

Recommendations to Dr Shashi Tharoor on Amendments to the 74th CAA

We are happy to share our recommendations to Dr Shashi Tharoor, Honourable Member of Parliament on amendments to the 74th CAA to empower local governments in our cities. Dr Tharoor introduced a private member bill in Parliament on the 5th of August, 2016. (<http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/1731.pdf>)

The bill seeks to empower Urban Local Bodies by mandating directly elected mayors with a fixed tenure of five years co-terminus with the elected council. The bill also seeks to augment the financial, functional and staffing powers of Mayors, besides strengthening the city council and the municipality. It also stipulates timelines for the devolution of functions as per 12th schedule, formation of ward committees, Metropolitan Planning Committees and District planning committees. It provides for the constitution of Metropolitan Authority headed by directly elected mayor for pan metropolitan governance. The bill also covers provisions to strengthen State Finance Commission.

The table below provides a comparison of the recommendations submitted by Janaagraha with the provisions that have found place in the Private Member Bill as introduced.

Recommendations on Amendments to the 74th CAA

Subject	Our recommendations	Provisions of the bill
1. Empowerment of Mayor (243 R)	<ul style="list-style-type: none"> • MPs, MLAs and non-elected members of the Municipal Council to be excluded from voting rights. • Mayor to be directly elected. • State to delineate relative roles and responsibilities, power of the mayor and the council. • Civic Agencies to report to the Mayor within the jurisdiction of the Municipality / Metropolitan Authority (MA) • Fixed tenure of five years for the Mayor, co-terminus with the term of the ULB. 	<ul style="list-style-type: none"> • MPs, MLAs and non-elected members of the Municipal Council are excluded from voting rights. • Mayor is directly elected. • Powers and functions of the Mayor are stipulated in the bill with a provision for the state to legislate further. Council will exercise powers and perform functions as assigned by the Mayor. • Civic agencies have to report to the Mayor within the jurisdiction of the Municipality / MA • Mayor to hold tenure co-terminus with that of the Municipality
2. Constitution of Metropolitan Planning Committee(MPC) / District Planning Committee (DPC) (243 ZD / ZE)	<ul style="list-style-type: none"> • Fully functional MPC / DPC to be constituted within one year of notification of the Constitutional Amendment Act. 	<ul style="list-style-type: none"> • Fully functional MPC / DPC to be constituted within two years of notification of the Constitutional Amendment Act.
3. Constitution of Ward Committees (243 S)	<ul style="list-style-type: none"> • Ward Committees to be constituted within one year of notification of Constitutional Amendment Act. • Constitution of Ward Committees in every ward by replacing the provision to form 'wards committees'. • Constitution of Ward Committees in territorial constituencies with a population of one lakh instead of three lakhs as mentioned in the act. 	<ul style="list-style-type: none"> • Ward Committees to be constituted within two years of notification of Constitutional Amendment Act. • Bill provides for 'Ward Committees' in every ward replacing the provision to from 'Wards Committees' • Ward Committees has to be constituted in territorial constituencies with a population of one lakh.
4. Functional Devolution to Municipalities (243 W / 12th Schedule)	<ul style="list-style-type: none"> • In addition to the 3 lists in the 7th schedule, a separate 'Local Bodies List' incorporating the 12th schedule functions shall be made, to lend greater meaning to decentralisation. • In Article 243W, substitute " ...the legislature of a state <i>may</i>, by law" with " the legislature of a state <i>shall</i>, by law." • The scope of 12th schedule may be further strengthened by adding the following functions – traffic management and public transport. • 12th schedule with these additional functions to be only illustrative in nature and more such functions 	<ul style="list-style-type: none"> • No provision • "...the legislature of a state <i>shall</i> by law..." • "The bill provides for the following: <ol style="list-style-type: none"> 1. Public transportation including roads, links, tolls and traffic management 2. Promotion of Information Technology, internet connectivity and broadband links" • The state can devolve functions over and above the 12th schedule.

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	<p>could be devolved to urban local bodies by the respective States.</p> <ul style="list-style-type: none"> The functions listed in the 12th schedule which are not yet devolved by the states, to be devolved within five years of the notification of the Constitutional Amendment Act. 	<ul style="list-style-type: none"> The functions listed under the 12th schedule which are not yet devolved by the states are to be devolved within two years of the notification of the Constitutional Amendment Act.
<p>5 Constitution of Metropolitan Authority (MA) and Zonal Committee (new provision)</p>	<ul style="list-style-type: none"> Re-constitute 'Metropolitan Planning Committee' (MPC) from a planning body to a 'Metropolitan Authority' (MA) empowered for inter- agency and inter municipal coordination besides strategic planning, management of metropolitan services and pan metropolitan governance. This would be in addition to all the current roles and responsibilities of the MPC as mentioned in 243 ZE. MA to be formed for metropolitan areas with a population of one million. The territorial jurisdiction of such an MA should comprise whole districts and avoid overlaps with District Planning Committee. Directly elected Mayor for the MA. All powers of the Mayor as proposed to be amended under section 243W in the draft Private Member Bill will be applicable to the Metropolitan Mayor as well, in addition to the power to constitute Zonal Committees Delete the section on MPC as it becomes redundant with the formation of MA MA to be constituted within one year of notification of the Constitutional Amendment Act. For effective decentralisation and management of Metropolitan Areas, Zonal Committees may be formed within the Metropolitan Area by clubbing multiple wards which are contiguous in nature. The criteria for the number and geographical area of such Zonal Committees can be decided by the Mayor with due consideration to population and geography. Two-third of the members of Zonal Committee shall comprise of Ward Committee chairpersons within the respective Zonal Committee. The Ward Committee chairpersons will elect the zonal committee chairperson from amongst them 	<ul style="list-style-type: none"> MA would function as a metropolitan governing unit. But planning function is given to MPC which will perform under MA. MPC is empowered to formulate "any plans". MA has to be formed in metropolitan areas with a population of one million The territorial jurisdiction of such an MA comprise of only whole districts with no overlaps with the DPC. Mayor of the MA is directly elected. All powers of the Mayor are applicable to the Mayor of the Metropolitan Authority in addition to the power to constitute Zonal Committees No provision MA has to be constituted within two years of notification of the Constitutional Amendment Act. Zonal Committees are to be formed within the Metropolitan Area by clubbing multiple wards which are contiguous in nature. The Mayor of MA will determine the area of a Zonal Committee with regard to the population of the area, density of the population and other factors as he may deem fit. Not less than two-thirds of the members of such committee shall be elected of the MA from Wards within Zonal Committee Mayor shall provide for the manner of election of the Chairperson provided that the Chairperson is an elected member of the MA.

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6 Constitution of Area Sabhas <i>(new provision)</i>	<ul style="list-style-type: none"> • Area Sabhas shall be constituted as the smallest unit of governance, consisting of one or more polling booths but not exceeding five with all registered voters at the polling booth as its members (adapted from Model Nagar Raj Bill) • The power to constitute Area Sabhas to be explicitly listed under the powers of the Mayor. 	<ul style="list-style-type: none"> • Area Sabhas are to be constituted consisting of one or more polling booths but not exceeding five with all registered voters at the polling booth as its members • Mayor shall provide for the purpose of the Area Sabha and the manner of election of the Chairperson , provided that the Chairperson is directly elected by the members of an Area Sabha
7 Strengthening the role of State Finance Commission	<ul style="list-style-type: none"> • Amend article 243 Y to ensure that the action taken report on each of the recommendations with reasons thereof by the government is laid before the state legislature within six months of the submission of the SFC recommendations. 	<ul style="list-style-type: none"> • The explanatory memorandum as to the action taken on each recommendation with reasons thereof should be laid within six months from the date of submission of the recommendation of the State Finance Commission
8 Strengthening the role of State Election Commission	<ul style="list-style-type: none"> • Remove Section 243 ZA (2) and replace it with the clause to specify that the responsibility for the conduct of elections shall include all preparatory steps for the same including the electoral roles, delimitation, reservation, rotation and matters connected therewith and the responsibility for the same shall vest with the State Election Commission. • Provisions to be adopted within one year of notification of the Constitutional Amendment Act 	<ul style="list-style-type: none"> • No provision • No provision
9 Profession Tax (276 (2))	<ul style="list-style-type: none"> • Devolve to state legislature, power to legislate on all aspects related to imposition of profession tax, including removal of the ceiling. (276 (2)) 	<ul style="list-style-type: none"> • No provision