URBAN SPRAWL AND DECENTRALISATION

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Cities grow. There is a sense of inevitability about this in all minds. Those who have lived in Bangalore for sometime would affirm that, in the recent past, its spatial growth has rapidly brought in its fold areas that were considered beyond its boundaries as commonly perceived. This has been the case with areas such as Peenya, Nelamangala, Yelahanka, Nagarbavi, Kengeri, Dasarahalli, Whitefield, Bommanahalli, Hebbal, Marathalli, etc.

This physical expansion of Bangalore is obviously one of the most tangible offsets of its rapid pace of "development and growth" and an indication of its national if not global status. With the State's concentrated emphasis on Bangalore's development and promotion as an ideal city (being known as the garden city, pensioner's paradise, etc), came of the influx of professionals along with migration of cheap labour all in search of work. This could not be accommodated within its existing boundaries resulting in the outward movement of its elastic boundary.

During the past many decades, spatial planning of Bangalore has been a very top down process with the Bangalore Development Authority (BDA) being the monopoly in the preparation of comprehensive development plans for Bangalore. The spatial growth and the zonal regulations have all been decided without involving the local bodies which will be directly affected in the event of such planned growth. However, now, it is constitutionally mandatory that such a process be amended suitably to factor in the role of the local self governance authorities not just as spectators but as active participants having powers to affect the planning process.

The 90's; the period which witnessed the period of most rapid spatial growth of Bangalore, also saw the crucial 73rd and 74th amendments to the Constitution according constitutional status to the Panchayats and the Municipals Corporations. The spirits of these amendments were to enforce decentralization and development planning through local governance. However, despite the implementation of these amendments through consequent state legislations, in the context of Bangalore's rapid urbanization, what we are witness to is the further concentration of development planning and de-facto governance (of areas coming under the Panchayat and Municipal Council jurisdiction) with the Urban bodies such as the BDA and para-statal bodies like the Karnataka Industrial Areas Development Board (KIADB). This raises questions regarding the right of the local bodies to be party in the planning of development in the areas under their jurisdiction. What is also brought to fore is the lack of participation of the local bodies and their mandate in development planning in their areas. What is evident is the undermining of the decision-making and participatory powers of the local bodies by the high-level government authorities.

More recently we have witnessed the promotion of Bangalore as the Information Technology (IT) capital of India, India's Singapore, etc. This has resulted in further influx and greater pressure on the existing city to yet again expand and provide all necessary services to the IT companies. To this extent we have seen the setting up of the construction of new roads, ring roads, flyovers, Electronic city, ITPL, etc. The State has also envisaged projects on the peripheral areas such as the Devanahalli International Airport, Arkavathy Layout (BDA), Hi-tech city and link road between Hosur and Sarjapur (BDA), Bangalore Mysore Infrastructure Corridor (BMIC) and the IT Corridor among others. Obviously the physical expansion of the city is inevitable and indeed on the fast track now.

It is obvious that the growth of the city, at all points, has meant the erasure of rural spaces and the associated impacts – social, cultural and economic – on the village communities. More often than not, the result has been devastating on the communities especially the landless laborers, small entrepreneurs and local artisans. It is a matter of fact that the physical expansion of the city – neither whether caused by the State nor by private developers interested in quick profits from housing ventures, resorts, etc – is detached from any concern for the needs and rights of the affected rural communities nor is there any participatory process initiated in either planning or implementation. While this process obviously gives rise to critical questions regarding citizenship and democracy, it also brings to fore the abject neglect of these communities and their fundamental rights.

Therefore, there is a definite need to engage with the above emerging issues and engage with procedures and processes of urban planning and the role of the Bangalore Development Authority, Bangalore Mahanagara Palike (BMP), Karnataka Industrial Areas Development Board, Panchayats, Municipalities, Bangalore Agenda Task Force, Bangalore Metropolitan Region Development Act (BMRDA), and other relevant authorities.

Constitutional and Legal Framework:

Constitutional Framework

The 73rd and 74th Constitutional Amendments Acts were introduced in the early 1990's in a bid to achieve democratic decentralization and provide constitutional endorsement of local self governance authorities. These amendments confer authority on legislatures of States to endow respectively Panchayats and Municipalities with such powers and functions as may be necessary to enable them to act as institutions of self – government. For the purpose, the Panchayats and Municipalities have been charged with the responsibility of preparing and implementing plans for economic development and social justice including those in relation to matters listed in the Eleventh and Twelfth Schedules of the Constitution. The central objective of these amendments is the decentralization of planning and decision making procedures. It also has the implicit intention of removing centralized notions of control and monopoly over development of resources.

The Constitution provides that the legislature of any State may, by law, endow the Panchayats and the Municipalities, with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayat at the appropriate level.

The Panchayats have been entrusted with the implementation of schemes for economic development and social justice including those in relation to the matters listed in the Eleventh schedule. The Municipalities have been entrusted with the implementation of schemes for economic development and social justice including those in relation to the matters listed in the Twelfth schedule. These being, among others,

- Urban Planning and town planning
- Regulation of land-use and construction of buildings
- Planning for social and economic development
- Slum improvement and up gradation
- Provision of urban amenities and facilities such as parks, gardens, playgrounds
- Public amenities including street lighting, parking lots, bus stops and public conveniences.

The Constitution has also provides for the creation of district level planning committees for the preparation of the District Development Plan. The District Planning Committee has been placed with the powers to prepare a draft district development plan to consolidate the plans prepared by the panchayats and municipalities, having regard to matters of common interest including spatial planning, sharing of water and other natural and physical resources, the integrated development of infrastructure and environmental considerations. Further, the district development plans should be prepared to consolidate the plans prepared by the panchayat and municipalities.

For metropolitan areas, the Constitution provides that a metropolitan Planning Committee shall be elected by and from amongst the elected members of the municipalities and chairpersons of the panchayats within the metropolitan area in proportion to the ratio between the population of the municipalities and panchayats in the metropolitan areas having the same mandate as mentioned above for the district planning committee.

Article 243N and Article 243ZF provides that, any provision of any law relating to Panchayats and Municipalities respectively, in force at the time of the of the amendments, which are inconsistent with the provisions of this amendment, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until one year from such commencement, whichever is earlier.

Legal Framework:

Local Government

Karnataka Panchayati Raj Act, 1993

Section 58 (1) of the Act offers that the Gram Panchayat shall perform the various functions, including,

- Preparation annual plans for the development of the Panchayat area
- Preparation of annual budget
- Promotion and development of agriculture and horticulture
- Development and maintenance of grazing lands and preventing their unauthorized alienation and use
- Promotion of rural and cottage industries
- Distribution of house sites within Gramthana limits

According to Section 309 of the Karnataka Panchayati Raj Act, 1993, the Gram panchayat, Taluk panchayat and Zilla panchayat are empowered to prepare yearly development plans. The Zilla panchayat would forward the development plan for the district to the District Planning Committee. Section 310 provides for the constitution of the District Planning Committee.

Karnataka Municipal Corporations Act, 1976

Post the 74th amendment the government of Karnataka introduced amendments to the above mentioned Act inserting Section 503A and 503B. While Section 503B provides for the constitution of Metropolitan Planning Committee for metropolitan areas, Section 503A provides for the preparation of the development plan every year by every corporation and forwarding of the same to the Metropolitan Planning Committee or the District Planning Committee as the case may be.

Karnataka Municipalities Act, 1964

Through similar amendments to the Karnataka Municipalities Act, 1964 Section 302A has been inserted in the Act that provides for the preparation of yearly development plans by every Municipal Council to be submitted to the Metropolitan Planning Committee or the District Planning Committee as the case may be.

The municipalities have been entrusted with the powers and responsibilities in most matters relating to entries 2 to 18 in the Twelfth schedule except in relation to the first entry "urban planning including town planning".

Planning

Karnataka Town and Country Planning Act, 1961

Urban planning in Bangalore is largely governed by the Karnataka Town and Country Planning Act, 1961. The Karnataka Town and Country Planning Act aims to provide for the regulation of land use development and for the making and execution of town planning schemes in the State of Karnataka. In order to insure that town-planning schemes are made in a proper manner and their execution is made effective, the Act provides for declaration of "local planning areas" and a "local authority" to prepare a development plan for the entire local planning area falling within its jurisdiction. The Bangalore Development Authority is the Planning Authority for the local planning area comprising the city of Bangalore. Every Planning Authority is a body corporate having perpetual succession on a common seal having power to acquire hold and dispose property, enter into contracts and sue and be sued in its own name.

The extent of the Local Planning Area of Bangalore comprises the Bangalore city and the surrounding Towns and Villages as listed in Notification No. HDP 496 TTP 83(1) dated 06-04-1984.

The Karnataka Town and Country Planning Act mandates every Planning Authority to prepare an Outline Development Plan and a Comprehensive Development Plan for the area falling under its jurisdiction. The Outline Development Plan generally indicates the manner in which the Development and Improvement of the entire Planning Area is to be carried out and regulated. Every land use and change in land in the development of the Planning Area is to thereafter conform to the Outline Development Plan. Any change in the local use can be made only with written premises of the Planning Authority.

With in a period of three years from the date of the Publication of Outline Development Plan, the Planning Authority prepares a Comprehensive Development Plan. The Comprehensive Development Plan consists of a series of Maps and Documents which indicate the manner in which the Development and Improvement of the entire Planning Area is to be carried out and regulated.

Once the Comprehensive Development Plan and the report are finally approved, they are published by the Planning Authority. On publication, the Comprehensive Development Plan supersedes the Outline Development Plan. The Comprehensive Development Plan is to be revised at least once in ten years after coming in to force. The Karnataka Government under GO No. HUD 139 MNJ 94 dated 5thJanuary, 1995 has passed the zoning of land use and regulations.

Statutory Authorities / Corporations

Bangalore Development Authority Act, 1976

Just as the Planning Authority, the Bangalore Development Authority (which is the Planning Authority for the Bangalore Metropolitan Area) is also a body corporate having perpetual succession on a common seal with power to acquire hold and dispose property, enter into contracts and sue and be sued in its own name.

The objects of the Bangalore Development Authority are to promote and secure the Development of the Bangalore Metropolitan Area comprising the city of Bangalore and other areas adjacent to it as the Government may notify. For the purpose of development of the Bangalore Metropolitan Area, the BDA has the power to acquire, hold, manage and dispose of movable and immovable property, to carryout building, engineering and other operations and generally to do all things necessary or expedient for the purpose of Development.

The Bangalore Development Authority has the authority to draw up detailed development schemes. The Bangalore Development Authority is also empowered to levy a tax on lands or buildings or both situated within its jurisdiction at the same rate at which the Corporation levies taxes within its jurisdiction.

The Bangalore Development Authority came into existence in 1976 as a successor to the erstwhile City Improvement Trust Board (CITB).

In the 1960s and 1970s, the erstwhile City Improvement Trust Board (CITB) created several new planned layouts including the Jayanagar layout, etc. The CITB distributed about 64,656 sites between 1945 and 1976, and the BDA distributed about 63,062 sites between 1976 and 1988, and a total of 71, 483 by 1991. According to official sources, the BDA, since its inception, it has allotted about 107389 sites. The year-wise break-up is:

YearSites allotted**Year**Sites allotted**1976-77**12,270**1990-91**-**1977-78**10,764**1991-92**-**1978-79**4,050**1992-93**625**1979-80**450**1993-94**625**1981-82**-**1994-95**625**1982-83**703**1995-96**1,521**1983-84**2,000**1996-97**-**1984-85**1,403**1997-98**-**1985-86**5,836**1998-99**1,581**1986-87**1,834**1999-2000**1,350**1987-88**2,612**2000-01**8,000**1988-89**1,6485**2001-02**15,000**1989-90**4,655**2002-03**15,000

The Karnataka Housing Board built 5506 houses in Yelahanka, and 15,000 on the outskirts. The Karnataka Slum Clearance Board built a mere 2125 houses until 1989. The delivery on the part of the BDA kept on waning until the late 1980s coming to a near standstill between 1991 and 1999. In fact about 40,000 plots have been developed by the BDA since 1991; however 80% of the plots have been produced in the last 3 years. Though there is no official data on the number of allotted plots that lie vacant a conservative estimate would be about 15% including quite a large percentage of the plots that have been allotted in the past year or so lie vacant as well.

Overall one sees quite a limited role of the BDA in providing housing access since its inception and that it was not really relevant as a land development agency from 1991 until the year 1999. Coinciding with the diminishing housing delivery performance of the BDA has been the emergence of the “revenue layout” type of land settlement. This evolution of such an informal settlement pattern can be directly attributable to the fact that the low-income groups could not afford housing plots at the prevailing rates and the totally inadequate supply of legal and affordable land sites.

It was also during this period that the twin processes of globalization and urbanization brought large-scale migration of predominantly poor and led to the spatial growth of the

city. Left with no option people made their own arrangements, settling in slums or revenue layouts, depending upon their financial capability.

The contribution of the public sector to housing stock has been minimal - estimates range from 1% (Mengers) to 3% (GHK International, *et al*., 1997: 11). The formal private sector only fares marginally better with a contribution of nine percentage points (GHK International, *et al*., 1997: 11).

Formal housing delivery mechanism, including public agencies, private sector and cooperatives, have been highly deficient in providing housing solutions to the people in Bangalore. The housing interventions by public agencies, Bangalore Development Authority (BDA), Karnataka Housing Board (KHB) and Bangalore Mahanagar Palike (BMP), have been in the form of developed sites and built up units. These account for 12.0 per cent of the dwellings of the sample households. The interventions by the other actors in the formal sector, private builders/developers, cooperative housing societies and employers, have also been limited and account for 10.6 per cent of the housing units.

This is not a very startling revelation. Studies across the world have found that the "official" government agencies have indeed been rather limited in bridging the gap between housing needs and supply. What follows from this argument then is that a majority of the people living in and on the fringes of cities, already access and still are, accessing housing settlements being established supposedly outside the purview of the dominant understanding of law. If one is to consider land tenure, infrastructure requirements and building standards, it is found that more than 40 – 70 per cent of the populations of major cities are living in illegal conditions.

The Bangalore Development Authority came into existence in 1976 as a successor to the erstwhile City Improvement Trust Board. According to the official web site of the BDA, since its inception, it has allotted 76,000 sites. In the 1960s and 1970s, the erstwhile City Improvement Trust Board (CITB) created several new planned layouts including the Jayanagar layout, etc. However, the delivery on the part of the BDA kept on waning until the late 1980s coming to a near standstill between 1991 and 1999. In fact about 40,000 plots have been developed by the BDA since 1991; however 80% of the plots have been produced in the last 3 years.

Presently the BDA has just completed development of the Anjanapura layout and the Visheswaraiah layout and is in the process of acquiring 3300 acres of land in 16 villages in Byatarayanpura Municipal Corporation for the formation of the Arkavathy layout. It has further notified the acquisition of 1522 acres for the formation of Hi-Tech City and road between Sarjapur Road and Hosur Road. The notified lands fall under the jurisdiction of about 12 villages.

Karnataka Industrial Areas Development Act, 1966

The Karnataka Industrial Areas development Board (KIADB) was set up under the Karnataka Industrial Areas Development Act (KIAD ACT) of 1966 for the speedy development of Industry in Karnataka by acquiring land and forming industrial areas complete with all infrastructure facilities like roads, water, power, communication etc.

KIADB acquires land and forms Industrial Areas with all infrastructure facilities including roads, water and power. The Board also acquires land in favor of Single Unit Complexes and public sector organizations. Since its inception, the KIADB has acquired nearly 57,000 acres of land all over Karnataka. It has developed 93 industrial areas over approximately

27,500 acres, while the remaining land has been given to single unit complexes. Details of Industrial Areas 31.01.2003:

Area AcquiredArea DevelopedAllottedVacant area AreaUnits29112.7627547.2516062.1894446826.49

In Bangalore the KIADB has acquired about 8493 acres of which it has developed about 8314 acres for the formation of 19 industrial areas. Of this about 6016 acres has been allotted to 2684 industrial units.

Presently the KIADB is involved in the formation of Electronic City Phase III (113 acres), Export Oriented Industrial Zone (EOIZ)/EPIP I and II Phase (540 acres), Devanahalli International Airport (about 4276 acres) and IT Corridor (overall 18,290 acres though till now about 700 acres have been notified). There is also information that the KIADB is proposing a self-contained residential township near Electronic City over 750 acres of land.

Bangalore Metropolitan Region Development Act

As the State Government felt that there is no proper coordination among the local bodies likes the Bangalore Development Authority, the Bangalore Water Supply and Sewerage Board, the Karnataka Electricity Board, and the Corporation etc. within the Bangalore Metropolitan Area. It decided to set up the Bangalore Metropolitan Region Development Authority under a separate legislation. The Bangalore Metropolitan Region Development Authority is set up for the purpose of Planning, coordinating and supervising the proper and orderly development of the area falling within the Bangalore Metropolitan Region.

Consequent of the setting up of the Bangalore Metropolitan Region Development Authority all development within the Bangalore Metropolitan Region is to be carried out only with the expresses permission of the Bangalore Metropolitan Region Development Authority. Further, even the local authorities empowered to grand permission for any development within the Bangalore Metropolitan Region can do so only after the Bangalore Metropolitan Region Development Authority grants permission for such developments. The Bangalore Metropolitan Region Development Authority is also empowered to carry out Development plans and schemes formulated by it and further, is also empowered to issue directions to the Bangalore City Corporation, the Bangalore Development Authority, the Bangalore Water Supply and Sewerage Board, the Karnataka Electricity Board and the other bodies connected with the development activities within the Bangalore Metropolitan Region.

Land Law

Land Acquisition Act, 1894

The LAA was primarily used by the state to acquire land for large development projects such as dams, mills etc. The ability of the state to acquire land for such projects arose from the doctrine of “Eminent Domain”. The only restriction placed upon the acquisition process was that the project for which the land was being acquired should have been for some “public purpose”.

The Land Acquisition Act (LAA), 1894 was brought into being for the purpose of compulsorily acquiring land as and when required for public purposes. The laws for acquisition were brought in the Colonial times for various purposes and adopted by the republic of India on gaining its independence. Post Independence, the history of the LAA is intrinsically tied to the development paradigm fashioned by the dominant ideologies in India. The LAA was primarily used by the state to acquire land for large development projects such as irrigations and hydro-electric projects such as large dams, highways,

nuclear plants, mines, industrial estates, etc.

Key Principles:

Eminent Domain:

The ability of the state to acquire land for such projects arose from the doctrine of "Eminent Domain". The only restriction placed upon the acquisition process was that the project for which the land was being acquired should have been for some "public purpose". Under the doctrine of *Eminent domain* every state reserves the authority to appropriate or confiscate or deprive the owner of the lands situate within the limits of its jurisdiction for purposes of public utility. In India, appropriation must be for public utility or public purpose. The doctrine inherited from colonial legislations was adapted to the needs of the modern developmentalist state.

Public necessity:

Public necessity is seen to be the cornerstone and is the paramount law as public necessity is greater than that of private interest, which may therefore be justly subordinated. Thus the basic principles that would be the rationale behind the Land Acquisition Act are:

Solus populi est supreme
Necessitas publica major est quam privata, i.e., public necessity is greater than private necessity.

Compensation:

It is defined as the full value to be paid for property taken by the government for public purposes as guaranteed by the Fifth Amendment to the US Constitution, which states "nor shall private property be taken for public use without just compensation."

As per the principles of land acquisition, the state indeed has power to take away the property of an individual; however the standing principle therein is that the individual has to be compensated appropriately. Essentially, the land is valued and the compensation is given in tandem with this valuation. The problem of valuation is the determination of the present market value in relation to lands and buildings. Market value is said to be the price at which a property can be expected to sell as between a willing vendor and a willing purchaser both of whom are fully informed regarding the property in question, who are neither forced to buy nor sell and who are free to deal elsewhere if they choose.

Public Purpose:

A law made for the purpose of securing an aim declared in the Constitution to be a matter of the Directive Principles of State Policy is for a public purpose. If, therefore, the acquisition of property sought to be effected by the impugned Act is for the purpose of implementing one or more of the Directive Principles of State Policy it will be for a public purpose within the meaning of the Constitution of India, and it will be unnecessary to consider whether for other purposes it comes within the meaning which the law has given to that expression. A certificate of "existence of public purpose" by the government is not required if the property is acquired under some Special Act which does not provide for such certificate directly or by implication.

Public purpose is not defined in the Constitution of India. The definition of public purpose under sec 3(f) of the Act is an inclusive one, and does not define it exclusively.

The question that often arises in one's mind is that whether public purpose should be defined or not; not defining 'public purpose' would lead to the serious abuse of this provision – in the name of public purpose.

In *Somavanti v. State of Punjab, it held "Now whether in a particular case the purpose for which land is needed is a public purpose or not is for the state government to be satisfied about… subject to one exception. The exception is that if there is a colourable exercise of power the declaration will be open to challenge at the instance of the aggrieved party."*

In the above case the Supreme Court observed that it would be an impractical proposition even to attempt a serious and comprehensive definition of public purpose, which is bound to change with the times and prevailing conditions in society.

This gives rise to a fundamental question as to whether the doctrine of public purpose is one that can be challenged and if it is not so, then whether it should be challengeable. Sec 6(3) of the Act, as explained by the Supreme Court in the above case, completely bars judicial review of public purpose of an acquisition under the Act, save one condition, i.e., if there is a colourable exercise of power. The court held that neither the meaning nor the existence of public purpose could be questioned. It was also held that the finding under sec 6(3) by the government is conclusive that the land is being acquired for public purpose. These principles were also upheld in the cases of *Ratilal Shankar Bhai and others v. State of Gujarat and others and Jage Ram and another v. State of Harayana*.

Now the second part of the question, should the doctrine of 'public purpose' be made questionable. It must be noted that the doctrine of 'public purpose' is justiciable in any post-constitutional act; however the LAA being a pre-constitutional law, it is protected from challenge. There is little justification for continuing with the provision under sec 6(3) of the LAA, which makes the government the sole judge to decide whether the purpose of acquisition is a public purpose or not. Prima facie, the government can only be presumed to be good judge to decide whether the purpose of acquisition was in the general interest of the community. But to make the government an absolute judge, is to deny the person whose property is acquired the right of insisting upon an objective proof of the existence of a public purpose.

Where the entire compensation to the land owner is to be paid by the company for which the land is being acquired and no part of the compensation is to come out of the public revenues or some fund controlled or managed by a local authority, the notifications issued by the government declaring that the land is needed for a public purpose, is to be held invalid in the view of sec. 6(1) of the Act. In the case of *Kishori Lal v. State of Punjab,it was held that not even pretence of declaration had been made under sec. 6(3) that the land is being acquired for a public purpose at a public expense. It was also held that the government has no power to issue notification of public purpose if a company wholly pays the compensation. However, it has been held that if part of money, even if insignificant, is paid by the government, then it will be said to be in public purpose, even if the balance is paid by a private organization.*

In the case of *Sri Ramtanu Co-operative Housing Society Ltd. v. State of Maharashtra, it has been held that acquisition of land for industrial area development is public purpose.*

Within an urban context it is used by the authorities for the establishment of civic structures and housing purposes mainly. In Bangalore the LAA (along with the Karnataka Industrial Areas Development Act – KIADA) has been used by the state for similar purposes, however, with increasing global connections there has been a focused promotion of large mega urban development projects. This includes the IT corridor, the Bangalore Mysore

Infrastructure Corridor (BMIC), the Golf Course, the Software Technology Park, the International Airport, and also several infrastructure projects like the ELRTS, various flyovers.

However, the increased activity of the BDA has seen the resurgence of the LAA usage within and on the fringes of Bangalore. Within the last few months it has used the Act to notify 3340 acres of land in 16 villages for the formation of the Arkavathy Layout and another 1522 acres in 12 villages for the formation of a Hi-Tech City and road between Hosur Road (Electronic City) and Sarjapur road.

Karnataka Land Revenue Act, 1964

The main purpose of the Act is to create a comprehensive/ consolidated law on land and land revenue administration in Karnataka.

Provisions under the Act cover the following areas broadly the powers and functions of revenue officers- divisional commissioners, deputy commissioners, tahsildars etc., the procedures to be followed by revenue officers- in enquiring into cases (quasi judicial authority), functioning of the Revenue Appellate Tribunal, use of land for public purposes, conversion of land from agricultural land to use for other purposes, collection of land revenue, revenue survey, grants of land, Etc

More specific provisions of the Act deal with the notifications regarding the creation of the Green Belt avoid the haphazard growth of village limits and the conversion of agricultural land for purposes other than agriculture. However, section 95 (3B) clearly states that no permission for conversion of agricultural lands lying the Green Belt Area should be given for any other purpose.

Core Problem:

The conflict that appears to emerge is between the bodies of local self – governance and the statutory authorities, and it revolves around the core issue relating to control over land and it's planning.

The Constitution has clearly laid down the norms and procedures for facilitating the decentralization of policy and decision making and the shift to local self – governance bodies on various levels. These are in regard to the powers, functions and responsibilities that need to be devolved to increase the capacity of the bodies of self-governance. Within this lies the process of bolstering of capacities of the local self bodies to plan the annual development of their regions.

At another level it was imperative that the State analyzed the existing laws and legislations and brought in the necessary amendments to make these laws in consonance with the constitutional amendments.

One would imagine that such clear directives in the Constitution provide an unambiguous account on the intentions, procedure and scope of devolution of powers to the local governance bodies. However, despite this the State governments have played truant in the application of these decentralization processes on the most important fronts. The incomplete devolution of powers has resulted in a rather murky situation where there is much ambiguity regarding the mandate of the constitutionally endorsed panchayats, municipalities and district / metropolitan planning committees. Resultantly, on the planning front it is seen that the State is still pursuing the policy of envisaging and implementing projects in a centralized

manner with no participation of the local bodies of self-governance. These projects include the International Airport, Arkavathy Layout (BDA), Bangalore – Mysore Infrastructure Corridor (BMIC), IT Corridor, etc. All this, while the local bodies are even denied the power to sanction simple housing projects or introduce any other developmental projects.

This is a direct result of the apparent failure on the part of the government of withholding devolution the control over revenue land and its usage.

Further, the introduction of the 73rd and 74th amendments bestowed certain powers on the local governance bodies that were hitherto held by other para-statal authorities. This sets the context for the conflicts arising out of overlapping provisions in different Acts and their statutory agencies, with specific regard to revenue land control, regulation, usage, management and collection of revenue. i.e. at the level of the authorities, a direct conflict between the Panchayats / Municipalities and various authorities such as the BDA, KIADB, BMRDA, Revenue Department, etc, and at another level, the conflicts and contradictions in overlapping provisions of the Constitution and various Acts such as the Karnataka Panchayati Raj Act, Karnataka Municipal Corporations Act, Karnataka Municipalities Act, Land Acquisition Act, Karnataka Industrial Areas Development Act, Karnataka Land Revenue Act, Bangalore Metropolitan Regional Development Authority Act, BDA Act, Karnataka Town and Country Planning Act, etc.

As seen from above there is a direct conflict over the authority placed with the necessary legal sanction to plan for areas that fall in the jurisdiction of the Panchayats and Municipalities. There are various situations of conflict that emerge ranging from the conflict between authorities placed with similar mandates such as the BDA and the City Municipal Councils, to conflicts between the authorities such as the KIADB and the Panchayats / City Municipal Councils regarding their mandate itself.

This throws up several rather critical issues pertaining to the mandate, powers and functions of these committees besides the crucial question as to who should prepare the development plan of a Metropolitan area like Bangalore.

- ♦Do the panchayats and the municipalities have the powers to evolve development plans affecting revenue land-use change in their jurisdiction or not?
- ♦Should the Metropolitan Planning Committee have its own planning department or should the Town Planning directorate help the Metropolitan Planning Committee?
- ♦What should be the relationship between the various statutory organizations such as the Karnataka Industrial Areas Development Board, Bangalore Development Authority, etc and the Metropolitan Planning Committee?
- ♦Are the development plans initiated by the BDA / KIADB in the areas coming under the jurisdiction of the Panchayats / Municipalities unconstitutional and infringing on the jurisdiction rights of these local self-governance bodies?
- ♦What are the powers of these organizations in areas that fall within the jurisdiction of the Metropolitan Planning Committee, that is, the panchayats and the municipal councils?
- ♦Has the existence of the Bangalore Metropolitan Regional Development Authority (BMRDA) that was constituted for preparation of Regional Development Plans become unnecessary after the constitution of the Metropolitan Planning Committee?
- ♦Same goes for the Bangalore Development Authority and other such authorities.

These issues have to be resolved immediately conscious of the constitutional necessity to

maintain the autonomy of the local bodies and their powers in decision making. Therefore, the conceptual issues that emerge for being resolved are:

1. Constitutional status of local government.
2. Relationship between local / state / central government.
3. Local government as a democratic institution of self government.

These issues have been raised from time to time and the state government is very evident of the same. To quote from the report of the Committee on Urban Management of Bangalore City; "The Constitutional Amendment envisages that the municipalities may be endowed with "such powers and authority as may be necessary to enable them to function as institutions of self-Government and such law may contain provision for devolution of powers and responsibilities upon Municipalities." The Constitution has empowered the State Legislature to determine the functions, resources and structure of the municipal bodies. It must be pointed out that the conforming legislation in Karnataka, as elsewhere, has remained largely incomplete…As a result the objective of decentralization envisaged in the Constitutional Amendment are yet to be fulfilled."

The report on "Urbanisation Policy, Amendments to the Town & Country Planning Act, Town Planning Manual and Urban Development Authorities" by the Expert Committee constituted by the Government of Karnataka has submitted to the government explicit recommendations to comply with the 73rd and 74th Constitutional Amendments. The gist of the report suggests that:

- The devolution of powers envisaged by the amendments has not been fulfilled.
- Therefore it has expressly recommended that the performance of functions and implementation of schemes in relation to "urban planning including town planning" (first item in the Twelfth Schedule of the Constitution) should be entrusted to the Corporations, Municipal Councils and Town Panchayats.
- It has also recommended that the Corporations, Municipal Councils and Town Panchayats should function as Planning Authorities.
- To enable the above functions of the Corporations, Municipal Councils and Town Panchayats, it has further recommended amendments to the Karnataka Town and Country Planning Act, Karnataka Urban Development Authorities Act, Bangalore Development Authority Act, Karnataka Housing Board Act among others.

It is obvious that the act of planning necessarily needs to undergo fundamental changes along with revision of the powers and functions of authorities such as the BDA among others. However, despite this knowledge of incomplete fulfillment of the 73rd and 74th Constitutional Amendments and available recommendations to overcome them, there has been no move to factor these into the present endeavor of preparing the plans for Bangalore.