEZ division) issued guidelines urging state governments to take appropriate steps to declare SEZs as industrial townships under the proviso to Article 243Q.[12] The Delhi-Mumbai Industrial Corridor Project, which includes the development of many new towns alongside, has also taken this approach of exclusion.

6 MPC an Albatross?

The 74th constitutional amendment does acknowledge the emergence of MRs insofar as it envisages the formation of MPCs under Article 234ZE. Under the JNNURM dispensation, all state

governments were compelled to create enabling laws and constitute MPCs. In practice, MPCs have been set up only in two states – Kolkata in West Bengal after a delay of five years, and Mumbai, Pune, and Nagpur in Maharashtra after a delay of 16 years with a single term of reference, which is to prepare a draft development plan for the MR. The Kolkata MPC after initial meetings to consider and endorse a development plan became preoccupied with sectoral and local issues. After elections to the Kolkata Corporation and other municipalities in 2011, the MPC has not been reconstituted. In the case of Mumbai, one meeting was held and smaller group meetings have followed. But these again have been preoccupied with local problems and seeking a voice in the allocation of funds for projects. In the case of Bangalore, Chennai, and Hyderabad, enabling laws were passed, broadly repeating the provisions and language of Article 243ZE, but no MPC was set up. Though the MPC is the only constitutional recognition of a multi-jurisdictional MR, and contains some positive features like spatially integrated planning and infrastructure provision, environmental conservation, and resource mobilisation, it has had no takers.[13] In short, while in theory it is possible to force state governments to create MPCs, in practice, these are bound to fail because the state governments, municipal authorities, and planners see the MPC as an albatross rather than an enabling mechanism. The reasons for this patent lack of enthusiasm for MPCs need to be understood.

There are three aspects that are prominent and crucial in the constitutional provisions regarding the MPC. One is the definition of a metropolitan area in 243P Clause (c), which states that

> a metropolitan area means an area having a population of 10 lakh or more composed in one or more districts and consisting of two or more municipalities or panchayats or other contiguous areas specified by the government of state by 'public notification' to be a metropolitan area.

Thus, for the first time an MR as such has been defined in the paramount law of the land and given a constitutional recognition.

The second positive feature lies in the terms of reference contained in Clause 3 of Article 243ZE. The article enjoins that "in preparing the draft development plan, the Committee shall have regard to:

> (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
> (ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation; and
> (iii) the overall objectives and priorities set by the Government of India and the Government of the State.

The third prominent feature relates to the composition of the MPC. As subsequent experience has shown, this provision has had the unfortunate and unintended effect of inhibiting the very creation of these committees. The predominance given to elected representatives of the municipalities and panchayats to the extent of two-thirds of the committee's strength is in contrast to ground reality. Article 243ZE itself recognises that there are other organisations and entities in an MR that need to be brought into the ambit of the MPC.

The situation might have been partially redeemed but for another anomaly, which is the failure to provide for mayors and municipal chairpersons specifically in the composition of the MPC. Even though the tenure and powers exercised by such mayors and municipal chairpersons vary from one MR to another, they could be expected to take a broader view of municipal, and hopefully metropolitan-level, issues compared to individual councillors. As of now, the members of the MPC have to go through a double dose of election, being elected first to the respective municipalities and then to the MPC. This in turn calls for the formation of electoral segments or groups by the state. It is open to a state government to specify a separate segment of mayors and municipal chairpersons together or again separately, but since all such arrangements are subject to the overall two-thirds ceiling in the total strength of the MPC, the states have stayed away from such cumbersome arrangements.

MPs and MLAs are also a significant part of the political spectrum in an MR (see Table 1 for the proportions of political representatives in MRs).

Table 1: Proportion of MPs, MLAs in Metropolitan Regions

Metropolitan Region	MLA	% of MLAs in the State	MPs	% of MPs of the State	% of State Electorate
Mumbai	59 (288)	20	10 (48)	21	21
Kolkata	59 (294)	20	13(42)	21	20
Chennai	30 (235)	13	6(39)	15	14
Bangalore	36 (224)	16	5 (28)	18	20
Hyderabad	34 (294)	12	7 (42)	17	23

Source: Election Commission of India and state election commissions; Delimitation Commission of India.

Excluding them from the MPC is not feasible because that will once again relegate the metropolitan subject to a mere municipal concern. But within the one-third limitation, it is difficult to provide for a meaningful representation of MPs and MLAs. Similarly, it becomes difficult to provide for the representation of business and industry or civil society groups, and professional bodies who have contributed much to metropolitan growth and development and who can be expected to play a useful role. Taking all these factors together, it appears that notwithstanding the rationale for the MPC as a platform to enable metropolitan planning, there are no takers for this prescription mainly because of the composition prescribed, and this makes state leaders less than enthusiastic in the implementation of this constitutional provision.

In the 20 years since the 74th Constitutional Amendment Act came into effect, the measures for making MPCs effective or the search for alternatives have been marked by hesitancy, apprehension, and avoidance. There are three major approaches that can be discerned in the way different states have dealt with this.

Limiting MPCs

Both in Kolkata and Mumbai, the tendency has been to limit the scope of the MPC's work and formulate an agenda for its meeting more as an exercise in consultation rather than active engagement or endorsement of a metropolitan development plan or agenda. The Vision Plan for Kolkata was endorsed by the MPC, but this plan was couched in general terms and did not pose specific questions or choices for a decision by the MPC. The

Business Development Plan prepared by consultants on behalf of the MMRDA, which presents alternative scenarios of development of the Mumbai region and contains important proposals for transport links, has not been referred to the MPC at all.

Ignoring MPCs

The Chennai approach is less than even reluctant tolerance. After enacting the enabling law to set up an MPC and after queries and consultations between various agencies and departments seeking suggestions about the possible composition of the MPC, it continues to remain an elusive entity. Other developments like state and municipal elections or expansion of the boundaries of the Chennai Corporation area have attracted more attention from state governments. Notwithstanding the constitutional obligation, ignoring the MPC is the response from Chennai.

Bypassing MPCs

Hyderabad has done more than merely ignore the MPC. An enabling law for setting up an MPC was passed as early as 2007, but a new Act for the HMDA was enacted in 2008 for an MR of about 7,000 sq km. The Hyderabad Urban Development Authority set up in 1975 was abolished and other authorities such as for Cyberabad and Shamshabad airport were absorbed within the new HMDA. The Act itself is comprehensive and the authority's mandate is wide-ranging in composition. The HMDA is almost an extension of the state government and its members are state officials and others nominated by the government. A token provision of two members from the MPC in the HMDA is available. The MPC itself has not been set up, but by limiting its mandate strictly to the letter of the Constitution and by not providing any supporting structure or resources for it, the MPC in Hyderabad, even when it is set up, will be marginal. However, the HMDA itself, notwithstanding its comprehensive and powerful mandate in law, has been set up, but cannot be regarded as running. It is saddled financially and organisationally with the Outer Ring Road project entrusted to it as a state government decision. There is also the massive metro rail construction, which is handled by a separate company set up for the purpose and appears prima facie to be outside the purview of the HMDA. But the legal position is that the HMDA occupies a commanding place in the set-up for metropolitan development.

7 Recent Debates on the Way Forward

From time to time, suggestions are made that MRs should become union territories or even new city states. Neither of these approaches appears to be appropriate to MRs in India. A recent exercise on this was undertaken by the Justice Srikrishna Committee in the context of the agitation for a separate Telangana state. The committee made some recommendations such as Hyderabad as a union territory with the two proposed states of Telangana and Andhra sharing the city as a capital and developing their own capitals in due course. Or, Hyderabad could continue in the Rayala-Telangana state as its capital. The third suggestion was for an enlarged Hyderabad metropolis as a separate union territory. No decision has been taken on the committee's report yet. The committee, however, noted the very strong reactions that were likely if Hyderabad was to be hived off from the state and made a union territory. It may be recalled that when the state of Bombay was divided into Maharashtra and Gujarat, Jawaharlal Nehru suggested that Bombay state could be a union territory. This evoked a violent protest in Maharashtra. While Hyderabad continues to be a bone of contention, as far as the other four MRs are concerned, there is no interstate territorial contestation.

If union territories are not feasible options for the MRs, then the creation of city states or city provinces becomes even less feasible in the Indian situation. It is true that some of the MRs are bigger than some of the states in the country. There are at least 10 states whose population is less than the Hyderabad MR, which is the smallest amongst the five regions covered in the study. Apart from demographics, the economic significance of these MRs is also far above that of many states, but these factors by themselves cannot be advanced as arguments for creating separate states out of them. By its very nature, the metropolitan territories and metropolitan economies straddle municipal and administrative boundaries. We can also see that in Delhi, Chandigarh, Bangalore, and Chennai, the MRs cross state boundaries. It will not be feasible to even realistically define the boundaries of a metropolitan province. It will also stir up needless political and social controversies. Given our federal set-up and diverse social conditions, creating city states for MRs are not a feasible alternative. The MRs will therefore have to remain by and large within the respective states. What is required is a distinct entity of governance that partakes and shares some of the functions presently discharged by the state government in a rather hierarchical and exclusionary manner.

The Kasturirangan Committee report has dealt with these issues extensively and proposes that the MPC become a part of an integrated set-up along with the Bangalore Metropolitan Region Development Authority (BMRDA). The report proposes a 63-member MPC with 42 members to be elected and the rest to be nominated. For the elective component, the report suggests three electoral segments – one comprising the councillors of the BBMP, the second, councillors of other corporations and municipalities, and the third of chairpersons of the three or four gram panchayats, 12 taluk panchayats, and three zilla panchayats. As for the 21 members to be nominated, 10 positions are to be provided to MLAs, MLCs, and MPs, and four to represent the manufacturing industry, service industry (including IT), trade and commerce, and real estate industry. Four more are to be individuals with recognised expertise in environmental affairs, education and health, urban planning, and law. The chief minister, the mayor of Bangalore, and the metropolitan commissioner are to be the other members. The report also recommends that the chief minister of Karnataka be the chairman of the MPC and the mayor of the BBMP be its vice chairman. The committee further suggests it is not necessary to include officials of the state government or Government of India agencies, who, depending on the subject under consideration, can be invited for specific meetings and meetings of the subcommittees.

As for functions, the report proposes that the MPC be vested with both planning and coordinating functions and the necessary executive powers be made available both by law and regulation. The BMRDA is to be a part of the MPC set-up and be accountable to it. With regard to spatial planning, the BMRDA is to exercise the powers of the director of town planning and in the matter of conversion of land from agricultural to non-agricultural use, it should have the powers of the revenue authorities under the provisions of the Karnataka Land Reforms Act. The report further envisages that capital investment planning and budgeting for the metropolitan area is absolutely essential and this should be vested in the BMRDA.

The report was submitted in March 2008 when Karnataka was under president's rule. When the elected government took office, a series of meetings were held with MLAs, MLCs, and others. There was a broad consensus on the recommendations of the committee as far as the planning and coordination of MRs was concerned. Later, a Bangalore Metropolitan Region Governance Bill was drafted, which proposed an MPC as a fulfilment of the constitutional requirement and a metropolitan planning board, which would carry out plan preparation, interpretation and enforcement. As of now, the draft Metropolitan Region Governance Bill has not been moved in the assembly. Its shape will become known only after that. In the circumstances, the usefulness of the expert committee report lies mainly in its approach to integrating the MPC and development authority in one set-up, and its recommendations regarding the composition of the MPC as well as the formation of segments required for the elective part.

Many of these issues can be sorted out by executive action and state legislation. When that is done, the existing metropolitan development authorities can function as a very relevant and useful platform on which the proposed metropolitan council as an entity for metropolitan governance can be established. But with regard to both the composition and functional domain of this council, several amendments or new provisions are required in the Constitution. One is increasing the threshold size for a metropolitan council to 20 lakh or 2 million instead of the 10 lakh at present. The territorial jurisdiction of such a council should comprise whole districts and avoid overlaps with district planning committees under Article 243ZD. As for composition, the Constitution could specify the range from 30 to 60, indicating the categorisation of members such as mayors, corporators, panchayat chairpersons, MPs, MLAs, non-municipal territorial entities, representatives of business and industry, civil society organisations, and so on but leave the exact numbers to the state government. The head of the metropolitan council should be an elected person. If the mayors of the constituent cities are themselves directly elected, it can be considered whether one of them could be elected as chairman of the metropolitan council. Given the very large population of an MR, the feasibility of electing the chairman of the metropolitan council by the electorate at large has to be considered. The metropolitan council should be recognised as an extension of the government, but with a distinct set of functions exercised with autonomy. The position of a metropolitan commissioner is crucial in the composition of the metropolitan council. The process of selecting the metropolitan commissioner, and his or her tenure, should be determined by law.

In recent years, autonomous councils for certain regions have been discussed, such as with regard to Bodoland, Gorkhaland, and Telangana, and the concept is received much more positively than before. There is no reason why an MR cannot be regarded as a special administrative region though it will continue to be a part of the existing state.

8 Conclusions

In comparison with international experience, there is hardly any thinking about these issues in India. Yet, as stated before, India's MRs with a large proportion of its urban population will continue to be major engines of the country's economy. It is futile to think that the union-state-municipal framework inherited from British India will give us adequate answers. Thinking out of the box is needed.

Given the problems to do with the composition of MPCs as well as their unclear mandate, setting up these as presently envisaged will not help us much. The experience of the last two decades clearly indicates that it is necessary to revisit the provisions related to MRs in the 74th Constitutional Amendment Act. Such revisiting will entail amendments to the Constitution in the best interests of translating the constitutional objective into reality, rather than unrealistic and mere adherence to its present language. However, constitutional amendments cannot be rushed through and will require long-drawn debates. In the meantime, however, it is necessary to work with extending the provisions of the existing legislations or slightly modifying them. In that regard, both the Kasturirangan Committee report and the Hyderabad Metropolitan Development Authority Act are good starting points.

NOTES

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4 S N Roy (1996), "West Bengal's Industrial Development Policy", *Economic & Political Weekly*, Vol 31, No 18, pp 1094-96.

5 The CPR study indicates the growth of population in Mumbai, Kolkata, Chennai, Bangalore and Hyderabad since 1971, covering both "urban agglomerations" as defined by the census and MRs as identified in the study.

6 Computations by the CPR research team drawing on the Census of 2001 and 2011 and NSS reports.

7 K C Sivaramakrishnan (2008), "A Fear of Change", *Seminar*, No 586, pp 14-19.

8 Maharashtra Act No IV of 1975: The Mumbai Metropolitan Region Development Authority Act, 1974.

9 Tamil Nadu Town and Country Planning Act, 1971.

10 *Bombay Dyeing vs Bombay Environmental Action Group*, AIR 2006, SC 1489.

11 Administrative Reforms Commission (2007), "Local Governance – An Inspiring Journey into the Future", Paras 5.7.5.3 and 5.7.7.4, Government of India, New Delhi.

12 Guidelines for Development of SEZs, dated 27 October 2010 (F No D-1/19/2009-SEZ).

13 K C Sivaramakrishnan (2008-09), "The 73rd and 74th Constitutional Amendments: A Shell without Substance", Indian Advocate.