

Statehood for Delhi: Chasing a Chimera

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ABOUT THE AUTHOR

Niranjan Sahoo is Senior Fellow with Observer Research Foundation with years of expertise on governance, democracy, campaign finance reforms, insurgency and conflict studies. He serves as a member of the Carnegie Rising Democracies Network (RDN), Washington, D.C.

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ABSTRACT

The question of full statehood for Delhi has occupied the national limelight since the Aam Aadmi Party (AAP)'s landslide victory in the assembly elections of 2015. To be sure, the demand for statehood for Delhi has been on the slow burner since the time of the country's independence; however, it was in the past three years that it gained considerable pace. While the last seven decades have witnessed nearly all major national parties advocating for statehood for India's national capital when sitting in the opposition, these same parties have conveniently neglected the longstanding demand when they were in power. What makes statehood a political 'hot potato' for major political parties? Why will statehood remain in political limbo for a long time, notwithstanding Delhi's burgeoning 18 million plus population and the undeniable governance chaos? This paper explores the politics and complex dynamics involved in arriving at a workable political and administrative form for India's capital in the light of international experiences on governance of capital cities.

INTRODUCTION

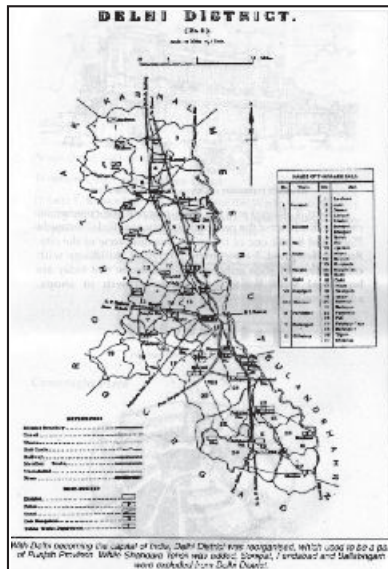
Delhi, India's national capital, is a case *sui generis*. Not only does it defy normal categorisations of 'state' or a 'full Union Territory', it also blurs the strict conceptions of federalism both in theory and as imagined in India's statutes. Delhi's territoriality—both in terms of sharing sovereignty involving the shared-rule with the centre and carving its own self-rule of autonomy in polity and governance—has ruffled feathers since its formation as National Capital Territory that gave it its own elected government. All political parties have tried to bring to the fore the issue of territoriality and governance in their election manifestos, occasionally banking on the issue of statehood to seek votes during elections. However, once in power at the centre, irrespective of what they declared in their election manifesto, there emerges a consistent pattern of strong unitary and centralising bias by the ruling government and the statehood promise is routinely abandoned. This was the path taken by the Congress Party that ruled the country for most of its post-Independence years; the same road is being traversed by today's ruling Bharatiya Janata Party (BJP), albeit recently with greater zeal.

Why have political parties shied away from taking a clear stand on the issues of territoriality and governance of India's national capital? The same capital that, today, is home to a mammoth population and only threatens to grow more exponentially? What makes the ruling governments at the centre abandon the statehood demand? (These same parties who, while sitting in the opposition, take the side of statehood.) Why is statehood a political 'hot potato' for the incumbent party? This paper explores the questions surrounding the demand for statehood for Delhi and the complex politics behind it. The thrust is to understand the nuances of the statehood debate in different phases, as well as the tensions and trade-offs in granting full statehood. Finally, the paper offers a way forward based on the survey of major international

examples of capital cities. The paper uses multiple sources, including primary literature from archives, statutes, resolutions, debates of the constituent assembly, and parliamentary debates, and secondary ones such as books, news analyses and scholarly work.

DELHI'S STRUGGLE FOR STATEHOOD: A SNAPSHOT

The struggles around Delhi's territoriality, and its political and administrative shapes and forms are as old as the Republic.¹ Before the Mughals passed on the city to the British India in 1803—which subsequently became the new capital of British India in 1911—Delhi was the capital of a succession of empires for nearly a thousand years.² For instance, until 1901, Delhi was one of the five administrative units of Punjab province, comprising the five districts of Karnal, Ambala, Rohtak, Hissar and Gurgaon. After Delhi became the capital of British India in 1911, these districts were reconfigured and placed under its own local government as a separate province. At a later stage, some areas



Delhi Map (1913)

Source: AK Jain, *Dilemma – Cities of Delhi*.

of Meerut District (Shahdara) of the United Provinces was merged into Delhi.³ Eventually, the colonial government—under the Government of India Act, 1919 and 1935—classified Delhi as a Chief Commissioner’s Province, which is equivalent to a present-day Union Territory. Thus, Delhi was administered by the governor–general acting through a chief commissioner.⁴



National Capital Region

Source: National Capital Region Planning Board, 2017.

The most serious attempt in determining political and administrative autonomy for Delhi was taken up a month before India attained Independence. In July 1947, the then newly constituted Pattabhi Sitaramayya Committee that was set up to study the territorial and administrative structures of the Chief Commissioner’s Provinces singled out Delhi as a special case to formulate a roadmap for its

autonomy and governance as a national capital territory. Given its complicated and overlapping jurisdictions, the committee paid considerable attention to study the administrative systems of various federal capitals such as Canberra in Australia, Washington, D.C. in the United States (US), and London in the United Kingdom. Taking into account the circumstances that led to the formation of the Delhi Province in 1912, the committee concluded that the “province which contains the metropolis of India should not be deprived of the right of self-government enjoyed by the rest of their countrymen living in the smallest of villages.”⁵

The recommendations of the committee hewed to certain elements of the current structure. For instance, the Sitaramayya Committee recommended that the “province” should function under a lieutenant governor (to be appointed by the president); a council of ministers headed by a chief minister to aid and advise the lieutenant governor; any difference between the lieutenant governor and the council of ministers is to be resolved by the president; the Union Legislature is to have concurrent powers of legislation even in matters included in the ‘Provincial List’; and the central government is to have special responsibilities for the “good governance” and financial solvency of the province. In short, the committee called for a co-existing administrative system for Delhi with a lieutenant governor appointed by the president and an elected legislature to administer Delhi.⁶

However, the drafting committee of the Constitution headed by B.R. Ambedkar had serious reservations with the recommendations of the Sitaramayya Committee. Apart from Ambedkar himself, several key members of the drafting committee including Jawaharlal Nehru felt that Delhi, being the national capital of India, could not be placed under the administration of a local government.⁷ Opposing the recommendations of the committee, Jawaharlal Nehru observed, “Ever

since the committee was appointed the world has changed; India has changed and Delhi has changed vitally.”⁸ However, Nehru commiserated with Delhi’s demand, saying that he “sympathises greatly with those of citizens of Delhi and representatives of Delhi” but “Delhi is not a static situation.”

The drafting committee’s viewpoint on Delhi found the strongest opposition from the lone representative of Delhi, Deshbandhu Gupta, who demanded more local governance and greater enfranchisement for Delhi.⁹ Gupta had a major run-down with Ambedkar, the chairman of the drafting committee on statehood. Gupta had stated, “I ask my worthy friend that while he poses to be the standard-bearer of the minority-rights—Dr. Ambedkar’s attentive eye at once catches even the minutest point, if any, concerning the minorities—how did the claim of this small province escape his notice? He should have shown some consideration to Delhi, regarding it at least as a minorities’ province.”¹⁰ Notwithstanding these pleadings, the drafting committee chose to classify Delhi as a part of Part C State (Union Territory) and clearly stated that the national capital would be administered by the president through a lieutenant governor (LG) to be appointed by him on Territory, and it forfeited the right to have a legislative assembly or council of ministers. Subsequently, articles 239 and 240¹¹ were added to provide more layers to the governing space of Delhi.

Following this, The Government of Part C States Act (1951) was passed, under which provision was made for a council of ministers in Delhi, albeit with limited mandate. Key subjects such as Public Order; Police (including Railway Police); Municipal Corporation and Lands were left with the central authorities.¹² As a result, Delhi, for the first time, had a legislative assembly, council of minister and a chief minister to govern. In 1952, Chowdhury Brahm Perkash of the Indian National Congress was elected as the first chief minister of Delhi. However, a

prolonged standoff between Chief Minister Brahm Perkash and the Chief Commissioner Anand Dattaya Pandit, and later with Union Home Minister Govind Ballabh Pant, over issues of jurisdictions and functional autonomy, eventually led to the resignation of the chief minister in 1955.¹³

Following the recommendations of the State Reorganisation Commission (SRC),¹⁴ the Delhi assembly was abolished in 1956. SRC, which was set up in 1953 to exclusively look into the working of the functioning of states/provinces within the Union, concluded that Part C States (which included Delhi) were financially non-viable and functionally inefficient. With regards to Delhi, the commission observed that the dual control over the national capital had led to “marked deterioration of administrative standards.” Citing the examples of Paris and London, the Commission observed, “... capital cities possess or come to possess, some degree of political and social predominance” and went further to claim, “... any constitutional division of powers, it is applicable to units functioning in the seats of national governments, is bound to give rise to embarrassing situations.”¹⁵ It appears, to a certain extent, that the commission’s observations were shaped by the running feud between Chief Minister Brahm Perkash and Chief Commissioner Anand Dattahaya Pandit and then Home Minister Govind Ballabh Pant.¹⁶ The commission, however, noted the need for an autonomous Municipal Corporation to provide “greater local autonomy than is the case in some of the important federal capitals, is the right and, in fact, the only solution of the problem of Delhi State.” Thus, Delhi was categorised as a ‘Union Territory’, and forfeited its right to have a legislative assembly and a council of ministers.

Unsurprisingly, SRC’s recommendations of abolishing legislative assembly and reducing the national capital’s autonomy to the level of Municipal Corporation invited the strongest criticisms from key figures

from Delhi. Reacting to the Commission's report tabled in Parliament, Member of Parliament Sucheta Kriplani raised her concerns against the change of Delhi's status thus: "Delhi is going to lose its democratic set-up. We are going to lose the status of State. Our people will be disenfranchised. In place of legislature we are going to be given Corporation with limited powers. Therefore, I feel Delhi is not being dealt fairly." Another lawmaker, C.K. Nair, observed: "But what we expected is a fair deal for Delhi just as every Part C State was added to Part A State, which means greater advantage and greater freedom for people of those areas. It is not so with regard to Delhi."¹⁷ SRC's recommendation of abolishing the legislative assembly for Delhi was also criticised by all major parties. Ironically, Jana Sangh, which would, at a later stage, pick up statehood for the national capital, was supportive of the Commission's proposal.

The then Union Government paid no heed to these criticisms and went ahead to establish the new administrative and governance set-up that pulled down Delhi's status at par with a Municipal Corporation. In 1957, the Delhi Municipal Corporation Act was enacted to provide Delhi with a municipal corporation that would be elected on the basis of universal adult franchise, and whose jurisdiction would include almost all of Delhi.

However, the 1957 administrative framework led to considerable dissatisfaction amongst the citizens of Delhi as the city lacked an accountable governance system that was representative of the people.¹⁸ In response, the Union government enacted the Delhi Administration Act in 1966 to provide the city some form of representative government. The 1966 Act created a Metropolitan Council comprising 56 elected and five nominated members, and an Executive Council with four councillors appointed by the president. However, the Metropolitan Council had no legislative powers and could only make recommendations on legislative

and budget proposals, development schemes, and any other matter referred to them by the administrator.

Jana Sangh and the Politicisation of the Statehood Demand

Given its limited mandate and advisory functions, the Metropolitan Council proved grossly inadequate to answer Delhi's growing crisis of governance in the mid-1970s. With the country going through a political churn at the same time, particularly with the imposition of National Emergency by the Indira Gandhi government in 1975, the subsequent Janata Government that came to power in 1977 by unseating Gandhi provided Delhi its first serious opportunity for statehood. Incidentally, the first Metropolitan Council was headed by the Jana Sangh¹⁹ that was part of the Janata Government in 1977. The Jana Sangh-run Metropolitan Council passed a number of resolutions scrapping the then administrative set-up in early 1977. A second resolution was adopted in late 1977 by the third Metropolitan Council headed then by the Janata Party. This resolution said in no uncertain terms that to "promote integrated, all-round development of Delhi and ensure quicker solutions of its multifarious problems," it was required that "Delhi be given the **status of a state** (emphasis added)." Feeling politically cornered by the Jana Sangh activism on statehood, the Congress Party, which headed the fourth Metropolitan Council, jumped to the fray and moved four more proposals stating the need for a legislative assembly in the national capital.

Fast forward a decade later, and the statehood demand gained considerable traction in 1987 as opposition members made the demand for a legislative assembly nearly every day.²⁰ In this regard, the most vocal leader pushing for Delhi's full statehood was Madan Lal Khurana, representing the Bharatiya Janata Party (renamed after Jana Sangh in 1980) in Delhi. Of course, there were several other leading figures from

the BJP as well, mainly V.K. Malhotra and Sahib Singh Verma, but Khurana was the leading light.²¹ Beyond the personal political ambitions of these leaders, there were electoral compulsions linked to escalating statehood in the national capital. After suffering humiliating defeat in the 1984 Lok Sabha elections, BJP was desperately seeking to strengthen its position in the national capital, and the statehood demand perfectly suited its campaign to regain popular support. Indeed, statehood demand was one of the key contributing factors that propelled BJP to political power in Delhi in 1993. This earned Madan Lal Khurana the title of '*Dilli Ka Sher* (Lion of Delhi)'.²²

Thus, after two decades of haphazard governance through multiple agencies, the centre finally agreed in 1987 to set up the Justice R.S. Sarkaria Committee (later renamed Balakrishnan Committee when Justice Sarkaria resigned) to look at 'Reorganisation of Delhi Set-up'. The committee was tasked to study the various issues plaguing the administration process of the national capital and offer solutions. In its report submitted in 1989, the committee noted that most of the difficulties faced by the citizens of Delhi were due to the structural inadequacies and flaws of the existing system. It further held that while the federal government should have substantial control over the governance of the national capital, the people in the city also needed a representative body to look into sectors of administration that impact their daily lives. Even as it maintained Union Territory status for Delhi, the report made a strong recommendation for the restoration of legislative assembly with appropriate powers to deal with matters concerning the citizenry.²³

The BJP and the Janata Dal made a strong plea before the committee, demanding an urgent end to the prolonged chaos and confusion due to multiplicity of authorities in Delhi. Both parties argued for full statehood to provide the citizens of the national capital

the right to self-governance. The ruling Congress Party at the centre, which in the past had been sympathetic to statehood, this time took a more restrained view. It expressed support for maximum autonomy but was opposed to statehood.²⁴

Taking into consideration the recommendations of the Sarkaria (Balakrishnan) Committee, and holding further deliberations with political parties, the Congress government at the centre introduced in May 1990 a bill in Parliament with the aim of amending the Constitution to change the status of Delhi. The Constitution (69th Amendment) Act, 1991 was passed by Parliament, which inserted articles 239AA and 239BB in the Constitution, and provided for a legislative assembly in Delhi. The Parliament also passed The Government of National Capital Territory of Delhi (GNCT) Act, 1991 to supplement the constitutional provisions relating to the legislative assembly and the council of ministers.²⁵ In short, the 69th Amendment Act roughly restored the kind of governance system that was offered to Delhi in 1952: a Union Territory with a legislative assembly, council of ministers and an elected chief minister with a limited mandate.²⁶

STATEHOOD AND POLITICAL DOUBLESPEAK

After 1991, the issue of statehood has been used as a tool for political posturing and vote garnering by two major national parties, viz. the National Congress and the BJP. Given that the political landscape of the national capital territory has been heavily dominated by these two national parties, regional parties have little role, if at all, in the question of statehood. Coming back to the crux of the debate, as mentioned earlier, the BJP, which was vacillating at this juncture, had been the foremost supporter of statehood when the notion was first born. While Jana Sangh leaders provided much fillip to the statehood demand in the 1960s and 1970s, the real momentum came in the 1980s. The 1984

elections, which saw the party getting completely decimated—managing to retain only two Lok Sabha seats—prompted party leadership to eye the national capital for a quick revival. In this context, statehood became low-hanging fruit for the BJP leadership in Delhi.²⁷ Statehood demand thus became part of BJP’s agitational politics, including the launching of a series of demonstrations and resolutions that eventually forced the Congress Party to take a favourable stand as well.²⁸

Once partial statehood was achieved in 1991, helping BJP win the first assembly elections in 1993, the party lost no opportunity to press the statehood demand. The party faced various restrictions from the Union Government led by the Congress Party (until 1996). These disruptions included the Home Ministry’s issuance of the Rules of Business. Chief Minister Madan Lal Khurana then found it convenient to use the statehood demand for political bargaining and leveraging electoral benefits for his party.²⁹ (This move is akin to what AAP is doing against BJP now.) The BJP, which lost power to the Congress Party in the assembly elections in 1998, once again brought the statehood demand to the fore. In fact, the BJP-led NDA government prepared a draft Delhi Reorganisation Bill in 1998 (with Sahib Singh Verma leading the draft preparation) that proposed full statehood for Delhi minus the NDMC (New Delhi Municipal Corporation) area. The bill stated that while the centre would have control over public order and police for the entire city, it will have a say on the subjects of land and local government only for the NDMC area and the Delhi government would have jurisdiction on land and local government of the rest of Delhi.

The demand for statehood reached its high point in 2003 when the then Deputy Prime Minister L.K. Advani tabled the State of Delhi Bill, 2003, which promised ‘statehood with maximum autonomy’ for Delhi.³⁰ The Constitutional Amendment (102) Bill intended to repeal two constraining articles: 239AA and 239BB.³¹ The seriousness of the BJP

stance was called into question as the announcement of introducing the bill was made at the launch of the party's state legislative assembly election campaign. After its introduction, the bill was moved to Standing Committee for further deliberations. With the BJP losing Delhi assembly elections in December 2003 and the general elections later, the statehood bill died prematurely.

However, BJP maintained its position on statehood all through the term of the Congress-led United Progressive Alliance (UPA) governments during 2004–14. For one, the BJP's Delhi unit put statehood as its top agenda in its 2013 election manifesto. Surprisingly, however, the party dropped the statehood demand from its Vision Document in the 2015 assembly elections, an unprecedented move in four decades of the party's vocal advocacy.³² Since then, the BJP-led government at the centre has completely shunned the idea of statehood (and has taken the complete opposite stance at the Supreme Court hearing on statehood³³), something that goes against the party's original stance.

The Congress Party

The BJP leadership both at the national and Delhi levels has backed the demand for statehood for a long time only to take a sudden U-turn for political expediency. For its part, the Congress Party at the national level had for a long time consistently opposed the granting of statehood to Delhi. This is evident from the fact that despite being in power at the centre and in Delhi from 2004 to 2013, the party did nothing to alter the status quo. As mentioned earlier, Jawaharlal Nehru and other key Congress leaders including G.B. Pant and, much later, S.B. Chauhan had strong reservations over granting statehood to Delhi.

However, the party's Delhi unit had taken pro-statehood stances on various occasions, often suiting those positions to vote-bank demands.

While Delhi-based Congress leaders such as Deshbandhu Gupta had pitched for autonomy during the course of drafting the Constitution, at a much later stage, the issue was picked up by local Congress leaders from Delhi. For instance, Delhi Congress leader Shiv Charan Gupta, who was critical of the problematic distribution of power in Delhi, took a delegation to Prime Minister Rajiv Gandhi in 1987. The delegation argued for the restoration of Delhi's legislative assembly. Going a step further, Metropolitan Counsellor Mirza Sadiq Ali of Congress Party demanded full statehood in 1987. The party's central leadership vetoed these pleas.³⁴ The only thing that the Rajiv Gandhi government did was to set up a committee, headed by Justice R.S. Sarkaria, to examine the claims of autonomy and issues of multiplicity of authorities in Delhi. This move by the central government was viewed as a 'delaying tactic' by the proponents of statehood.³⁵

While the Congress Party responded to the popular demand and restored the legislative assembly in 1991 by enacting GNCTD Act, for a political party that ruled the country for a long time, it never acceded to the growing demand for statehood, including from its own local leaders. Even Chief Minister Sheila Dikshit did not publicly discuss the question of statehood during her 15-year tenure. It was only when she was routed by the AAP in 2013 that she broke her silence. She said then, "The city would have witnessed better development had my government not been shackled by the present governance structure of Delhi characterized by a multiplicity of agencies and authorities. I reiterate my demand to grant full statehood to Delhi."

After the Congress suffered humiliating defeat in the 2013 assembly elections to the newly formed Aam Aadmi Party (AAP), the party immediately made a course correction to incorporate statehood for the first time in its 2015 election manifesto.³⁶ It declared, "Delhi will become a full-fledged state; its residents will have cheap electricity and better

security. Full statehood is essential for effective governance without any shackles in Delhi.” However, with the sensational rise of an insurgent AAP and after witnessing the stand-off between the chief minister and the lieutenant governor over the last three years, the Congress has reined in its enthusiasm for full statehood.³⁷ In short, notwithstanding the occasional shifts in public pronouncements, the Congress Party remains a reluctant supporter of statehood and its stances have been taken largely due to electoral compulsions.

Aam Aadmi Party and Statehood

The Aam Aadmi Party or AAP, a brand new political party that caught India’s national imagination when it defeated three-term Chief Minister Sheila Dikshit of the Congress Party in the assembly elections in 2013, remains the most vociferous supporter of statehood for Delhi.³⁸ Ever since the party won a landslide victory in the Delhi legislative elections in 2015, it has been at loggerheads with the BJP government at the centre, particularly with the office of the LG, on issues of administrative jurisdictions and statehood for the national capital. The AAP, which captured power on an anti-corruption plank and a promise of providing ‘direct democracy’, has taken up the statehood demand with missionary zeal mainly because of the administrative and procedural barriers that the elected government is being subjected to as a Union Territory. Making a passionate plea to all political parties to consider the statehood demand, Arvind Kejriwal, key architect of AAP and present chief minister, in May 2016 called for a referendum on statehood.³⁹ Pushing further, AAP put up a statehood bill (The State of Delhi Bill 2016⁴⁰) in 2016 in the public domain to seek popular endorsement and the support of political parties across the country.

With the Delhi High Court verdict in 2016⁴¹ going completely against AAP’s core demands including the administrative autonomy vis-à-vis

the LG—and major political parties including the main opposition retracting their support to the party’s statehood demand—AAP too has toned down its earlier demand for statehood. AAP now seeks ‘maximum autonomy’ for the national capital.⁴² Considering the stubbornness of the BJP-led government in not conceding to any of the demands, AAP has taken its plea before the Supreme Court. A five-member Constitution Bench of the Supreme Court is now hearing the arguments with regards to autonomy and statehood for Delhi.⁴³

KEY OBSERVATIONS

A cursory examination of the seven decades of political churning on the question of statehood for Delhi reveals that both Congress and BJP have long been aware of the overlapping jurisdictions and chaotic administrative arrangements that directly bear on the national capital’s quality of governance; they themselves do not deny that, often, these disordered governance systems give credence to autonomy and statehood nomenclatures. What is equally clear, however, is that when sitting in power, these same parties have conveniently brushed aside such demands. Why are political parties, especially those incumbent at the centre, wary of the statehood question? This, despite the fact that Delhi’s citizenry have given overwhelming support for statehood since the early 1960s.⁴⁴ More recently, a C-Voter survey in 2015 found that an overwhelming 81 percent of voters supported statehood for Delhi.⁴⁵

Part of the answer to such *volte face* by political parties can be found in the unique characteristics of the national capital territory. For one, Delhi is home to vital institutions such as the president’s estate, the Parliament and foreign embassies. All of these infrastructures require special security cover and close coordination with centrally administered agencies such as the Research and Analysis Wing (RAW) and Intelligence Bureau (IB). These institutions are the sole responsibility of the Union

Government and not of any one particular state legislative assembly. Further, a number of high-profile foreign dignitaries visit Delhi on international missions and summits. Organising these missions and ensuring their seamless facilitation is also the responsibility of the federal government. Thus, there is a strong argument against handing over the administration of the Delhi Police from the centre to the state. The dominant narrative even during the time of constituent assembly debates was that the Indian government must have some territory under its control; it cannot possibly be an occupant or a tenant of a state government. This was the position taken by Nehru, Ambedkar and other drafting committee members and the same notion prevails. Even when Delhi was ruled by Sheila Dikshit and her own party was ruling at the centre for most part of her three consecutive terms (1998–2013), statehood for Delhi was not discussed in official circles even once. Therefore, it should not come as a surprise to see that the ruling BJP—the original proponent and most ardent supporter of Delhi’s statehood in the previous decades—has turned its back on the same. Indeed, keen supporters of statehood will find the BJP’s recent arguments before the Supreme Court less than palatable.⁴⁶

Yet the question could be asked: Why blame the national parties alone? Many regional parties have expressed their strong reservation to acceding full statehood for Delhi. For them, India’s national capital belongs to every citizen of the country and not just those who reside in the city. On a number of occasions, central ministers and members of parliament have openly expressed their discomfort over sharing powers with the state government that can possibly encroach upon their privileges and may become a nuisance.⁴⁷ It has helped the sceptics of statehood that an insurgent AAP and the LG, acting at the behest of the central government, have been engaged in intermittent standoffs, often leading to a governance deadlock in the national capital.⁴⁸ There are also those who argue that statehood would deprive Delhi of the many

advantages it gets as national capital.⁴⁹ For instance, the entire burden of policing—involving the coordination of a mammoth staff—is borne by the federal government. Therefore, it seems unlikely that any ruling dispensation will concede to the statehood demand in the near future.

Yet, such inconsistent positioning by political parties overlooks the massive transformations that have taken place in India's national capital in the last four decades. Demographically speaking, the city of once-sleepy villages and non-descript colonies has transformed into a vibrant metropolis with a population of over 18.6 million in 2016,⁵⁰ higher than that of many Indian states and ranking Delhi 10th by population size. A recent United Nations (UN) report projects that Delhi urban agglomeration will make it the most populous city in the world by 2028.⁵¹ It makes one wonder how an elected government representing a massive population cannot have a say in law and order and land management? It is unthinkable that an elected government can have such limited mandate: to not have authority over its cadre of officials or over municipal institutions, let alone police and parastatal agencies.⁵²

The debate since 1966 has been the issue of multiplicity of authorities/institutions with overlapping jurisdictions and responsibilities, leading to poor governance in the national capital. Yet, this has been hardly altered in subsequent changes, including the most recent 1991 GNCTD Act. The discussion cannot even reach the question of granting full statehood; the basic issues of administrative autonomy and clarity on jurisdictions of different institutional forms in the national capital have been left unattained by the occasional intervention from different governments at the centre. Thus, Delhi has the distinction of hosting a hundred-odd parastatal agencies, central departments, municipal institutions, LG and an elected government often competing for the same roles. It is no surprise that some 17 agencies are involved in maintaining Delhi's street lights.⁵³ Similarly,

there are six different agencies that cater to primary education services in the city. It simply cannot be overstated that there is an endless list of overlapping jurisdictions and responsibilities among the governing institutions of Delhi. The imperative is to revisit the existing governance set-up in the national capital in light of the massive transformations that have taken place in the city: India's second-largest metropolis.

HOW OTHER NATIONAL CAPITALS ARE GOVERNED

Delhi's problems are far from singular. Nearly all national capitals of large federal (even unitary ones) countries live with competing jurisdictions and complex politico-administrative arrangements. 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 required to deliver local services and engage in local political activity at the same time.⁵⁴ Thus, a turf war between different levels of government is only natural in capital cities. This section analyses how other democracies in different parts of the world have addressed such jurisdictional chaos and governance conundrum in their capital cities, with the aim of drawing lessons for Delhi.

Washington, D.C.

Among the national capital models of the world,⁵⁵ the District of Columbia or 'D.C. Model' is probably the most talked about amongst observers of governance. Established in 1790 as the national capital of the United States of America (USA), the District of Columbia has the most straightforward (two-tier) political and administrative distribution of powers among various constituent units. While D.C. has a democratically elected mayor, the office has limited jurisdictions. It has lower autonomy in self-governance, when compared to the states.

Further, similar to Delhi, D.C. administration's legislative powers are subject to the approval of the Congress.

Given its limited mandate, the residents of D.C. have been demanding greater representation in 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. Thus, akin to Delhi, D.C. is witnessing a series of movements demanding full statehood since the 1990s. The year 2005 witnessed the introduction of Virtual Statehood by Act, to avoid the route of Constitutional amendment. The 2006 "D.C. 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 blocked on the floor. Former President Barack Obama promised to sign off the statehood bill in 2009, but nothing yielded after six years.⁵⁶ D.C., therefore, with its severely restricted jurisdictions, is struggling with its aspiration to achieve statehood; like Delhi, it is yet to find bipartisan political support.

London

While it is a capital city of a unitary country, London—throughout its long history spanning over 1,000 years—has retained relative autonomy. Like Delhi, London has a complex administrative system that has evolved over several centuries and comprises multiple authorities. At the least, there are four different kinds of governmental institutions: central government departments; government-appointed boards; the Greater London Authority; and the boroughs themselves.⁵⁷ 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.⁵⁸

The Tony Blair-led Labour Government revived the region-wide government with the passage of 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.⁵⁹ 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 in London for 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. Importantly, a 25-member London Assembly (of which 14 members are elected) acts as a check on the mayor.⁶⁰

Yet, despite substantial autonomy extended to an elected mayor and local governments (called boroughs) on a broad range of issues including land use, housing, transport, policing and safety, these powers are limited in nature. The GLA is significantly less powerful than the devolved institutions in Scotland and Wales. The GLA, which is headed by an elected mayor, is a weak institution in terms of its financial and service delivery powers. Many of its powers are circumscribed by competing authorities owing to 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.⁶¹ Nonetheless, the GLA enjoys a fair amount of

power in policing as it retains substantial budgetary control (it contributes 50 percent of the police budget). Notwithstanding these limitations, London's new devolution and power rearrangement can be a useful template for Delhi, particularly in the arena of clear demarcation of responsibilities and institutional mechanisms to resolve outstanding disputes.⁶²

Ottawa

Another parameter of a national capital is Ottawa of Canada.⁶³ Ottawa is different from other national capitals of federal countries as it has no official capital district like the one in the US or Australia.⁶⁴ It is like any other municipality in the province of Ontario and is governed by the rules set for municipalities. In terms of autonomy and governance, Ottawa's municipality has a mayor to look after its day-to-day governance. While Ottawa has 21 ward councillors, the elected members represent Ottawa in parliament.

Given its status as a city in a province (Ontario), Ottawa enjoys maximum local autonomy from the federal government. It has complete financial autonomy and the federal government has no veto power over the development of the city or the surrounding region.⁶⁵ Significantly, the Ottawa government enjoys maximum autonomy to discharge its day-to-day service delivery functions including law and order. However, the federal government has tried to safeguard its interests 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 national capital region. To ensure there are no major conflicts with local governments, land around the Parliament building have been set aside from Ottawa's jurisdiction and managed by NCC.⁶⁶ To further safeguard its interests 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. Thus, on paper, Ottawa appears to be an ideal district capital model as it is uniquely placed in terms of autonomy and federal control.⁶⁷

Canberra

Closer to Delhi is the case of Canberra. In 1908, Australia chose Canberra district as the new the federal capital, in a similar fashion as D.C. Canberra, also called Australian Capital Territory Act 1988, has its own legislative assembly and legal system. Although a district, Canberra can be described as a city-state as well.⁶⁸ It has no municipal government and all local government functions fall under the jurisdiction of the ACT government. Further, like Delhi's GNCT Act 1991, Australia's 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.

As far as the issues of autonomy and governance are concerned, the ACT government has authority over medical services, education, police and justice, electricity, public transport, while on critical arena of peace and security in the capital territory, policing is provided under contract by the Australian Federal Police. Further, the federal government retains powers to legislate for the ACT. The most controversial and complex issue in the governing of ACT, however, is that of city-planning. While the jurisdiction is divided between the federal and ACT government and their respective agencies—the National Capital Authority (NCA) similar to DDA and the ACT Planning and Land Authority (ACTPLA)—federal government or NCA has the final say. “Canberra and the Territory are planned and developed in accordance with their national significance.”⁶⁹

Given such limited jurisdictions, in Canberra, there is a rousing debate over jurisdiction issues and the real powers of ACT. 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. On the other hand, there are those who argue that federal oversight is necessary to maintain Griffin's legacy and enhance the urban facade of the national capital.⁷⁰

Berlin

Berlin, the capital of a re-united Germany since 1991, is concomitantly a city and federal state or *Lander*. Berlin's governance structure is complicated as it consists of an elected House of Representatives and a Senate. In turn, the House of Representatives elects 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. Like Delhi and unlike the District of Columbia, Berlin elects representatives to the national legislature: the upper chamber or *Bundestat* (Federal Assembly) and the lower chamber or *Bundestag*.⁷¹

In terms of functional autonomy and powers, as capital city, Berlin enjoys near absolute autonomy. The federal government has no decision-making capacity in the internal matters of the city of Berlin. The Mayor of Berlin determines the direction of the government's politics and governance in Berlin. Perhaps the most unique characteristic of Berlin is that the relationship between the federal government and the capital city was codified in a Cooperation Agreement in 1992. The agreement covers issues involving 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.⁷² Further, the agreement also calls for the creation of a joint

committee for resolving any questions between the capital and the national government. This committee only has jurisdiction over Berlin and is unique among the German states.⁷³ Having a committee to resolve disagreements or conflicts is an excellent innovation, which Delhi and other capital cities may emulate.

Brasilia

Brasilia of Brazil is a worthy case study for Delhi. Officially inaugurated as the national capital of Brazil in 1960, as a district capital model, Brasilia comes closer to Canberra and Washington, D.C.⁷⁴ With a peculiar kind of administrative arrangement—the District that consists of an autonomous territory is divided further into several administrative regions—Brasilia’s powers and autonomy have 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 in either lower or upper house of the national Congress. However, after a series of protests, the new Brazilian Constitution in 1990 allowed 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.⁷⁵

According to 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 has allowed full autonomy for Brasilia, apart from the representation in both houses of national congress and rights to elect governor and legislators. The most significant concession was, however, considerable fiscal decentralisation given to the government of federal district. Yet, being the national capital, the government of

federal district, the federal government can decide on matters of security, land and other arenas related to the preservation of the national character. Nonetheless, compared to Delhi, D.C. and even Canberra, Brazil's capital city enjoys considerable autonomy and self-governance.⁷⁶

Lessons for Delhi

An analysis of institutional evolution and governance forms of major capital cities from different regions of the world, including federal and unitary political systems, offers valuable lessons for Delhi.

First, without exceptions, in all national capitals reviewed in this paper, there are varying degrees of tension and fluidity between the central government and the governments of the national capital. Even Berlin, the most autonomous capital city among all, is not immune to these tensions. Thus, overlapping jurisdictions in a national capital is inbuilt and constitutional entities have to manage this reality.

Second, the catchphrase in all capital cities is 'autonomy', not statehood. With the lone exception of the US, all other national governments covered in this review have conceded to the demand of greater autonomy and reasonably robust fairer power-sharing arrangements among different constituents. While Berlin may be the sole exception that enjoys near-complete autonomy, Brasilia, London, 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 fundamental management of the city. The mayor/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. Even in severely restricted national

capitals like D.C., over the years, the Congress has conceded considerable functional autonomy to the mayor. Thus, while most national governments have avoided making demands for statehood, they nonetheless have allowed for greater autonomy and decentralisation of responsibilities. A caveat is in order: 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, London and even Brasilia have a long tradition of allowing adequate space to local governments (borough levels). Sadly, this is missing in the case of Delhi. Not only is the tradition of municipal governance relatively recent, these bodies lack political capital and any sort of functional autonomy. Historically, India has had a weak and negligible mayoral system, which affects the quality of leadership in municipal governance.⁷⁷

Third, while most capital cities across the world have bargained for maximum autonomy (and statehood in some rare occasions) over sensitive issues of security, land, city-planning, policing etc., the national governments everywhere have the final say. This is largely because the issues listed above are extremely critical for ensuring the capital cities' special role in maintaining and preserving national characteristics. Thus, it is no surprise that the city-state Berlin, which enjoys near-complete autonomy to govern, has to surrender some of its powers on land and policing to the 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.⁷⁸ This unambiguously points to the existence of suspicion or insecurity among the central apparatus. Thus, the national government and its affiliated institutions with their veto powers is a common sight in all national capitals.

Finally, since conflicts and misunderstandings are the inevitable facet of national capital governance system, nearly all national

governments under review have put in place institutionalised mechanisms for healthy coordination and conflict resolution. For instance, while Ottawa has a National Capital Commission (NCC), Canberra, in 1988, brought in place an entity called the National Capital Authority to resolve disputes between constituent units. Even Berlin, the least conflictual capital, has put in effect a Cooperation Agreement since 1992 and has additionally established a joint committee to resolve issues between various units.⁷⁹

THE WAY FORWARD FOR DELHI

The above examination of various national capitals across the world throws lessons for Delhi. Still, Delhi's case is peculiar as it defies the usual categorisations of 'state' or a 'full federal territory'. Unlike any other capital cities, Delhi has national government (central ministries/ departments), elected government and municipal governments as well: all competing for similar sets of functions and responsibilities. Further, in terms of population and complexity, there is not a single national capital city that comes close to Delhi. It has a population of over 17 million and is likely to become the world's largest city by 2030. (London, the largest city reviewed in this paper, has just about 8.4 million in population.) Delhi has hundreds of parastatal agencies in the same place. Therefore, Delhi cannot simply borrow another capital's governance template.

Having established that, the global examples indeed offer Delhi plenty of lessons. First, given the political developments (or political culture, to be more precise) in the country and level of mistrust that exist among the ruling government and political opposition (largely owing to growing political polarisation), it is unlikely that any ruling party will concede to the statehood demand. Even the global examples show that no capital city other than Berlin has achieved this. Even in

Berlin, the most autonomous city-state, there is always fear among the federal government advocates of the city-state being captured by either the ‘anarchist’ far-right or the extreme-left government.⁸⁰ In the US, even after more than four decades of agitation and activism, the Congress has not ceded to the statehood demand for D.C. In Delhi’s case, the rise of AAP and its brand of agitational politics and political brinkmanship followed by Chief Minister Arvind Kejriwal makes it even more difficult to get the statehood demand to gain traction. The sensible path may yet be to explore greater autonomy and freedom for the elected government and its agencies to perform their day-to-day responsibilities and fulfil their mandate. For a start, Delhi should demand the urgent revision of the existing constitutional provisions (i.e. 69th Amendment, Article 239) and Rules of Business.

Second, the Government of NCT needs to pitch for autonomy/power-sharing in areas that matter the most, viz. land, law and order, and services. It is absolutely imperative that an elected city government representing such a huge population has decision-making capacities in critical service delivery functions such as policing, land, and law and order. Not even D.C, the most constricted capital territory, has such limited mandate on these functions as does Delhi. The D.C. Police, which is a municipal police, also has a say in city policing. A more recent development is that of London. The British Home Office, which earlier had the last word on London Metropolitan Police, had, over the years, ceded such supervision to the elected Mayor of London.⁸¹ To cut the long story short, a great majority of national governments, which earlier had apprehensions to share police powers with city government (VIP security, protection of federal government and its institutions, among others), have slowly ceded such powers in favour of the national capital governments, which are best positioned to maintain law and order.⁸² The principle of subsidiarity demands that India’s national

government take some cues from the global trends and initiate the same in Delhi.

Third, a cursory glance at various capita cities suggest that Delhi is probably the only capital city where the elected government has no organic link with the municipal bodies. Ironically, the home and urban development ministries of the federal government administratively control municipal bodies (MCDs). As seen from the preceding discussion, the Delhi government only shares some portion of its revenues with municipal bodies and its relationship ends there. If global examples are a barometer, it is unthinkable to have a city-wide elected government that cannot make decisions on critical matters such as land, city-planning, policing, and control over its cadre of officials. What is equally important is that the city-government should have a hand in the running of the local municipal bodies.⁸³ This is what the Delhi government should pitch for, and not the mirage called 'statehood'.

Finally, given the overlapping and often-contested jurisdictions that are natural to a capital territory, it is imperative to strive for a credible and institutionalised dispute-resolution mechanism as has been adopted by national capitals all over the world. The existing system of referring the disputes to the office of the president is a failed model that lacks credibility and invariably gets resolved in favour of the national government.

ENDNOTES

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6. B. Shiva Rao, *The Framing of India's Constitution*, Volume 3, First Edition, Delhi: IIPA, 1967.
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12. Kumar, op. cit.
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14. Responding to growing demands of states reorganisation, particularly on linguistic basis, the Union Government set up State Reorganisation

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19. Jana Sangh, a right-wing political formation (political arm of Rashtriya Swayamsevak Sangh) opposed to India's partition, had existed between 1951 to 1977. This party was later renamed as Bharatiya Janata Party.
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26. For instance, the 69th Amendment to the Constitution, which conferred such a distinction upon Delhi in 1991, makes it amply clear that while the elected government in Delhi enjoys the powers and privileges offered to all other states in India, these are of qualifying in nature. For instance, 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 Indian Parliament under article 239AA (3) (b) enjoys free hand to legislate on any subjects impacting Delhi's governance. The most serious limitation however is that being listed as a union territory, the elected government has to share powers with LG, a central government appointee who is designated as "Administrator." Unlike the governor, the LG is the real power centre. For instance, the Article 239AA (4) clearly tilts the balance of power in favour of the LG rather than supporting the elected CM. 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." Effectively, LG's office acts as a rival power centre in NCT. For an exhaustive analysis of powers accorded under GNCTD Act, 1991, see Niranjana Sahoo and Shubh Soni, "Autonomy or Statehood: Rethinking Governance in India's National Capital," *ORF Occasional Paper*, 30 October 2015, <http://www.orfonline.org/research/statehood-or-autonomy-rethinking-governance-in-indias-capital/>.
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20, Rouse Avenue Institutional Area, New Delhi - 110 002, INDIA
Ph. : +91-11-43520020, 30220020. Fax : +91-11-43520003, 23210773
E-mail: contactus@orfonline.org
Website: www.orfonline.org