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STATEHOOD OR AUTONOMY:
**Rethinking Governance
in India's Capital**

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ABSTRACT

Delhi, India's national capital, has long been the subject of a quandary: Should it be granted full statehood, or maximum autonomy commensurate with its megalopolis status? This paper takes a tour of select national capitals to understand how other nations have arranged their governance and handled competing jurisdictions and functions. Lessons are drawn from this examination of other capitals, and recommendations are put forth towards a more sensible approach to the governance of Delhi, which has grown manifold not only in population but in its complexities, since its establishment in 1911.

INTRODUCTION

Ever since the Aam Aadmi Party (AAP) won a landslide in Delhi's assembly elections in early 2015, India's national capital has been witnessing a raucous debate on the issue of statehood. Delhi's Chief Minister (CM) and the Centre's appointee Lieutenant Governor (LG) have on various occasions confronted each other over their respective constitutional status and administrative jurisdictions, often leading to administrative deadlock and disruption of governance in the national capital. While fault may be found in the AAP's manner of taking up the statehood issue—locking up officials, throwing tantrums at the Centre, making wild accusations—the insurgent party's demand for greater functional spaces and autonomy on a range of issues has found many believers. With the exception of Washington DC in the US, there is probably no other capital city in the world that has as limited autonomy as the National Capital Territory of Delhi (NCT).

WHO GOVERNS DELHI?

The political and administrative structure of India's national capital can be fairly described as a puzzle. To lay people, Delhi would appear like a normal Indian state, with a legislative assembly and a chief minister. In reality, however, Delhi is neither a state nor even a quasi-state; rather, it is a Union Territory (UT), with a legislature. The 69th Amendment to the Constitution (1991) makes it clear that while the elected government in Delhi enjoys the powers and privileges offered to all other states in India, these are qualifying in nature. While Article 239AA empowers Delhi's elected government to legislate on all subjects included in the State List of Schedule VII, reserve subjects such as public order, police and land, are out of its purview. Further, given its national capital status, the parliament under article 239AA (3) (b) enjoys free hand to legislate on any subject impacting Delhi's governance.

The most serious limitation, however, is that by falling under the category of a union territory, the elected government has to share powers with the Lieutenant Governor (LG),¹ a central government appointee who is designated as 'Administrator'.² Unlike a Governor of a state, the seat of LG is the *real* power centre. For instance, Article 239AA (4) clearly tilts the balance of power in favour of the LG. It reads: "In the case of difference of opinion between the LG and his ministers on any matter, the LG shall refer it to the President of India for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the LG in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary".³ Thus, in every sense, the LG's office acts as a rival power centre in the national capital.

The administrative autonomy of Delhi's elected government is further diluted by the complex and often overlapping politico-administrative setup of the national capital. For a territory of 1,453 square kilometres, Delhi has a mammoth 100 urban bodies, local agencies, boards and central authorities to deliver a variety of services.⁴ Delhi's citizenry is all too familiar with acronyms like DDA, MCD, NDMC, CPWD, and an endless list of institutions that often compete for turf. In other words, there is probably no other national capital region in the world whose complexity and overlapping institutional arrangements can rival those of India's national capital region.

EFFECTS ON DAY-TO-DAY GOVERNANCE

The existing political and administrative arrangements impact the functioning of elected government in a variety of ways. For instance, on crucial matters of policing and law and order, the Union Home Ministry acts as the nodal agency for Delhi. The Police Commissioner of Delhi therefore needs to report not to the CM, but to the Lieutenant Governor. For all practical purposes, the chief minister of Delhi has no power over policing, not even a 'consultative' one. Thus a lack of any decisive say on policing critically constrains the elected government's ability to deliver on public safety, law and order, and most importantly, on persecuting officials involved in corruption.⁵ The ongoing controversy over the appointment of the head of the Anti-Corruption Bureau (ACB) very well sums up the limitations facing Delhi's elected government.⁶

Such constitutional and administrative power-sharing arrangements have a far more constraining effect on other vital functions of an elected government. One finds most visible impact with regard to land. There is hardly any doubt that many crucial aspects of city governance—from housing, urban planning to city expansion—is linked to land. In Delhi, it is the Delhi Development Authority (DDA) that carries out nearly all land-related functions including land use, regularisation of unauthorised colonies, and conversion into freehold.⁷ The DDA is an entity that reports to the ministry of Urban Development. Although the LG is the chairman of DDA, this is of no great consequence to the government of NCT as even in the simplest of matters—such as approval to set up a school or even toilets—the Delhi government has to consult the DDA, LG and Ministry of Urban Development for their approval. The Delhi government also has to buy or lease land from DDA. Similarly, Delhi's elected government has little role, if at all, in the preparation and finalisation of the Master Plan.⁸

Another major provision that comes in the way of the elected government is the Transaction of Business Rules (1993). These rules, laid down by the President (read: Home Ministry) under Section 44 of the GNCTD Act, and pertaining to the functioning of bureaucrats and ministers, are heavily biased in favour of the LG.⁹ Further, given the vagueness of the Rules,¹⁰ the Home Ministry can liberally interpret and reframe these, as witnessed when the Home Minister decided to appoint a temporary chief secretary.

Yet the most serious challenge for the Delhi government emerges from the overlapping jurisdictions and multiplicity of authorities often competing for the same function. As mentioned earlier, the national capital has five local bodies, namely, three Municipal Corporations of Delhi (MCD), the New Delhi Municipal Corporation, and the Delhi Cantonment Board, all of which are under the control of the Union Government.¹¹ An example of these overlapping jurisdictions is that both the Delhi government and MCDs run schools and dispensaries, and disburse social security schemes to the citizens of Delhi.¹² While the Union government squeezes from the top, a wide array of local governments curtails it from the bottom. Such chaos is further aggravated by the presence of several dozen central agencies and constitutional entities competing for similar functions.¹³ Small wonder then, that the task, for instance, of managing street lights is overseen by some 17 agencies, and that hospitals are run by 12 different entities.¹⁴ In effect, Delhi's elected government is reduced to a virtual coordinator for a handful of service delivery functions.

The questions, then: With such limited mandate, do we need a government at the second tier at all? Is the national capital's present political-administrative structure in tune with the realities of Delhi? The fact is that the national capital has undergone a huge transformation since the 1950s when it was first conceptualised as a Union Territory. Demographically speaking, the city of sleepy villages and non-descript colonies has transformed itself into a vibrant metropolis with a population of over 17 million, bigger than that of many Indian states (11th by population size). It is in this context that the question is asked why an elected government representing a massive population does not have any say in law and order and land management. It is equally puzzling how an elected government has no power over its cadre of officials. Thus there is a need to revisit the existing governance setup in the national capital in the light of massive transformations in India's largest megalopolis.

GOVERNING NATIONAL CAPITALS: GLOBAL EXAMPLES

Delhi may be a complicated case (considering the presence of wider governance forms and a host of parastatal agencies), but not an exception among the national capitals across the world. Almost all national capitals have

to live with competing jurisdictions and complex politico-administrative arrangements, often leading to open hostilities and deadlocks between different governance actors. Further, national capitals house government buildings for which the national government is responsible. They have to deliver a range of services including protecting central government facilities and foreign missions, while requiring to deliver local services and engage in local political activity at the same time.¹⁵ Turf wars between different levels of government are only natural in capital cities.¹⁶ How do other capital cities perform such intricate functions? What are the dominant political and institutional architecture governing most capital cities? Given, there is a strong political consciousness for local government and citizen's preference for participative government (which is difficult through central institutions), what would be a desirable institutional arrangement for India's national capital which has grown manifold since its establishment in 1911?

The following sections take a tour of select national capitals to understand how and in what ways other nations have arranged the governance of their national capitals and how these countries have been handling competing jurisdictions and governance functions with specific implications. While the selection of capital cities may not be representative, the authors have made such choices from the points of governance complexities, size (relatively bigger) and mostly from federal countries (with the exception of London, UK) to determine if they can be compared and contrasted on various parameters. In the end, the objective is to draw some lessons for NCT.

Washington D.C., USA

One of the most debated national capital models is that of the District of Columbia, or 'DC Model' as it is popularly known across the world capitals. After a round of debates and careful calibration over several years, the American founders chose D.C. as the national capital in 1790.¹⁷ Among most national capitals, D.C. probably has the most straightforward (two-tier) political and administrative distribution of powers among various constituent units.

According to Article I, Section 8, Clause 17 of the U.S. Constitution, the Congress has full legislative control of D.C. The Home Rule Act (1973),

meanwhile, provides for a democratically elected Mayor. The residents currently elect the Mayor, the city council, some school boards, and neighbourhood commissioners. The District government has less autonomy in self-governance, when compared to the States. The legislative powers of District administration are subject to the approval of Congress. Further, Congress has the right to overturn any law, and has indeed used this power often. The US Congress exercises its authority by way of Committees in the House (the Committee on Oversight and Government Reform- Subcommittee on Health Care, District of Columbia, Census and National Archives), and in the Senate (Committee on Homeland Security and Governmental Affairs-Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia).

The national capital of the US funds its operations almost exclusively through its own sources such as local income tax, business tax, and various fees and fines. The revenue structure is made complicated by the fact that the policies are subjected to Congressional review.¹⁸

Given such limited jurisdictions, like NCT, the residents of D.C. have been demanding for greater representation in the Congress as well as statehood. In response, the US Senate which held two hearings for a Constitutional amendment in 1970, while disallowing full statehood for D.C., conceded the case of a non-voting delegate in the House. This led to the District of Columbia Home Rule Act being passed in 1973 in both the House and in the Senate. The Act provided for a directly elected Mayor and a city council, along with 37 advisory commissions elected by neighbourhoods.¹⁹

Full representation, the most widely debated issue today, can only be brought forth by way of a Constitutional Amendment. The following decades saw numerous such attempts being made; none however was successful. Voting Rights amendments were proposed and passed by both the House and the Senate, however when the amendment was presented to the States for ratification, only 16 of the 38 required did so before it expired in 1985. In 1982, elections for delegates to write the District's own Constitution took place, and such a proposal was approved by way of a referendum. The document was then forwarded to Congress in 1983, which described it as “too radical”. The year 1987 saw the document altered to make it more accommodating, but this was labelled as “treason” by the movement.²⁰ The result of the final vote in the House in 1993 was against the movement, and

then President Bill Clinton, who had promised to sign such a proposal, was not given the opportunity to do so.

In 2005 the Virtual Statehood by Act was introduced, to avoid the route of Constitutional amendment. The proposal presented to the House and to the Senate was titled “No Taxation Without Representation Act” and its aim was to treat D.C. as a state for the sake of Congressional representation, and limited the House delegation to a single member. The 2006 “DC Fair and Equal House Voting Rights Act” looked to establish the District as a Congressional District for House elections only. A similar proposal was passed by the House and the Committee stage in the Senate, but was “killed” on the floor.²¹ The D.C. House Voting Rights Act was introduced again in 2009 and was passed by the Senate, but there was no majority in the House to bring the proposal to the floor. President Barack Obama promised to sign the statehood bill in 2009, but it has not happened after a good six years.²² Among the world's national capitals, DC has perhaps the most restrictive jurisdiction and Delhi looks more autonomous in this regard.

Ottawa, Canada

The City of Ottawa in the province of Ontario is the official capital of Canada. The Municipalite du Gatineau across the Ottawa River is also included in the National Capital Region (NCR), with the river forming the boundary between the provinces of Ontario and Quebec. Ottawa is distinct from other national capitals of federal countries for it has no official capital district like the one in Washington or Australia.²³ It is like any other municipality in the province of Ontario and is governed as per the rules set for municipalities. Similarly, the Municipalite du Gatineau, also a municipality in the province of Quebec, is governed by the general rules of municipalities in that province. Thus, despite the geographic presence of NCR across provincial boundaries of Ontario and Quebec, the respective provinces enjoy autonomy over administration and finances of their municipalities.

When it comes to governance, Ottawa's municipality has a mayor and 21 councillors, representing the respective 21 wards. Members of city wards are elected for three-year terms. Further, Ottawa is represented in Parliament by members elected to represent federal electoral ridings. Voters also elect representatives to Ontario's legislature which includes the premier of the

province.²⁴ The national capital also has representation on the National Capital Commission (NCC), an advisory body constituted by the federal government to maintain a federal role in the National Capital Region. Given its status as a city in a province (Ontario), Ottawa enjoys local autonomy from the national government. Since the Constitution Act of 1867, Section 8, defines cities as merely “creatures of the provinces”, Ottawa has complete financial autonomy and the federal government has no veto power over the development of the city or the surrounding region.²⁵

The capital government's responsibilities include social services such as policing, fire, ambulance, social assistance, homes for the aged, public health, and public transit. Land-use planning is administered as per the provisions of Ontario's Planning Act and city works with the NCC when it comes to federal demands. With regard to fiscal autonomy, Ottawa city government controls its local budget. The primary source of federal support comes in the form of payments in lieu of taxes on real property owned by the federal government (accounting for merely eight percent of Ottawa's annual budget).²⁶ Being a city in a province, Ottawa receives support from Ontario to carry out specific projects. Given its weak financial position, in recent years, there has been a demand by the Ottawa City Council to be given the authority to raise additional tax revenue such as land-transfer tax, entertainment and excise tax, and vehicle registration tax.

While the Ottawa city government enjoys near complete autonomy in its day-to-day functions, being the national capital, the federal government has tried to safeguard its interest through its entity, the National Capital Commission (NCC). The NCC is divested with powers over critical areas such as land-use planning of the property and land owned by the federal government in the NCR. Land around the Parliament Building are set aside from Ottawa's jurisdiction and managed by NCC. To further safeguard its interest from municipal or provincial politics, the federal government owns 11 percent of the land in the NCR, including residential and commercial places around the Parliament Building, pathways, parks, and bridges.²⁷ As a national capital then, Ottawa is uniquely placed in terms of autonomy and federal control. Theoretically, it appears to be an ideal district capital model.

Canberra, Australia

In 1908, Australia's Parliament chose Canberra district as the new federal capital, in similar fashion to Washington D.C.²⁸ Australian lawmakers wanted to have a national capital that would be in a safe zone, both from the viewpoints of location and influence of state politics.

Canberra, also called Australian Capital Territory (ACT), has largely functioned as an autonomous federal territory since 1988, when the Australian Capital Territory Act was passed.²⁹ The national capital, deriving its powers from the Australian Capital Territory (Self-Government) Act 1988, has its own Legislative Assembly, and legal system. Canberra can be described as a city-state.³⁰ It has no municipal government and all local government functions come under the jurisdiction of the ACT government.³¹ Further, the Self-Government Act restricts the number of ministers to five, including the Chief Minister, and each of the other 17 members of the Assembly must act as both, members of Parliament, and local councillors. The national capital also has representation in the federal parliament by way of two members of the House of Representatives and two senators, elected by the residents of ACT.

The ACT government differs from the Westminster model followed by other Australian governments on four major counts. First, like Queensland and the Northern Territory, it has no “upper house” to review legislation. Second, elections are conducted by proportional representation. Third, there is no vice-regal governor or administrator, i.e., no position titled “head of state”, and the Chief Minister can be dismissed by a vote of the Assembly. There is also no executive council to ratify government decision and legislation. Lastly, elections are held regularly, every four years. ACT is also very different from other Australian local governments as these have no authority over their medical services, education, police and justice, electricity and gas, water supply, and public transport—these being the exclusive domain of the State they are located in. However, on the critical arena of peace and security in the capital territory, policing is provided under contract by the Australian Federal Police, and the federal government retains powers to legislate for the ACT.

The Self-Government Act also provides ACT with considerable autonomy over decisions pertaining to revenue and expenditure. In recent years, however, the interpretations of the Act by the High Court and the

Constitution have led to a series of restrictions over revenue-raising avenues. This has led to the federal government (which has no legal powers to control expenditure) commanding considerable influence by attaching conditions to grants or negotiating terms from its position of fiscal superiority.

The most controversial and complex issue in the governing of ACT however is that of city planning. According to ACT (Planning and Land Management) Act, 1988, the jurisdiction is divided between the federal and ACT government and their respective agencies: the National Capital Authority (NCA) and the ACT Planning and Land Authority (ACTPLA). The NCA prepares an overarching strategic plan for the development of the national capital with the objective of ensuring “Canberra and the Territory are planned and developed in accordance with their national significance”. This National Capital Plan requires the approval of the federal Parliament, and must clearly set out standards for maintenance and development of the character of the national capital.

Like Delhi, in Canberra there is rousing debate over issues of jurisdiction. On the one hand are those who see the continued oversight of the NCA in areas beyond the Central National Area as an unnecessary interference in local autonomy, leading to chaotic and inefficient implementation of plans. The other side argues, however, that federal oversight is necessary to maintaining Griffin's legacy and enhancing urban facade of the national capital. Complicating matters is the fact that there is no provision in the Self-Government Act of 1988 that would provide clarity on such disputes; instead, the two agencies, and therefore the two governments, must negotiate an agreed outcome.³² It has however been noted that over the years, relations between the two agencies have been generally cordial leading, in turn, to increased productivity.

Berlin, Germany

Berlin, which got back its capital status upon the re-unification of Germany in 1991³³ is concomitantly a city and federal state (or Lander). The present governance structure of Berlin is complex as it consists of an elected House of Representatives and a Senate. In turn, members of the House of Representatives elect a Mayor and a Deputy Mayor. The occupant of the Mayor's office (called Mayor of Berlin) holds the city's highest position and is

also the federal state's premier. It is also the seat of Berlin's government. The Mayor, who presides over the Senate, in turn nominates the 16 department heads of the Senate, who are approved by the rest of the House of Representatives. Then there are 12 boroughs, each with its own city hall, an elected mayor, and an assembly comprising 45 members. Like Delhi and London and unlike the District of Columbia, Berlin elects representatives to the national legislature—the upper chamber *Bundestat* (Federal Assembly) and the lower chamber *Bundestag* (Federal Council).³⁴

In terms of autonomy to govern, unlike other federal capital cities, the central government has no say whatsoever in the internal matters of the city of Berlin.³⁵ The Mayor of Berlin with his team of eight senators enjoys near-absolute autonomy on a range of activities for the city state. As the key lead, the Mayor largely determines the direction of the government's politics and governance in Berlin. With the consensus of Senate,³⁶ the Mayor sets various agenda such as transport, sewerage and town planning, school infrastructure, theatres and museums, and adult education. Yet the House of Representatives (with some 150 members) plays the role of a 'scrutiniser' for the mayor and senate. Then, most local government functions are largely carried out by 12 boroughs.³⁷

In terms of fiscal autonomy, Berlin is treated like any other German state. Some 80 percent of all German tax revenue (collected by only one system), shared by general rules, and some of them are even specified in the Constitution.³⁸ Of course, the Federal Government is a significant source of revenue for Berlin, for it recognises the special status of Berlin as the country's national capital.³⁹

Finally, the most unique characteristic of Berlin is that the relationship between the federal government and capital city, are set out in a Cooperation Agreement agreed to in 1992. This has been done to sort out any areas of conflict and misunderstanding between two governing units. Accordingly, the agreement lays down basic rules for the cooperation between the federal government and Berlin. The agreement covers, in particular, controlled urban development of the areas needed for performing federal government duties, including the necessary infrastructure, appropriate accommodation for the federal constitutional bodies, support for foreign embassies, and infrastructure related to Berlin's function as a capital city.⁴⁰ The agreement also calls for the creation of a joint committee for resolving any questions

between the capital and the national government. This Committee has jurisdiction over Berlin only and is unique among the German states.⁴¹ It was also formalised with an insertion (also in 1992) into the Federal Building Code (Section 247). It is another thing that the Committee has not met in the past few years (because all controversial issues were eventually resolved on a more informal basis), but having a Committee to resolve possible disagreement or conflicts is an excellent innovation, which Delhi and other capital cities may emulate.

Overall, from the points of political, administrative and fiscal governance, Berlin is ideally placed as a city state. No other capital city enjoys such uninterrupted interference/gaze from the federal government.⁴² This has led scholars to raise the question of what would happen to the federal government and independent character of the national capital, should the city-state government be ever captured by either the extreme left or right-wing parties.⁴³

London, UK

Despite being the capital city of a unitary country, throughout its long history (stretching over 1,000 years), the London city government has enjoyed relative autonomy. Like New Delhi, London too has a very complex administrative system with multiple authorities/governments which have evolved over centuries. Such is the politico-administrative complexity that an average Londoner often finds it difficult to understand. There are four different kinds of governmental institutions: central government departments; government-appointed boards; the Greater London Authority; and the boroughs themselves. Until 1986, London had a two-tier government comprising 32 boroughs and a single city-wide government called the Greater London Council (GLC). Both tiers enjoyed a fair degree of autonomy and powers. However, the Thatcher Government in 1986 disbanded the region/city-wide government (GLC) and in its place created a variety of quasi-public committees to coordinate various services.⁴⁴ However, 32 local boroughs were left untouched. Thus, for all practical purposes, London was left with no London area government until 1999.⁴⁵

Under the Labour Government of Tony Blair, the region-wide government was revived with the passage of the Greater London Authority

Act in 1999. The Greater London Authority (GLA) comprises a directly elected Mayor and an elected Assembly of 25 members with scrutiny power.⁴⁶ The key purpose was to create a region-wide governance structure in the national capital to deliver a few direct services such as transport, policing, fire and rescue, development and strategic planning. Through GLA, the British government for the first time created a system of a directly elected Mayor, which can be emulated nationwide (with the intention to modernise local government practices). Accordingly, the Mayor is responsible for developing GLA's strategies for London's transportation, urban planning, and the environment. Further, the Mayor is empowered to lead the strategies for economic development and culture activities, along with preparing the budget for the GLA. This apart, the Mayor has the power to appoint relevant boards and other London-based organisations. The 25-member London Assembly (of which 14 members are elected) acts as a check-and-balance mechanism on the seat of the Mayor.⁴⁷

These powers remain limited in nature, notwithstanding substantial autonomy extended to an elected Mayor and to local governments (boroughs) on a broad range of issues including land use, housing, transport, and policing and safety. The GLA is significantly less powerful, for example, than the devolved institutions in Scotland and Wales.⁴⁸ The GLA, which is headed by an elected Mayor, is a weak institution in terms of its financial and service delivery powers. Like Delhi, many of its powers are circumscribed by competing authorities. This is because of national capital jurisdictions and the presence of central government departments. Policing is a good example of this convoluted nature: while the GLA enjoys near-total autonomy including policing activities, the Greater London police do not have authority over the area with seat of central power. Further, it is the Metropolitan Police Commissioner who remains in charge of 'operational' decisions.⁴⁹ The Police Commissioner is appointed by the Home Secretary who in turn exercises considerable control over police functioning. Nonetheless, the GLA enjoys a fair amount of power in policing as it retains substantial budgetary control over policing (contributes to 50 percent of police budget). Further, GLA has very limited autonomy on financial matters as much of it remains with the central authority. At the most, GLA has access over small tax precept and congestion charge.

Yet London's experience with devolution is a great success. The vindication of this is the 2007 GLA Act, which has increased the number of

statutory strategies in new policy areas and introduced additional supervisory powers on the GLA in relation to housing and regeneration.⁵⁰

Brasilia, Brazil

Brasilia was officially inaugurated as the national capital of Brazil in 1960 with a peculiar kind of administrative arrangement: the District which consists of an autonomous territory is further divided into several administrative regions.⁵¹ The Federal District's politico-administrative system has evolved over the years. For instance, prior to 1990, the head of federal district (then called Mayor) and other key local officials were appointed by the President and the Senate Committee and the federal District had no representation either in lower or upper house of the national Congress. Nor did the district have significant autonomy with regard to finance. However, after heightened protests, the new Brazilian Constitution in 1990 conceded to the residents their right to elect Governor and Vice-Governor of the Federal District, along with electing deputies to the District Congress, their local assembly.⁵² The residents won their right to elect representatives to both chambers of the national legislature.⁵³ They were also allowed to have a legislative chamber for the Federal District. As per the new Constitution, the elected Governor's jurisdiction included matters such as public security, infrastructure, public communications, health, education, and social services, while the District Congress advises the Governor on budgetary matters. Overall, the new Constitution conceded full autonomy for Brasilia, apart from representation in both houses of national congress and rights to elect governor and legislators. The most significant concession was, however, considerable fiscal decentralisation given the government of Federal District. Without transfer of accountability, the District received substantial income from the national government.⁵⁴

Most significantly, the 1988 Constitution legislated the Organic Law for the Federal District, explicitly mentioning the legislative powers of Brasilia, its autonomy and jurisdictions.⁵⁵ Decisions made at the local level are thus carried out without explicit intervention of the national government.⁵⁶ Yet, being the national capital the government of federal district cannot be mistaken for government of a state or a municipality. This is because the constitutional prerogatives sometimes approximate the federal district to a

state, and at other times, to a municipality. Further, the federal District observes an organic law equivalent of a municipality as opposed to the constitutional status accorded to States.⁵⁷ Nonetheless, federal district enjoys considerable autonomy and self-governance than most national capitals across the world.

DOMINANT PATTERNS

A review of the governance models of select national capitals reveals some dominant patterns. First, in all national capitals reviewed for this paper, there exists varying degrees of tension between the central government and the government of the national capital. The primary lesson appears to be that the overlapping of jurisdictions is a common thread amongst national capitals.

Second, in all capital cities, the current buzzword is 'autonomy', although statehood demand can be found reverberating too in a few cases. With the rare exception of D.C., all other national governments examined for this paper have conceded to the demand of greater autonomy. Over the years, the capital cities of London, Brasilia, Ottawa, and Canberra have been bestowed considerable autonomy by their respective central governments. For instance, in most capital cities, the designated city governments enjoy complete power over the day-to-day running of their city. The Mayor or Governor enjoys decisive power over issues pertaining to land, city planning and management, appointment of key officials and in some cases, policing and law and order functions. There are cases like Berlin where one can find near-total autonomy (because of its status as city state). Even in a much restricted jurisdiction like D.C., the Congress has conceded considerable functional freedom to the city mayor. The big picture is that there is unmistakable movement towards greater autonomy and decentralisation in most national capital cities.

Third, capital cities that enjoy a greater degree of autonomy from the national government are the ones that have a long history of strong local governments. Ottawa, Berlin, and even London all have a long tradition of allowing adequate space to local governments (borough levels). In fact, capital cities like Ottawa derive their autonomy from the local government statutes (Section 8 of Constitution Act of 1867).

Fourth, while most capital cities have secured maximum autonomy (and statehood in some exceptional cases) over tricky issues of land, city planning and management, policing and revenue generation, the federal/central governments still hold the last word. This is largely because issues like security, land, town planning and security of federal properties are extremely critical for ensuring the national capital's special role. It is no surprise therefore that the city-state Berlin, which enjoys near-complete autonomy to govern, has to part with some of its powers on land and policing with federal government. Similar is the narrative in the case of Ottawa where the federal government controls 12 percent of land and protects federal buildings through its own mechanisms. This unmistakably points to the existence of some quantum of suspicion or feeling of insecurity among the central apparatus. Thus the central government its affiliated institutions with their veto powers is a common sight in all national capitals.

Finally, since disputes and misunderstanding are inevitable facets of governing a national capital, every city under review has put in place instruments of coordination and conflict resolution. For instance, while Ottawa has a National Capital Commission (NCC), Canberra created an entity called National Capital Authority in 1988 to resolve disputes between constituent units. London too has a coordination committee to address major disputes. Even Berlin, the least conflict-ridden capital among those studied for this paper, has its Cooperation Agreement since 1992 and has also put in place a Joint Committee to resolve all outstanding issues between various units. Most countries under review have institutionalised mechanisms by which to resolve governance issues.

KEY LESSONS FOR DELHI

Are there any clear lessons for Delhi, especially on the issue of statehood? Should the national capital be accorded the status of a full state? The answer emerging from leading global examples is an unequivocal No. With the exception of Berlin, none of the countries under review have conferred the status of statehood to their national capitals. In Berlin's case, it was a city-state even before it was designated as reunified Germany's capital in 1990.⁵⁸ As discussed in the previous section, a host of usual factors have persuaded many countries not to succumb to the pressures of statehood, such as security

of federal properties, law and order, sensitive matters such as diplomatic security, VIP movement, apart from the pitfalls of adversarial politics. For instance, while Germany has allowed maximum autonomy to Berlin, there remains some form of suspicion and fear among the federal government advocates about the city-state being captured by the 'anarchist' far right or extreme left government.⁵⁹ This fear is starker in the US. Even after more than four decades of agitation and activism, the US Congress has shown little interest to the statehood demand for DC. When countries with considerably stable and mature political culture and rule-based governance find it difficult to concede to statehood demands, a similar campaign in India deserves a kind of introspection a thousand times more careful and thorough. A lack of mature political culture and the presence of strong adversarial politics make the case for statehood highly unlikely. The unsavoury and often politically motivated stand-offs between the incumbent NCT government led by the Aam Aadmi Party, and the Union Government on a range of issues clearly underlies the danger in conferring full statehood to NCT.

What NCT needs really is not statehood, rather substantial autonomy and governing space to carry out its basic responsibilities and to honour its electoral promises. When autonomy and functional freedom of different national capitals are compared, Delhi comes out as a stand-alone case. What emerges from the global examples is that no other large national capitals (with population over 17 million), have such limited governance mandate than the NCT has. Even D.C., the most constricted national capital with a population over 1.5 million, has a more functional autonomy than India's national capital.⁶⁰

What is more striking is that an elected government representing a mammoth population has no decision in critical service delivery functions such as policing and law order. Delhi's exceptionalism is hard to emulate in other national capitals, not even D.C. The DC Police, which is a municipal police, is directly overseen by the city mayor. Of course, federal entities such as FBI, Secret Service, Diplomatic Security too share policing powers to discharge their special responsibilities in the capital. But at least the city government has some role in policing. Similarly, the British Home Office, which earlier had the last word on the London Metropolitan Police, had over the years ceded such supervision to the elected Mayor of London. With the establishment of the Metropolitan Police Authority in early 2000 and later

under the elected police commissioner system introduced by Prime Minister David Cameron's government, the Mayor's Office for Policing & Crime began functioning from January 2012.⁶¹ The Ottawa City Police, which is a municipal police, is supervised by the mayor and civic council. They also have a National Police (RCMP) which polices the entire country under federal government supervision.⁶² In other words, a lot of national governments which earlier had apprehensions to share police powers with city government (over issues like VIP security, and protection of federal government and its institutions), have gradually ceded such powers in favour of the national capital government which is best positioned to maintain law and order. India's federal government needs to take some cues from the global trends and initiate the same in Delhi.

Again, Delhi is probably the only capital city where the elected government has no organic link with the municipal bodies. Ironically, MCDs are controlled by the home and urban development ministries of the federal government. As seen from the preceding discussion, Delhi government only shares some portion of its revenues with municipal bodies and its relationship ends there.

The case for wider autonomy for Delhi's elected government is a compelling one. If global examples are used as barometer, it is unthinkable to have a city-wide elected government without decision-making powers in critical matters such as land, city planning, policing, and control over its cadre of officials. What is equally important is the city-government should share in the responsibility of running the local municipal bodies.

The time is ripe now to revisit NCT's existing governance structure and specify the rules of engagements between key governing entities more clearly and cogently. A good beginning can be made by taking a fresh look at the existing constitutional provisions (69th Amendment, Article 239AA), Rules of Business and powers bestowed upon the Lieutenant Governor. It is autonomy, and not statehood, that is the answer for India's national capital.

ENDNOTES:

1. Of course, legally and technically, LG is part of the government of NCT (GNCT). Yet, he/she is representative of the Union Government and GNCT has little control over his/her office.
2. According to 239AA (4) "There shall be a Council of Ministers...in the legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion."
3. Similarly, Section 41 of the GNCT Act provides wide ranging discretionary powers upon the LG and this discretion is for all matters that fall outside the purview of the powers conferred on the Legislative Assembly and in respect of which powers/functions are entrusted or delegated to him by the President. Further, clause 2 of Section 41 provides that if any question arises as to whether any matter is or is not a matter in which the Lt. Governor is required to exercise his discretion, the decision of the Lt. Governor thereon shall be final. See Pavan Bhushan's blog, <http://www.legallyindia.com/Constitutional-law/opinion-lieutenant-governor-vs-delhi-cm>.
4. For a detailed narrative of governance structure, see Om Prakash Mathur, "New Delhi, India", in *Finance and Governance of capital cities in Federal Systems*, Enid Slack and Rupak Chattopadhyay (ed), Montreal: McGill-Queen's University Press, 2009.
5. While criminal procedure is placed in the Concurrent List of the Seventh Schedule of the Constitution thereby empowering state government persecute officials involved in corruption, police and law order being placed with the Home Ministry makes such an enterprise difficult especially when adversarial politics is the order of the day.
6. Soon after forming the government at Delhi, the newly elected Chief Minister Arvind Kejriwal appointed S.S. Yadav as the chief of Anti-Corruption Bureau However, the LG overturned the appointment (claiming he was not consulted) and instead appointed S.K. Meena to head the anti-graft unit. This led to full blown political war between two constitutional offices in the national capital, the effects of which continue to impact governance of Delhi. For more see *India Today* story, <http://indiatoday.intoday.in/story/delhi-arvind-kejriwal-najeeb-jung-anti-corruption-branch/1/443352.html>.
7. The DDA Act 1957 was passed by the Parliament to create an institution which would promote and secure the development of Delhi. The jurisdiction of the institution over the years however has increased to building and managing townships, housing for all income groups, and other infrastructure needs such as flyovers and sports complexes. The situation today is such that if the Delhi Government requires land for developmental needs- like it did for building a National Institute of Technology (NIT)- it has to pay the DDA for land allocation (the amount paid to DDA was Rs 158 crore for building the NIT) despite the fact that DDA has huge cash reserves. See Shakti Sinha, *Kejriwal's Challenges*, *Mint*, 11 February, 2015, <http://www.livemint.com/Politics/hBrjGOgFsEmuk2tuqZ1qTO/Arvind-Kejriwals-challenges.html>.
8. Shailaja Chandra, *To the CM-in Waiting*, *The Indian Express*, 11 February, 2015, <http://indianexpress.com/article/opinion/columns/to-the-cm-in-waiting/>.
9. See CM-LG tussle over Business Rules, *The Times of India*, May 5, 2015, link: <http://timesofindia.indiatimes.com/city/delhi/Delhi-CM-cant-bypass-LG-say-legal-experts/articleshow/47155807.cms>.

10. Read an incisive analysis by Maneesh Chhiber, *The Indian Express*, June 14, 2015, <http://indianexpress.com/article/explained/explained-delhi-cm-v-lg-much-lies-between-the-lines-of-statute-act-and-rules/>.
11. The Union Government enjoys near total control over MCD as it has power over as many as 57 sections/sub sections of the DMC Act 1957. The Central government brought an amendment in 2009 to delegate 44 items of the Government of NCT, Delhi. This by effect is controlled by the Lt. Governor. Thus, the elected government has literally no controlling power over municipal bodies. See a report by *The Indian Express*, 27 October 2009, <http://archive.indianexpress.com/news/centre-hands-over-part-of-mcd-powers-to-delhi-government/533681/>.
12. Niranjana Sahoo and Shubh Soni, Delhi's Half-State Status, Challenge to Kejriwal, *Deccan Herald*, 25 February 2015, <http://www.deccanherald.com/content/462069/delhis-half-state-status-challenge.html>.
13. Since 1993, one has witnessed public spectacles between Delhi's elected governments and the Union Government (LG, MHA, its arm police and DDA). This was best exemplified during the Nirbhaya rape episode in 2012.
14. For an excellent illustration on this, see Shakti Sinha, *Mint*, 2015.
15. Hal Wolman, Jan Chadwick, Ana Karruz, Julia Friedman and Garry Young "Capital Cities and their National Governments: Washington D.C in Comparative Perspective", *George Washington Institute of Public Policy*, Working Paper, No. 30. 2007.
16. Donald Rowat, "Ways of Governing Federal Capitals", in John G. Lengelle, and Carolyn Andrew (ed.), *Capital Cities: International Perspectives*, Ottawa, Carlton University Press, 1973.
17. Natwar M. Gandhi, Yesim Yilmaz, Robert Zahradnik and Marcy Edwards "Washington, District of Columbia, United States of America", in *Finance and Governance of capital cities in Federal Systems*, Enid Slack and Rupak Chattopadhyay (eds), Montreal: McGill-Queen's University Press, 2009.
18. The Congress can intervene by restricting funds spending on a number of issues such as spending money on lobbying efforts to gain representation (the budget of the District is approved by the Congress).
19. M.K. Fauntroy Governing the District of Columbia and ten other National capitals: A comparative analysis, *National Conference of Black Political Scientists*, Chicago. 2004.
20. S.J. Diner : Statehood and the governance of the District of Columbia: an historical analysis of policy issues, *Journal of Policy History*, 1992.
21. Gandhi *et al* 2009.
22. Klaus Jurgen Nagel. The problem of the capital city: New research on federal capitals and their territory (1. ed.). Barcelona : *Institut d'Estudis Autonòmics*. 2013.
23. Almost Tassonyi. Ottawa, Canada, in Slack, E and Chattopadhyay eds, *R Finance and Governance of Capital Cities in Federal Systems*. Montreal: McGill-Queen's Press, 2009.
24. Ibid.
25. Fauntroy 2004, Ibid.
26. Ibid.
27. Wolman *et al*. 2007.

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28. Graham Sansom, Canberra, Australia, in Slack, E and Rupak Chattopadhyay *Finance and Governance of Capital Cities in Federal Systems*. Montreal: McGill-Queen's Press, 2009.
29. As per Section 122 "The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit." Thus like India the U.S., in Australia too, the ultimate oversight to govern capital city of Canberra (also called Australian Capital Territory or ACT) rests with the national legislature. However since the Australian Capital Territory (Self-Government) Act of 1988, the Federal Government has ceded some of its powers by way of establishing in Canberra an elected Legislative Assembly. See J. Halligan and R. Wettenhall, 'A City State in Evolution', Canberra Bulletin of Public Administration, 2002.
30. Halligan *et al* 2002.
31. Ibid.
32. R. Wettenhall, and J. Halligan Centre for Research in Public Sector Management. *A decade of self-government in the Australian Capital Territory* Centre for Research in Public Sector Management, University of Canberra, Australia, 2000.
33. For a comprehensive view of Berlin history, see Manfred Rober and Eckhard Schroter, *Governing the Capital – Comparing Institutional Reform in Berlin, London and Paris*, Working Paper PRI-8, University of Applied Sciences, Berlin, February 2004.
34. See Fauntroy 2004, Ibid.
35. See Nagel *et al* 2013.
36. Each member of the Senate is fully responsible and independently runs his/her department within the guidelines laid down by the federal government policy.
37. Each borough has an average of approximately 300,000 residents, which is composed of the Mayor and the borough councillors. And each borough is allocated a lump sum to fulfil its tasks (as defined in the Budget Act). The boroughs are therefore fairly self-governed, but the Senate issues guidelines and supervises their budget allocations.
38. H. Zimmermann, Berlin: Germany, in Slack, E and Rupak Chattopadhyay *Finance and Governance of Capital Cities in Federal Systems*. Montreal: McGill-Queen's Press, 2009.
39. Federal assistance is in the form of direct payments, and directed towards culture, security, and infrastructure. Berlin partakes in Germany's constitutionally mandated federal states' equalization program, according to which compensation payments are made from rich to poor states. See Fauntroy 2004.
40. Wolman *et al* 2007.
41. The members are "representatives of Berlin and the federal government of Germany" (with no stipulation as to how many representatives there should be or how they are to be appointed). Any questions regarding town planning and land use may be brought before the committee, including the location of new federal buildings (German Federal Code 1997). Thus far all issues have reached satisfactory agreements. See Wolman *et al* 2007.
42. Although, the district planning competencies in the inner city region (houses most federal buildings) is largely suspended and city wide authorities frequently take on major projects and initiatives in the downtown areas. See Manfred Rober *et al*. 2004.

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43. Ibid.
44. The Conservative Prime Minister Margaret Thatcher abolished GLC to get hold of local affairs and also to end something dominated by the opposition Labour Party.
45. See Wolman *et al*, 2007.
46. Raising the Capital, The Report of the London Finance Commission, The Government of U.K. p19, link: <https://www.london.gov.uk/sites/default/files/Raising%20the%20capital.pdf>.
47. The London Assembly has power to amend the mayor's budget through two-third majority decision, appoints the GLA's chief executive officer, chief finance officer and all other members of the GLA's staff. Further, it can monitor and investigate issues of Londonwide significance. See Fauntroy, 2004 .
48. See Tony Travers Decentralisation London Style: The GLA and London Governance, *Regional Studies*, vol. 36.7, Carfax Publishing, Taylor and Francis, 2002.
49. Travers 2002.
50. Raising the Capital, The Report of the London Finance Commission, p20...
51. Romeo, Crystal E "A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of US, District of Columbia and Brasilia, Brazil", *Unpublished Ph.D Thesis*, Kennesaw State University, Georgia. 2010.
52. Wolman *et al* 2007.
53. Fauntroy 2004.
54. Based on the requests shared by the Governor of Brasilia, the national government decides on the amount of annual transfer payments to the national capital. Further, once the transfers are made, the local government has full control over how these funds are to be utilized. Thus Brasilia not only has no oversight from the Brazilian National Congress, it also receives 72% of its budget from it. See Fauntroy 2004.
55. Romeo 2010.
56. Fauntroy 2004.
57. Wolman *et al* 2007.
58. For a perceptive analysis on Berlin, see Stanley D. Brunn, Jack Francis Williams, Donald J. Zeigler, *Cities of the World: World Regional Urban Development*, Oxford: Rowman and Littlefield Publisher, 2003.
59. See Rober *et al* 2004.
60. If Maryland and Virginia suburbs are excluded, Washington, D.C. had an estimated population of 658,893 in 2014.
61. See V Balachandran, "Delhi must be accountable to CM", *The Sunday Guardian*, 28 January 2015, <http://www.sunday-guardian.com/analysis/delhi-police-must-be-accountable-to-cm>.
62. Ibid.

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